

Minorities and Migration

The Issue of Minorities in the Balkans: Towards a Coherent System of Protection of Minorities

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Abstract: Balkan states are multi-ethnic societies. Balkans is an illustrating case in terms of how important and can often be vital for a functional political system, the representation of minorities within the political system and society. Since the 90's, with the collapse of the Communist regimes, the certain regions of Europe were involved in ethnic conflicts. Inter-ethnic conflicts threaten the stability of the relevant region and the unification of Europe. In such a situation, international institutions, involved in the conflict prevention and stopping it. They devoted special attention to the issue of minorities in respective neighbouring countries. The position of minorities plays an important role for the stability and prosperity in general. This paper is focused in the study of the position of the minorities in the Balkans. The issue of minorities in the Balkans will be treated in different historical periods, taking into account the specifics of the period. The study will have as its starting point the appearance of the issue of the minorities' protection in the Balkans. There will be an analysis of the question when the protection of minorities is raised for the first time to higher international instances. There will be discussions on the solutions to the problems of minorities in the bilateral field. There will be a study of the engagement level of actual protection of minorities after World War II. Also, an object of the paper will also be the approach of the international community, international organizations to the position of minorities in the Balkan states. So, the paper aims to give an overview on the minorities issue in the Balkans.

Keywords: minorities; constitution; international community; Balkan states; international organizations

1. Introduction

The countries of Balkans are the heterogeneous countries in terms of the ethnic composition structure. In general, the countries of Balkans face internal differences

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in different areas. The existence of such countries is the product of historical processes. The position of the minorities in the respective countries is a sensitive issue. Access to the minority of the respective states can be reflected in the domestic stability and inter-state relations. The historical memory shows us the issue of the minorities that used to be the source of instability and inter-state conflicts as well. From historical experience it can be understood that how important is the position of minorities in the inter-state relations and stability in general. No doubt that the position of the minorities is a challenge for the international community. To avoid the unwanted situations, the Great Powers and later various international institutions have also treated directly and indirectly the issue of the minorities. (Boci, 2012, p. 23) As in all of Europe, also in the Balkans, the first minorities were the religious minorities.

2. The Appearance of the Minorities Issues in the Balkans - As a Religious and National Issue

The Balkan nations for a long time were under the rule of the two empires, the Austro-Hungarian and the Ottoman Empire. In such historical circumstances, the Balkan nations were considered as minorities. The two abovementioned empires didn't have equal access to minorities in terms of law and minority qualification.

It is interesting to stress out that the issue of religious minorities in the Balkans raised the interest of the Great Powers of the time since the first half of XVIII century. The capitulation of 1740, reached between France and the Ottoman Empire, gave France the right to the protection of all Catholics, whether they were French or protected (Przič, 1933, pp. 32-34).

Empire established in 1867 dualistic, Austro - Hungarian. Dualistic Empire included a large territory, where sovereign nations were Austrians and Hungarians. The rest of the population enjoyed the status of minorities. Within this empire, to the position of minorities were Romanians, Slovaks, Ukrainians, Serbs and Croats. Hungary, as part of the dualistic empire was short-lived tolerance approach to non-Hungarian populations. (Ortakovski, 1998, p. 44)

In the Austrian Empire, the majority of provinces populated by non-Austrian inhabitants. (Ortakovski, 1998, p. 46) Minorities in the Austro-Hungarian Empire enjoyed the right to education in their mother tongue. These rights were set out in the Austro-Hungarian Constitution of 1867 (Article 12) and the Austrian

Constitution (Article 19). Austrian laws generally foresee the use of languages in education, in public life. (Ortakovski, 1998, pp. 47-49)

People of the Balkans were under the rule of the Ottoman Empire for nearly five centuries. In fact, the Ottoman Empire was theocratic empire. In theocratic empire the ethnic groups were identified on the basis of religion. In the case of the Ottoman Empire, in determining minority criteria was religion. (Hacisalihoglu & Aksu, 2007, p. 4) The position of minorities in the Ottoman Empire raised concern about the Great Powers. So, in this respect it did not miss the Great Powers reaction in certain situations. In this context it is worth mentioning the agreement known Kucuk-Kajnardzhiski 1774. Under this agreement, Russia had the right of protection of the rights of Orthodox Christians in the Balkans. (Przič, 1933, p. 32) With the peace of Paris in 1856, the issue of protection of minorities in the Ottoman Empire became a matter of collective security on the European level. Kucuk-Kajnardzhiski agreement of 1774 lost importance. (Krivokapic, 2004, p. 82)

Balkan people in the 19th century began the process of national awakening, which was manifested in the general movement. Under the shock of the people of the Balkans uprisings in the 19th century and early 20th century, the Ottoman Empire began to falter. In the 19th century, the people of Balkans with the national movements created the autonomous principalities under the Sultan's sovereignty and independent states (Hyskaj, 2008, p. 68). In 1821, begins the Greek uprising against the Ottoman Empire. In this military conflict intervened the Great Powers of the time in favour of the Greek uprising. To resolve this conflict, in February 1830, the International Conference was held in London. Under the protocol emerged from the London Conference (1830) is formed the Greek state (Ostrakovski, 1998, p. 54). The London Conference of 1830 obliged the state of Greece for the support of the religious minorities. The protection of minorities was set as a condition for the recognition of the Greek state. It was anticipated that religious minorities should have access to all services, regardless of religious differences. (Kaparoti, 2001, p. 28).

Under the terms of the Treaty of Paris (1856) Russians renounced claims to protect Christians in the Ottoman Empire. The Paris Agreement provided joint guarantee of the European powers, but which were valid only in Wallachia, Moldova and Serbia. The Gate was obliged to ensure freedom to all its citizens, regardless of religious differences (Gruda 2010, p.110). Sultan, under pressure from the Great Powers, Ferman announces Hati-humujan, who guarantees that offer complete

freedom of all believers. Ferman Hati - humujan was announced before the achieving of the Peace of Paris in 1856. (Przić, 1934, 78)

The Congress of Berlin (1878) a new geopolitical reality is created in the Balkans. Under the Treaty of Berlin were created new independent and autonomous states in the Balkans. So that, Serbia, Montenegro and Romania became independent states while Bulgaria gained the autonomy by the Treaty of Berlin under the sovereignty of the Sultan (Ortakovski, 1998, pp. 57-59).

This process re-opened the issue of preconditions for the protection of minorities of these states from discrimination. Berlin Congress took into consideration the issue of minorities that remained within the states of Balkans and the Ottoman Empire. For these purposes in the framework of the agreement it includes special articles pertaining to the status of religious minorities. Article 62 of the Treaty of Berlin applies to the Ottoman Empire. The Ottoman Empire was obliged to respect the principles of freedom of religion as well as civil and political rights (Ortakovski, 1998, p. 62).

The countries of Balkans as a condition for the recognition of the independence was required to guarantee the rights of minorities. Article 35 of the agreement for Serbia foresees that the religious differences cannot be used as a justification for non-using the civil and political rights. Article 34 expresses that states that the Muslim inhabitants in Serbia and Montenegro should have all their rights (Thornbery, 1991, p.31). According to Article 34 and 35, inhabitants in Serbia and in Montenegro with the Ottoman origin, as well as all others, should enjoy all religious, civil and political rights (Ortakovski, 1998, p. 62). Article 44 of the Berlin Agreement obliges the state of Romania to treat the foreigners as equal regardless of their religion, etc. (Krivokapic, 2004, p. 84).

Agreement of Congress of Berlin affected the position of the ethnic minorities. The agreement obliges the autonomous Bulgarian state (Article 4) that the rights of the non Bulgarian population to be taken into the consideration (Stojković, 1998, p. 118).

From the analysis made in the following developments can be concluded that the states of Balkans have not offered protection to minorities. However, comparing to the previous international forums (the Congress of Vienna in 1815 and the Peace of Paris in 1856), the Congress of Berlin moves one step back regarding the question of minorities.

3. Minorities Issue in the Balkans between the Two World Wars

The issue of providing an effective protection of minorities was the subject of discussion during and especially after the World War One. With the purpose to timely dismiss the causes of conflict, the issue of minority protection has taken an important place in the works of the Conference of Versailles. For such reasons, in many proposals of the agreement League of Nations, various provisions for the protection of national minorities were figuring, their equal rights, cessation of discrimination, etc. (Kaparoti, 2001, p. 116).

The victorious powers of World War I peace agreements devoted special attention to the position of minorities. Versailles Conference produced five types of agreements. The issue of minorities within the peace agreements included a provision or a chapter. A part of peace agreements with the winning countries were the states of Balkans. Consequently, the states of Balkans were not part of a peace agreement. Depending on the position of the involved States, the states of Balkans were included in the framework of the agreements, such as:

- Bulgaria joined the peace agreements, in which were included chapters on the protection of minorities;
- Special arrangements for the protection of minorities which would be guaranteed by the League of Nations was achieved with the Kingdom of Serbo-Croat-Slovene; Romania and Greece;
- The statement on the protection of minorities was requested by Albania;
- Other international agreements on the protection of minorities - in the period between the two world wars are agreements at bilateral level. Bilateral agreements were achieved between Yugoslavia and Italy, Rapal 1920; arrangements for the exchange of population between Greece and Bulgaria in 1919; Greece and Turkey, in 1923; Bulgaria and Romania, 1940 (Krivikapić, 2004, pp. 93-95).

In the framework of bilateral agreements is the agreement between Greece and Bulgaria to exchange the population, signed Nei, in September 1919. Concerned countries agreed to their citizens, members of ethnic, religious, linguistic, can be relocated in the home state. Contracting States were obliged to facilitate movement of citizens who were part of this process (Krivikapić, 2004, p. 115). Greek-Bulgarian agreement on the exchange of population contained 16 articles. The

agreement stipulated that the whole population was sharing in defined conditions. Article 4 provided for the right of voluntary emigration. The issue of citizenship was regulated in Article 5. Real estate addressed in Articles 8 and 9 of the Agreement. Commission expenses were obliged according to agreement to give the two governments (Article 13) (Przić, 1934, pp. 136-139).

Convention on the exchange of population between Greece and Turkey was achieved in Lausanne, in January 1923, also known as the Treaty of Lausanne. Lausanne agreement has excluded the residents of Istanbul Greeks and Turks in Western Thrace (Article 2). The issue of citizenship is regulated by Article 7. In agreement also is spoken about real estate (Krivokapić, 2004, p. 500). According to the author Krivokapić within the process of population exchange between Greece and Turkey were included about 400,000 Turks and Greeks over one million. (Krivokapić, 2004, p. 116). As part of this process was an effort to clean up the territories of other minority members. The agreement for the exchange of population was misused by the Greek state. The Greek government took the opportunity of the population exchange with Turkey and in this process were included members of the Muslim population of Epirus, who were in fact the Albanian minority of Muslim religious affiliation, who lived in the region of Cham (Milo, 2013, p. 588). The inclusion of the Cham Albanians in the population exchange process raised the concern in the international community. A response was made by Italian representative of the Lausanne Conference and all were agreed not to be misused the religious affiliation, they all accepted that the Albanians should remain outside of this process (Meta, 2002, p. 135). The issue of expulsion of Cham was discussed in the Council of the League of Nations. Until 1925 it was estimated that there have been emigrated from Greece 50 000 Muslim Albanians (Puto, 2009, p. 341). Bilateral agreement for the exchange of the population was between Bulgaria and Romania, in 1940. Bilateral Agreement provided that the exchange of population was within a year (Krivokapić, 2004, p. 116). In 1938 was achieved the bilateral agreement between Turkey and the Kingdom of Yugoslavia. The agreement provided for the displacement of hundreds of "Muslims" of Yugoslav Kingdom to Turkey. The agreement had as an aim the deportation of the Albanians in Turkey and thus in some regions to overthrow the ethnic structure. The agreement was not materialized due to developments in the 40's of 20th century. Within the bilateral agreement is included the agreement between Albania and Bulgaria of 1932 which deals with the acceptance of respective minorities. In

1933 Agreement is reached between Yugoslavia and Romania to regulate minority elementary schools in Banat (Krivokapić, 2004, pp. 504-508).

4. The Minorities Issue in the Balkans after World War II - The Approach of the International Community toward the Minorities Issue in the Balkans

After World War II, the issue of the protection of minorities is greater attention. The issue of minorities was discussed at various levels, both at regional, bilateral and multilateral ones.

In 1947 peace agreement were reached with some countries such as Romania, Bulgaria, and Italy. The abovementioned agreement does not contain a special chapter that will address some articles, minority position. The agreement handles the issue of minorities in one or two articles where more importance is given to the cessation of discrimination (Krivokapić, 2004, p. 15).

In the Memorandum of agreement was achieved between Italy, UK, US, on one hand, and Yugoslavia on the other hand. The memorandum in question regulates the protection of minorities on both sides of the border free zone of Trieste (Krivokapić, 2004, p. 543).

During the conflict in the former Yugoslavia in the 90's of XX century international conferences on establishing peace were organized. A special attention in the work of international conferences for ex – Yugoslavia takes the issue of minorities. In the beginning of September 1991, the EC, under the chairmanship of Lord Peter Carrington organized in The Hague the International Conference on Yugoslavia (KNIJ). KNIJ was organized to create a peaceful climate of the aspirations in the conflict of nations in Yugoslavia. This conference was attended by the federal government, presidents of six republics and twelve ministers of the EC (Buja, 2007, p. 1132). During the proceedings in the conference was designed the plan for the approval of requests of all republics, which aimed to become independent. The plan was that they had to accept conditions which would be approved by all republics. A special attention was dedicated to minority issues. Under these circumstances, the EC offered recognition to the republics, which aimed independence provided that they accept some conditions, including provisions for human rights and minorities, according to the proposal of the “Carrington Plan”. Among the conditions for the recognition of independence was

the acceptance of the provisions of Chapter II, which dealt with the rights of national or ethnic groups (Weller, 2011, pp. 99-100).

In August of 1992 a new diplomatic attempt was taken to resolve the crisis in the form of the London Conference. The conference was attended by permanent members of the UN Security Council, representatives of the Organization of the Islamic Conference, the CSCE (OSCE) and six neighbouring countries, together with the member states of the EC, as well as Japan and Canada. Conference formed the Working Group on Ethnic and National Communities and Minorities. The ethnic communities for their representatives were the part of the conference. The London Conference brought four documents, among them a declaration on Bosnia and a document about Serbia entitled "Serbia and Montenegro, the relation from the co-presidents". The document contained discussion items on Kosovo, Vojvodina, Sandzak and Krajina. The document on Serbia and Montenegro forced the two republics to restore the inhabitants of Kosovo and Vojvodina full civil and constitutional rights and guarantee the minorities rights within the borders of Serbia and Montenegro in accordance with the documents, respectively international conventions (Hinrich Ahrens, 2010, p. 72). The London Conference also identified five structures of KNIJ. In the third structure, six groups were foreseen. Three of them were from Conference of Carrington and dealt with ethnic and national communities and minorities. These groups were headed by the appointees from the EC (Hinrich Ahrens, 2010, p. 98).

Territorial changes that occurred at the end of the XX century (the collapse of the Socialist Federative Republic of Yugoslavia) as a consequence had the emerging of new minorities and the need for regulation of the position of these minorities. In this way was created a favorable climate in bilateral level to regulate this issue (Krivokapić 2004, p. 178). In the 90's of the 20th century, many agreements have been achieved which had to do with the minority rights by Slovakia and Romania for good friendly relations (1993); Agreement on cooperation and good neighbourly relations between Romania and Albania (1994); Agreement on neighbourhood, friendship and cooperation between Romania and F.R. of Yugoslavia (1996); F.R. of Yugoslavia with Croatia (1996); Agreement on the regulation of relations and promotion of cooperation between F.R. of Yugoslavia and the Republic of Macedonia (1996); The agreement between Hungary and Romania on cooperation and good neighbourly relations (1996); Memorandum of reconciliation between the European Union and Romania (2002) etc, (Krivokapić, 2004, pp. 827-838).

The position of minorities in the Balkans has been treated and continues to be treated by the international institutions, which have produced important documents on the protection of minorities. Within the Council of Europe a number of international agreements, recommendations and documents have been prepared and approved, which in various ways affect the issue of minority protection. Documents affecting minority issues as the European Cultural Convention 1954, the European Charter of Local Self-Government 1985. There is no doubt that from all of the agreements within the Council of Europe dealing directly with the issue of minorities, are the European Charter for Regional Languages 1992 and the Framework Convention for the Protection of National Minorities. Balkan countries are signatories of these documents. (Zylfiu, 2013, p. 617)

The position of minorities in the Balkans is under the supervision of the OSCE. In the framework of this organization have been approved a series of important documents on the international rights and international relationships, such as the Helsinki Final Act (1975) (Benoit – Rohmer, 1996, p. 27), the Charter of Paris for New Europe (1990), the Convention for Peace and Arbitrage (1992), etc. Minorities are mentioned for the first time in the Helsinki Final Act (1975). (Thornbery & Estebanez, 2004, p. 17) The OSCE played an important role in the Yugoslav crisis. The growing interest of this organization came from the concern of the disrupting risk of stability in other regions. It landed research missions of the human dimension in Kosovo, Vojvodina and Sandzak. The CSCE Mission continued until June 1993 when Belgrade refused to extend the mission's mandate after it was decided to suspend the FRY from the participation in the work of the CSCE. For the position of minorities in the Balkan states, an important role is played by the High Commissioner on National Minorities. (Ahrens, 2010, p. 219)

The issue of respecting the minorities' rights in the Balkans is in the European Union agenda. The EU has been very active in solving the problem of the protection of minorities abroad. Since 1990, and especially since 1995, the EU in trade agreements has built clauses that respect human rights. Such agreements contain provisions for the protection of minorities (Thornbery & Estebanez, 2004, p. 108). Concern about minorities has been shown in several ways and in various initiatives under the influence of the EU, such as the Pact for Stability in Europe (1995); The Stability Pact in South Eastern Europe (1999), The International Conference on ex - Yugoslavia and Arbitrage Commission (Badinter's Commission), etc. It should be noted that the EU has funded various programs to improve the position of minorities. (Milo, 2002, p. 276)

Respecting of the minority rights by the EU has been set as a condition for admission to this organization. The European Council at Copenhagen meeting (1993) has established the criteria, which the candidate countries must meet. In the political criteria, besides the functioning of democracy, the rule of law, political and economic stability, the respect and protection of minority rights is envisaged. Inclusion of the respect and protection of minorities by the EU within the political criteria is giving positive effects. The aspiring EU accession states began to prepare the legal infrastructure for the respect and protection of minorities. For example, we can get Croatia, following the establishment of democratic forces at the end of 1999, starting talks with the EU on the Stabilization and Association Agreement in the second half of 2000 (Reka, 2010, p. 282). The present case is the Republic of Serbia. In the European Union talks with the Republic of Serbia for membership, the issue of minorities is addressed in several chapters, and in particular in Chapter 23. (Koha, 2016) In the Republic of Serbia, minorities today have their own institutions, the National Councils. Institutions that deal mainly with educational, cultural, linguistic, information issues. The European Union encourages aspiring states to reflect on the area of minority rights. Between the available mechanisms observes the implementation of minority rights in the field by keeping in touch with the political representatives of minorities. This EU approach implies that the relevant governments are more productive in this area.

The intention to enter this organization has made the aspirant states of Balkans to conclude bilateral agreements that deal with the issue of the respective minorities. Since the 1990s there have been various agreements on minorities, agreements that partially deal with minority issues or special agreements on minorities. Bilateral agreements on minority issues have been concluded between the European Union and the aspirant states. Such bilateral agreements on minority issues are contributing to the overall regional stability. So the EU's role in respecting the rights and protection of minorities in the Balkans is very important.

The position of minorities is discussed in the Basic Laws of the Balkan states (Constitutions). Some states have specific laws on minorities. Some Balkan countries which are aspiring to the European Union have a legal infrastructure on minorities. However, the implementation of laws in practice to some minorities is not at the required level. The position of minorities is not good as in the field of education, use of language in public institutions, recognition of diplomas of minority members, the disbalance between the regions in the field of economic development, employment in state institutions, etc. In this context, there is an

asymmetry in the case of minorities' treatment in the Republic of Kosovo and Republic of Serbia. In the case of the Republic of Kosovo there is a broad legal infrastructure of community rights. The Republic of Kosovo is considered as a "sui generis" case, not only in the political aspect, but also in the treatment and very special guaranteeing of minority rights. According to the Constitution of the Republic of Kosovo, minority communities are guaranteed participation in the three branches of government, such as; Parliament, Government, courts; consequently in all state institutions and their respective bodies (the Constitution of the Republic of Kosovo, Article 58). However, even the Constitution of Kosovo doesn't treat all minorities alike. The Serb minority has a special treatment by the Constitution of the Republic of Kosovo (the Constitution of the Republic of Kosovo, 2008). In the Republic of Serbia, the legal infrastructure exists in the field of minority rights. The issue of minorities in the Republic of Serbia is regulated on the basis of three documents: the Constitution of the Republic of Serbia; Law on the protection of rights and freedoms of national minorities; Law on national councils. However, the problem lies in the implementation of laws to some minorities (Srbije, 2007). From what was said above, it can easily understand that more efforts must be done to advance the position of minorities. The international community should be more active in states that do not implement minority rights in order for the position of minorities to be at the desired level.

The states of Balkans have varying degrees of percentage of minorities in relation to the general population. Up to 10% of the general population, minority members are: Greece, Albania, Kosovo, Croatia. In the second group entered, the state of Romania, Serbia, Bulgaria, where 10 -20% of the overall population are minorities. The percentage of minorities in Montenegro go up to 40%. In the Balkans we have a multinational state - the state of Bosnia and Herzegovina (Krivokapić, 2004, p. 30; Rezultati i regjistrimit 2011 në Kosovë).

5. Conclusion

All the states of Balkans within their territory have a number of minorities. Minorities are located in the respective countries as a result of historical developments. As such, the Balkan countries face internal diversity, as language, belief etc. Balkan peoples for a long time have lived under the umbrella of two empires, Austro-Hungarian and Ottoman Empire. In the latter one, minorities were

considered as religious minorities, while in the Austro-Hungarian Empire minorities were considered as national minorities.

The intervention of the Great Powers in favour of the minorities' position appeared in XVIII century, respectively in 1740 which had to do with the capitulation of France for the protection of the Catholics, as well as the agreement known Kuçuk-Kajnardzhiski of 1774 according to which Russia wins the right to protect the Orthodox Christians in the Balkans. The issue of minority protection was set as a condition to the formed states in the Balkans in 1878.

In the period between the two World Wars, the minority issues received special attention where the problem of minorities was included in peace agreements as well as bilateral agreements. Balkan countries were part of four peace agreements pertaining to the position of minorities. Between the Balkan states were reached bilateral agreements for the exchange of the population as a way of solving the minorities' problems.

To the position of minorities was paid a greater attention after World War Two. This policy was manifested by the intervention of the Great Powers and international organizations, which produced important documents for the protection of minorities. The most active in this regard is undoubtedly the Council of Europe, OSCE and the European Union. The latter one has set as a criterion for admission to this organization the rights of minorities. European Union at the beginning of the 21st century has implemented various projects that have been aimed at stability, economic development of the regions outside the EU as well as cooperation between countries of the region.

Several Balkan countries are signatories of international documents on the protection of minorities and also part of the negotiations for accession to the EU, but, nevertheless they stand poorly in the field of minority rights (such as in the field of education, the use of the official language, discrimination in economic development, etc.). In fact, states have the legal infrastructure, but the problem lies in the implementation of laws dealing with minorities. We can conclude that in this context the intervention of the international community is necessary.

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