

CONTRIBUTION OF THE REPUBLIC OF SERBIA TO SESSION 12 CONCERNING TOLERANCE TOWARDS AND NON-DISCRIMINATION OF NATIONAL MINORITIES

In a multiethnic and multicultural society like the Republic of Serbia, encouraging and cherishing the spirit of tolerance and intercultural dialogue is invaluable. Somewhat less than 15% of Serbia's entire population belongs to different national minorities and ethnic communities. This is why the Republic of Serbia has established constitutional and legal frameworks enabling the development of a society in which the spirit of tolerance and intercultural dialogue are promoted, thus contributing to the country's stability, prosperity, safety, and, finally, reflecting the degree of development of its democracy. Mutual respect, understanding and cooperation between people of different national, linguistic and religious affiliation, is one of the main objectives of Serbia's minority policy.

According to the Serbian Constitution, encouraging respect for diversity is a specific objective. In other words, under the provisions of its Constitution, the Republic of Serbia promotes understanding, recognition and respect of diversity arising from specific ethnic, cultural, linguistic or religious identity of its citizens through measures applied in education, culture and public information. The Constitution guarantees the freedom of expression of national affiliation and proclaims, *inter alia*, the right to expressing and developing ethnic, cultural and religious specificity. The Constitution guarantees persons belonging to national minorities additional individual and collective rights and expressly guarantees the possibility of electing their national councils through which they exercise the right to self-governance in the field of culture, education, information and official use of their language and script.

The Republic of Serbia is a party to the most significant international treaties in the field of human and minority rights, among others, to the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages of the Council of Europe. A high level of recognition of linguistic diversity has been confirmed in practice through the implementation of the European Charter for Regional or Minority Languages in 15 minority languages spoken in the territory of the Republic of Serbia (Albanian, Bosnian, Bulgarian, Bunjevac, Vlach, Hungarian, Macedonian, German, Roma, Romanian, Ruthenian, Slovak, Ukrainian, Croatian and Check), 10 of which receive special protection.¹

In 2002 the Republic of Serbia introduced state-funded national minority councils in its legal order. In 2010 these councils received the total of 1,434,657.23 EUR from the Serbian budget for their regular activities, whereas the sum envisaged for 2011 amounts to 2,217,978.67 EUR. National minority councils promote, cherish and develop the national identity of the minority they represent. Upon adopting the Law on National Minority Councils in 2009, the first direct elections for members of 16 national minority councils were held on 6 June 2010, while 3 national minority councils elected their members indirectly in electoral assemblies. Today, 19 national minority councils and the Association of Jewish Municipalities of Serbia, whose position is equal to that of a

¹ Republic of Serbia has accepted additional obligations regarding implementation of measures related to education, judicial authorities, administrative authorities and public services, media, cultural activities and facilities, economic and social life and transfrontier exchanges for the ten following languages: Albanian, Bosnian, Bulgarian, Hungarian, Roma, Romanian, Ruthenian, Slovak, Ukrainian and Croatian.

national minority council under law, are active in the Republic of Serbia.

At the national level, the National Minority Council of the Republic of Serbia was established to ensure the maintenance, promotion and protection of national, religious, linguistic and cultural specificities of persons belonging to national minorities in the Republic of Serbia. The Council members are the Prime Minister, who, at the same time, is the Council Chairman, ministers responsible for human and minority rights, state administration and local self-governance, culture, education, youth and sports, religion, justice, internal affairs, as well as the chairpersons of national minority councils and the chairman of the Association of Jewish Municipalities of Serbia.

Apart from creating necessary conditions on the legislative and institutional level, the Republic of Serbia has also actively promoted the right to diversity. A number of general and regional projects implemented by state authorities focus on cherishing the spirit of tolerance and intercultural dialogue, while numerous joint projects were carried out in cooperation with non-governmental organisations and international institutions through round tables, conferences, seminars on tolerance, and multiethnic sports manifestations in nationally mixed communities.

The Serbian legal system protects the rights of national minorities and guarantees their members special protection with a view to attaining full equality and preserving their identity, developing and expressing their ethnic, cultural, linguistic, religious and other specificities, for which purpose it envisages efficient measures against any form of discrimination, threat, violence and hostility directed against them due to their ethnic or other specificities. The prohibition of fanning racial, national and religious hatred is regulated by particular constitutional and legal provisions.

Constitutional provisions prescribe that each individual should be equal before the Constitution and the law, and that everybody has the right to equal legal protection without discrimination. The Constitution prohibits any form of discrimination, direct or indirect, on any grounds, particularly on the grounds of race, gender, national affiliation, social origin, birth, religion, political or other belief, property status, culture, language, age and mental or physical disability. The provision prohibiting any discrimination on the grounds of belonging to a national minority particularly strengthens the constitutional protection of national minority rights. There is another constitutional provision significant for minority rights, which provides that the state may introduce special regulations and provisional measures in economic, social, cultural and political life, which shall not be deemed discriminatory, in order to achieve full equality between persons belonging to national minorities and citizens belonging to the majority, if such measures aim at eliminating extremely unfavourable living conditions which particularly affect such persons (affirmative action measures).

The regulations of the Republic of Serbia governing particular spheres of social life contain provisions on the prohibition of discrimination. Thus, for example, discrimination on the grounds of national affiliation in the field of labour relations, employment, health protection, education, culture, public information, etc., is expressly prohibited and sanctioned by the Criminal Code.

The provisions of the 2009 Law on the Prohibition of Discrimination prescribe the prohibition of discrimination against national minorities and their members on the grounds of national affiliation, ethnic origin, religious beliefs and language, while causing and inciting inequality, hatred and enmity on the grounds of national, racial or religious affiliation and language, is qualified as a

severe form of discrimination.

This Law establishes the Commissioner for the Protection of Equality, as an independent and autonomous state authority. The Commissioner was first elected in 2010; he/she receives and reviews complaints pertaining to violations of the provisions of this Law and passes measures. Apart from that, the Law envisages judicial protection against discrimination and the Commissioner also has active legitimation, i.e. the right to lodge complaints.

The Republic of Serbia has the institution of ombudsman on the national level, the institution of provincial ombudsman at the regional level, as well as the civic defender at the local level, *inter alia*, in multiethnic communities such as Subotica, Novi Sad, Zrenjanin, Šabac, Vranje, Niš, Kragujevac and Beograd. One of the four Deputies Ombudsman, assisting him/her in carrying out the established tasks, is specialised in the field of the protection of national minority rights. Under the express constitutional provision, the Ombudsman is an independent state authority protecting the rights of citizens and monitoring the work of state administrative authorities, the authority responsible for the protection of legal proprietary rights and interests of the Republic of Serbia, as well as other bodies and organisations, companies and institutions entrusted with public powers.

The Republic of Serbia is genuinely committed to promoting tolerance, the principles of recognition of diversity and non-discrimination proclaimed by the Constitution and regulated by the Serbian legislation and obligations undertaken in accordance with international treaties in the field of human and minority rights, and is resolved to further create conditions for the chief strategic objective-integration of national minorities in all spheres of social life, proceeding from the position that the degree of protection of human and minority rights and a peaceful and creative atmosphere in which both the majority and the minority continually develop and improve their relations, demonstrate more than clearly the degree of democracy in a society, the strength of its democratic potentials and the readiness of its institutions to respond to all challenges.

The 2011 Law on the Census of Population, Households and Dwellings lays down that the census includes the citizens of the Republic of Serbia, foreign citizens and stateless persons residing in the Republic of Serbia, as well as persons from the mentioned categories who have residence abroad, but have stayed in the Republic of Serbia for at least a year at the time of the census.

As regards ethnic characteristics of the population, the census is to include information on national affiliation, religion and mother tongue. It is envisaged that the questions concerning national affiliation and mother tongue should be designed as open-ended replies. The methodological instruction envisages that the census-taker is obliged to enter the respondent's exact reply to the question about ethnic characteristics. If the respondent should not wish to declare his/her national affiliation, the census-taker should enter the reply: "has not declared national affiliation". The census questionnaire itself contains a judicial release as to which citizens are not obliged to declare their national affiliation. The Law on Census envisages penal provisions should census-takers request a person to declare their national affiliation or religion against their wish.

Census-takers, instructors, supervisors and other persons carrying out census-related tasks are obliged to strictly observe the accuracy of entries, i.e. the exact processing of the data given by respondents. In view of the fact that the Law envisages the protection of collected data, census-

takers are obliged to protect the confidentiality of the data given by respondents, and such data shall exclusively be used for statistical purposes.

In view of the extremely sensitive nature of the questions concerning ethnic characteristics of the population, the methodological instruction strictly prescribes that if the census-taker makes a mistake while entering replies to these questions, no corrections are allowed. In such cases, the census-taker is obliged to fill out a new census questionnaire and to annul the one in which he/she made a mistake, with the obligation to return it to the instructor.

The basic census forms and the advertising materials inviting citizens to take part in the census, were translated into the languages of the 6 national minorities, as well as into the English language.

The Statistical Office of the Republic of Serbia invited persons belonging to national minorities to participate as much as possible in the competition for census-takers which is underway, so as to ensure a sufficient number of census-takers speaking minority languages in the regions where national minorities live.

The Albanian national minority formed the National Council in June 2010. Government of Serbia together with the Albanian National Council and in close cooperation with the office of the OSCE High Commissioner on National Minorities launched an initiative to open a faculty in South Serbia. Multiethnic and multilingual faculty department is due to be open in late October 2011.