

**EUROPEAN REGIONAL MASTERS DEGREE IN DEMOCRACY AND HUMAN
RIGHTS IN SOUTH-EAST EUROPE**

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**Protection and Promotion of Minority Rights – the Determining Factors:
Bosniak Minority in Croatia**

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By

Dina Duraković

Supervisor

Professor Vlatko Cvrtila

University of Zagreb

Sarajevo, Bosnia and Herzegovina

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Abbreviations

B&H	Bosnia and Herzegovina
BNC	Bosniak National Community
CHC	Croatian Helsinki Committee
CoE	Council of Europe
CSCE/OSCE	Conference for Security and Cooperation in Europe/Organization for Security and Cooperation in Europe
DPA	Dayton Peace Agreement
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EU	European Union
HDZ	Croatian Democratic Union (Hrvatska demokratska zajednica)
IC	Islamic Community
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
PIJC	Permanent Court of International Justice
SDA	Party of Democratic Action (Stranka demokratske akcije)
SFRY	Socialist Federal Republic of Yugoslavia
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
USSR	Union of Socialist Soviet Republics

Introduction

Ever since the emergence of the state system in the sixteen and seventeen centuries and subsequent appearance of international law, the protection of minority rights has been one of its concerns.¹ Throughout the history of international law, this issue has been addressed in a rather inconsistent manner – from the League of Nations to the United Nations system of human rights protection – there has been no set of standards or documents that can be referred to as regime of minority protection. One thing has been constant - even though “the minority question has never contained itself entirely within national borders,”² states showed great reluctance to be bound by international, universally applicable rules.

The fall of communism at the end of 1980s and beginning of 1990s, followed by eruption of nationalism, especially in the countries of former Yugoslavia, showed that unresolved minority issues are a serious security treat, not only to individual countries, but to whole areas and regions. Recognizing this fact, both international and regional institutions and organizations have demonstrated increased political and legal activity in protection and promotion of minority rights in the course of the last decade.³ However, some very important questions still remain unanswered, such as, what constitutes a minority and what obligations a state has towards minorities that inhabit its territory, in other words, what are the rights the minorities can claim.

¹ Thornberry, Patrick. “*International Law and the Rights of Minorities*”. New York: Oxford University Press, 1991, pp. 1. The problems surrounding the issue of definition of minority will be explored further in the text. It should be noted that the paper will deal exclusively with so-called traditional minorities, which is the term used for national, ethnic, religious or linguistic minorities.

² Ibid.

³ At international level, this interest led to adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in 1992 and on regional, European, level it resulted in the adoption of the European Charter for Regional or Minority Languages in 1992 and the Framework Convention for the Protection of National Minorities in 1995.

International and regional documents do not offer answers to these questions. The international legally binding norms concerning minority rights few in number and are of a very general nature. Historical, social and political circumstances of minorities living in different countries vary dramatically – thus, making it difficult to achieve legal solutions that would be at the same time all-encompassing and sufficiently precise. Consequently, solutions for problems of particular minority cannot be found on such a broad, international level. The solutions have to be searched for and found on case by case basis, in a meaningful interaction between factors on national level. “If the character of the case involved, including its historical, economic and social specifics, is not – or not sufficiently – taken into consideration, such a lack of specificity can serve as a breeding ground for new frustrations, with the type of consequences of which recent history has provided so many shameful examples.”⁴

The actual protection of minorities, therefore, has to be achieved on the level of a particular state. Ideally, state’s policy and legislation in relation to minority protection would have to be in compliance with international standards and provisions worked out in international documents regulating this area. However, even if we were to assume that a particular state has adopted adequate minority legislation and its internal policy is in line with international standards, this still does not necessarily mean that all minorities living within that state are adequately protected. Historical, economic, social and political circumstances of different minorities vary to a great degree, making it almost impossible to apply uniform policies toward each of these minorities, even at the national level.

⁴ Van Genugten, Willem. “Solutions to the Problems of Minorities: General or Tailor-Made? – Some Reflections”. In Trifunovska, Snezana (Ed.). *Minorities in Europe: Croatia, Estonia and Slovakia*. The Hague: T.M.C. Asser Press, 1999, pp. 223.

With this in mind, the hypothesis of this paper is that the status and position of a particular minority within a country depends on a number of important and interlinked factors. Firstly, the numerical size of the minority, its organization, as well as territorial distribution of its members are all important factors in shaping that minority's status within particular society. Secondly, relationship between minority and its kin state is extremely significant – meaningful involvement of the kin state in finding solutions to the problems encountered by its co-nationals abroad may be of great benefit for advancement and protection of that minority's status.⁵ However, even if both of these factors are favorable for a minority in a particular country, they are still not decisive in determining that minority's situation. The third, critical factor is the attitude of the home state and its political as well as economic, social and cultural policies towards minorities in general and specific minority in particular. In summary, factors determining position and situation of a particular minority may be seen as forming a triangle, whereby all three actors (minority, home-state and kin state), are intertwined in such a way that actions of one are beneficial to the minority (as well as to both states, their stability and mutual relations), only if supported by the other two.⁶

This thesis will be tested on the case of Croatia and one particular minority within Croatia, Bosniak minority. Why Croatia? After the dissolution of former Yugoslavia, Croatia aspired to establish a nation state, based on the concept of *ethnos* rather than *demos*. Croatian declaration of independence provoked a great deal of dissatisfaction of the largest Serb minority and the violent conflict commenced right after its proclamation.

⁵ It is necessary to mention that in cases when significant support by the kin state is missing, its role can be taken over by relevant international institutions, which therefore become one of the factors for protection and promotion of minority rights.

⁶ Snezana Trifunovska elaborates on a number of factors that determine minority status. See Trifunovska, Snezana. "Political and security aspects of minorities in Croatia". In Trifunovska, Snezana (Ed). *Minorities in Europe: Croatia, Estonia and Slovakia*. The Hague: T.M.C Asser Press, 1999, pp. 21.

That war, as well as involvement in the conflict in Bosnia and Herzegovina (B&H), led to grave deterioration in relations between Croatian majority and minorities living in the country, especially Serbs and Bosniaks. Today, Croatia represents a typical example of a country in transition, attempting to reconcile majority desire for a homogenous state of one nation on one hand with the reality of ethnic diversity on the other, and at the same time trying to resolve this situation in accordance with democratic principles and international requirements.

Bosniak minority in Croatia has been chosen as the focus of this paper for several reasons. Firstly, sociological research conducted in Croatia indicates that serious social distance exists on the part of Croatian majority towards Bosniak minority, the extent of which is greater than towards any other minority in the country.⁷ Secondly, except for members of the Serb minority, Bosniaks have been the most frequent victims of discrimination in many spheres of social, political and economic life during the 1990s. Finally, protection and promotion of their rights and their overall status in Croatian society has not been a subject of adequate research and study, regardless of the fact that Bosniaks are the second largest minority in Croatia.

The first chapter of this thesis will offer a brief analysis of the international documents related to protection of minority rights and outline their main deficiencies. It will also suggest that in light of these deficiencies, the actual situation of a particular minority is resolved on the national level, in the interaction of the home state, minority in question and its kin state. The second chapter will provide a concise outline of the Croatian legal framework with regard to minorities, focusing on the recently adopted Constitutional law and its most significant provisions. The third chapter will be devoted

⁷ Please see Annex I for details.

to Bosniak minority in Croatia and will provide analysis of the interaction of this minority with the home state and the kin state, as well as outline the ways of its self-organization. Throughout the case study, a brief comparison with Italian minority will be offered, for the Italian minority's proven advantage of having good relations with the home state, strong material and political support by its kin state and exceptionally good internal organization, which contributes to its notable status within the Croatian society.

The materials used for the purposes of this thesis include primary and secondary sources of international and Croatian authors, collected by utilizing the method of content analysis. Also, the most significant international documents related to minority protection have been critically analyzed and a number of reports by relevant international organizations, as well as Croatian Helsinki Committee, has been used to assess the minority situation in Croatia. Finally, the information on activities of Bosniak organizations in Croatia was collected by the author by using the method of personal interviews with the relevant representatives of such organizations. The results of the case study will be illustrated by using both analytical and comparative methods of presentation.

1. Methods of Protection and Promotion of Minority Rights on International and National Level

The aim of this chapter is to illustrate deficiencies that exist in international law with regard to protection and promotion of minority rights, most apparently demonstrated in the lack of internationally accepted definition of minority group, unclearly defined state obligations and general impreciseness of international documents dealing with minority issues. This chapter will also aim to demonstrate that, although the unresolved minority issues can be a serious regional security threat and therefore their resolution is not solely a matter of internal concern of a particular state, the consequence of inadequate regulation of such issues in international law is that the solution for minority problems is found primarily on a national level, in the interaction of the three determining factors – the state in which a minority lives (home state), the state that minority is ethnically affiliated with (kin state), and the minority itself.

1.1 Protection and Promotion of Minority Rights on International and Regional Level

Fundamental international human rights instruments in general refer to rights of minorities only indirectly – they provide guarantees for the equal enjoyment of rights and freedoms set forth in such documents by prescribing that they will be applied without any discrimination, as to the race, gender, religion, national or ethnic origin, etc.⁸ Likewise, the Universal Declaration of Human Rights⁹ does not contain any specific provisions on

⁸ In this regard, the fundamental UN instruments, such as the ICESCR (Article 13), UNESCO Convention against Discrimination in Education (Article 5), International Convention on the Elimination of All Forms of Racial Discrimination (Articles 2 and 4) and the Convention on the Rights of the Child (Article 30) reiterate the fundamental principles of non-discrimination and equal enjoyment of rights.

⁹ Universal Declaration of Human Rights. Adopted by General Assembly resolution 217A (III) of 10 December 1948. <http://www.un.org/Overview/rights.html>

minorities. Up until now, Article 27 of the International Covenant on Civil and Political Rights (ICCPR), which prescribes that “(i)n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language”,¹⁰ remains the only legally binding provision concerning minorities on universal level.

Another important document of universal nature and dealing specifically with minorities is the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (Declaration on Minorities),¹¹ which is, however, only a political declaration and carries no legally binding effect on the states. The Declaration was intended to provide clarification and elaboration of the Article 27 of the ICCPR, but is perceived as achieving only a compromise between the internationally recognized need to provide for the effective protection of minorities, on one hand, and the desire to ensure that states’ freedom of action is not hampered by imposition of legally binding obligations, on the other.¹²

On the regional, European level, the protection and promotion of minority rights has a twofold nature – legal, established within the framework of the Council of Europe (CoE), and political, implemented through the CSCE/OSCE. Since 1989, the CSCE/OSCE has devoted significant attention to the issue of minority protection, with the breakthrough at the Copenhagen Meeting on the Human Dimension in 1990, when the

¹⁰ International Covenant on Civil and Political Rights. Adopted by General Assembly resolution 2200A (XXI) of 16 Dec 1966. http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

¹¹ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities Adopted by General Assembly resolution 47/135 of 18 December 1992. http://www.unhchr.ch/html/menu3/b/d_minori.htm

¹² Benoit-Rohmer, Florence. “*The minority question in Europe: Text and commentary*”. Strasbourg: Council of Europe Publishing, 1996, pp. 23. However, Benoit-Rohmer also reiterates that despite the deficiencies, the Declaration carries a considerable moral authority.

Copenhagen Declaration¹³ was adopted. The declaration, although only a political undertaking, is nowadays considered as the standard-setting text in the area of minority protection in Europe¹⁴ and has served as a political base for drafting the CoE Framework Convention for the Protection of National Minorities.¹⁵

European legal protection of rights of persons belonging to minorities rests with the CoE. The Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR),¹⁶ a fundamental legal instrument of the CoE, does not refer particularly to minorities, apart from the reference to association with a national minority in the general clause on prohibition of discrimination in Article 14. However, recognizing the importance of protection of national minorities to peace, stability and democratic security, and in attempt to transform political commitments expressed in CSCE/OSCE documents into legal obligations, the members of CoE have drafted the Framework Convention for the Protection of National Minorities (Framework Convention).¹⁷

¹³ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. Adopted on 29 Jun 1990 at the Second Conference on the Human Dimension of the CSCE. <http://www.osce.org/docs/english/1990-1999/hd/cope90e.htm>

¹⁴ It recognizes the right of all persons belonging to national minorities to exercise their fundamental human rights and freedoms without any discrimination and in full equality before the law and provides for obligation of the states to undertake special measures, where necessary, to ensure such equality (Paragraph 31). It further grants minorities a number of specific rights, such as the right to use their mother tongue in private and public, establish and maintain their own educational, cultural and religious institutions, organizations or associations, profess and practice their religion, have access to and disseminate information in their language, establish contacts amongst themselves as well as across borders (Paragraph 32), etc.

¹⁵ Another major achievement within the CSCE/OSCE framework came in 1992 at the Helsinki Summit when the institution of the High Commissioner on National Minorities was established. The Commissioner has a preventive function and acts as an instrument of early warning and, as appropriate, early action in cases of tensions involving national minorities that have the potential to develop into a conflict. It represents a significant step forward in implementation of minority protection as well as very effective instrument of conflict prevention.

¹⁶ Convention for the Protection of Human Rights and Fundamental Freedoms. Adopted on 4 Nov 1950. Council of Europe ETS no. 5 www.conventions.coe.int/teraty/en/Treaties/html/005.htm

¹⁷ Framework Convention for Protection of National Minorities. Adopted on 1 Feb 1995. Council of Europe, ETS no. 157. <http://conventions.coe.int/Treaty/en/Treaties/Word/157.doc>

The Framework Convention contains mostly program-type provisions, setting out principles that parties undertake to pursue. The implementation of such provisions, which are not directly applicable, is done through national legislation and appropriate governmental policies. States are, therefore, given a wide margin of discretion to implement provisions in accordance with specific circumstances of minorities within their territories. This, together with the vagueness of provisions, frequent use of escape clauses and weak implementation mechanism, has been one of the main reasons for criticism of the convention.¹⁸ However, the fact that it represents the first legally binding, multilateral instrument devoted to protection of minorities, also open to states that are not members of the CoE, significantly contributes to its importance.

Another CoE instrument dealing with minority rights is the European Charter for Regional or Minority Languages.¹⁹ As outlined in the Explanatory Report to the Charter, its main purpose is cultural – it sets out to protect regional or minority languages and not linguistic minorities.²⁰ The Charter offers the so-called “a la carte” system, whereby states are given a possibility to choose from the list of the different linguistic rights they want to implement and guarantee, and in that regard, its overriding cultural purpose is apparent. Its importance lies in the fact that it represents another sign of increasing readiness to tackle minority issues at the regional level.²¹

¹⁸ In fact, even Parliamentary Assembly of the CoE labeled the Framework Convention as “weakly worded”. See Parliamentary Assembly, Recommendation 1255, adopted 31 Jan 1995 at <http://www.meh.hu/nekh/Angol/7/coe/rec1255.htm>

¹⁹ European Charter for Regional or Minority Languages. Adopted on 5 Nov 1992. Council of Europe, ETS no. 148. <http://conventions.coe.int/Treaty/EN/Treaties/Html/148.htm>

²⁰ European Charter for Regional and Minority Languages: Explanatory Report. 1993, pp. 5.

²¹ Rosas, Allan. “The Protection of Minorities in Europe: A General Overview”. In Packer, John and Myntti, Kristian (Eds.). *The Protection of Ethnic and Linguistic Minorities in Europe*. Turku/Abo: Institute for Human Rights, 1997, pp. 12.

1.1.1 Issue of Recognition of Minority Status

Even a very brief analysis of the above mentioned international and regional instruments reveals a few legal and political problems in terms of minority protection. The most apparent one is the lack of internationally accepted definition of the term minority. Even though there were considerable efforts to produce such a definition within the UN (as well as within the OSCE and the CoE) all attempts have failed so far, as a result of which the most important international documents devoted to the protection of minority rights contain no definition of the concept of minority.

The definition most widely used and cited in academic research and theoretical analysis in general is the one proposed by the Special Rapporteur of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities, Francesco Capotorti in his Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities from 1977. Capotorti defines minority as

“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-posses 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.”²²

Even though it is widely used, this definition has no legal standing in international law.

This definition raises an important legal issue – it excludes non-citizens of a state, which is linked to the long-standing debate on the applicability of the rights enunciated in the ICCPR to aliens. The UN Human Rights Committee supported the view that these

²² Capotorti, Francesco. “*Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities*”. Geneva: Human Rights Centre, 1991. pp. 56. para 568.

rights apply to everyone, regardless of one's nationality or statelessness.²³ However, in practice, states are inclined to restrict the rights granted to minorities only to its citizens, which becomes problematic in cases of systematic, discriminatory and arbitrary denial of citizenship to certain groups in society. The lack of legal definition of minority persists on European level as well. The term used in CoE as well as CSCE/OSCE documents is 'national minority',²⁴ but no agreement has been reached as to the definition of this term.²⁵

The problem of the lack of internationally recognized definition of minority is most remarkable as it leaves a possibility for individual states to arbitrarily decide on whether to render minority status to certain groups existing within their territories or not. This is further supported by the wording of Article 27 of the ICCPR ("in those States in which (...) minorities exist"), which gives states an opportunity to declare that they have no minorities.²⁶ While diversity of actual situations and lack of political will of the states has to be taken into account as aggravating circumstance in accepting adequate and internationally suitable terminology, the paramount importance of such internationally

²³ General Comment No. 15 adopted on 22 July 1986 and General Comment No. 23 adopted on 6 April 1994. Cited in Pejic, Jelena, "Minority Rights in International Law". *Human Rights Quarterly* (19), 1997, pp. 672.

²⁴ The reason for it may lay in historical context, since traditionally the term for minorities in Eastern Europe has been nationalities. Capotorti, supra note 1, cited in Shaw, Malcolm N. "The definition of minorities in international law". In Dinstein, Yoram (Ed.) *The Protection of Minorities and Human Rights*. Dordrecht: Martinus Nijhoff Publishers, 1992, pp. 22. It is also claimed that the term is used "for its ambiguity; for it has, in fact, a different meaning depending on whether one refers to the French concept or the German and Slavonic concept of the nation." In Benoit-Rohmer, Florence. 1996, pp. 14.

²⁵ The most significant attempt to define the term within CoE was included in the proposal for an additional protocol to the ECHR, prepared by the Parliamentary Assembly in 1993. However, the proposal, which draws on the definition proposed by Special Rapporteur Capotorti, was not accepted by the Council of Ministers and has no legally binding effect on member states.

²⁶ Gudmundur Alfredsson maintains that it is usually self-evident which groups constitute minorities, by combining the common elements of proposed definitions and national and international practice. If a group in a country meets the definition elements, the acceptance or non-acceptance by state is not relevant. In addition, "a state will not be relieved of its responsibility by denying citizenship to members of a group on an arbitrary or discriminatory basis." Alfredsson, Gudmundur. "Minority Rights and Peace: Available Standards, Procedures and Institutions". In Trifunovska, Snezana (Ed.). *Minorities in Europe: Croatia, Estonia and Slovakia*. The Hague: T.M.C Asser Press, 1999, pp. 5-7.

accepted terminology has to be acknowledged, both for the legal and factual protection of minority rights. On the other hand, in 1930, the Permanent Court of International Justice has recognized that “the existence of minority is a matter of fact, not a question of law”²⁷, a view reiterated by the Human Rights Committee in its General Comment No. 23, which outlines that the existence of minorities in a given state does not depend upon recognition of minority by that state, but is to be determined on the basis of objective criteria.²⁸

1.1.2 Content of State Obligations

Following onto the issue of lack of definition is the question that concerns the content of state obligations, perhaps the most important issue of minority protection. On this issue, as on many others, there is no international consensus, apart from the agreement that at minimum states are prohibited from discriminating against minorities and obliged to ensure equal enjoyment of rights and freedoms. However, it is widely accepted that this is not enough to ensure promotion and protection of minority rights. So, what are the state obligations towards minorities on universal level and are there any?

Certainly, the negative wording of Article 27 (“shall not be denied the right”) attributes to doubts as to whether the states have any positive obligations at all, outside the obligation not to interfere with the rights of persons belonging to minorities to enjoy their culture, practice their religion and use their language. There has been a lot of debate on this issue, resulting in the fact that the approach, which maintains that under Article 27 states are obliged to take positive measures to ensure exercise of listed rights, prevailed.²⁹ As to what these positive measures entail, there is again no precise agreement, but they

²⁷ PCIJ Advisory Opinion of 31 July 1930, 1930 PCIJ (ser. A/B), No17, at 22. Cited in Pejic, Jelena. 1997, pp. 673.

²⁸ Human Rights Committee, General Comment No. 23. Adopted on 6 April 1994 at 1314th meeting, <http://www.hku.hk/law/conlawhk/sourcebook/human%20rights/40042.html>

²⁹ Thornberry, Patrick. 1991, pp. 185.

are usually taken in areas of education, culture, religion and language, areas important to maintenance of national and cultural identity of a minority.

The Declaration on Minorities offers further clarification of states' obligation, which still escapes precise and clear elaboration.³⁰ Furthermore, some other international instruments also include provisions on special measures, such as the Convention against Discrimination in Education³¹ and the Convention on the Elimination of All Forms of Racial Discrimination.³² Similarly, the Framework Convention provides for positive measures to be adopted by states, where necessary, in order to promote, in all areas of economic, social and cultural life, full and effective equality of persons belonging to a national minority and those belonging to majority (Article 4.2), but fails to specify which ones.

Even though the provisions of the listed international instruments escape precise elaboration of state obligations with respect to special measures, they are nevertheless significant as they provide a general guidance and inspiration for national legislators. It is recognized that a certain level of discretion has to be given to states in creation and implementation of these measures in order to meet different demands of minorities living within their borders. As with the definition of the term minority, diversity of actual

³⁰ Under the Declaration, the states are required to protect and promote identity of minorities and adopt appropriate legislative measures in this regard (Article 1), to design and implement national policies and programs with due regard for the legitimate interests of persons belonging to minorities (Article 5), as well as take appropriate measures so that persons belonging to minorities have opportunities to learn their mother tongue and participate fully in the economic progress and development (Article 4).

³¹ Which outlines the "right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each state, the use or the teaching of their own language" (Article 2(b)). Convention against Discrimination in Education. Adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 14 December 1960. http://www.unhchr.ch/html/menu3/b/d_c_educ.htm

³² Which provides that the states "shall take special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them" (Article 2(2)). Convention on the Elimination of All Forms of Racial Discrimination. Adopted by General Assembly resolution 2106 (XX) of 21 December 1965. http://www.unhchr.ch/html/menu3/b/d_icerd.htm

situations is certainly an aggravating circumstance for more precise legal definitions. However, this fact should not be taken as a signal for arbitrary and unreasonable actions of the states in this respect.

This brief outline of the documents and mechanisms for minority protection on international and regional level discloses that, even today, reluctance of states to be bound by precise legal obligations and commitments on international and regional level is apparent – the actual protection and promotion of minority rights is left to the states themselves, undisturbed by precisely defined international or regional legal mechanisms.

1.2 Protection and Promotion of Minority Rights on National Level

For the newly established states in the region, the issue of protection and promotion of minority rights has become one of the most important challenges faced in the process of their transition towards democracy. This issue is especially burdensome for the countries that experienced ethnic conflict within their borders and especially so in relation to those minorities that were involved in it. In those cases, triangular relation between the home state, minority and kin state is additionally troubled, thus hampering the timely and adequate resolution of problems of a particular minority.

1.2.1 Home State Policies and Actions

Policies of states towards minorities living within their borders vary to a great extent and are in many cases dependent on the actions and demands of minorities themselves.³³ The most encountered policies are those of assimilation and integration. The UN study on Racial Discrimination in the Political, Economic, Social, and Cultural Spheres describes assimilation “as being based on the idea of the superiority of the

³³ Thornberry, Patrick. 1991, pp.4.

dominant culture, (aiming) to produce a homogeneous society by getting groups to discard their culture in favor of the dominant one.”³⁴ On the other hand, integration is described “as a process by which diverse elements are combined into a unity while retaining their basic identity. There is no insistence upon uniformity or elimination of all differences, other than the difference of each component group which would *disturb or inhibit the total unity*.”³⁵

The policy of integration, an internationally desired state strategy, is achieved through assurance of non-discrimination and equality to members of minorities and provision of special measures to ensure maintenance and development of their unique ethnic, linguistic, religious or national identity, while being incorporated into the mainstream society. As to what these special measures entail, there is no uniform approach. In absence of the clearly defined international standards, different countries apply different approaches towards minorities – they vary from those countries that reject the notion of minority groups (such as France), to countries that do not distinguish ethnic communities on majority-minority basis (such as Switzerland) and those that recognize specific rights of minorities to various degrees (such as Austria and almost all countries in transition).³⁶

For the countries of South-East Europe, the question of adequate protection of minorities is significant not only as a precondition for their democratic transition, but also as a supreme factor of regional security and stability, if we take into account that a minority in one country is very often a majority in the other, frequently the neighboring

³⁴ UN Sales No. 71.XIV.2. Cited in Thornberry, Patrick. 1991, pp. 4.

³⁵ Ibid.

³⁶ Tatalovic, Sinisa. “Europski modeli ostvarivanja prava nacionalnih manjina”. In *Nacionalne manjine I: k demokratskim standardima zastite i prava*. Split: Stina, 2003, pp. 8-10.

one. Majority-minority relations have especially deteriorated in the course of the massive nationalization that swept through the region after the fall of communism, dissolution of multi-national federations (such as USSR, SFRY and Czechoslovakia) and subsequent emergence of a number of newly independent states. This process has left hundred thousands of people “outside ’their own’ national territories”³⁷ and put them in deeply conflictual position between newly established states, aspiring to be conceived as nation-states, and these minorities’ external homelands, kin states, they feel ethnically affiliated to. The consequence of such position has in most cases been discriminatory treatment towards minorities in their newly established home states, which ranged from political and/or economic marginalization, to assimilation and most dreadfully, expulsions.

As a consequence, a considerable effort has been devoted by relevant international factors to remedy such situation and ensure the development of adequate systems of minority protection in these newly independent countries. Political pressure and principle of conditionality have been adopted as the main tool in this endeavor. Accordingly, in 1991, the European Commission issued a Declaration on the Guidelines on the Recognition of the New States in Eastern Europe and in the Soviet Union and the Declaration on Yugoslavia, conditioning the recognition of new states by the “guarantees for the rights of ethnic and national groups and minorities in accordance with the commitments subscribed to in the framework of the CSCE.”³⁸ The same principle was applied later on, when prospects of and actual integration of these newly independent

³⁷ Brubaker, Rogers. “*Nationalism Reframed: Nationhood and the National Question in the New Europe.*” New York: Press Syndicate of the University of Cambridge, 1996, pp. 56.

³⁸ Rich, Roland. “Recognition of States: The Collapse of Yugoslavia and the Soviet Union”. *European Journal on International Law*, Vol. 4, No. 1. <http://ejil.org/journal/Vol4/No1/art4.html>

countries to various European institutions was used for improvement of the overall minority situation in particular countries.³⁹

These political pressures imply, as a first step, adoption of an adequate national legal framework for the protection and promotion of minority rights, in compliance with international standards in this area. However, even when such legal framework is in place, the actual implementation of enacted provisions remains the most important challenge.⁴⁰ While the actions of the state and its genuine determination to resolve minority issues remain the most important aspect in this equation, the implementation of legal provisions in a way that is truly beneficial to a particular minority remains conditioned by success of the triangular interaction of the three relevant factors.

1.2.2 Relations with the Kin State

The situation of a particular minority is, amongst other factors, greatly influenced by the attitude and actions of its kin state.⁴¹ While the actions and interests of the kin state can be evaluated only on case by case basis, the kin states are by definition interested in finding solutions for the problems their co-nationals in another, often

³⁹ In 1993, at the Copenhagen European Council, the Member States designed the membership criteria, which are often referred to as the Copenhagen Criteria. Amongst other criteria, the membership to EU requires that the candidate country has achieved stability of institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities. See at <http://europa.eu.int/comm/enlargement/intro/criteria.htm>

⁴⁰ The right of guaranteed representation for minority representatives in the state parliament is a good example. In the region of central and south-east Europe, this right, which in fact goes beyond the international legal obligations of these states, has been granted to minorities in Hungary, Romania, Slovenia and Croatia; however, the problems in implementation and transformation of this right from constitutional to legal norm have been reported. See Tatalovic, Sinisa. "Europski modeli ostvarivanja prava nacionalnih manjina". In *Nacionalne manjine I: k demokratskim standardima zastite i prava*. Split: Stina, 2003, pp. 10.

⁴¹ Roger Brubaker outlines that a state "becomes an external national "homeland" for "its" ethnic diaspora when political or cultural elites define ethnonational kin in other states as members of one and the same nation, claim that they "belong", in some sense, to the state, and assert that their condition must be monitored and their interests protected and promoted by the state; and when the state actually does take action in the name of monitoring, promoting or protecting the interests of its ethnonational kin abroad." Brubaker, Rogers. 1996, pp. 58.

neighboring country, are confronted with.⁴² Same as with the politics of the home state, the kin state politics may take a variety of forms, “ranging from immigration and citizenship privileges for “returning” members of ethnic diaspora, through various attempts to influence other states’ policies towards its co-ethnics, or irredentist claims on the territory of other states.”⁴³ This concern of the kin state can be both beneficial and detrimental for a particular minority.

Involvement of the kin state can prove to be rather valuable if manifested by enhanced cultural or economic cooperation between the two countries for the benefit of the minority in question, establishment of good inter-state relations and methods of realization of common interests, and especially by signing of bilateral treaties dealing with protection and promotion of minority rights. Regulation of minority issues through the method of bilateral treaties is most common with neighboring countries, where one state is a kin state to a minority living in the other and *vice versa*. In such cases, unresolved minority issues can greatly affect the stability of the states and their good neighborly relations and states have often opted to regulate minority issues by signing bilateral agreements.⁴⁴

Since the beginning of 1990s, signing of bilateral agreements related to minority protection has again become one of the most efficient ways to appropriately deal with realities of ethnic diversity in many countries of Central and Eastern Europe. Germany has, for example, concluded a number of such agreements/treaties with its neighboring

⁴² Van Genugten, Willem. 1999, pp. 221.

⁴³ Brubaker, Rogers. 1996, pp. 58.

⁴⁴ The agreement between Austria and Italy signed in Paris in 1946 (Gruber-Gasperi Agreement) regulating the problem of German-speaking minority in South-Tyrol and the Memorandum of agreement signed between Italy, the UK, the USA and Yugoslavia in 1954 concerning the territory of Trieste are some of the historically well-known bilateral/multilateral agreements dealing with, amongst other issues, regulation of minority rights.

countries (Poland and Bulgaria in 1991, Hungary, Czechoslovakia and Romania in 1992). Similarly, Hungary has used the same way to protect and promote rights of its minority with Poland and Russia in 1991, and Estonia, Latvia, Lithuania in 1992.⁴⁵ Croatia has also signed bilateral agreements with Italy in 1996 and Hungary in 1995.

The advantages of bilateral treaties are manifold, not only for the minorities they are related to, but also for the states in question, as “they play a crucial role in establishing the basis of good neighborliness and friendly relations especially between geographically contiguous States.”⁴⁶ Minorities benefit from their preciseness and institutionalization of methods of promotion and protection of their rights. Bilateral treaties add to the existing national legal framework and therefore have to be in compliance with national legislation as well as with international standards of minority protection. Also, in countries in which more than one minority group exists, bilateral treaties should carefully avoid granting preferential treatment to the groups they are related to over other groups or individuals.⁴⁷

On the other hand, the involvement of the kin state can be detrimental for a particular minority and relations between the states. This is especially the case if the kin state supports the unbalanced demands by its co-nationals living in another (often neighboring) country, thus causing internal instability as well as regional political and

⁴⁵ For more details, see Benoit-Rohmer, Florence. 1996, pp. 54-55. Also, see Zagar, Mitja and Novak, Ales. “Constitutional and International Protection of National Minorities in Central and Eastern Europe”. Ljubljana: Institute for Ethnic Studies, 1999, pp. 13-14 for elaboration of a number of bilateral treaties concluded between Central and Eastern European countries, former USSR republics and Russian Federation and Eastern European countries and Germany.

⁴⁶ Van der Stoep, Max. “Minority Rights, Participation and Bilateral Agreements”. Address to an International Seminar on Legal Aspects of Minority Rights: Participation in Decision-making Processes and Bilateral Agreements on Minority Rights. Zagreb, 2000, pp.4.
<http://www.osce.org/hcnm/documents/speeches/2000/>

⁴⁷ Ibid. Also, the same view was expressed by Mirjana Domini, who argued that bilateral agreements with one minority can be discriminatory for the other, whose status is not regulated by similar agreement. See Interview with Mirjana Domini. “Manjine su ključ savremenih evropskih integracija”. In *Nacionalne manjine I: k demokratskim standardima zastite I prava*. Split: Stina, 2003, pp. 44.

security tensions. One of the best examples of the damaging involvement of the kin state was the role of the then Federal Republic of Yugoslavia in the events in Croatia after its declaration of independence and its support for the secessionist demands of the Serb minority.⁴⁸ Needless to say, such involvement damages relations between the two states to a great extent and thus precludes resolution of minority problems for long periods of time.

1.2.3 Minority Self-organization

The third factor of importance for the promotion of minority rights is the organization of the minority itself. A well organized, homogenous minority, with developed democratic methods of articulation of its demands is likely to be more successful in promotion of its rights and advancement of its status in a society than the one lacking these characteristics.

Minority self-organization is especially important in the implementation of cultural autonomy, a method used for protection of minorities from assimilation, especially in case of territorial dispersed minorities. The cultural autonomy implies not only the respect for the unique ethnical, cultural, linguistic or religious identity of minorities, but also creation of the adequate conditions for articulation, protection and development of such identity.⁴⁹ Minority associations are in this regard especially important as they play a primary role in the preservation of distinctive national and cultural characteristics through cultural amateurism, publishing and information. Other rights that fall under the domain of cultural autonomy, such as the use of own language,

⁴⁸ Trifunovska, Snezana. 1999, pp.26.

⁴⁹ Ivanovic, Milan. "Kulturna autonomija – model zastite od asimilacije". In *Nacionalne manjine II: zastita manjinskih prava u Hrvatskoj*. Split: Stina, 2003, pp. 38.

education in own tongue, use of own symbols, etc. are usually implemented through relevant state bodies and institutions, thus ensuring the minorities' integration into the mainstream society.⁵⁰

Furthermore, in case of a minority that does not enjoy strong support by the kin state and/or is exposed to unfavorable attitude of the home state, the importance of that minority's adequate self-organization exceeds the typical value of cultural promotion and maintenance of unique cultural features. Status of such minority within a society is to a great extent determined by that minority's ability to adequately organize its members, create efficient mechanisms for articulation of its demands and establish viable methods of promotion of its distinctiveness in a way that it is perceived as enriching and not threatening to the minority population and other minorities living within a state. Their actions targeted at positive affirmation of their national communities in public and breaking the stereotypes about their members in the majority society are of great importance.⁵¹

However, this requires a high level of organizational unity of such minority and an adequate degree of national self-awareness expressed through a desire to preserve unique national, ethnic, linguistic or religious characteristics, while staying integrated in the mainstream society. This is more easily attained within traditionally homogenous communities and it is clearly related to the issue of the sense of national identity, developed within a particular minority group.

⁵⁰ Ibid., pp.43.

⁵¹ Tatalovic, Sinisa. "Politika zastite nacionalnih manjina u Hrvatskoj". In *Nacionalne manjine II: zastita manjinskih prava u Hrvatskoj*. Split: Stina, 2003, pp. 25.

1.2.3.1 Question of National Identity

Human beings necessarily develop many levels of identity - as individuals, as members of a family, a community, an ethnic group, a nation.⁵² For members of minorities, the question of national identity is inevitably more complicated and appears to be additionally multi-layered. An answer to the question ‘who am I?’ in the sense of locating oneself in a distinctive national collective personality is by itself not easy to offer. National identity is “fundamentally multidimensional”⁵³ and as such consists of a number of elements closely related to common culture, history, myths, territory, etc., enhanced by the existence of some sort of intangible “psychological bond”⁵⁴ that joins people in community and bounds them by unity and solidarity.

Most popular perceptions of the nation and national identity place religion and language as defining characteristics,⁵⁵ which might be considered too narrow, but is certainly applicable to minorities whose connection with the national territory, in terms of the kin state, has been lost. In this regard, historically, the religious affiliation played a very important role in the affirmation of national identity in the Balkans, where the close correlation between religion and identity, a legacy of the Ottoman millet system, resulted in “an entwining of national and religious identities.”⁵⁶

The millet system achieved a separation of different religious communities by granting them wide autonomy in managing their local affairs in areas of education,

⁵² White, George W. *Nationalism and Territory: Constructing Group Identity in Southeastern Europe*. Lanham: Rowman & Littlefield Publishers, Inc., 2000, pp. 5.

⁵³ Smith, Anthony D. *National Identity*. London: Penguin Books, 1991, pp. 14.

⁵⁴ Connon, Walker. “A Nation is a Nation, is a State, is an Ethnic group, is a...” In Hutchinson, J. and Smith, A. (Eds.). *Nationalism*. Oxford: Oxford University Press, 1994, pp. 36. Also, see Ernest Renan, Joseph Stalin, Max Weber in the same volume for different concepts of nation.

⁵⁵ White, George W. 2000, pp. 16.

⁵⁶ Poulton, Hugh. “Muslim Identity and Ethnicity in the Balkans”. In Buckley, William Joseph (Ed.) *Kosovo: Contending Voices on Balkan Interventions*. Michigan: Wm. B. Eerdmans Publishing Co., 2000, pp. 120.

culture and religion. As a consequence, the religious communities have become a main focus of identity and the feeling of belonging was based on religious affiliation rather than ethnicity or language.⁵⁷ Also, Francine Friedman notes that the “religious mobilization can be the earliest phase of the political development of a national group”⁵⁸ and an encouragement for national self-identification. Thus, the importance of the religious institutions in creation of national self-consciousness and preservation of national and cultural distinctiveness has traditionally been very significant in the region. As will be demonstrated in the case study, this is especially relevant for the minorities whose distinctive national identity has been denied recognition in the states they inhabited.

In conclusion, the adequate protection of a particular minority within a country depends on a number of important factors, one of which is the interaction between three relevant actors – the state itself, minority in question and minority’s kin state (if any). The better and more cooperative the interaction is, the more successful protection and promotion of minority rights will be.

Having said that, the responsibility of all three actors in this arena should be emphasized. Naturally, the responsibility of the kin state for the well-being of its co-nationals in another country is exclusively of moral nature and cannot be enforced. On contrary, the home state is obliged by international documents it is a party to as well as international standards of minority protection to respect and promote rights of minorities

⁵⁷ See Cicak-Chand, Ruzica. “Islam, etnicnost i drzava: Balkan”. *Migracijske teme*, Vol. 15, No. 3, Zagreb, 1999, pp. 266.

⁵⁸ Friedman, Francine. “*The Bosnian Muslims: Denial of a Nation*”. Boulder/Oxford: Westview Press, 1996, pp. 238.

living within its territory. Finally, there is a responsibility on the part of minority representatives, not only towards their minority, but towards the society as a whole – “finding solutions asks for a preparedness to act responsibly, from two sides.”⁵⁹

Even though minorities are most often, and justifiably so, portrayed as victims of oppressive or insensitive governments and their policies, there is a certain amount of accountability they should assume for their own situation. A well organized, homogenous minority, with reasonable and rational demands, responsible representatives and cooperative attitude is more likely to negotiate a fruitful resolution to its problems than if it was otherwise.

⁵⁹ Willem van Genugten. 1999, pp. 223. It should be noted that the whole idea of protection of minority rights implies respect for sovereignty and territorial integrity of home states and, by ensuring non-discrimination and equal enjoyment of rights to all its citizens, maintenance of its internal stability.

2. Protection and Promotion of Minority Rights in the Republic of Croatia

This chapter will offer analysis of the legal framework for the protection of minority rights in Croatia, with the historical outlook on the developments in this field, aiming to outline the broader legal context inside which the position of Bosniak minority will be examined. A special emphasis will be placed on the most recently adopted document, the Constitutional Law on Rights of National Minorities, as it represents the effort of Croatian authorities to produce a comprehensive legal instrument essential for sustainable and lasting resolution of minority issues.

2.1 Few Historical Facts

Former Socialist Federal Republic of Yugoslavia was a multinational federation consisting of six republics, inhabited by six nations (Croats, Serbs, Macedonians, Montenegrins, Muslims/Bosniaks and Slovenes), under the formula, one nation – one republic (except for B&H, where members of three nations lived). However, even the republics were very heterogeneous – members of all nations (as well as nationalities and ethnic groups) lived in all parts of republics and autonomous regions, making the ethnic composition of the country one of the most diversified in Europe.⁶⁰

The collapse of communism at the end of 1980s and beginning of 1990s and disintegration of former Yugoslavia were accompanied by aspirations toward creation of nation states, “understood as the right of each nation to have its own state and also a right of every nation to live in the same state.”⁶¹ This goal, resting on the notion of the nation in its primordial sense, built around common culture, language, customs and tradition,

⁶⁰ Janjic, Dusan. “Ethnic Conflicts and the Breakup of Former Yugoslavia.” In Janjic, Dusan (Ed.). *Ethnic Conflict Management: the Case of Yugoslavia*. Ravenna: Longo Editore, 1997, pp. 12.

⁶¹ Bianchini, Stefano. “Between History and Politics: Minorities, Nations and Ethnic Groups in Eastern Europe”. In Faber, Mient Jan (Ed.). *The Balkans: A Religious Backyard of Europe*. Ravenna: Longo Editore, 1996, pp. 102.

contrasted by the reality of ethnic diversity, sparked violent ethnic conflicts throughout the region.

Croatia was one of the republics of former Yugoslavia that faced this horrendous destiny. Croatian Declaration of Independence in 1991 was followed by separatist actions of its largest Serb minority, resulting in the brutal war that was ended by Croatian military operations in 1995, when the territory previously controlled by Serb forces was regained in its entirety by the Croatian army. This was followed by the mass exodus of Serbs living on these territories, whose total percentage in population of Croatia therefore dropped by almost 8%.⁶² Another burden to Croatia's internal stability was the involvement of Croatian army in the conflict between Bosniaks and Croats in B&H and support to the establishment of the Croatian Community of Herzeg-Bosnia in 1993, which complicated relations with its second largest minority, Bosniaks.⁶³

The period from the proclamation of independence until late 1999 in Croatia was marked not only by the horrors of ethnic conflicts, but also by ethnocentric and autocratic rule of the nationalist party, the Croatian Democratic Union (HDZ). Needless to say, ethnonationalist politics,⁶⁴ combined with the consequences of violent conflicts that spread through the whole region burdened relations between Croatian majority and its

⁶² Crimes committed by the Croatian army during and after the operations against Serb civilians, and the tolerance of authorities towards the mass exodus of population of Serb ethnicity demonstrated their willingness to have these territories ethnically cleansed. For more details, please see the Croatian Helsinki Committee Report on the Military Operation 'Oluja', published on 1 July 2000 (<http://www.hho.hr/aktizvj99.htm>) and the Report on Military Operation Bljesak, published on 24 July 2003.

⁶³ See more in Duvnjak, Neven. "Muslim Community in the Republic of Croatia". *Religion in Eastern Europe* Vol.19, No.3, 1999. <http://www.georgefox.edu/academics/undergrad/departments/soc-swk/ree/duvnjak.doc>

⁶⁴ "Ethnic form of nationalism or ethno-nationalism is the belief in an ethnic state ideal, according to which citizenship is defined in narrow ethnic or racial terms." Schierup, Carl-Ulrik. "From Fraternity to Fratricide. Nationalism, Globalism and the Fall of Yugoslavia". In Stefano Bianchini and George Schoepflin (Eds.). *State Building in the Balkans. Dilemmas on the Eve of the 21st Century*. Ravenna: Longo Editore, 1998, pp. 214.

minorities (especially Serbs and Bosniaks) dramatically. In addition, comparison of the demographic statistics from 1991 and 2001 indicates a major decline in the percentage in almost all of Croatian minorities, especially the largest ones.⁶⁵

This brief outline of the turbulent events in Croatian history after the independence draws a picture of the kind of burden Croatia is carrying nowadays in its relations toward minorities. Even though Croatia is currently one of the most homogenous countries in the world, with around 90% of its inhabitants of Croatian ethnic origin, the adequate treatment and protection of what is left of national minorities is still one of the greatest obstacles to its transition towards genuine (consolidated) democracy.⁶⁶

2.2 Legal Protection of Minority Rights in the Republic of Croatia

2.2.1 Historical Outlook on Contemporary Developments in the Legal Framework

Dramatic changes that Croatian political, legal and social system went through after the fall of communism and declaration of independence were accompanied by rather frequent modifications in the legal framework for protection of national minorities. The status of minorities is primarily determined in the provisions of the Croatian Constitution and then worked out in a special law as well as in provisions of other laws dedicated to minorities.

As to the Constitution of Croatia, for the sake of comparison and clarity, it is important to note that the Constitution of former Yugoslavia from 1974, in effect before

⁶⁵ Please see Annex II for details.

⁶⁶ In this regard, David Chandler, in his elaboration of the concept of democratisation, notes that today the concept “involves deeper concerns that relate to the sustainability of democratic institutions rather than their establishment and operation”, for which new concept of ‘consolidated democracy’ has been created. See Chandler, David. *“Bosnia: Faking Democracy After Dayton”*. London/Sterling, Virginia: Pluto Press, 1999, pp. 8. Also, see Linz, J. and Stepan, A. *“Problems of Democratic Transition and Consolidation”*. Baltimore: Johns Hopkins University Press, 1996 for elaboration of requirements for consolidated democracy.

the declaration of independence, defined Croatia as “...the national state of the Croatian nation, the state of the Serb nation in Croatia and the state of national minorities that live there.”⁶⁷ The Constitution of Croatia from 1990 in its Preamble defines Croatia as “the national state of Croatian nation and state of members of other nations and minorities, who are its citizens: Serbs, Muslims, Slovenians, Czechs, Slovaks, Italians, Hungarians, Jews and others, who are guaranteed equality with citizens of Croatian nationality.”⁶⁸

The obvious change occurred in the legal status of Serbs, who were unwillingly “degraded” to the status of ethnic minority, causing their fierce opposition to both the change in their status and declaration of independence.⁶⁹ In addition, the Constitution adopted the method of listing national minorities in the Preamble, which although not strictly a legal provision, nevertheless has a very important effect as a supreme political declaration. This practice has been subject to criticism by the Venice Commission, as it “tends to create legal problems related to the protection of rights of minorities (in particular, those that may exist in fact but do not appear on the list).”⁷⁰ The fact that

⁶⁷ Ustav SFRJ/SHR. Zagreb: Informator, s.a. pp. 1836. Cited in Zakosek, Nenad. “Ethnic War and Disempowerment: The Serb Minority in Croatia”. In Stein, Jonathan P. (Ed.). *The Politics of National Minority: Participation in Post-Communist Europe: State-Building, Democracy, and Ethnic Mobilization*. Armonk: M.E. Sharpe, 2000, pp. 224.

⁶⁸ Tatalovic, Sinisa. “*Manjinski narodi i demokracija*”. Podgorica: Centra za toleranciju i dijalog, 2001, pp. 93. The Constitution was since 1990 amended a number of times and the current wording of the preamble is now as follows: “Croatia is established as the national state of the Croatian nation and the state of the members of autochthonous national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians and Ruthenians (...)”. Constitution of the Republic of Croatia, www.vlada.hr

⁶⁹ Fionnuala Ni Aolain defines a constituent people as “equal in status with all other “peoples”. Its rights are not the product of majority charity, but an entitlement on the basis of parity. (...) But, without any doubt, to move from the status of a “constituent” people to that of a minority is a demotion and was collectively understood as such in the breakup of the Yugoslav Federation.” See Fionnuala Ni Aolain. “The Fractured Soul of the Dayton Peace Agreement: A Legal Analysis”. In Sokolovic, Dzermal and Bieber, Florian (Eds.). *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina*. Hampshire: Ashgate Publishing Limited, 2001, pp. 69.

⁷⁰ European Commission for Democracy through Law (Venice Commission), Opinion on the Amendments of 9 November 2000 and 28 March 2001 to the Constitution of Croatia CDL-INF (2001) 15, adopted by the Venice Commission at its 47th Plenary Meeting, 6-7 July 2001, section 2. [http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)015-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)015-e.html)

Bosniaks, together with Slovenes were “expelled” from this list in 1997, added to the polemics about the legal status of Bosniaks in Croatia, a very important issue that will be explored further in the text.

In addition, the Constitution mentions minorities in very general terms. Article 14 of the Constitution recognizes fundamental rights and freedoms to all citizens of Croatia, regardless of their race, color, sex, language, religion, political affiliation, national or social origin, and Article 15 guarantees equality to all national minorities and freedom to express their nationality, freedom to use their language and script and cultural autonomy.

In the course of the dissolution of the former Yugoslavia, the international community conditioned the recognition of Croatian independence by adoption of an adequate mechanism for protection of minority rights, finding general guarantees provided in the Constitution insufficient, especially for the preservation of very fragile relations with the largest Serb minority.⁷¹ The attempt to specify mechanisms of protection and promotion of the rights of national minorities was the adoption of a rather liberal Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities and Minorities in December 1991.

This law provided for cultural autonomy of all minorities, regardless of their size, as well as special ways of protection for numerically more significant Serb minority. Serbs were granted cultural autonomy as all other minorities and, more importantly, the right to self-organization, free use of language and alphabet, state-funded education, proportional representation in state bodies and all levels of state administration and the

⁷¹ See Rich, Roland. “Recognition of States: The Collapse of Yugoslavia and the Soviet Union”. *European Journal on International Law*, Vol. 4, No. 1. <http://ejil.org/journal/Vol4/No1/art4.html>

designation of two areas inhabited by Serbs (Knin and Glina) as special status districts with wide autonomous status.⁷²

However, the provisions of this constitutional law were never implemented. The conflict that followed and especially the military operations of Croatian authorities in 1995, led the Parliament to temporarily annul provisions of the law related to the proportional representation, creation of special districts and the Court for Human Rights. The reasoning behind such a decision of the Parliament was that these provisions of the Constitutional Law were reserved for minorities that make up more than 8% of population (which applied only to Serbs in 1991), the condition which no longer existed.⁷³ In addition, it has to be taken into account that the adoption of the law was more a result of political pressure than of a genuine political will to solve this crucial question of Croatian politics.⁷⁴

2.2.2 The Constitutional Law on Rights of National Minorities from 2002 and Related Legislation

Reported deficiencies in the treatment of minorities, especially in the first half of 1990s, placed the issue of minority protection on the top of the agenda of international community in Croatia, particularly European Union (EU), CoE, and the OSCE, which made the minority protection conditional to closer integration of Croatia into European

⁷² Zakosek, Nenad. 2000, pp. 226. Also, Budislav Vukas gives a detailed overview of this law. Please see Vukas, Budislav. "The Legal Status of Minorities in Croatia". In Trifunovska, Snezana (Ed). *Minorities in Europe: Croatia, Estonia and Slovakia*. The Hague: T.M.C Asser Press, 1999, pp. 47-59.

⁷³ The Venice Commission criticized this move by saying that "the suspension of the Law was not indispensable (...) the provisions could validly have continued in force, although in that case they would not for the moment have any practical application because of the changes which have occurred." Report on the Implementation of the Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic Communities and Minorities in the Republic of Croatia. Adopted at the Commission's 27th Plenary Meeting, on 17-18 May 1996. [http://www.venice.coe.int/docs/1996/CDL\(1996\)026-e.html](http://www.venice.coe.int/docs/1996/CDL(1996)026-e.html)

⁷⁴ Tatalovic, Sinisa. "Politika zastite nacionalnih manjina u Hrvatskoj". In *Nacionalne manjine II: zastita manjinskih prava u Hrvatskoj*. Split:Stina, 2003, pp. 7.

processes.⁷⁵ As a result, in the last few years, Croatia has become very active in promoting significant changes to its political, economic and legal system in an attempt to satisfy strict requirements for membership in the EU, part of which has been adoption of appropriate mechanisms of minority protection.⁷⁶

The efforts of all regional and international factors revolved around one issue – bringing Croatian legislation and practice in protection of minority rights in line with the internationally accepted standards. The most emphasis was placed on the adoption of the new Constitutional Law on Rights of National Minorities, as a fundamental legal instrument of minority protection and one of the Croatia's international obligations upon entry to the Council of Europe.⁷⁷

The political pressure, however, did not materialize immediately. Process of drafting of the new constitutional law, which would satisfy the international community and ensure consensus of minorities, as well as secure the necessary two-third majority in the Parliament, proved to be extremely long and challenging. The Constitutional Law on

⁷⁵ In this regard, the European Commission for Democracy through Law (Venice Commission), the institutional body of the CoE, has since 1995 issued a number of opinions and recommendations on various Croatian legal acts, assessing their compliance with international standards in the areas of democracy and human rights. See at <http://www.venice.coe.int/site/interface/english/htm> The OSCE has also established its Mission in Croatia in April 1996, with the mandate to provide assistance and expertise to the Croatian authorities at all levels in the field of human rights and rights of national minorities. See at <http://www.osce.org/croatia/mandate/> In addition, the High Commissioner on National Minorities has also been actively involved in the issue, especially in 1996, when two country-visits took place (February and June 1996), followed by recommendations to Croatian authorities on the improvement of actual situation of minorities. See at <http://www.osce.org/hcnm/documents/recommendations/croatia/index.php3>

⁷⁶ See Stabilization and Association Agreement, Brussels, 26 Mar 2003, pp. 10-11. http://europa.eu.int/comm/external_relations/see/sap/rep2/com03_341_en.pdf

⁷⁷ This occurred after the attempt to amend the existing constitutional law on rights of national minorities failed in 2000. For Croatian obligations within CoE, please see the Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Croatia, adopted by the Committee of Ministers on 6 Feb 2002 at http://cm.coe.int/stat/E/Public/2002/adopted_texts/resCMN/2002xn1.htm and the Recommendation on the application of the European Charter for Regional or Minority Languages from 19 September 2001 at <http://cm.coe.int/ta/rec/recChL/2001/2001rcl2.htm>

Rights of National Minorities (Constitutional Law)⁷⁸ was not adopted until 13 Dec 2002. The question that arises is whether this law, being a product of strong external pressure and burdensome internal compromise, is in fact in accordance with Croatia's international obligations and internationally accepted standards of minority protection.

The Constitutional law envisages a number of positive measures to be taken by the state to protect and promote minority rights, and in this regard honors the obligations set out by the CoE Framework Convention for the Protection of National Minorities. It grants a wide range of rights to members of national minorities, from cultural to representational. In line with international instruments, the law at the outset prohibits any discrimination based on belonging to national minority and ensures equality before the law and equal legal protection (Article 4.4). It further provides for a number of rights, such as the right to use own language (Article 10), to receive education in language and script of national minority in state-funded preparatory, primary and secondary schools (Article 11.2) and to use own symbols (Article 14). It also grants cultural autonomy to members of national minorities, right to develop and preserve own culture and tradition (Article 7.4), to practice own religion freely and establish religious institutions (Article 7.5), to have access to and disseminate information in own language and script (Article 18) and right of assembly and association (Article 15).⁷⁹

The Constitutional law provides the definition of minority in the Article 5, which states that the national minority is “a group of Croatian citizens, members of which are traditionally settled in the territory of Republic of Croatia and have ethnic, linguistic,

⁷⁸ Constitutional Law on Rights of National Minorities, adopted on 13 Dec 2002. Official gazette. 155/2002. www.vlada.hr/download/200.../Ustavni_zakon_o_pravima_nacionalnih_manjina_NN_154-02.htm, pp.2. Translation from Croatian to English is done by the author, as the official translation is not yet available.

⁷⁹ Ibid., pp. 2-5.

cultural and/or religious characteristics different from other citizens and are led by desire to preserve those characteristics.” This definition has raised serious concern about the status of certain minorities, for its inclusion of citizenship and traditional settlement requirements respectively. These issues will be explored further in the text.

2.2.2.1 Political Rights

Perhaps the most important rights granted to members of national minorities are the right to representation in legislative bodies on state and local level, as well as the right to participate in public life and local management through a rather innovative mechanism of national minority councils and national minority representatives (Article 7).

The Constitutional Law provides for the right of national minorities to be represented in the Croatian Parliament (Sabor) with eight representatives, three from Serb minority and five from others. The Law on Election of Representatives to Croatian Parliament sets out more detailed provisions on modalities of election of the other five minority representatives.⁸⁰ The criteria for distribution of seats has not been the numerical strength of a particular minority in the overall Croatian population, but the determining factors were previously acquired rights of Italian, Hungarian, Slovak and Czech minorities.

Furthermore, the Law on Election of Representatives to Croatian Parliament does not recognize a dual vote right, a possibility provided for in the Article 15 of Croatian Constitution, which stipulates that members of national minorities may be granted a

⁸⁰ Article 16 specifies that one representative is elected by members of Hungarian minority, one is elected by members of Italian minority, one is elected by members of Czech and Slovakian minority, one by members of Austrian, Bulgarian, German, Polish, Roma, Romanian, Ruthenian, Russian, Turkish, Ukrainian, Vlah and Jewish national minority and finally, one representative is elected by members of ‘new minorities’, namely, Albanian, Bosniak, Montenegrin, Macedonian and Slovenian national minority. Law on Election of Representatives to Croatian Parliament, adopted on 9 April 2003. Official gazette 53/2003 <http://www.mn.hr/sluzbeni-list/sluzbeni/index.asp>

special right to vote for their representatives to Parliament, in addition to the general electoral right.⁸¹ This raised the most objections to the Law on Election of Representatives, as it, in fact, undermines the importance of the guaranteed representation in Sabor by forcing members of national minorities to choose between voting as political subjects and members of an ethnic group.⁸²

The Constitutional Law also provides for representation of national minorities in legislative bodies of local and regional self-government units. It sets out a system whereby one seat is reserved in legislative body of a local self-government unit for a member of national minority that comprises between 5% and 10% of total population of that unit and it grants proportional representation for national minority that comprises more than 15% of the total population of the unit.⁸³ Similar system is applied to legislative bodies of regional self-government units, whereby proportional representation is ensured for national minorities that comprise more than 5% of the total population of that unit.⁸⁴ The modality of election of representatives is defined by the Law on the Amendments on the Law on Election of Representatives to Legislative Bodies in Local

⁸¹ Amendments to the Constitution of Republic of Croatia, adopted on 9 November 2000, Official Gazette 113/2000. <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp>

⁸² Having in mind that candidates for minority representatives are not likely to have a comprehensive political program, but will rather count on their membership in a certain ethnic group to get elected, it is most likely that members of minorities with stronger sense of national identity will opt for an ethnic candidate, unlike the others, more assimilated into the mainstream society, who would find political programs more significant. In this regard, an interesting analysis of a large number of minority members who opted to vote for political parties and not minority candidates at the Parliamentary elections in January 2000 (as there were two separate lists) is indicative of the issues this provision raises. See Tatalovic, Sinisa. "Politika zastite nacionalnih manjina u Hrvatskoj". In *Nacionalne manjine II: Zastita manjinskih prava u Hrvatskoj*. Split:Stina, 2003, pp. 20-23.

⁸³ Constitutional Law on Rights of National Minorities, Article 20 (2-3), pp. 5-6.

⁸⁴ *Ibid.*, Article 20 (4), pp. 6.

and Regional Self-Government Units⁸⁵, which also does not recognize the dual vote right (Article 8).

2.2.2.2 Minority Councils

In order to promote participation of national minorities in public life and management of local affairs, the Constitutional Law regulates creation of state-funded councils of national minorities in local and regional self-government units.⁸⁶

Competencies of the councils are intended to ensure participation in decision making on local level by making recommendations and suggesting adoption of legal acts that are related to improvement of status of national minorities. Minority councils can also nominate candidates for appointments in the state administrative bodies and bodies of self-government units and are to be consulted in process of drafting legislation that concern rights and freedoms of national minorities. They can, in addition, initiate a procedure in case they consider a legal act of self-government unit or some of its provision unconstitutional or not in line with the Constitutional Law or any other special law that concerns minority rights. Even though their competencies are few, the fact is that minority councils lack any governing power, which has been a matter of criticism by the Venice Convention.⁸⁷

⁸⁵ Law on the Amendments on the Law on Election of Representatives to Legislative Bodies in Local and Regional Self-Government Units, adopted on 11 March 2003

<http://www.nn.hr/clanci/sluzbeno/2003/0574.htm>

⁸⁶ Constitutional Law on Rights of National Minorities. Articles 23-34, pp. 6-9. The first elections for minority councils were held on 18 May 2003, with the extremely low turn out. See at

http://www.osce.org/news/generate.php3?news_id=3278

⁸⁷ European Commission for Democracy through Law (Venice Commission), Opinion on the Constitutional Law on the Rights of National Minorities in Croatia, CDL-AD (2003) 9, adopted by the Venice Commission at its 54th Plenary Session, 14-15 March 2003.

<http://www.venice.coe.int/site/interface/english.htm> It should be noted that on 18 May 2003, the elections for the councils of national minorities took place and even though assessed as conducted in an open and well organized fashion, the turn out was extremely low, resulting in elections being held for fewer than half of the 470 councils across the country.

On the state level, the participation of national minorities in public life and especially their contribution to resolving the issues concerning implementation and protection of rights and freedoms of national minorities is ensured by creation of a state Committee for National Minorities (Committee).⁸⁸ Members of the Committee are appointed by the Government in the following manner: seven members are selected from those nominated by councils of national minorities, five are elected from distinguished members of community and another eight are representatives of national minorities in Sabor.⁸⁹

The competencies of the Committee include, amongst others, the right to recommend the state bodies to discuss certain issues of interest to a national minority, the right to recommend measures for improvement of status of minorities, the right to suggest economic, social and other measures to maintain the existence of minorities on territories traditionally inhabited by their members, a right to give opinion and suggestions on TV and radio programs related to national minorities and on treatment of national minority issues in public radio, TV and other media, etc. Most importantly, the Committee has a right to decide on distribution of funds provided for minorities in the state budget.⁹⁰

⁸⁸ Constitutional Law on Rights of National Minorities, Articles 35-36, pp. 9-10. Original translation from Croatian is 'Council'; however, the term Committee is hereby used to emphasize the distinction between this body and local and regional minority councils.

⁸⁹ The first Committee has already been established and currently consists of ten members – five distinguished members of community and five minority representatives in Sabor. The President is a member of Jewish minority, Aleksandar Tolnauer and Vice President is Sinisa Tatalovic from Serb minority. Out of the remaining ten, seven members will be elected by councils of national minorities recently formed and three will be elected after the next parliamentary elections.

⁹⁰ In that regard, on 27 Jun 2003, the Committee has adopted the Decision on the distribution of financial assistance from the State budget for year 2003 and accompanying decision on criteria for distribution as well as methodology for monitoring the implementation. It has thereby decided how to distribute 20,000,000 kuna (2,680,000 EUR), provided for in the State budget for minority associations in 2003. Adopted on 27 June 2003. Official Gazette, 111/2003. <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp>

2.2.3 Other Legislation and Institutions Related to Protection of Minority Rights

Even though exclusively devoted to minority protection and therefore the most comprehensive, the Constitutional law is not the only legal document that deals with the rights of national minorities in Croatia. In 2000, Croatian Sabor passed two laws important for the implementation of cultural autonomy of national minorities – the Law on the Use of Language and Script of National Minorities⁹¹ and Law on Education in the Language and Script of National Minorities⁹². These two laws are extremely important for territorially concentrated national minorities, but also to others, which although not directly benefiting from them, can use them as a tool in promotion of cultural autonomy in general. In addition, Croatian acceptance to relevant international and regional organizations was followed by ratification of international documents dedicated to this area of human rights, amongst which the most important are the above mentioned documents of the UN and CoE.

State institutions of relevance for the implementation and protection of rights of national minorities include those exclusively dedicated to this subject, such as the Parliamentary Commission for Human Rights and National Minorities⁹³ and the government Office for National Minorities, as well as those that deal with minority issues as a part of their general mandate, such as different ministries (for state administration, education, culture, etc.).

⁹¹ Law on the Use of Language and Script of National Minorities. Adopted on 19 May 2000. Official Gazette, no. 51/2000. <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp> The law regulates that the official use of language and script of national minorities can be implemented in local and regional self-government units in their bodies and institutions and sets out conditions for such use.

⁹² Law on Education in the Language and Script of National Minorities. Adopted on 19 May 2000. Official Gazette, no. 51/2000. <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp> The law regulates the conditions under which national minorities have right to education in their own language.

⁹³ Which consists of all the minority representatives in the Sabor, as well as four external members, representatives of Slovenian, Bosniak, Roma and Albanian minority.

This outline of the most recent Croatian legislation related to minority rights indicates fairly comprehensive and consistent system of mechanisms and institutions for protection and promotion of minority rights. Even though this can be viewed as more of a product of external pressure rather than favorable political will, the Constitutional law sets out a solid base for positive future resolution of minority issues in Croatia,⁹⁴ in line with the international standards of minority protection. It is recognized, however, that the process of ensuring effective promotion and protection of minority rights includes the adoption of the adequate legislation only as a first step; full implementation of such legislation remains the crucial issue.

⁹⁴ Please see the European Commission for Democracy through Law (Venice Commission), Opinion on the Constitutional Law on the Rights of National Minorities in Croatia, CDL-AD (2003) 9, adopted by the Venice Commission at its 54th Plenary Session, 14-15 March 2003.
<http://www.venice.coe.int/site/interface/english.htm>

3. Bosniak Minority in the Republic of Croatia

The previous chapter provided an outline of the Croatian legal framework for the protection of national minorities and the developments that shaped its current content. Even though assessed as adequate and comprehensive, the legal regulation represents only a framework inside which the protection and promotion of rights of certain groups is achievable. The mere existence of an adequate legal framework does not automatically imply that all minority groups inside a country are effectively protected.

In order to assess the actual status of a certain minority group, its position in the society and adequacy of the protection of its rights, apart from the legal framework, it is also necessary to examine relations that exist between the group in question, its home state and the kin state and determine the influence of the interplay of these factors on the protection and promotion of the rights of the group.

3.1 Relations with the State

Bosniaks in Croatia, together with Serbs, Slovenians, Montenegrins and Macedonians, fall under the category of the so-called ‘new minorities’, a term that can be misleading as it implies a certain novelty in existence of these ethnic groups on the territory of Croatia. Quite contrary, members of all those groups lived in Croatia long time before its independence, even though their status was different – as constituent nations of former Yugoslavia, they were not in the position of minorities anywhere on its territory.

This division to ‘old’ and ‘new’ minorities is accompanied by the similarly undefined distinction between autochthonous and alochthonous minorities. Even though some authors place “newcomers (...) like Muslims, Albanians, Macedonians, and

others”⁹⁵ into the category of alochthonous minorities, taking the unspecified duration of collective residence on the territory of Croatia as criteria for division, neither the term autochthonous nor alochthonous has been defined in international law or Croatian national legislation.⁹⁶ Strictly speaking, this division therefore has no legal standing. However, as it was often used in political debate over the position of minorities, it became a common categorization, bearing certain expectations that autochthonous (and therefore ‘traditional’) minorities have a stronger claim for the rights than the ‘new’ ones.⁹⁷

3.1.1 Issue of Recognition of National Minority Status

The issue of legal status of Bosniaks, the second largest minority in Croatia, is closely related to this division and is entrenched in the practice of listing national minorities adopted by the Croatian Constitution. Despite the criticism expressed by the Venice Commission and the frequent amendments to the Constitution, this practice has not been abolished. The 1991 Constitution included Bosniaks (Muslims) in the list of national minorities and their legal status was therefore affirmed. However, amendments to the Constitution from 1997 ‘expelled’ Bosniaks (together with Slovenes) from its preamble, thereby denying them their previously recognized status. The reason for such exclusion has never been officially explained.⁹⁸

The issue of recognition of minority status raises an obvious question – what is the definition of minority? The lack of internationally accepted definition of the minority is

⁹⁵ Domini, Mirjana. “The Economic Position of Minorities in the Republic of Croatia”. In Trifunovska, Snezana (Ed). *Minorities in Europe: Croatia, Estonia and Slovakia*. The Hague: T.M.C Asser Press, 1999, pp. 71.

⁹⁶ This point was taken by Vukas, Budislav, 1999, pp. 60. Also, Tatalovic, Sinisa. *Politika zastite nacionalnih manjina u Hrvatskoj*. 2003, pp. 10.

⁹⁷ Domini, Mirjana. 1999, pp. 71, supra 16.

⁹⁸ Vukas, Budislav. 1999, pp. 60.

already outlined as one of the main problems related to minority protection in general. It is accepted in the international law that the status of a minority is a matter of fact and has to be determined on the basis of objective criteria. The question again is what are the objective criteria? Lack of universal answers to these important questions leaves a lot of discretion to individual states to provide solutions themselves, often tailoring them to suit their own and not minority interests.

Following onto this logic, the Croatian Constitutional law provides the definition of minority in Article 5, which includes both objective (citizenship, traditional settlement, ethnic, linguistic, cultural and/or religious characteristics) and subjective (desire to preserve those characteristics) criteria for defining national minority. The citizenship requirement was particularly problematic for Bosniak minority whose members have in many cases been denied citizenship, especially those living near the border with B&H.⁹⁹ This is further complicated when considered together with the provisions of the Law on Citizenship, which requires stricter criteria for naturalization of non-Croats than Croats, and has been a matter of criticism by the OSCE Mission to Croatia, OSCE High Commissioner on National Minorities and the CoE Venice Commission.¹⁰⁰

In addition, the definition awards the status of a national minority only to those groups that are traditionally settled in the territory of Croatia, without defining the traditional settlement. This further creates polemics about the status of Bosniaks, whose traditional habitat in Croatia has been a matter of dispute.¹⁰¹

⁹⁹ This has also been a problem with Serb and Roma minority, who were often subjects of discriminatory treatment in the process of acquiring citizenship.

¹⁰⁰ Background report on the Implementation of the Constitutional Law on National Minorities and Related Legislation. OSCE Mission to Croatia, 12 May 2003, pp. 2.

http://www.osce.org/croatia/documents/reports/clnm_implementation_120503.pdf

¹⁰¹ These issues, together with their exclusion from the Constitution, have raised serious concern amongst Bosniak organizations in Croatia. Ahead of the last amendments to the Constitution in 2001, Bosniak

However, in order to determine the legal status of Bosniaks in Croatia, one has to examine not only the Constitutional law, but also the accompanying legislation and developments in this field after the adoption of the Constitutional law. First of all, it should be noted that the 2001 census questionnaire (and results) list Bosniaks under the heading 'ethnic minorities'. Despite all other problems with that particular census, its formulation certainly means recognition of the status. Also, Bosniaks participated in the elections for the local councils on national minorities¹⁰² and a Bosniak was elected for the state Committee for minorities from distinguished members of community.¹⁰³ The Law on Election of Representatives to Croatian Parliament also lists Bosniaks in its Article 15, which deals with the distribution of the seats reserved for members of minorities in the Croatian parliament. Furthermore, all legal acts adopted by the state Committee for minorities include reference to Bosniak minority.¹⁰⁴

The above certainly confirms the status of Bosniaks as a national minority, despite the fact that legally such status could be a matter of disagreement. Inconsistency of Croatian legislation further adds to this problem. Namely, the Croatian Constitution mentions ten national minorities in its preamble, the Constitutional law is not limited to a specific list and the Law on the Election of Representatives to the Croatian Parliament

National Community of Croatia has sent letters to Croatian Sabor, President of the Republic, all parliamentary parties and minority representatives in Sabor to request inclusion of Bosniak in the preamble, but to no avail. The preamble remained as it was in 1997. See Bosniak National Community of Croatia Activity Report for the period 4 Nov 2000 to 14 Jun 2003. Submitted to the Assembly of the BNC by the President, Sead Berberovic, on 14 Jun 2003.

¹⁰² See Decision on the Elections for Members of Minority Councils in Local and Regional Self-governance Units. Adopted on 10 April 2003. Official Gazette 64/2003. <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp>

¹⁰³ Prof. Sead Berberovic.

¹⁰⁴ Such as the Decision on the distribution of financial assistance from the State budget for year 2003 and accompanying decisions. <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp>

grants rights to twenty-two minorities.¹⁰⁵ However unlikely it may seem at the moment, considering the difficult amendment procedure, it would be advisable to harmonize these fundamental legal acts, for the political message they send is as important as the legal one.

3.1.2 Question of National Identity

The issue of recognition of Bosniak minority is closely related to and can even be considered a consequence of the problems that existed in definition of national identity of Bosniaks, which is not of contemporary nature and is not limited to Croatia only. This issue is deep-rooted in the complex historical and political circumstances of the whole region and intrinsically linked with the history of B&H, traditionally multicultural and multinational state.

During the Ottoman rule, the separate religious identities in B&H had political implications, but that was still a matter of religion and not nationhood, as the modern idea of nationhood began spreading from Croatia and Serbia to Catholics and Ortodox of B&H as late as mid-nineteen century.¹⁰⁶ For the period of the Austro-Hungarian rule over B&H, a separate Muslim identity became “too advanced to be easily renounced”,¹⁰⁷ but the cultural identification with either Serbs or Croats was quite common, often determined by the political opportunism and therefore the alignments were rather fluid.¹⁰⁸ Similarly, in the period of Kingdom of Serbs, Croats and Slovenes (later renamed Kingdom of Yugoslavia), Muslims already operated as a separate community; however,

¹⁰⁵ Background report on the Implementation of the Constitutional Law on National Minorities and Related Legislation. OSCE Mission to Croatia, 12 May 2003, pp. 2.

http://www.osce.org/croatia/documents/reports/clnm_implement_120503.pdf pp. 2.

¹⁰⁶ Malcom, Noel. “*Bosnia: A Short History*”. London: Macmillan, 1994, pp. 149.

¹⁰⁷ *Ibid.*, pp. 152.

¹⁰⁸ *Ibid.*

the self-identification with either Serbs or Croats persisted. During the contested period of the II World War and the incorporation of B&H into the Independent State of Croatia, “Muslims had fought on all sides - Ustasha, German, Chetnik, Partisan – and were killed by all sides”,¹⁰⁹ to finally accede to the communist rule and a solution of federal Yugoslavia in which B&H will continue to exist.¹¹⁰

This turbulent history of Bosnian muslim population served as a foreword to the problems in affirmation of their nationality and definition of national name in Yugoslavia after the II World War. Despite the fact that the name Muslim¹¹¹ has been accepted as the national and political name of this ethnic group in the documents of People’s Liberation Movement of Yugoslavia during the II World War, it was not until late 1960s that the separate national identity of Bosniaks was recognized.

In the meantime, in the period from 1945 to late 1960, the idea that members of this group would gradually, in accordance with their cultural affiliation and development, identify themselves with either Serb or Croat nationality was accepted and muslims were to declare themselves as ethnic Serbs, Croats or ethnically uncommitted.¹¹² Bosniaks were not given a status of separate nationality in the Constitution of the Federal Peoples

¹⁰⁹ Ibid., pp. 192.

¹¹⁰ Sacir Filandra concludes that Bosniaks (as a distinctive national entity) did not take part in the II World War, since taking part implies the existence of collective political and military goals and realization of collective position and aims of action, which did not exist with Bosniaks. See Filandra, Sacir. “*Bosnjacka politika u XX. stoljecu*”. Sarajevo: Sejtarija, 1998, pp. 157-195.

¹¹¹ The term ‘muslim’ (with the small first letter) is hereafter used to specify followers of Islamic religion, whereby the term “Muslim’ (with the capital first letter) is used to indicate a former national name of Bosniaks.

¹¹² For further details on this issue, please see Malcom, Noel. 1994, pp. 197-198. Also, Imamovic, Mustafa. “*Historija Bosnjaka*”. Sarajevo: Bosnjacka zajednica kulture Preporod, 1998. In this regard, the instruction for 1948 census is indicative. It stipulates that “each person writes down a nationality, e.g. Serb, Croat, Slovene, Macedonian, Montenegrin, Hungarian, Albanian, Romanian, etc., Muslims write down Serb-Muslim, Croat-Muslim or ethnically uncommitted-Muslim.” Cited in Tankovic, Semso. “*Bosniaks in the Republic of Croatia*”. Sarajevo: Vijece Kongresa bosnjackih intelektualaca, 1997, pp. 45.

Republic of Yugoslavia of 1946; “they simply were not mentioned, as if they did not exist (...)”¹¹³ and in fact reduced to a religious group.

This denial of national and political identity and name was accompanied by unfavorable attitude towards religion, religious tradition and institutions.¹¹⁴ Even though officially, religious freedoms were granted and protected, their practicing was discouraged and perceived as backward-looking and an impediment to social development. On personal basis, it was an obstacle to professional and societal advancement and was therefore limited to older strata of society. In case of Bosniaks, their religion was for centuries a backbone of not only cultural, but also national identity. Sociologist Esad Cimić stressed that a Bosniak (he used the term Muslim) followed his religion not “from religious impulses but (from) the aspiration of forming *his own* national distinctiveness, individuality” (italics in original),¹¹⁵ thus using it as a shield from the unwanted inclusion in other national groups.

In the mid 1960s, the ‘muslim question’ was again actualized. Many reasons for this were suggested – from those that see this as a result of liberalization of communist ideology and practice in general, to those that see it as an attempt to put an end to the decades-long rivalry between Serbs and Croats in BiH.¹¹⁶ The political debate that emerged resulted in the communist party’s affirmation of the distinctiveness of Bosniak

¹¹³ Filandra, Sacir. “*Bosnjacka politika u XX. stoljecu*”. Sarajevo: Sejtarija, 1998, pp.225.

¹¹⁴ Which applied to all religions in the former Yugoslavia at the time. Malcom, Noel. 1994, pp.194-197.

¹¹⁵ Cimić, Esad. “*Socijalističko društvo i religija*”. Sarajevo: Svjetlost, 1970, pp. 258. Cited in Friedman, Francis, 1996, pp. 186.

¹¹⁶ Noel Malcom argues that the drive for recognition of the Muslims was led by Communists and other secularized Muslims, who wanted the Muslim identity to develop into something more definitely non-religious. See more in Malcom, Noel. 1994, pp. 198-201. Also, see Filandra, Sacir. pp. 231-236 and Francine Friedman. 1996, pp. 164-168, for the account of rationale behind such development.

nationality and recognition that the “Muslims are a separate people.”¹¹⁷ Even though this recognition meant adoption of a national name defined in religious terms, it was, however, a long-needed acknowledgment of national distinctiveness and in those complex political circumstances, it represented the ultimate political goal that Bosniaks could reach.¹¹⁸

Use of the present national name Bosniak has been actualized at the end of 1980s and beginning of 1990s by various political parties, intellectuals and movements. However, the name itself was not a new phenomenon. It dates back to the time of Ottoman rule over Bosnia and it has been widely used in official administrative communication to refer to Bosnian muslim population.¹¹⁹

In 1993, at the Second Bosniak Assembly, held in Sarajevo, the name Bosniak has been officially reintroduced by members of the group and affirmed by the B&H Parliament. The Dayton peace agreement as well as the Constitution of B&H legally and politically reaffirmed the name Bosniaks, which has ever since been used to denote “people of South Slavic ethnic origin and language who differ from other South Slavs in religion, cultural and political experience.”¹²⁰

¹¹⁷ Twentieth session of the Central Committee of Communist Organization of B&H held in 1968. Purivatra, Atif. *“Nacionalni i politicki razvitak muslimana: rasprave i clanci”*. Sarajevo: Svjetlost, 1970, pp. 30. In fact, the name Muslims appeared in the beginning of 1900s in Bosniak intellectual circles, as a response to ostracized name Muhammedans used in Austro-Hungarian monarchy, not only to denote religious affiliation, but also to indicate a separate ethnical and national-political body. See Filandra, Sacir. 1998, pp. 14-15.

¹¹⁸ Filandra, Sacir. pp. 238. Also, see Purivatra, Atif, 1970, for a comprehensive elaboration of the issue of Bosniak national identity and a brief review on both affirmative and negative attitude towards nationality of Muslims by different authors and religious authorities in the former Yugoslavia.

¹¹⁹ Imamovic, Mustafa. 1998, pp. 13. It should be noted that Benjamin Kallay, Austro-Hungarian regent in B&H, had been trying for two decades to introduce the idea of Bosnian nationhood to include all inhabitants of Bosnia, regardless of their religious affiliation, the attempt which failed in 1903. See Filandra, Sacir. 1998, pp. 13 and Malcom, Noel. 1994, pp. 147-149.

¹²⁰ Imamovic, Mustafa. *“Bosnjaci/Bosniaks”*. Sarajevo: Vijece Kongresa bosnjackih intelektualaca, 2000, pp. 24.

Even though this complex issue seemed to be resolved in the contemporary B&H in a way that the distinctiveness of all three major ethnic groups (Bosniaks, Serbs and Croats) has been not only reaffirmed but institutionalized by its complicated political system, such a long delay in recognition of distinctive national identity to Bosniaks certainly had a negative impact on the formation of solid national consciousness, especially for those living outside their kin country. Fluctuations in the demographic data on Bosniaks in Croatia are indicative of such a fact.

3.1.3 Demographic Data

Even though the appearance of muslims on the territory of Croatia is most commonly related to Ottoman invasions of the Balkans, researchers agree that the first mention of muslims in Croatia dates few centuries back.¹²¹ A more significant presence of muslims is connected to islamisation of the whole region after the Ottoman invasions, whereby the adherents of all three main confessions started accepting Islam, for reasons ranging from those of ethical and spiritual nature to those related to economic and political benefits gained by such a conversion.

After the Austro-Hungarian annexation of B&H, Croatia had another wave of muslim/Bosniak migration, for the reasons of education, employment or military service. This continued during the time of former Yugoslavia, when the main reason of migration was of economic nature, especially in 1960s and 1970s.¹²² Finally, during the most recent

¹²¹ One of the first historical sources are the Arabian-Persian chronicle Biruni, which mentions Muslims in the area between cities Sibenik and Zadar in the 11th century and a Hungarian sources which mention Muslims in the region of East Slavonia and West Srijem at the beginning of the 12th century. Please see Duvnjak, Neven. 1999. Also, Omerbasic Sevko. *“Islam i Muslimani u Hrvatskoj”*. Zagreb: Mesihat Islamske zajednice u Hrvatskoj, 1999. Also, Tankovic, Semso. 1997, pp.34.

¹²² For more detailed account of muslim/Bosniak migration to Croatia, see Cicak-Chand, Ruzica. “Islam i muslimani u Hrvatskoj: skica stvaranja muslimanskog/bosnjackog sociokulturnog prostora”. *Migracijske teme*, Vol. 15, No. 4, 1999, pp. 451-464.

war in B&H, a number of refugees that Croatia temporarily accommodated was as high as 300,000, not all of them of Bosniak ethnicity, but vast majority.¹²³ This constant trend of muslim/Bosniak migration confirms the continuity of their presence in the territory of Croatia, which, although numerically fluctuated during periods of time, nevertheless refutes the ‘newness’ of their habitat in the country.

The first official statistics on a number of Muslims in Croatia dates back to 1910, when only around 600 Muslims were recorded. In 1918, this number grew to 3,145 and in 1931 to 4,740.¹²⁴ The official census data from 1948 to 1971 show fluctuations in their total number and percentage in the overall population of Croatia, which is directly related to inconsistencies in declaring national affiliation caused by denial of their ethnic particularity. As of 1971, which was the first census where Bosniaks could declare their distinctive nationality, their absolute numbers and percentage in Croatian population show a steady increase, as presented in the following table.

Table 1.¹²⁵

Year	No.of residents	No.of Bosniaks	% of Bosniaks	Bosniaks registered like:
1948	375,687	1,077	0.029	Ethnically uncommitted Muslims
1953	391,887	16,185	0.413	Yugoslavs, ethnically uncommitted
1961	4,159,696	3,113	0.075	Muslims in terms of ethnic affiliation
1971	4,426,221	18,457	0,417	Ethnic Muslims
1981	4,601,469	23,740	0,516	Ethnic Muslims
1991	4,784,265	43,469	0,909	Ethnic Muslims

¹²³ Omerbasic, Sevko. 1999, pp. 377-379.

¹²⁴ Data taken from Tankovic, Semso. 1997, pp. 37.

¹²⁵ Data taken from Tankovic, Semso and Valdevit, Mirna. “Povodom popisa stanovništva u Hrvatskoj 2001. godine”. *Bosnjačka pismohrana*, Vol.3, No. 9-12, Zagreb, 2002, pp. 19-47.

However, this trend changed in the 2001 population census, which showed a dramatic decrease in number of almost all national minorities in Croatia and increase in the population of Croat ethnic affiliation.

3.1.3.1. Census 2001¹²⁶

The 2001 population census was the best indicator of the detrimental consequences of the prevailing ethno-nationalist politics, not only in Croatia, but in the whole region in the last decade. The sharp increase in absolute and relative numbers of population that declared itself as being of Croat ethnicity (from 78.1% in 1991 to 89.63% in 2001) was coupled with the sharp decline in the total absolute and relative numbers of minorities. The highest decline was in a number of members of Serb minority (from 12.2% in 1991 to 4.54% in 2001) and Bosniak minority (from 0.9% in 1991 to 0.47% in 2001).

While explanation for the Serb minority is most often found in the consequences of the war and Croatian military operations from 1995 and has been a subject of a lot of concern by international organizations and Croatian authorities, the decline in percentage of Bosniaks in Croatia produced little response, mainly limited to reactions by Bosniak organizations. Reasons for such a decline are complex and should be a subject of a thorough research. This paper, while not mainly devoted to this issue, will attempt to offer some in the proceeding few sections.

At the first glance, the main problem with the 2001 census is that it allowed two names for one ethnic group. Namely, in the census questionnaire under the heading 'ethnic minorities', ethnic name Bosniaks was listed and under the heading 'other European peoples', ethnic name Muslims (re)appeared. When one takes into account all

¹²⁶ Please see Annex II for details.

the difficulties that surrounded affirmation of the ethnic name and the fact that it has been confirmed as late as 1993, which implies weakly developed national consciousness, the problems created by listing of the two names for the same ethnic group are apparent.

Problems have been anticipated by representatives of the Bosniak minority. At the end of 2000, a joint letter has been sent by several Bosniak organizations and a visit to relevant state authorities was organized in March 2001 to request consistent official usage of national name Bosniak.¹²⁷ However, this did not prevent the problems, which evolved around the issue of the proper ethnic name and denial of the right to declare oneself a Bosniak.¹²⁸ Following the census, another meeting between the state authorities and Bosniak representatives was conducted to analyze the problems during the census, and Bosniaks were assured that the fact that two names existed in the questionnaire was a matter of technicality and that afterwards the number of Muslims will simply be added to the number of Bosniaks.¹²⁹ This has never materialized and numerical strength of the minority was therefore reduced by half.

The results of the census were such that it registered 20,755 Bosniaks and 19,677 Muslims (registered in the category of 'others'), which if added together is close to the number of Bosniaks (Muslims) registered in 1991. An interesting fact is that 56,770 people declared themselves muslims in a religious sense, which is a higher than the sum of all those national minorities that traditionally practice Islam, namely, Bosniaks,

¹²⁷ Bosniak National Community of Croatia Activity Report for period 4 Nov 2000 to 14 Jun 2003, pp. 1-2.

¹²⁸ The first problems have been detected a day before the census, when at the pollsters' training, one of the trainers instructed that there are no Bosniaks, that Bosniaks are in fact Muslims. This is indicative of the confusion that existed around this issue. In addition, on the first day of census, on 31 March, a number of Bosniaks from Rijeka county and Zagreb have been denied the right to register themselves as Bosniaks. Information provided by Sead Berberovic, President of the Bosniak National Community of Croatia, in an interview held in Zagreb, on 9 July 2003.

¹²⁹ Bosniak National Community of Croatia Activity Report for period 4 Nov 2000 to 14 Jun 2003, pp. 2.

Albanians and Roma.¹³⁰ It is evident that a significant number of Bosniaks is ‘hidden’ in categories of ‘others’, ‘undeclared’, ‘declared in the sense of regional affiliation’ or ‘ethnic Croats’. However, the number that will be used in official activities related to national minorities (such as for example elections for minority councils) is only the number of Bosniaks. It is therefore, safe to say, that the official number of Bosniaks has been, intentionally or otherwise, cut by half in the last decade.¹³¹

The census questionnaire is also a matter of interest.¹³² The question on ethnicity is formulated in a negative way, so that it asks whether a person (an examinee) is of Croat ethnicity. If that is not the case, then the examinee should chose an ethnicity from the list provided. The same is with the religious affiliation and mother tongue. This formulation has been a matter of criticism by almost all national and religious minorities in Croatia, for its alleged preference for the majority nationality.¹³³ Of interest for Bosniak minority is also the fact that the options for a mother tongue included Bosniak, but not Bosnian language, regardless of the fact that the official language spoken by Bosniaks in B&H is Bosnian.¹³⁴

3.1.3.2 Elections for the National Minority Councils

The consequences of the problems surrounding the 2001 census were soon evident during the elections for the national minority councils, held on 18 May 2003. Apart from

¹³⁰ It should be noted that Albanians in Croatia are not only of Islamic, but also of catholic religion and that Roma are followers of all three main religions in Croatia (Catholicism, Orthodox Christianity and Islam).

¹³¹ Bosniaks were not the only minority to criticize the census procedures or results. Serb representatives criticized the census results for failing to include large number of Serb refugees currently outside the country. Also, fear of declaring Serb minority status was also proposed as a reason for the low percentage of Serbs. See OSCE Mission to Croatia, Background report: Constitutional Law on National Minorities. 20 Aug 2002, pp. 7 www.osce.org/croatia/documents/reports/clnm_200802.pdf.

¹³² Census questionnaire at <http://www.dzs.hr/Eng/popisnice/P1.htm>

¹³³ Tankovic, Semso and Valdevit, Mirna. 2002, pp. 38.

¹³⁴ Given the space limitation and the complex political implications of the debate, the issue of (re)affirmation of the Bosnian language will not be a matter of elaboration.

the general criticism these elections raised relating to short deadlines and poor organization, of special concern for Bosniak minority were voters' lists.

Namely, a significant number of Bosniaks was included in voter lists under the former national name Muslims. Taking into account that the promised accumulation of the number of Muslims and number of Bosniaks did not occur and that only Bosniaks were considered as a national minority, this would in fact deny all those listed as Muslims the right to vote for Bosniak representatives. Only after the strong reaction of the Bosniak National Community, followed by a media campaign through state and independent electronic and printed media and contacts with the OSCE Mission in Croatia and B&H Embassy in Croatia, has the State election office allowed Muslims to change their national name to Bosniaks on the day of elections and therefore vote.¹³⁵ However, in spite of these attempts, the response of Bosniaks was not satisfactory, as they nominated and elected representatives only for twenty-two out of possible thirty-seven councils.¹³⁶

In summary, what were the actual reasons for such a dramatic decrease in a number of those who declare themselves Bosniaks in Croatia in the last decade? The problems that emerged before and during the 2001 census are indicative of, on one hand, the long-lasting ignorant attitude of the state authorities toward the Bosniak minority and,

¹³⁵ Bosniak National Community of Croatia Activity Report for the period 4 Nov 2000 to 14 Jun 2003, pp. 3. Also see Background report on the Implementation of the Constitutional Law on the Rights of National Minorities and Related Legislation. OSCE Mission to Croatia, 12 May 2003, pp. 14 http://www.osce.org/croatia/documents/reports/clnm_implement_120503.pdf

¹³⁶ "Minorities nominated less than half the number of candidates to which they were entitled (...) It appears that at least a significant part of the under-nomination of minority candidates results from a lack of minorities being able to organize within the time allowed." Background report on the Implementation of the Constitutional Law on the Rights of National Minorities and Related Legislation. OSCE Mission to Croatia, 12 May 2003, pp. 18-19. http://www.osce.org/croatia/documents/reports/clnm_implement_120503.pdf

on the other hand, low degree of national consciousness and problems in definition of self-identity within the minority itself. This, accompanied with the enduring legal denial of distinctiveness and the factual acceptance of mono-national cultural and political ideal in Croatia in 1990s, resulted in the ‘silent’ assimilation.

This is especially true for the young strata of Bosniak minority, born in Croatia and therefore emotionally and culturally detached from the kin state of their parents. A desire to adjust to prevailing social and political circumstances and find their own place in the economic sphere of Croatian society, made them view their national affiliation in a first place as a matter of personal disadvantage.¹³⁷ Political and social climate in Croatia has for a long time been such that many Bosniaks were anxious to declare publicly their ethnic affiliation and rather choose to be ethnic Croats or undeclared, keeping their religious and cultural identity in the private sphere.¹³⁸ The section that follows will offer a brief outline of the discrimination that members of the Bosniak minority were victims of since the independence of Croatia, in support of this claim.

3.1.4 Violations of Human Rights of Members of Bosniak Minority

Throughout the last decade, Croatia has been a subject of numerous criticisms for violation of human rights by both international and local human rights agencies. Aspiration towards creation of homogenous nation-state, as a main motive behind such violations, has determined the character of their subjects – namely, most frequently, the subjects of human rights violations have been members of national and ethnic minorities. When talking about human rights violations, two distinct periods should be taken into

¹³⁷ For elaboration of this phenomenon see Cicak-Chand, Ruzica. “Religija kao izraz etnickog i kulturnog identiteta: Islam i muslimani u zapadnoj Europi”. In Cacic-Kumpes, Jadranka (Ed.). *Kultura, etnicnost, identitet*. Zagreb: Institut za migracije i narodnosti, 1999. Also, Cicak-Chand, Ruzica. 1999.

¹³⁸ Gabric, Toni, Borkovic, Goran, Erceg, Ivana. “Nacionalne manjine u Hrvatskoj nakon Popisa 2001.” *Bosnjačka pismohrana*. Vol. 3, No. 9-12, Zagreb, 2002, pp.54.

account – one is the period of rule of the Croatian Democratic Community (HDZ), from 1991 to 2000, and the second is the period after the election of the currently ruling coalition.¹³⁹

3.1.4.1 During the HDZ Rule

At the beginning of 1990s, Bosniaks in Croatia enjoyed a rather privileged status – the fact that, as the second largest minority in the country, they supported Croatian aspirations towards independence gained them approval of the then ruling HDZ. After the beginning of the war in B&H, Croatia accepted and accommodated a very large number of B&H refugees and was very supportive of B&H independence. However, the situation dramatically changed when the conflict between Croats and Bosniaks in B&H started and Croatian politics demonstrated its aspirations towards parts of B&H territory.¹⁴⁰

Violations of human rights of members of Bosniak minority were systematically recorded in the period from 1995 to 1999. However, such a record during the most difficult period from 1993 to 1995 does not exist. One should not conclude from this fact that there were no violations and discrimination in that period. Quite contrary, there are

¹³⁹ In January 2000 parliamentary elections were held and a democratic coalition defeated the HDZ. In addition, in February 2000, new president, Stipe Mesic, was elected, replacing the deceased Franjo Tudjman. The US Country Report on Human Rights Practices for Croatia for 2002 notes that “the combination of a new President, a democratic coalition in Parliament, and constitutional reforms in 2000 increased the transparency of the role of the President and Government.” See at <http://www.state.gov/g/drl/rls/hrrpt/2002/18359.htm>

¹⁴⁰ Stipe Mesic, President of the Republic of Croatia, stated on 20 March 1998 before the International War Crimes Tribunal for former Yugoslavia in the Hague that then President of Republic of Croatia, Franjo Tudjman spoke to him of the meeting with Slobodan Milosevic in April 1991 when the two of them were making an agreement, upon Serbian President’s initiative, to divide B&H. Also, on 19 March 1998 the current High Representatives for B&H, Paddy Ashdown, gave a statement before the Hague Tribunal, in which he accused President Franjo Tudjman of aspirations to divide BH, together with Serbian President Milosevic. Ashdown gave his testimony about a dinner in London on 6 May 1995, during which he had asked Tudjman for his opinion as how would the territory of former Yugoslavia look like after 10 years. On a napkin, upon which Ashdown had previously drawn the basic co-ordinates, Tudjman drew BH and divided it into two parts. He then explained that the western part would belong to Croatia, and the eastern to Serbia. See more at Helsinki Committee for Human Rights in B&H web page <http://www.bh-hchr.org/faxlett/1998/no38.htm>

indications that the period from 1993 to 1995, during the war between Croats and Bosniaks in B&H, was the most difficult one for Bosniak minority in the contemporary Croatia.

Bosniak refugees were the most vulnerable category, but other members were also victims of enormous political and economic pressure.¹⁴¹ They were discriminated against in many spheres of life, especially employment, they and their organizations were targets of unwarranted police raids,¹⁴² and they were negatively portrayed in state media, so that “almost overnight, negative picture of anything Muslim was created.”¹⁴³ A distinguished French philosopher and publisher Bernard Henry Levy, in his book “Lily and Ashes”, quotes President Tudjman, at the dinner organized for at that time French minister for humanitarian aid on 18 Jan 1993, as denying Bosniak a right to call themselves a nation and concluding “Bosniaks must disappear”.¹⁴⁴ The fact that there is no systematic record of human rights violations in this period may indicate a sense of powerlessness that members of the victimized minority experienced, as well as their reluctance to report it officially for the fear of retribution.

The most systematic record of human rights violations from 1995 onwards is provided by the Croatian Helsinki Committee (CHC) in their yearly reports.¹⁴⁵ Generally,

¹⁴¹ Mufti Sevko Omerbasic stated that the cases were reported when Croats from B&H would gain access to refugee camps and take Bosniak men to B&H to be exchanged for Croats. Also, both Semso Tankovic (President of Bosniak political party SDA in Croatia) and Izet Aganovic (former President of CHC and current member of CHC, also former President of Bosniak humanitarian organization Merhamet) stated that that was the time of enormous pressure on Bosniaks in Croatia.

¹⁴² Such as the raid into the apartment of Faris Nanic, former Secretary of the Party of Democratic Action of Croatia (SDA) and special police raid into SDA premises in Zagreb. Information provided by Semso Tankovic, in an interview held on 28 July 2003 in Zagreb.

¹⁴³ Malovic, Stjepan, Ricchardi, Sherry and Vilovic, Gordana. “*Etika novinarstva*”. Zagreb: Izvori, 1998, pp. 64. The authors cite titles from state media in 1993, which extremely negatively portrayed Muslims in Croatia (i.e. “Muslims have no faith”, “Chetniks were better”, etc.)

¹⁴⁴ Quoted in Slovenian daily *Delo*. http://www.hri.org/news/balkans/bosnet/96-03-27_1.bos.html#01

¹⁴⁵ Since 1995, the CHC has been receiving complaints by individuals whose human rights have been violated by different state authorities and compiling statistics published in the yearly reports.

the main violations of individual human rights were in this period connected with the members of Serb minority, Bosniaks being second or third most frequent victims.¹⁴⁶

Refugees of Bosniak ethnicity from B&H have been the subjects of most human rights violations connected with this ethnic group. They were generally placed in inadequate collective centers and very often denied humanitarian aid from Europe.¹⁴⁷ A typical example is the case of around 1,000 refugees from B&H (mostly Bosniaks) who were being unwillingly moved from their temporary accommodation to a collective center during the winter and at the time of their religious fasting during the month of Ramadan.¹⁴⁸

Also, Bosniaks were subjects of discrimination in the process of acquiring citizenship, which is a problem that kept reoccurring throughout the years. Those that were denied citizenship were exposed to restrictions in the access to public schools, legal employment, pensions and social benefits, retention of apartments and purchasing property. The Law on citizenship makes a difference between those who are of Croatian nationality and those who are not, prolonging the procedure and imposing more strict requirements for non-Croats, during which all their other rights (social, pension, education, etc.) are 'frozen'. For example, there were cases when whole villages would be denied citizenship, regardless of the fact that their inhabitants have been living in Croatia from before the war on their own property. This was especially the situation in

¹⁴⁶ See the Report on human rights in Republic of Croatia for 1995, Zagreb: CHC, 1996; General report on human rights violations in Republic of Croatia in 1996. Zagreb: CHC, 1997; General report on human rights violations in Republic of Croatia in 1997. Zagreb: CHC, 1998; General report on human rights violations in Republic of Croatia in 1998. Zagreb: CHC, 1999; General report on human rights violations in Republic of Croatia in 1999. Zagreb: CHC, 2000. It should be noted that CHC reports are using both terms – Muslims and Bosniaks.

¹⁴⁷ Around 26,000 of them coming from areas of Cazin and Velika Kladusa were blocked in a narrow area by the road and guarded by strong police force. See the Report on human rights in Republic of Croatia for 1995, pp. II.

¹⁴⁸ General report on human rights violations in Republic of Croatia in 1996. Zagreb: CHC, 1997. pp. 481-482

the area bordering with B&H, as was the case with Bosniak inhabitants of the few villages near Slunj (around 500 people).¹⁴⁹

In addition, the CHC recorded that religious freedoms of Bosniaks in Croatia were being violated – they have been denied permits to open mosques, places of worship and land for burying their dead, their religious teachers were denied access to schools and Bosniak prisoners were being forced to a diet that is not in accordance with their religious customs.¹⁵⁰

In general, during this period, members of Bosniak minority were frequent subject of discrimination in many areas. Intolerance towards minorities was very present in public and discrimination sanctioned by state authorities. There was no significant improvement in the treatment of members of minorities during the procedure for obtaining citizenship, nor the abolishment of ‘ethnic’ criteria in employment process.

3.1.4.2 After the HDZ Rule

Generally, the human rights situation following the 2000 parliamentary elections, when the new democratic coalition replaced the 10-year rule of HDZ, was defined as “less bad” than it was before.¹⁵¹ Some most severe and systematic human rights violations ceased and generally, the atmosphere towards national minorities became more tolerant. However, animosity, especially towards Serbs and Bosniaks on the local level,

¹⁴⁹ State Department report on human rights violations in Croatia for 1996, cited in the General report on human rights violations in Republic of Croatia in 1996, pp. 38. This case was also reported in the General report on human rights violations in Republic of Croatia in 1997. Zagreb: CHC, 1998. Also, see Situation of human rights in the territory of the former Yugoslavia: Report on the situation of human rights in the Republic of Croatia submitted by Elisabeth Rehn, Special Rapporteur (E/CN.4/1998/14), para. 72. <http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/f15fd2bc03da398dc1256617002b4eab?Opendocument>

¹⁵⁰ The Report on human rights in Republic of Croatia for 1995, pp.XI., Also, see the General reports on human rights violations in Republic of Croatia for the period 1996-1999.

¹⁵¹ Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America. Report 2001 (Events of 2000). International Helsinki Federation for human rights, pp. 97. <http://www.ihf-hr.org/documents/index.php> The IHF reports hereby used as a reference are based on the Croatian Helsinki Committee annual reports on human rights in Croatia.

was still common.¹⁵² Years 2001 and 2002 were similar – while severe violations of rights of Bosniak minority were not recorded, the rights of minorities in general were better protected formally than in practice.¹⁵³

As outlined previously, a number of important legal acts were passed in this period, such as the Law on Education in the Language and Script of National Minorities and Law on the Use of Language and Script of National Minorities in 2000, the Law on the Legal Position of Religious Communities in 2002 and the Constitutional Law on Rights on National Minorities in 2002, which, although essential for the creation of an adequate legal framework, are not in themselves enough to ensure actual protection of rights of minorities.

For example, Bosniaks still faced problems in obtaining a permit to build a mosque in Rijeka, for its alleged “unsuitable shape in the ‘non-Muslim environment’”.¹⁵⁴ Similarly, some representatives of Bosniak community suggested that the changes that the new government (which they supported) introduced after 2000 in the treatment of national minorities were far below their expectations – they were felt as more of ‘cosmetic’ nature and a product of Croatian international obligations than the genuinely changed attitude.¹⁵⁵

In conclusion, the period from dissolution of former Yugoslavia up until late 1990s was marked by prevalence of ethno-nationalist ideology and popular homogenization based on primordial notion of nation and ethnicity in the whole region,

¹⁵² Ibid., pp. 104.

¹⁵³ Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America. Report 2002 (Events of 2001). International Helsinki Federation for human rights, pp. 94. <http://www.ihf-hr.org/documents/index.php>

¹⁵⁴ Ibid., pp. 94.

¹⁵⁵ Interviews with Semso Tankovic, Sead Berberovic, held on 28 July 2003 and 9 July 2003 in Zagreb respectively.

including Croatia.¹⁵⁶ This kind of politics most severely affects members of minorities living in these countries, who being unable to fit into the prevailing concept of ‘the nation’ were exposed to various kinds of discrimination and assimilation.

As outlined in this section, members of Bosniak minority were victims of serious discrimination in many areas of every-day life – economic, social, political – especially during the rule of the HDZ. With the change in government in 2000, a number of important legal acts were adopted and the general climate towards minorities improved. It is, however, yet to be seen whether these recent improvements will remain in the sphere of formal declarations or this new period will bring about a genuine change in status and treatment of minorities in Croatia.¹⁵⁷

3.2 Organization of Bosniak Minority

This section will give a brief overview of the most relevant Bosniak organizations in Croatia. Particular attention will be paid to the Islamic community, for its significant role in affirmation of Bosniak national identity and establishment of other Bosniak associations. The roles and activities of other organizations will be outlined, with the aim to point to some general problems that Bosniak minority is facing in its self-organization.

3.2.1 Islamic Community

The Islamic community has for a long time been the nucleus of not only religious, but also national organization of Bosniaks in Croatia. As outlined above, the religious

¹⁵⁶ For account of genesis and dynamics of developments in Croatia in the period from 1990 to 1995 in light of the events in the region, see Zakosek, Nenad. 2000, pp. 217-223.

¹⁵⁷ The most recent MRG Report on Minorities in Croatia emphasizes that the “new laws have been agreed but often these enactments are followed by a failure of implementation” and recommends a set of measures to remedy such practice. See Report on Minorities in Croatia. Published by Minority Rights Group International. September 2003. <http://www.minorityrights.org/admin/Download/Pdf/Croatia2003.pdf>

affiliation of Bosniaks has been entwined with national identification throughout the history.

The Islamic community has a long history of activities in Croatia. Islam, as religion, has been officially recognized in Croatia back in 1916¹⁵⁸ and few years later, in 1919, Office of the Imam has been established. From then until 1930, Islamic community (IC) has been present in Croatia independent of that in B&H, under different names.¹⁵⁹ In 1930, a unitary administration of IC has been established for the whole territory of Kingdom of Serbs, Croats and Slovenians and since then until 1990 the IC in Croatia has been under the auspices of a larger Yugoslav IC. In 1993, the official separation of Croatian IC and B&H IC has been initiated and the IC of Croatia is nowadays administratively a separate institution, which recognizes the spiritual leadership of reis-ul-ulema and the IC B&H, but otherwise acts independently.¹⁶⁰

Its activities are organized in 18 cities and towns in Croatia. The mosques exist in Zagreb and Gunja and places for worship (medzlis) in other locations.¹⁶¹ As already mentioned, building of a mosque in Rijeka has for a long time been a matter of dispute, with various administrative obstacles being put forward by Rijeka authorities to obstruct its construction. However, with the signing of the Contract on Mutual Relationship

¹⁵⁸ After the decision of the Austro-Hungarian Great Imperial Council, which passed the law in 1912 recognizing Islam as a religion equal to others in the Austro-Hungarian monarchy. See Omerbasic, Sevko. 1999, pp. 244.

¹⁵⁹ For historical record, please see Omerbasic, Sevko. 1999, pp. 244-255.

¹⁶⁰ The main executive body of the Islamic community in Croatia, Mesihat, is headed by Mufti Sevko Omerbasic. Mufti Omerbasic has been well-known for his insistence on inter-religious tolerance. In 1998, he has received the CHC award Masovic-Nikolic-Vincetic for promotion of inter-religious dialogue. He also received the high state decoration 'Reda Stjepana Radica' for his contribution to independence and sovereignty of Croatia in June 2002.

¹⁶¹ The mosque in Zagreb has been built in 1987. It includes cultural centre and is one of the largest in Europe (3,000 believers can attend prayers).

between the IC and Croatian government, this problem seems to be close to conclusion and it is expected that a permit for building a mosque will be issued.¹⁶²

Namely, the contract was signed on 20 Dec 2002, based on the new Law on the Legal Position of Religious Communities.¹⁶³ Signing of this agreement has been assessed as a great step forward in the relation between the IC and the government,¹⁶⁴ as for the first time in Croatian contemporary history it regulates financing of imams, religious education in schools, religious service in army and prisons, etc.¹⁶⁵ This law is certainly a major breakthrough for religious communities in Croatia other than the Catholic church, which so far was the only one to have signed such a contract and had such privileges.¹⁶⁶

The role that the IC had in the development and promotion of national identity of Bosniaks is considerable. At the time of political affirmation of Bosniak nation in late 1960s, Islam and the Islamic community of former Yugoslavia took over such a role, whereby the religious component of Bosniak identity was utilized “to differentiate (...) [them] to the point at which they could achieve separate corporate recognition.”¹⁶⁷ Similarly, the Islamic Community of Croatia, as the oldest and the most established Islamic institution in Croatia (and therefore inevitably connected to Bosniaks), had a

¹⁶² Interview with Mufti Sevko Omerbasic, held on 1 July 2003 in Zagreb.

¹⁶³ Law on the Legal Position of Religious Communities. Adopted on 8 July 2002. Official Gazette 83/2002. <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp>

¹⁶⁴ Interview with Mufti Sevko Omerbasic, held on 1 July 2003 in Zagreb.

¹⁶⁵ Based on this agreement, the Islamic Community will receive 427,000 EUR per year for its activities. Similar agreement with Serb Orthodox church has also been signed and with other religious communities is in the process of signing. See Report on stabilization and association, 2003. http://www.mvp.hr/pdf/03_izvjesce_o_psp.pdf

¹⁶⁶ See the Law on Confirmation of Agreement between Vatican and Republic of Croatia on Legal Issues.. Adopted on 13 February 1997. Official Gazette, International agreements no. 3. <http://www.nn.hr/sluzbeni-list/mugovori/index.asp> On the other hand, the CHC assesses that the Law on the Legal Position of Religious Communities still “provides Roman Catholics with a relatively privileged status in Croatian society as the largest religious community. See Human Rights in the OSCE Region: Europe, Central Asia and North America. Report 2003 (Events of 2002). International Helsinki Federation for human rights, pp. 6. <http://www.ihf-hr.org/documents/indeex.php>

¹⁶⁷ Friedman, Francine. 1996, pp. 239.

similar role of protector and promoter not only of religious, but also cultural, social and political interests of Bosniaks in Croatia after its independence.

In this regard, in the beginning of 1990s, it has assisted in establishment of a number of other Bosniak organizations, such as the humanitarian organization 'Merhamet' in 1991, cultural association 'Preporod' in 1991 and Party of Democratic Action (SDA) in 1990.¹⁶⁸ Furthermore, the Islamic community's assistance to B&H refugees and B&H itself during the war in B&H has been very significant. From April 1992, the IC, together with the relevant institutions of B&H and Croatia, has been the main organizer of humanitarian assistance and a point of contact for numerous local and international humanitarian organizations (mainly from Islamic countries).¹⁶⁹

However, when considering the role of the IC in the development of Bosniak national identity and their institutions, one has to take into account a very important fact – Islam as a universal religion does not recognize or distinguish based on nationality. Therefore, the fact that around two thirds of all muslims in Croatia are of Bosniak nationality should not automatically imply that the IC is a Bosniak institution. (The other third is comprised of members of all other nationalities living in Croatia of Islamic religious affiliation).

The role that the IC played for political affirmation of Bosniak minority was more a result of the absence of a coherent action of other relevant actors in this regard, than of the programmatic goals of the IC itself. However, due to this involvement and the fact

¹⁶⁸ The IC Croatia has also established religious secondary school (Medresa) in 1992, which, however, cannot be considered strictly a Bosniak institution.

¹⁶⁹ Omerbasic, Sevko. 1999, pp. 377-379. Only in 1992, around 300,000 refugees were registered in Croatia. They have all been accommodated either in private accommodation, with friends and family or in collective centers. In the same time, around 160,000 tones of humanitarian assistance has been sent to B&H.

that majority of its adherents are of Bosniak origin, the IC has for a long time been perceived as a 'Bosniak organization'.¹⁷⁰

The activities of the IC in the last decade reaffirmed its role as one of the holders of self-identification of Bosniak minority in Croatia and, in fact, interlinked religion with the larger political affirmation of a national group, which could create a dangerous precedent. However, with the further expansion of other Bosniak organizations in Croatia, established to promote specific political and national interests of this minority, it can reasonably be expected that the IC, while remaining one of the backbones of Bosniak national identity, will limit its activities to the religious and spiritual sphere.

3.2.2 Bosniak National Community of Croatia (BNC)¹⁷¹

The BNC is the one of the youngest Bosniak organizations in Croatia. It has been established in 1993, but no significant activities have been recorded until 1997.¹⁷² The main goal of the BNC is to protect and advance ethnic and national, cultural and social interests of Bosniaks in Croatia¹⁷³ and it is attempting to become the framework Bosniak association in Croatia. Regional organizations of the BNC exist in all counties but two, with the intention to form such organizations in the remaining two as well.

The BNC has been involved in a number of various activities. As already mentioned above, the BNC has been very actively engaged in protection and promotion

¹⁷⁰ However, Mufti Omerbasic clearly outlined the fact that the Islamic community of Croatia is not a Bosniak institution. Interview held on 1 July 2003 in Zagreb.

¹⁷¹ The following information has been obtained in the interview with Sead Berberovic, President of the BNC, conducted on 9 July 2003 in Zagreb and from the BNC of Croatia Activity Report for the period 4 Nov 2000 to 14 Jun 2003. Submitted to the Assembly of the BNC by the President, Sead Berberovic, on 14 Jun 2003 and the Activity Report for the period 20 Dec 1997 to 4 Nov 2000. Submitted to the Assembly of the BNC by the former President, Dzevad Joguncic, on 4 Nov 2000.

¹⁷² In 2000, it has been re-registered and new leadership elected, with Sead Berberovic as the President. Prof. Berberovic is an external member of Parliamentary Sub-commission on human rights and national minorities as well as the member of the state Committee of national minorities.

¹⁷³ Statue of the BNC, adopted on the 4 Nov 2000.

of Bosniak national name and most vocal advocate of Bosniak interests during the events that surrounded 2001 census and elections for national minority councils, which remains their main concern and area of activity. In the last few years, it has been recognized as the leading Bosniak association for promotion of the national interests of the minority in Croatia.¹⁷⁴

Complementary to their political activities are activities in the area of cultural promotion, such as publishing of the quarterly for history and culture, *Bosnjacka pismohrana (Bosniak Archive)* since 1999, which deals with wide variety of topics related to contemporary history, culture and politics of Bosniaks in Croatia. Further, since 1997, the BNZ has organized around thirty-five tribunes of political, cultural and social nature as well as three symposiums, often targeting issues of general concern for all minorities and with participation of distinguished lecturers from Croatia, B&H and other countries as well as representatives of other Croatian minorities.¹⁷⁵ It has also published a number of books of distinguished Bosniak authors, organized several book promotions, film screenings, concerts, art exhibitions and similar. In coordination with cultural association 'Preporod', it has formed ensemble of Bosniak folklore, as one of the factors for affirmation of cultural and national identity.¹⁷⁶

Even though very active in organization of various activities, the BNC is continuously facing financial problems. Funds it receives from the government are not sufficient to cover its various programs. Even more problematic is the fact that the BNZ

¹⁷⁴ Interview with Sead Berberovic, conducted on 9 July 2003 in Zagreb.

¹⁷⁵ Three symposiums were 'Mutual relationships of national minorities in Croatia and relationship towards the majority nation', held on 13 Nov 1998, 'Education in diaspora', held on 24-25 Mar 2000 and 'Participation of Bosniaks in the homeland war', held on 26-27 May 2000. Tribunes focus on topics dealing with contemporary issues of Bosniak identity, cultural and political matters.

¹⁷⁶ See BNC Activity Report for the period 4 Nov 2000 to 14 Jun 2003 and Activity Report for the period 20 Dec 1997 to 4 Nov 2000.

is still the only minority organization in Croatia that does not have its own premises, which represents a significant problem for efficient organization of its activities.¹⁷⁷ Despite these difficulties, its recent energetic actions in the promotion of national interests of Bosniak minority and comprehensiveness of its programs give a reason to believe that the BNZ will in the future be one of, if not the leading Bosniak organization in Croatia.

3.2.3 Party of Democratic Action (SDA)

The most prominent Bosniak political organization in Croatia is the Party of Democratic Action of Croatia (SDA),¹⁷⁸ established in June 1990 in Zagreb. It currently has around 3,500 members and 25 branches across the country.¹⁷⁹ Its goal is realization and institutionalization of the rights of Bosniak minority in Croatia through participation in its political life. Since 1992, the party has participated in all general and local elections, and has taken part in the legislative bodies in two municipalities and two towns. It is currently encountering difficult financial problems, which are jeopardizing its political activities.

The influence of this party in Croatian political arena is marginal; however, it has been one of the few organizations that have systematically exposed the problems that Bosniak minority has been facing, especially in the first half of 1990s.¹⁸⁰ Now this role seems to be vanishing with the energetic emergence of the BNZ in the last few years. It is expected that the SDA will in the future limit its role mainly to political arena, by

¹⁷⁷ Ibid. The BNC is currently located in the premises of Association of Bosniaks War Veterans.

¹⁷⁸ SDA of Croatia is not the only political party connected with Bosniaks in Croatia. Others include Democratic Union of Muslims of Croatia (DEZEMH), Croatian Muslim Democratic party (HMDS), Bosnian Democratic Party (BDS) and Muslim Bosniak Party (MBO). Significance of these parties in political sense is limited and their activities will therefore not be explored further.

¹⁷⁹ Interview with Semso Tankovic, President of the SDA Croatia, held on 28 July 2003 in Zagreb. Also, see at www.sdah.hr

¹⁸⁰ See SDA of Croatia web page (www.sdah.hr) for various reactions and initiatives in this regard.

offering quality candidate(s) for a minority representative in Sabor.¹⁸¹ The election of a member of Bosniak minority to Sabor will be one of its most important forthcoming challenges.¹⁸²

3.2.4 Other Bosniak Organizations

Other significant Bosniak organizations include the cultural organization 'Preporod', humanitarian association 'Merhmet' and association of Bosniaks War Veterans. Bosniak cultural association 'Preporod' has been established in 1991 with the aim to maintain and affirm national and cultural identity of Bosniak minority in the areas of cultural, scientific and artistic activities.¹⁸³ The association has no branches in the country and conducts its activities from Zagreb. It publishes the distinguished bimonthly magazine for culture and social issues *Behar* and information magazine *Behar Journal*, as well as periodical magazine for children, *Jasmin*. It is mainly focused on cultural activities, such as publishing of Bosniak authors, folklore manifestations, book promotions, film screenings and similar.¹⁸⁴

Bosniak Humanitarian Association 'Merhamet' has been established in Zagreb in 1991, mainly to assist in the accommodation and assistance to thousands of refugees fleeing from B&H. At the time, the association was helped by numerous humanitarian organizations from Islamic and west-European countries. Today, when this help has vanished, it is faced with the financial problems in assisting an increasing number of the

¹⁸¹ As stipulated above, Bosniaks will elect a minority representative together with members of Albanian, Montenegrin, Macedonian and Slovenian national minority, amongst which Bosniaks are the most numerous. However, it is very uncertain which candidate will be elected. In this regard, the internal unity of the group will be thoroughly exposed – by having more than one candidate, a minority within this group will significantly limit its chances to have its member elected.

¹⁸² Interview with Semso Tankovic, President of the SDA Croatia, held on 28 July 2003 in Zagreb.

¹⁸³ Statute of the cultural association of Bosniaks in Croatia 'Preporod', adopted in May 1999.

¹⁸⁴ Interview with Abdulah Muftic, Vice President of the Cultural Association of Bosniaks in Croatia 'Preporod', held on 7 July 2003.

most vulnerable members of Bosniak minority. Very difficult economic situation in the country has especially affected those members of the minority living in rural areas, near the border with B&H and in the area of Rasa and Labin, where the closing of the mines has brought Bosniak miner families to extremely serious economic and social situation.¹⁸⁵

The Association of Bosniak war veterans is the youngest Bosniak organization, established in 2000, with the goal to protect and promote interests of Bosniak soldiers, participants in the past war in Croatia. According to unofficial statistics, around 15% of all soldiers in the Croatian army were of Bosniak ethnic origin,¹⁸⁶ but many of them do not have this status recognized, which in turn has implications on their economic and social status in the society. In addition, there are many of those who participated in the war, but did not have Croatian citizenship at the time, such as migrant workers and those living near the border with B&H, whose status recognition is even more difficult.

The government finances around 98% of association's activities through the Ministry of War Veterans, such as tribunes, sports manifestations, book publishing, etc. One of their main goals is to build a monument to Bosniak war veterans in Zagreb, which would be the first of that kind in Croatia.¹⁸⁷

3.2.5 State Funding

As stated above, protection and promotion of minority rights in Croatia is primarily ensured through regular state institutions, such as relevant ministries, offices and bodies, in order to achieve full integration of national minorities in the mainstream society. However, recognizing that preservation of specific minority culture and

¹⁸⁵ *Behar Journal*, No. 45-46, Nov-Dec 2001, pp. 5.

¹⁸⁶ Malic, Hamdija. "Udruzenje Bosnjaka branitelja Domovinskog rata Hrvatske". *Bosnjacka pismohra*. Vol. 3, No. 9-12, Zagreb, 2002, pp. 63.

¹⁸⁷ Interview with Isak Hodzic, Secretary of the Bosniak War Veterans, held on 18 July 2003 in Zagreb.

particularities of minority identity cannot be realized only through such channels, the Croatian government has since 1992 financially supported different minority organizations in activities mainly devoted to cultural promotion (publishing, folklore, cultural manifestations). The amount reserved for this purpose in the state budget has gradually increased, from around 5 million kunas in 1991 to 20 million in 2003.¹⁸⁸

Until 2003, when the state Committee for national minorities has taken over this task, the distribution of the funds has been based on the criteria established by the government Office for National Minorities. The table below shows the distribution of the funds reserved for national minorities from the state budget in the period from 1992 to 2002, indicating the total sum received by different groups.

Table 2.¹⁸⁹

No.	National minority	Funding from the state budget 1992-2002 (kuna)*	% of TOTAL funding	Census 1991 % of total nat. minorities	Census 2001 % of total nat. minorities
1	Italians	41,204,771	26.8%	2.8%	5.9%
2	Serbs	40,400,646	26.3%	77.2%	60.8%
3	Hungarians	16,899,316	11.0%	3.0%	5.0%
4	Czechs	14,899,999	9.7%	1.7%	3.2%
5	Ruthenians/Ukrainians	7,038,706	4.6%	0.8%	1.3%
6	Roma	6,709,175	4.4%	0.9%	2.9%
7	Slovaks	5,297,006	3.4%	0.7%	1.4%
8	Bosniaks	4,000,788	2.6%	5.8%	6.3%
9	Slovenians	3,102,818	2.0%	3.0%	4.0%
10	Albanians	3,087,418	2.0%	1.6%	4.6%
11	Germans/Austrians	2,999,221	2.0%	0.4%	1.0%
12	Macedonians	2,941,577	1.9%	0.8%	1.3%
13	Montenegrins	2,785,735	1.8%	1.3%	1.5%
14	Jews	2,296,859	1.5%	0.1%	0.2%
15	Other national min.				0.8%
TOTAL funding		153,664,035	100.0%	100.0%	100.0%

¹⁸⁸ Information obtained in the Government office for national minorities in the interview with Ms. Bahrija Sefic, Assistant Head of Office, held on 15 Jul 2003 in Zagreb.

¹⁸⁹ Ibid.

This information is contrasted by figures indicating participation of respective minorities in the total percentage of minority population in 1991 and 2001, respectively, to show the difference between the amount of state funding that certain minorities received and their participation in the overall minority population. It is immediately apparent that the top of the table in terms of the funding, if we disregard the Serb minority, is reserved for so-called 'old' minorities, such as Italians, Hungarians, Czechs - minorities whose status is determined by either bilateral agreements or previously acquired rights and who have the longest tradition of self-organization.

The biggest disparity exists in the case of Italian minority, which has received the largest amount of funds in this 10-year period (26.8%), regardless of the fact that it comprises only 2.8% / 5.9% of minority population. Similar disparity, but reversed, exists for the Serb minority, which even though comprising 77.2% / 60.8% of total minority population has received only 26.3% of state funding.

The bottom of the list is reserved for the so-called 'new minorities', amongst which are Bosniaks. Bosniaks have received only 2.6% of state aid in the relevant period, regardless of the fact that they have been and still are the second largest minority. This trend has continued in 2003 on the basis of the decision of the state Committee for national minorities,¹⁹⁰ whereby Bosniaks will receive 3% of the total funds earmarked for minority organizations (600,000 kunas).¹⁹¹ Serbs, Italians, Hungarians and Czechs are again on the top of the list.

¹⁹⁰ See Annex IV for details.

¹⁹¹ Only two Bosniak associations have qualified for state funds, namely cultural association 'Preporod', in amount of 480,000 for information, publishing and cultural amateurism and manifestations and the BNZ in amount of 120,000 for publishing.

This data is in the favor of the thesis that minorities in general benefit from adequate and efficient self-organization – minorities with longer tradition in this regard are more likely to develop skills necessary to attract state funding (especially since the funding is granted based on criteria of quality and comprehensiveness of programs and not the numerical strength of the minority), and it is therefore natural that a lack of this advantage is a stumbling block for other minorities. However, it cannot go unnoticed that most funding is granted to minorities of undisputed status in Croatian society and *vice versa* - that ‘new’ minorities have generally been under-funded. Bosniak minority organizations certainly fall under the category of under-funded minorities, reasons for which should be traced and found in a combination of many unfavorable factors surrounding their self-organization.¹⁹²

3.2.6 General Comments

This brief outline of the ways and methods of Bosniak self-organization in Croatia points to a few facts. Firstly, all Bosniak organizations are relatively young, lacking the continuous tradition of existence and organized activities. In contrast to those minorities that enjoyed minority status and accompanying rights in the former Yugoslavia, the ‘new minorities’ began to organize as late as beginning of 1990s. In this regard, it could be concluded that they are still in a phase of organizing themselves jointly to respond adequately to the challenges of full implementation of minority rights. Secondly, they all suffer from the constant lack of financial and other resources to adequately perform their activities, due to limited resources provided by the state and limited support by fellow

¹⁹² Other sources of funding include membership fees as well as voluntary donations by minority members, but they represent only a small portion of the funds needed for activities of these organizations. However, Sead Berberovic outlined that, in absence of the adequate state funding, the BNC has financed a number of important projects through the voluntary donations (example of which is the procurement of traditional clothing for the folklore ensemble). Interview with Sead Berberovic, conducted on 9 July 2003 in Zagreb.

members. Thirdly, the territorial dispersion of members of Bosniak minority is an unfavorable circumstance for the effective organization,¹⁹³ since the protection and promotion of minority interests is more efficiently attained if its members are concentrated in a certain territory, especially if a minority comprises significant percentage of total population.

Finally, their mandates are rather wide and overlapping. This can partly be attributed to the circumstances under which they were founded, namely, war, refugee influx, political and social marginalization of the minority, etc., but is to a certain extent also due to the lack of coherent coordination of their activities and roles. Representatives of all relevant organizations have outlined this lack of homogeneity, coherence and adequate coordination as a main problem in organization of Bosniak minority.¹⁹⁴

Even a brief comparison with the Italian minority in this regard will outline the gravity of the problems Bosniak minority is facing in its self-organization. Firstly, in contrast to Bosniaks, members of Italian minority are territorially concentrated – the vast majority lives in Istria, in Istarska and Primorsko-goranska county, where they enjoy proportional representation in legislative and executive bodies. Secondly, they are very well organized - based on bilateral agreements, Italian minority in Croatia and Slovenia is represented by one organization, Italian Union (Unione Italiana), consisting of forty-four communities in Croatia and six in Slovenia with long history of self-organization.¹⁹⁵

¹⁹³ Bosniaks are settled in all the counties, with the biggest concentration in the city of Zagreb (29.89%), Istria county (14.83%) and Primorje-Gorski kotar county (14.56%). In other counties, the percentages of Bosniaks range from 0.14% to 8.48%. For details, please see Annex III.

¹⁹⁴ Stated by all interviewees. There is a body called the Coordination of Bosniak Associations, but its role is unclear and, besides being consultative, it is rather limited.

¹⁹⁵ Zilli, Silvano. "Polozaj Talijanske manjine u Hrvatskoj: Okrugli stol održan u Zagrebu, 19 lipanj 2002". Zagreb: Croatian Helsinki Committee for Human Rights, 2003, pp.44-45. The Italian Union is the founder of a number of other significant Italian organizations in Croatia, such as the Centre for historical research in Rovinj, Centre for classical music in Brtonigla, Italian theatre in Rijeka, publishing house *Edit* in Rijeka.

Finally, notwithstanding the fact that they are the most funded minority in Croatia, Italians enjoy very significant material and political support by its kin state, evident in the fact that around 80% of all the activities of the Italian Union is financed by the Republic of Italy.¹⁹⁶

However, when comparing these two minorities, one should consider that many of these advantages are a consequence of long-lasting efforts by Italian minority itself and its realization of the importance of adequate organization for the advancement of its status in the society. An increasing understanding of the same fact expressed by representatives of Bosniak organizations, coupled with generally more favorable attitude towards minorities in the last couple of years, gives hope that the progress for Bosniak minority in this sphere is imminent.

3.3 Relations with the Kin State¹⁹⁷

The attitude of B&H towards Bosniak minority in Croatia is to a great deal determined by the complex nature of its political system, reality of the recent war and ethnic conflicts, and especially fragile relations between Croats and Bosniaks in contemporary B&H.

Political developments in B&H after the signing of the Dayton Peace Agreement (DPA)¹⁹⁸ in 1995, showed a full absurdity of an attempt to establish a viable political system by an otherwise successful peace treaty. The DPA created a complex state

¹⁹⁶ Zilli, Silvano. 2003, pp.72.

¹⁹⁷ Important fact to take into account when considering relations of Bosniak minority with its kin state is that B&H has never been a nation-state. It comprises three large ethnic groups – Bosniaks, Serbs and Croats – which constituted 43%, 31% and 17% of population respectively in 1991. Consequently, the political, financial or any other support for members of only one of its ethnic/national groups abroad becomes conditioned by existence of compromise of relevant political factors, which in B&H political reality is a synonym for institutionalized ethnic groups.

¹⁹⁸ The General Framework Agreement for Peace in Bosnia and Herzegovina. Signed on 14 December 1995. http://www.ohr.int/dpa/default.asp?content_id=380

structure composed of two highly autonomous entities, institutionalized ethnic divisions in all spheres of social, political and economic life and instituted cumbersome methods of political decision-making, highly dependent on the mediation and imposition of international factors.¹⁹⁹

Although B&H is formally a sovereign state, the influence of international community on any kind of decision-making “has left little space for Bosnian state institutions to make or to implement policy.”²⁰⁰ Moreover, gravity of economic situation and non-functioning economic system remain one of the main obstacles to providing any kind of financial assistance to institutions outside the country.

In addition, fragile relationships between Croats and Bosniaks in the larger B&H entity (Federation of Bosnia and Herzegovina) seriously affect the relations of B&H and Croatia. Support of, at the time, ruling HDZ to the secessionist demands of the B&H Croats in the period from 1993 to 1995 could in fact be characterized as a detrimental involvement of a kin state in internal affairs of another state (Croatia is considered a kin state of B&H Croats, even though they are constituent people of B&H). This resulted in grave deterioration in the relations between the two states, which despite their formal resolution by the Washington agreement²⁰¹ and later on the Agreement on special relations between the Republic of Croatia and the Federation of Bosnia and

¹⁹⁹ For critical analysis of the DPA provisions, see Chandler, David. *Bosnia: Faking Democracy After Dayton*. London/Sterling, Virginia: Pluto Press, 1999. Also, for a legal analysis of DPA and its debated provisions see Fionnuala Ni Aolain. “The Fractured Soul of the Dayton Peace Agreement: A Legal Analysis”. In Sokolovic, Dzemal and Bieber, Florian (Eds.). *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina*. Hampshire: Ashgate Publishing Limited, 2001.

²⁰⁰ Candler, David. 1999, pp. 55.

²⁰¹ Framework Agreement for the Federation of Bosnia and Herzegovina. Signed on 18 March 1994. The Washington agreement established the “internal structure of the territories with a majority of Bosniac and Croat population (...) into a Federation, which is composed of federal units with equal rights and responsibilities.” (Part I – Establishment). http://www.usip.org/library/pa/bosnia/washagree_03011994.html

Herzegovina²⁰² remained very frail up until the election of the currently ruling coalition in Croatia in 2000.

Even nowadays, despite the fact that the relations seem to be free of the ethno-nationalist politics and more cooperative than ever before, a number of important issues still remain unresolved between the two countries (such as the issue about the port Ploče, signing of the dual citizenship agreement, etc.) With such very significant inter-state matters still pending and with the complex decision-making procedure in B&H impeding agreement on any issue of political significance, the protection of Bosniak minority falls very low on the agenda of B&H policy-makers.

The attitude of the state of B&H towards Bosniak minority in Croatia (which can be applied to other countries in the region as well) is best explained as an “absolute lack of an organized approach to this issue.”²⁰³ B&H has so far not dealt with Bosniak minority on an institutional level, or to put it in another words, there is no state policy towards the protection and promotion of rights of Bosniak minority or activities of their organizations.²⁰⁴

This is not to say that no contact exists between B&H state authorities (through B&H Embassy in Croatia) and Bosniak minority representatives and Croatian state authorities in this regard. On contrary, the B&H Embassy has supported a number of

²⁰² The Agreement on Special Relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina. Signed on 22 Nov 1998. The agreement regulates the relations between Croatia and the Federation through special institutionalized and other forms of cooperation in areas such as economic cooperation and trade, legislation, privatization, science and technology, education, culture and sport, social policy and health, etc. http://www.ohr.int/other-doc/fed-mtng/default.asp?content_id=3636

²⁰³ Zlatko Dizdarevic, Ambassador of Bosnia and Herzegovina to the Republic of Croatia, in an interview held on 1 Sep 2003 in Zagreb.

²⁰⁴ If the definition of a kin state provided by Rogers Brubaker (see supra note 41) is taken into account, Bosnia and Herzegovina would hardly qualify as the kin state of Bosniak minority in Croatia, as it does not fulfill one of the main requirements – the active involvement in protecting the interests of its ethnonational kin abroad. However, a subjective element, demonstrated in the attachment of members of minority with the country they are ethnically/culturally/linguistically affiliated to, has prevailed for the purposes of this analysis.

minority's activities, mainly in the cultural sphere, but also in political matters, as was the case during the elections for national minority councils. However, this support was limited to attending various cultural manifestations and supporting the minority claims and requests mostly through a network of personal contacts and cautious lobbying. No financial support was envisaged. Besides being rather few, all these activities are conducted in accordance with the judgment of the Embassy staff on the appropriateness of such actions in light of prevailing political circumstances in the relations of the two states. Even though such an approach might at moments be considered balanced and even politically wise in existing complex political climate, it is certainly lacking the coherence and political determination that would be advantageous for the promotion of the rights of Bosniak minority.

On the other hand, the advantage of the positive kin state involvement is evident in the case of Italian minority in Croatia. In Jan 1992, Croatia and Italy signed the Memorandum of Understanding on the Protection of Italian Minority in Croatia and Slovenia, a result of Italian concern over the treatment of Italian minority in these two countries, which later on resulted in the signing of the Treaty between the Republic of Croatia and the Italian Republic concerning Minority Rights in Nov 1996.²⁰⁵

The treaty recognized the autochthonous character of Italian minority in Croatia and rights acquired under the legislation of predecessor state (such as political representation in Sabor).²⁰⁶ Also, it recognized the Italian Union as the organization

²⁰⁵ Treaty between the Republic of Croatia and the Italian Republic concerning Minority Rights Official Gazette, Treaties (1995), No. 15. In addition, Croatia has signed the Agreement on the Protection of the Hungarian minority in Croatia and the Croatian minority in Hungary on 5 Apr 1995. Official Gazette, Treaties (1995), No. 8.

²⁰⁶ Regulated by the Paris peace agreement from 1947, Memorandum of understanding on the status of Trieste, signed between governments of Italy, UK, USA and Yugoslavia in 1954 and Osimo agreement signed between former Yugoslavia and Italy in 1975.

representing Italian minority in Croatia and granted full freedom of movement to the members of Italian minority from and to the Republic of Slovenia, “in view of remedying the consequences of the separation of the Italian Minority in two separate States”.²⁰⁷ In addition, as already mentioned, the Republic of Italy is providing for around 80% of the funds needed for activities of the Italian Union in Croatia and Slovenia.

The importance of such bilateral regulation of minority status is already outlined – advantages range from those of legal nature (greater specificity of such documents over international and national instruments) to those of political and financial support. Bosniak minority is lacking these advantages. Bilateral agreement has never been signed, relationships between home state and kin state are burdened by recent animosities, and political and economic situation in the kin state precludes it from offering any significant support, be it political or financial, to its minority living in the neighboring country. Again, comparison with the relevance of the kin state in case of Italian minority illustrates all the disadvantages of the existing situation.

This case study of Bosniak minority in Croatia proved the importance of different factors in determining the status of particular minority in a country. It focused on three such factors and their interaction in this process. Unfortunately, the status of Bosniak minority in Croatia is burdened by a number of significant problems in this interaction. Discriminatory attitude of the home state towards minorities in general as a result of nationalistic politics in 1990s, complex relations between the home state and the kin state,

²⁰⁷ Treaty between the Republic of Croatia and the Italian Republic concerning Minority Rights, Preamble. For the elaboration of legal position of Italian minority in Slovenia see Pavlovic, Zoran. “Legal Status of the Italian Minority in Slovenia”. In Dimitrijevic, Nenad (Ed.). *Managing Multiethnic Local Communities in the Countries of the Former Yugoslavia*. Budapest: Local Government and Public Service Reform Initiative, 2000, pp. 63-72.

troubled by the recent inter-ethnic wars in the region, and the minority's self-organization, which leaves a lot to be desired, significantly attribute to its rather low status in the Croatian society.

Conclusion

Ethnic diversity is a reality of most countries in the world, and in Europe it is more of a rule than an exception. It should, therefore, come as no surprise that the protection of rights of ethnic, religious or linguistic minorities has for a long time been a subject of not only states', but also international concern for its proven influence on the political stability, regional security and good neighborly relations. The protection and promotion of minority rights has traditionally been regulated by bilateral agreements, peace treaties and afterwards by multilateral political and legal documents; however, the attempt to achieve a consistent set of international standards has failed so far.

When discussing provisions of international law in general, one has to bear in mind the fact that the international law is a result of a consensus and represents a reconciliation of rather diverse political aspirations, cultures, traditions, and legal systems. It is, therefore, inevitable that international instruments devoted to minority protection are most often limited to prescribing only general standards of conduct, implementation of which is left to the discretion of states in accordance with their specific political, social and economic circumstances.

It is, therefore, necessary to search for solutions for minority problems on national, state level. The adequate protection of minorities is firstly conditioned by the existence of an adequate legal framework as a context for protection and promotion of minority rights in general. Moreover, situation of a particular minority is heavily conditioned by the interaction that exists between the state in which minority lives, the minority itself and minority's kin state, in a way that a fruitful and cooperative interaction of these three factors significantly promotes the overall position of the minority and *vice versa*.

The hypothesis of this paper was tested on a case study focused on Croatia, a country whose transition, in addition to being burdened by challenging transformation of political, economic and social system, is hampered by recent ethnic conflicts in the region and consequent deterioration in majority-minority relations. With the adoption of the Constitutional Law on Rights of National Minorities in December 2002, Croatia fulfilled its main international obligation in terms of creating the legal framework for the protection of minorities. The law has been assessed by relevant international factors as an adequate legal tool for protection and promotion of minority rights and as the first important step in sustainable resolution of minority problems that the country has been facing since its independence.

However, an adequate legal framework, even though a crucial prerequisite, is still not sufficient on its own to ensure the adequate protection and promotion of rights of all minorities living within the country. The case study of Bosniak minority in Croatia illustrated that, although the adequate legal framework might be in place, the actual interaction between the minority, its home state and kin state proves to be the determining feature in resolution of the minority's status.

The overall low status of Bosniaks, the second largest minority in Croatia, in the last decade can be attributed to insufficiency of this interaction. Firstly, the unfavorable treatment of this minority by the home state authorities, displayed through a pattern of state-sanctioned discrimination and long-lasting dispute over the recognition of national minority status, significantly contributed to this position. Secondly, the minority itself has still not achieved the maturity of its self-organization needed for efficient promotion of its rights, which is evident in the lack of adequate coordination of various organizations representing its interests and absence of clear division of their roles.

Finally, the institutionalized relation with the kin state is virtually absent, as the support offered to the minority is random, unstructured and ad hoc.

On the other hand, some positive changes can be expected. As to the minority self-organization, the adequate level of coherence and homogeneity is still a distant goal; however, nowadays, in the changed political and social climate, it seems more attainable than ever before. Further, the relationship with the kin state is unlikely to profoundly change in the short-term, given a lack of genuine political will within relevant institutions of both states to consider minority issues a priority. However, the improvement in the overall inter-state relations gives a reason to believe that the positive developments in terms of status of Bosniak minority in Croatia will be forthcoming.

Most important in this equation is, however, the attitude of the Croatian state towards its minority population. The process of transition and adoption of democratic values and standards has yet not been completed, and there is a long way to go until Croatia becomes eligible to be considered a stable democracy. The success of this transition will to a great extent be determined by the nature of the treatment of a number of Croatian most vulnerable national minorities, amongst which is the Bosniak one. Transformation of existing legal provisions from formal to actual methods of protection and promotion of minority rights, implementation of prescribed norms in their entirety and development of the genuinely democratic and tolerant political culture, remain the most important challenges. The period ahead of us will demonstrate whether they will be adequately met.

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ANNEX I

Social-distance

The level of multi-ethnic and multi-religious tolerance, expressed through the existence (or non-existence) of national or religious prejudices, ethnocentric stereotyping or social distance between different ethnic/national groups is a significant factor in protection and promotion of minority rights within a society. The quality of relationship between majority and majority (or minorities) is not easy to measure and is susceptible to many weaknesses as any other attempt of generalization. However, there are indicators that can suggest the prevailing attitude of certain ethnic groups towards the others, one of which is the social distance scale.

Research on social distance amongst different ethnic groups has begun in former Yugoslavia in late 1980s. The method used was a type of Bogardus social distance scale, which asked examinees to indicate different levels of preference (marital relations, friendship, etc.) in relations to members of their own and other ethno-national groups.²⁰⁸ Research conducted in 1985 by the Institute for Social Research (Institute) in Zagreb indicates that, amongst five offered groups, the least preferred for entering into the marriage for Croats were members of Muslim ethnic group (0.5%, or 10 examinees).²⁰⁹ Similarly, Muslims were the least preferred for friendship relations (0.7% or 14

²⁰⁸ The scale has seven levels, which range from the highest level of preference (“marital relationship/close relative”) to the lowest (“expel from my country”).

²⁰⁹ Katunarić, Vjeran. “Dimenzije etnicke distance u Hrvatskoj”. In *Polozaj naroda i medjunacionalni odnosi u Hrvatskoj: sociologijski i demografski aspekti*. Group of authors. Zagreb: Institut za društvena istraživanja (Institute for social research), 1991, pp. 135. Other groups included Croats (30.7%), Serbs (2.4%), Yugoslavs (16.4%) and Slovenes (3.7%) and the rest examinees did not want to answer this question.

examinees).²¹⁰ In addition, they were one of the least preferred as working partners (1.1%), with only Albanians ranking lower (0.6%).²¹¹

In the analogous type of research conducted in 1989, the situation was similar, with the percentage of Croats who indicated preference for other ethnic groups in their intimate relations decreasing even further. Muslims were the least preferred in both types of relations, with 0% examinees preferring Muslims as their spouses and 0.2% preferring them as friends.²¹²

In 1996, a similar research was again conducted by the Institute and on the scale indicating preference for certain ethnic groups, Bosniaks/Muslims were ranked as 11th most preferred group, out of 16 offered, with the average value on the scale from 1 to 7 (1 indicating the lowest preference, 7 indicating the highest) of 2.32.²¹³

In 1999, the Institute conducted empirical research on 1,700 young people and, amongst other factors, measured their social distance towards members of different ethnic groups, using the Bogardus scale. They found that the examinees had highest distance towards eastern and non-catholic nations, especially Bosniaks, Serbs and Albanians.²¹⁴

²¹⁰ Ibid. Other groups – Croats (23.3%), Serbs (5.4%), Yugoslavs (17.9%), Slovenes (5.5%)

²¹¹ Katunarić, Vjeran. "Sistem moći, socijalna struktura i nacionalno pitanje". *Revija za sociologiju*, Vol. XVI, No. 1/4, 1996, pp. 86.

²¹² Katunarić, Vjeran. 1991. Self-preference of Croats increased significantly in both cases. Preferred nationality in case of marital relations is as follows: Croats (50.7%), Serbs (0.5%), Yugoslavs (3.8%) and Slovenes (1.8%). Preferred nationality with regard to friendship is as follows: Croats (32.5%), Serbs (1%), Yugoslavs (2.8%) and Slovenes (2.3%). In both cases, the remaining examinees opted not to answer these questions.

²¹³ Katunarić, Vjeran. "Mostovi, kategorije i ljudi: socijalna distance u Hrvatskoj 90-tih godina". Unpublished paper, obtained in the Institute for social research, pp. 14. Other groups included: Croats (average 6.79), German (3.9), American (3.74), Austrians (3.57), Italians (3.2), Hungarians (2.92), British (2.78), Slovenians (2.73), French (2.72), Macedonians (2.51), Greeks (2.18), Albanians (2.09), Russians (2.05), Montenegrins (1.97) and Serbs (1.79)

²¹⁴ Ilisin, Vlasta. "Mladost, odraslost i budućnost". In Ilisin, Vlasta and Radin, Furio (Eds.). *Mladi uoci treceg milenija*. Zagreb: Institut za društvena istraživanja, 2002, pp. 153.

Only 13.7% of examinees expressed their willingness to have Bosniaks as close relatives, which was the 3rd worst ranking, only ahead of Serbs and Albanians.²¹⁵

In the research conducted in 1985, the ethnocentric preference was only weakly expressed,²¹⁶ in contrast to the results of the research conducted in the succeeding years. The rise in political, economic and social tensions in the end of 1980s changed the perception of ‘others’, and events of 1990s increased the social distance towards ‘the others’ dramatically, which can be attributed to the acceptance of ethno-nationalistic ideology and violent conflicts in the region. However, it has to be taken into account that the social distance towards Bosniaks was very high even in 1985 and remained so and even worsened throughout 1990s.

It is recognized that above presented results of social analysis conducted in Croatia since 1985 are not totally comparable and therefore can be considered only as an indicator of certain social parameters. For the purposes of this thesis, they are used to indicate the pattern and extent of social distance that has existed towards Bosniaks in Croatia in the relevant period.

²¹⁵ Out of 14 offered ethnic groups.

²¹⁶ Katunarić, Vjeron. 1991, pp. 133.

ANNEX II

National Structure of Population in the Republic of Croatia

Nationality	Year 1991*		Year 2001**	
Croats	78.1%	3,736.356	89.63%	3,977.171
Serbs	12.2%	581,663	4.54%	201.631
Muslims	0.9%	43,469		19.677***
Bosniaks			0.47%	20.755
Slovenians	0.5%	22,376	0.3%	13.173
Hungarians	0.47%	22,355	0.37%	16.595
Italians	0.44%	21,303	0.44%	19.636
Czechs	0.27%	13,086	0.24%	10.510
Albanians	0.25%	12,032	0.34%	15.082
Montenegrins	0.2%	9,724	0.11%	4.926
Roma	0.14%	6,695	0.21%	9.463
Macedonians	0.1%	6,280	0.1%	4.270
Slovaks	0.12%	5,606	0.11%	4.712
Ruthenians	0.07%	3,253	0.05%	2.337
Ukrainians	0.05%	2,494	0.04%	1.977
Germans	0.05%	2,635	0.07%	2.902
Austrians	0.004%	214	0.01%	247
Jews	0.013%	600	0.01%	576
Bulgarians			0.01%	331
Poles			0.01%	567
Romanians			0.01%	475
Russians			0.02%	906
Turks			0.01%	300
Vlahs			0.00%	12

* Source: State Institute for Statistics, found in Tatalovic, Sinisa. "Minority Peoples and Democracy". Podgorica: Centre for Tolerance and Dialog, 2001, pp. 105. (Here used Croatian version – Tatalovic, Sinisa. "Manjinski narodi I demokracija". Podgorica: Centar za toleranciju I dijalog, 2001)

** Source: State Institute for Statistics. <http://www.dzs.hr/Popis%202001?popis20001.htm>

*** Listed under "Other European peoples"

ANNEX III

Territorial Distribution of Members of Bosniak Minority – Census 2001*

County	Total county population	Bosniaks			Muslims**		
		No.	% of total county population	% of total Bosniak population	No.	% of total county population	% of total Muslim population
Zagreb	309.696	877	0,28%	4,23%	754	0,24%	3,83%
Krapina-Zagorje	142.432	61	0,04%	0,29%	51	0,04%	0,26%
Sisak-Moslavina	185.387	1.137	0,61%	5,48%	2.082	1,12%	10,58%
Karlovac	141.787	892	0,63%	4,30%	725	0,51%	3,68%
Varazdin	184.769	116	0,06%	0,56%	259	0,14%	1,32%
Koprivnica-Krizevci	124.467	93	0,07%	0,45%	58	0,05%	0,29%
Bjelovar-Bilogora	133.084	66	0,05%	0,32%	133	0,10%	0,68%
Primorje-Gorski kotar	305.505	3.021	0,99%	14,56%	3.402	1,11%	17,29%
Lika-Senj	53.677	88	0,16%	0,42%	101	0,19%	0,51%
Virovitica-Podravina	93.389	69	0,07%	0,33%	76	0,08%	0,39%
Pozega-Slavonija	85.831	48	0,06%	0,23%	76	0,09%	0,39%
S.Brod-Posavina	176.765	372	0,21%	1,79%	401	0,23%	2,04%
Zadar	162.045	266	0,16%	1,28%	213	0,13%	1,08%
Osijek-Baranja	330.506	410	0,12%	1,98%	450	0,14%	2,29%
Sibenik-Knin	112.891	142	0,13%	0,68%	102	0,09%	0,52%
Vukovar-Sirmium	204.768	1.138	0,56%	5,48%	1.317	0,64%	6,69%
Split-Dalmatia	463.676	888	0,19%	4,28%	809	0,17%	4,11%
Istria	206.344	3.077	1,49%	14,83%	3.831	1,86%	19,47%
Dubrovnik-Neretva	122.870	1.760	1,43%	8,48%	737	0,60%	3,75%
Medjimurje	118.426	30	0,03%	0,14%	70	0,06%	0,36%
City of Zagreb	779.145	6.204	0,80%	29,89%	4.030	0,52%	20,48%
TOTAL	4.437.460	20.755		100,00%	19.677		100,00%

* Source: State Institute for Statistics. <http://www.dzs.hr/Popis%202001/popis20001.htm>

** Listed under "Other European peoples"

ANNEX IV

State Committee for National Minorities' Decision on the Distribution of Financial Assistance from the State Budget for Year 2003*

No.	National minority	Funding from the state budget 2003 (kuna)	% of TOTAL funding
1	Italians	4,220,000	21.1%
2	Serbs	5,245,000	26.2%
3	Hungarians	2,240,000	11.2%
4	Czechs	1,800,000	9.0%
5	Ruthenians/Ukraininans	850,000	4.3%
6	Roma	610,000	3.1%
7	Slovaks	830,000	4.2%
8	Bosniaks	600,000	3.0%
9	Slovenians	410,000	2.1%
10	Albanians	450,000	2.3%
11	Germans/Austrians	370,000	1.9%
12	Macedonians	410,000	2.1%
13	Montenegrins	410,000	2.1%
14	Jews	370,000	1.9%
15	Russians	15,000	0.1%
16	Bulgarians	30,000	0.2%
17	Polish	15,000	0.1%
18	Other costs	1,125,000	5.6%
TOTAL funding 2003		20,000,000	100.0%

*Odluka o rasporedu sredstava osiguranih u drzavnom proracunu Republike Hrvatske za 2003. godinu., adopted on 27 Jun 2003
<http://www.nn.hr/clanci/sluzbeno/2003/1509.htm>