

## **The Role of Ethnic Minorities within the Government System of Kosovo**

**Senior Lecturer Mădălina Cocoşatu, PhD**  
*National School of Political Studies and Public Administration, Romania*  
*madacocosatu@yahoo.com*

**Abstract:** In the democratic states, the assertion and respect of the fundamental rights of the minorities represent an essential characteristic, both at the national, and at the international level. In this paper, we shall analyze minorities' role in the government process and the relations that are established with the executive power and the non-governmental organizations. Also, we shall analyze the advisory mechanisms of ethnic communities in Republic of Kosovo I've tried to find and debate hermeneutical new regulations and social situation existing in Kosovo in this domain very important for those who practice Constitutional law and Government Politics. The present configuration of international society, the functionality and the stability are result of two types of conflicting processes: integration and division. Thus, the ethnic and religious tensions and the identity which lead to the division of the states are opposed to the tendency of integration through cohesion round common political and economic goals. The former Yugoslavia is such an example. The issue regarding minorities has been widely discussed, especially regarding the rights and freedoms they have. The novelty of this study dwells an interdisciplinary analysis of how ethnic minorities are involved in Kosovo government system.

**Keywords:** ethnic minorities; government; citizen participation; rights

### **1. General Considerations**

After the NATO intervention in Kosovo in 1999, in June of the same year, the United Nations decided to put Kosovo under international mandate by the UN Interim Administration Mission in Kosovo. The reason of introducing this mission was to provide the region an administration transition until the establishment and development of democratic institutions of self-government, which ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.

The Interim Administration was initiated by Resolution no. 1244 enacted by the UN Security Council in June 10, 1999. This resolution is based on a series of UN

resolutions which have not been observed, thus generating NATO intervention: Resolution no. 1160 of March 1998, Resolution no. 1199 of September 1998, Resolution no. 1203 of October 2008 and Resolution. 1239 of May 1999.

Ethnic communities of Roma, Ashkali and Egyptians are the most vulnerable in Kosovo. Their political position has improved since the establishment of the UN Interim Administration in Kosovo, however this is mainly limited to be more effective at central and municipal levels.

## **2. Minority Participation in Politics**

### **2.1. Participation of Minorities under the United Nations Interim Administration Mission**

Immediately after the intervention in 1999, the United Nations Interim Administration Mission (UNMIK) established the Interim Council, as an advisory body of the Interim Administrative structure and local political leaders, aiming to reconcile the communication between local representatives of different ethnic groups in Kosovo and the international community. Of the eight members, only one came from Roma community (Haxhi Zylfi Merhei). At the time, no representative was considered of Ashkali and Egyptian communities to be part of the advisory body (Brand, 2003, p. 11).

During the following years, UNMIK and the international community have created legal and political mechanisms that guarantee minority representation in legislative and executive bodies. At central and local, the minority co-decision and consultative bodies have been established in order to ensure the post-conflict participation of ethnic minorities in Kosovo. The interlocutory Constitutional framework for Interim Government in Kosovo of 2001 has created a convenient environment for the participation of minorities, guaranteeing them seats in the Kosovo Assembly, out of 120 seats, 20 were allocated to minority communities of which 10 for Serbs, 4 for Roma, Ashkali and Egyptians, three for Bosnians, two for Turks and one for Gorani.

The seats for each of these minorities were directed to political parties, coalitions, citizens' initiatives and independent candidates representing these communities. Within the Kosovo Assembly was established a Committee for Rights and Legitimate Interests of the Communities with co-decision powers. The Committee

was provided with co-authority and assigned the power to overhaul the laws, to make recommendations on draft laws, in order to ensure that the rights and interests of the community are adequately addressed and bring forward these recommendations to the Functional Committee of the Assembly.

In the spirit of the Constitutional framework, UNMIK Regulation 2000/45 provided the legal provisions to ensure minority representation. In cases of major minority population at a local level were established the Communities Committee, Mediation Committee and a Bureau of Communities. The purpose of these advisory mechanisms was to represent minorities and to ensure that they enjoy equally, civil, political, economic, social and cultural rights and to receive fair and equal employment opportunities at all levels.

## **2.2. Participation of Ethnic Minorities after the Independence Proclamation**

According to the Declaration of Independence enacted by the Parliament in February 2008, Kosovo would become a democratic republic which will operate under a Constitution enacted within 120 days since the proclamation of independence. The process of Constitution draft was initiated in 2007 based on the Ahtisaari Plan which envisaged the creation of a Constitutional Commission which would include: 21 members, of which 15 are assigned by the President, 3 to be assigned by the Parliament from among the MPs representing the Serb community and 3 of which were representing other minorities in the country. Broadly, the articles of the draft were inspired by the provisions of Ahtisaari Plan, which is why great emphasis is given to the multi-ethnic character of Kosovo and a wide range of rights and freedoms for minorities are provided aiming to ensure political stability and prevent the outbreak of new fierceness on the territory of Kosovo.

The expanded legal framework after getting the independence guaranteed ethnic minorities the right to representation, among other rights. The Kosovo Constitution and the Law on the Protection and Promotion of the Rights of Communities are fundamental legal documents which provide the basis for ethnic representation. The structure of political institutions in Kosovo seeks to ensure the observance of ethnic diversity of Kosovo's population. Twenty of the 120 seats in the Assembly of Kosovo are guaranteed for representatives of non-majority communities.

Similarly, the institutional design of the Kosovo cabinet reflects the political participation and integration of minority communities within the institutions. It is

regulated that the Serb minority will necessarily lead a ministry, while other two will be run by other non-majority communities. The Law on the Protection and Promotion of the Rights of Communities, enacted in 2008, is a comprehensive law that guarantees a range of rights, including:

- Cultural rights, art. 5;
- The right to own language, art. 4;
- The right to identity, article 2;
- The right to full and effective equality, art. 6;
- The right to education, art. 8.

Article 11 par.1 promotes the right to political participation, emphasizing that these communities will have the right to effective participation in political decision-making at all levels of government.

In parallel with this, the right of representation of communities in Kosovo is also provided at the municipal level. Local Self Governance Act, enacted three days after the Declaration of Independence of Kosovo outlined in article 60 that if the minority community is made up of at least 10% of the total Municipal population, ethnic groups have the right to have deputy mayor to the community. This law states that if 10% of the total population belongs to non-majority community as president of the Municipal Assembly for Communities is chosen that person who is responsible to act as an important joint in approaching issues of non-majority community at the municipal level.

In 2009, the Commissioner of Council of Europe for Human Rights stated that the fundamental law of Kosovo provides a good legal framework for the protection of human rights, however, he emphasizes that now is the duty of the authorities, including the local level, to implement commitments. Despite the completion of the legal framework for minority rights and participation, more actions are deemed necessary to thoroughly integrate ethnic minorities into society.

### **3. Political Participation of Roma, Ashkali and Egyptian Communities**

Although Kosovo institutions have created a comprehensive legal framework regarding the rights of communities and their political representation, the Roma, Ashkali and Egyptian communities are considered the most vulnerable in Kosovo.

The political position of Roma, Ashkali and Egyptian communities has improved since the establishment of the UN Interim Administration in Kosovo, but this is mainly limited to a more efficient representation at central or municipal level. The Roma, Ashkali, and Egyptian communities continue to face discrimination in all aspects of everyday life: in education, access to health services, reconstruction of destroyed property, decision-making processes, participation in repatriation programs. While concerns of the Serbian community continues to attract interest and funding of international community, the members of Roma, Ashkali and Egyptian communities in Kosovo received increasingly less attention. Indeed, full political empowerment of these communities rest upon several factors, such as: political and social status, lower level of education, the rapid growth of the community members, poor health conditions, lack of civil registration and basic legal documents, discrimination, the lack of a nation state to belong to. These are important obstacles in forming social cohesion, which contributes to the low level of these ethnic groups to engage in political, civil and educational institutions.

Roma, Ashkali and Egyptian political parties are organized along ethnic lines in Kosovo. Being promoted by the UN administration in Kosovo, the first political parties among these communities were created after 1999.

The Roma Community is politically represented by The Unified Rromani Party of Kosovo (PREBK) led by Haxhi Zylfi Merxha. The Ashkali Community is represented by the Ashkali Democratic Party of Kosovo (PDAK), led by Danush Ademi, and the Egyptian Community is represented by the New Democratic Initiative of Kosova (IRDK) led by Xhevdet Neziraj.

With national elections in 2007, PDAK received three seats in the Kosovo Assembly, possessing of 3433 votes, PREBK received a single seat, possessing of 2,121 votes and Egyptian community also gained one seat. As denoted by the number of votes, most of the current political leaders who run these political parties do not dispose of rooted and traditional support and legitimacy within the population they represent. It is believed that the lower level of education, poverty, social vulnerability and lack of political empowerment are some of the reasons why Roma, Ashkali and Egyptian people are turning their attention towards existing parties, without requiring accountability through community pressure groups (Kojus, 2009, p. 57).

Parallel to this, the cooperation and coordination between the Roma, Ashkali and Egyptian parties is lessened and their political agenda is quite exclusive with each

other. So far, there was no significant mutual coordination between the political parties to be put on the Government and the Assembly of Kosovo agenda, such examples include the problems among the camps in North Mitrovica<sup>1</sup>, the widespread discrimination against these communities, mainly in terms of proportionate employment in public enterprises<sup>2</sup>, forced deportation of Roma, Ashkali and Egyptian communities from Western countries or widespread problems of illiteracy (Tmava & Beha, 2009, p. 99).

Instead of bringing into existence a common political platform in order to focus and sustain ethnic problems, most of these parties joined the parliamentary groups formed mainly of Albanian and Serbian political parties. In some cases, even members of Parliament coming from the same political party, have different political agendas and do not share the same parliamentary group. For example, MP Etem Arifi from the Ashkali community and PDAK member Hafiz Hajdini belong to the SLS Group (Autonomous Liberal Party), while Danush Ademi from the same political party is part of the Integration Group, a group led by Numan Balic from the Bosniak SDA party (Democratic Action Party).

On the other hand, Haxhi Zylfi Merxha from PREBK part of the Group of 7, which is led by another Bosniak party, the Vakaf Coalition by Dzezair Murata and Neziraj Xhevdet is part of the AAK (Alliance for the Future of Kosovo) which is led by Ardian Gijn. Therefore, Roma, Ashkali and Egyptians political leaders do not share the same political interests, and their political cooperation remains lessened. Due the fact that most of these political leaders, they generally claim to represent only the community they belong to, they do not extend their political cooperation and consultation with other political parties or government representatives of the three communities.

While supporting ethnic political parties, the international organizations have played a significant role in supporting civil society organizations RAE that include Roma, Ashkali and Egyptian communities in Kosovo. Although international organizations in Kosovo have attempted to empower RAE community in order to voice their needs and to balance political parties, RAE is still far from achieving its goals. According to the European Centre for Minority Issues, within the Kosovo

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<sup>1</sup> Recommendations for preventing lead poisoning among the displaced Roma, Center for Disease Control and Prevention, 2007.

<sup>2</sup> Office Employment among members of minority communities in public services and state enterprises, March 2010.

RAE database, there are 66 Roma, Ashkali and Egyptian civil society organizations. Most of these organizations are from the five regions of Kosovo, of which 23 are from Pristina, 11 are from Mitrovica, 12 are from Gjilan, 10 are from Peja and 9 are of Prizren. 80% of organizations RAE profile is fairly vague, not having a strategic plan, definite priorities and an effective organizational structure. Moreover, out of the 55 organizations, 49 of these are inactive, do not have sufficient funds or are facing organizational problems. Of the 66, only 9 of the civil society organizations are very active and 8 are active.

In the Kosovo 2007 Progress Report, the European Commission noted that the relationship between authorities and civil society organizations remains uneven, with no progress in this area (E.C., 2007, p.17). As reported, there are several cleavages that continue to pursue the civil society in Kosovo's ethnic communities, including ethnicity membership, location, work area, level of development.

It was noted that the division along Roma, Ashkali and Egyptians ethnic lines is closely related to geographical division. For instance, of the three communities, Prizren is mostly inhabited by Roma people, Ferizaj/Urosevac is inhabited by Ashkali and Gjakova/Djakovica is populated mostly by Egyptians. Such a definite geographical division emerges from reasons of which civil organizations focus on specific issues of particular communities, namely the largest geographical area where this organization was established (Redjepi & Bojadjieva, 2010, p. 9).

Another aspect worth naming is that the majority of Roma, Ashkali and Egyptian civil society organizations work on issues related to cultural heritage, and a few of them deal with sensitive issues, since these do not dispose of capacity, organizational structure, funds, strategic planning and a network.

The Government of Kosovo has developed a Strategy for Integration of Roma, Ashkali and Egyptians in Kosovo for the period 2009-2015. This strategy mainly aims to improve the situation of Roma, Ashkali and Egyptian communities, and at the same time provides solutions and recommendations for reintegration of returnees. Particularly, the Strategy addresses the following crucial areas: anti-discrimination, education, employment and economic rehabilitation, health and social issues, repatriation and reintegration, culture, media and information, participation and representation, security and police.

Thence, the strategy identifies the fundamental need to improve the socio-political situation of ethnic communities in Kosovo, the effective implementation of the

legislation on the protection of the rights and interests of ethnic communities. An Action Plan was additionally approved so as to specify the necessary measures regarding the ministerial lines and other public institutions in order to increase the efficiency of the strategy.

Although the strategy was enacted in late 2009, following a consultation process that lasted nearly two years, so far, not even a part of this strategy has begun to be implemented. Moreover, at the municipal level there is a lack of action plans regarding this strategy in order to approach the problems of Roma, Ashkali, Egyptian communities in their municipalities. Of a significant importance, the IRDK Egyptian leader (New Democratic Initiative of Kosovo) denounced the assistance for strategy, asserting that Egyptians are already integrated into the Kosovo society. He also asserted that the priority of the Roma community to attempt the official recognition of the Roma language does not interfere with the grievances of the Egyptian and Ashkali communities who speak Albanian, therefore every community has different priorities.

#### **4. Advisory Mechanisms of Ethnic Communities in Republic of Kosovo**

In the Kosovo constitution, the Roma, Ashkali and Egyptians are represented afore the Office of the President By the Community Advisory Council, afore the Prime – Minister by the Office of Community Relations and afore the Assembly of Kosovo by the Commission for Community Rights and Interests and Repatriations. These mechanisms are designed to provide the ethnic communities the ability to directly represent their own political interests at the governance and decision-making levels. It is worth noting that these three bodies are regulated by law and fully adapted by recommendations coming from OSCE and the Council of Europe in order to ensure effective participation of minorities by means of consultative bodies.

Established by Presidential decree of September 15, 2008, Communities Consultative Council was initially introduced Ahtisaari Settlement Plan. In this manner, the Council was desired to be an advisory body without veto legislation, largely consisting of representatives of political parties and civil society organizations, a body that aims to give civil society a voice and to provide the communities access to the highest government policies.



The establishment of the Council is regulated by the Constitution of Kosovo, Article 60 noting that it acts under the authority of the President of Kosovo, and will be composed of all communities and representatives of civil society. The basic mandate of the Council is outlined in the Constitution, like this:

- To ensure a coherent mechanism between the communities and Kosovo's Government;
- To enable communities the ability to debate legislative or political initiatives which can be set by the Government, to take such initiatives and to attempt expressing their own beliefs embedded in relevant projects and programs;

The Council has the task to provide the communities an opportunity to participate in programs of necessities assessment, drafting, monitoring and evaluation of programs dedicated to members of the community. It is also envisaged providing recommendations for aid and funds guidance, funds coming from the Kosovo consolidated budget for projects allocation that meet community's needs and interests.

The Council's activity is trivial, scarcely becoming a functional body in 2009, at one time with the establishment of its composition and the development of some internal rules and working methods.

During the first mandate of the Council, community representatives were selected from among the political parties and civil society. The Statute of the Council states that 70% of the members must be from civil society groups and the remaining 30% is left to political parties' election. The idea of having political representation was seen as an added value of having someone to lobby on behalf of the Council. Despite all these, there were counters through which political representatives might have different priorities and political agendas. In the second mandate, which entered into April 2010, the Council is largely represented by civil society members from among all minority communities. Whilst the Serb community has five seats, representatives of Roma, Ashkali and Egyptians have two members each. Similarly, Bosnian and Turkish communities have two seats. In the last two mandates, the President was elected of the Serb community.

So far, the Council has managed to establish two working groups: in education and development laws. A third group is in the process of being formed, having the task to monitor the implementation of the Strategy for the Integration of Roma, Ashkali and Egyptians in Kosovo. The Council's composition is organized around the

principle that all communities will have their representatives plus representatives of the Kosovo government, which come from those ministries whose work directly affects the rights and interests of communities.

The Committee on the Rights and Legitimate Interests of the Communities is a mechanism of co-decision inside of the Assembly of Kosovo, which provides legislative oversight of the rights and interests of communities, as provided in article 78 of the Constitution.

In parallel with this function, the Committee plays an important role in terms of protection, of so called, vital interests of ethnic minorities in Kosovo, as outlined in article 81 of the Constitution. Therefore, the Constitution entitles the Committee to ensure that all legislative initiatives promote and regard the rights and interests of communities, outlined by the Law on Promoting the Rights and Interests of the Communities, by the Anti-Discrimination Act and by other international human rights organizations. In fulfilling this mandate, the Committee has a primary position to strengthen and protect community rights through their own initiative, to frame laws and other measures inside the Assembly, which the latter deems as appropriate to reply to concerns expressed by of communities.

Regarding the structure, Constitution regulates the Committee as a permanent structure inside the Assembly of Kosovo. In the current legislative mandate, the Committee has two Ashkali representatives, one from Roma community, and another from the Egyptian community.

Concerning the role of the Office for Community Affairs, the latter advises the Kosovo Prime Minister on all issues related to ethnic communities in Kosovo, and coordinates policy and practical issues related to the community. As office within the Office of Prime Minister, it is able to contribute, analyze and provide advice on government policy affecting the rights and interests of communities, to develop and survey the implementation of government strategies on communities and also monitoring the implementation of laws and policies at the community level. In addition, the office will be able to make use of the available funds to acquire a positive impact and create change in people's lives, and what is important to engage directly as needed in solving cases related to minority.

Of relevant importance, the Office is also provided with monitoring the implementation of integrations strategies of Roma, Ashkali and Egyptians.

In terms of structure, the Office currently has three staff members and as Council, the Office is led by a representative of the Serbian community. There seems to be confusion between the mandates of the Office for Community Affairs and the one of Office for Good Governance inside the Office of the Prime-Minister, who also supports the authority to implement the same strategy.

## 5. Conclusions

The configuration and reconfiguration of European countries is a permanent process that originated in the multitude of ethnic groups and the evolution of their dissipation.

Currently, although it had to start from scratch, Kosovo has managed to strengthen its democratic institutions, to take part in diplomatic relations, to have a word in the Balkans. The international presence was fundamental and Kosovo assimilated in a fast pace the western ideas, thus succeeding in translating them within their institutions of governance. If at the end of the war in Kosovo, ethnic communities were clearly favored, currently they are granted with full rights in the political, economic, administrative, educational areas and healthcare.

The existing legal framework in Kosovo guarantees the right to political representation of ethnic minorities on ethnic criteria. The structure of political institutions in Kosovo seeks to ensure keeping ethnic diversity of Kosovo's population. Thus, the institutional design of the Kosovo Government reflects the participation and political integration within the institutions of minority communities.

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