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THE (NON)-EXISTING EU STANDARDS IN NATIONAL MINORITY PROTECTION AS PREREQUISITES FOR SUCCESSFUL EUROPEAN INTEGRATION: THE CASE OF MACEDONIA AND SERBIA

## The (Non)-Existing EU Standards in National Minority Protection as Prerequisites for Successful European Integration: The Case of Macedonia and Serbia

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### Abstract

In accordance with the Copenhagen Criteria EU membership requires the candidate country to achieve a certain level in minority protection, but up until now there has been no definite answer as to what actually constitutes this rule in practice. For the first time, Serbia was expected to adopt a specific framework document, the so-called Action Plan for the Exercise of the Rights of National Minorities in order to open negotiations on Chapter 23 of its EU integration negotiations. Whether or not this precondition, determined by the EU means that successful accession is conditioned by respect for national minority rights in candidate member states in the future. In the case of Macedonia constant pre-accession monitoring has been carried out and reported in the country's progress reports. Although Serbia and Macedonia occupy different stages in the EU integration process, both contain in their national minority policy sensitive issues that are very similar in their nature. The paper provides a short overview of the (non)-existing EU standards in national minority protection in general, and analyses the most relevant aspects of this issue from the perspective of Serbia and Macedonia.

**Key words:** Macedonia, Serbia, EU integration, national minority rights, pre-accession.

## Introduction

The European Union's (EU) democratic conditionality for the Western Balkans has a unique contour (Blockmans & Lazowski, 2006), the broadest scope and the highest extent hitherto. Beside the general 'Copenhagen' criteria the conditionality for the countries from the former Yugoslavia started even before their independence, namely during the process of the Yugoslav state dissolution, when the EC attributed to its institutions and officials a dominant role for state recognition and efforts in peace negotiation. The constant 'conditionality' mode of the approximation of the Western Balkans towards the EU was just developing over time with the Stabilization and Association Process (SAP) and the so called 'pre-pre-accession' conditionality which was unique model of conditionality towards any potential candidate countries. (Blockmans & Lazowski, 2006, p. 78).

The discourse on the EU conditionality and monitoring process has been very much at the center of EU enlargement debates for those states aspiring to become EU member countries. Although it was rarely studied in specific parameters, 'conditionality' is usually perceived as the core substance of the EU policy towards the candidate countries and a new dimension of the Europeanization research sphere (Schimmelfennig & Sedelmeier, 2005, p. 2).

In accordance with the recently adopted strategy for "A credible enlargement perspective and enhanced EU engagement with the Western Balkans" in the coming years the Republic of Serbia (henceforth: Serbia) and the former Yugoslav Republic of Macedonia (henceforth: Macedonia) "will have the chance to move forward along their respective European paths, on the basis of their own merits" (European Commission, 2018a, p. 7) and fulfilled conditions. Although Serbia and Macedonia occupy different stages of the EU integration process, they do share some common characteristics of importance for their successful accession, among others, the national minority issues. However, given the lack of express EU standards in the field of minority rights, the fulfillment of 'conditions' is usually measured at an individual level, resulting in distinctive conditions and priorities for different candidate states. The subject of our analysis will be the scope and the impact of democratic (political) conditionality on the political discursive processes in the two above mentioned Western Balkan countries, and the discursive rule adoption of the EU as a positive political reference for a policy change in the field of national minority protection, with a special concern with regard to some typical de facto requirements, evolved by the European Commission during the monitoring processes.

## Respect for and Protection of Minorities in the EU Context

After the end of the Cold War, the Heads of States and Governments within the European Council, for the first time in the history of EU enlargement, laid down general but clear requirements to be met in order for a candidate country to be accepted for membership (Blockmans & Lazowski, 2006, pp. 62-63). The criteria, known as the 'Copenhagen criteria' were formalized as follows: 1) a political criterion - the stability of institutions guaranteeing

democracy, the rule of law, human rights and respect for and protection of minorities; 2) an economic criterion - the existence of a functioning market economy, as well as the capacity to cope with competitive pressures and market forces within the Union; 3) the criterion for the *acquis communautaire* - the ability to take on the obligations of membership, including adherence to the common aims of political, economic and monetary union; 4) the absorption capacity of the EU- the Union's capacity to absorb new Members, while maintaining the momentum of European Integration, which is an important consideration in the general interest of both the Union and the candidate countries (European Council, 1993).

The first set of criteria is composed of the fundamental rules that give legitimacy to a state to become a credible candidate and commence the accession negotiations which would gradually result in a candidate's full or pre-dominant transposition of the *acquis communautaire* (the second and third criteria). Therefore, for analytical reasons many authors exploit the dichotomy of the so-called 'political (democratic) conditionality' as a strategy to promote the fundamental principles of human rights, stable democratic institutions, the rule of law and minority rights. This conditionality precedes the second type, *acquis* conditionality which encompasses the gradual transposition of all the principles, rules and procedures within the *acquis communautaire* and refers to the second and third set of criteria for membership (Schimmelfennig, Engert & Knobel, 2005, p. 29). The democratic conditionality, in this form, means that its content must be observed in the candidate country in order to upgrade the institutional ties with the EU and advance towards the accession stage of commencing accession negotiations. The European Commission (EC), through its instruments for progress reporting and recommendations towards the candidate countries and EU institutions is responsible for conducting the entire process.

Policies towards minorities' protection constitute elements of the EU's 'political conditionality', thus they represent the 'soft areas' of the *acquis* (Kacarska, 2012, p. 59). In this sense minority conditionality is understood as a construct of a political judgment (Sasse, 2009, p. 20). The EU is based on consensus politics and therefore minority issues, within the EU, have had to be tackled in a particular way, almost by 'stealth' (Weller, et al., 2008). The EU addresses discrimination and social inclusion, cultural diversity, Roma issues, and other issues relevant to minorities; however, the commitment to initiatives on minorities as such has been unsuccessful. In the Charter of Fundamental Rights of the European Union (CFREU), membership of a national minority is mentioned only as a basis for prohibited discrimination, (Art. 21(1), Charter of Fundamental Rights of the European Union. Official Journal of the European Communities, 2000/C 364/01) and because of that minority protection can be viewed only as an outcome of anti-discrimination policies, security and corrective intervention of the police or criminal law against racism, xenophobia and resultant prevention (Szajbély & Tóth, 2002).

For the EU, the protection of minorities is essentially a political criterion. While other Copenhagen criteria were quickly merged into the rules of the Treaties (the Treaty of

Amsterdam, which encoded them in art. 6 of the TEU), the respect and the protection of minorities was not affirmed until the adoption of the Lisbon Treaty in 2009 (Article 2 of the TEU). Although the approach to (national) minorities has considerably changed (for example, by moving away from the concept of collective rights, the increased role of the Court of Justice in interpretation of the concerned article, and the accession of the EU to the European Convention on Human Rights), new competences have been not constituted (Beretka, 2013). 'Respect for and protection of minorities' is outlined significantly in the Copenhagen political criteria, however in the EU laws are not directly translatable into the *acquis communautaire*. In the absence of its own common, legally binding standards the EU has two options: on the one hand, it might 'borrow' guidelines and principles from other European organizations, namely, the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE), and rely on their monitoring mechanisms and recommendations (that means at the same time the adoption of a case-by-case approach to the fulfillment of this part of the Copenhagen political criteria), or, on the other hand, the EU might draw its own (political) conclusions through bargaining with the governments of candidate member states, respectively (Tsilevich, 2010). Currently we are witnessing a combination of these options that has resulted in a kind of "*sui generis* minority policy" at the EU level (Benedek et al., 2012, p. 27) and has led to emergence of individual standards.

By requiring (potential) candidate member states to ratify the two most relevant documents in the field of national minority rights, the Framework Convention for the Protection of National Minorities, and the European Charter for Regional and Minority Languages, as a precondition of successful integration into the EU has further deepened the gap between the old and new/potential member states (where the borderline between being 'old' and 'new' is the date of gaining membership of the EU before and after the adoption of the Copenhagen criteria), especially because it has no political and legal capacity to effect changes concerning national minority issues in the existing (old) member states (Guliveva, 2010). However, there are certain differences in the EU's approach to the new democracies of Central and Eastern Europe (Hendriks, Loughlin & Lidström, 2010) and their national minority policies, too. For the first time, new tools have been introduced into the negotiation process with Serbia in order to 'perfect' its minority legislation and bring the *de iure* and *de facto* situation closer to each other, and similar requirements are predicted for the rest of the Western Balkan countries, including Macedonia. Some of the EU member states that have become full members in the recent enlargement rounds in 2004, 2007 and 2013 are also confronted with interethnic problems and challenges – for the sake of example Slovakia, Romania or Croatia, but the EU was much more flexible in its interpretation of adequacy of national minority protection in these countries. There were no similar additional preconditions defined towards them in field of minority rights, such as the adoption of action plans or strategies, even though ethnic tensions, and the inefficient enforcement of minority rights in practice are still relevant in some of the cases up to now.

## **More than Ten Years of Monitoring the Minority Protection in Macedonia**

EU Progress Reports contain an examination and assessment made by each of the countries regarding the Copenhagen criteria and, in particular, the implementation and enforcement of the EU *acquis*. The EC started its evaluation with the first Progress Report for Macedonia in 2006. This section, built up on the work by Andeva and Marichikj, (2013) is dedicated to the examination and assessment of minority related issues in the EU progress reports in which the EU conditionality is explicitly expressed.

The first report (covering the period from 1st of October 2005 to 30th September 2006) as with the other Progress Reports which followed, is measured on the basis of decisions taken, legislation adopted and measures implemented in the country. The main issues raised in what concerns the protection of minorities in the PRs are divided here into four main components: 1) the overall situation; 2) institutional capacity and legal framework; 3) cultural rights (linguistic rights and education); and 4) political participation and representation in public administration. Table 1 summarizes all progress reports and the main elements of the evaluation - the negative remarks - divided into the four areas. It covers a period from 2006 to 2017 (with the latest progress report of April 2018).

Progress Reports focus on the legal provisions in the The Ohrid Framework Agreement (OFA) and their progress towards their implementation. The OFA, from 2001 plays a central role in the EC assessment of Macedonia. The OFA is shown as the most important category of the country's success and is 'deemed essential for the stability of the country'. The rationales behind this particular attention to this agreement are the following: 1) OFA is the most important political agreement for minorities' protection; 2) OFA has built a model aiming for inter-ethnic conflict resolution in 2001 and minorities' protection; 3) OFA was negotiated under the strong influence of the EU.

As presented in the table in the first (2006) progress report, non-majority communities remain significantly under-represented in the public administration, contrary to the 'equitable representation' principle underlined in the OFA; the dialogue and trust-building between the communities was evaluated as something that should be further developed to achieve sustainable progress; and the Roma community especially 'continues to cause concern'.

The second progress report, focused further on equitable representation, noting progress on its implementation across the public sector, especially with regard to the judicial authorities and the army. This report also marked positively some of the Commissions for relations between communities (Commissions), set up at a local level which contribute 'effectively to participation by all communities in public life'. The Commissions for relations between communities are set up in those municipalities where at least 20 per cent of the population are members of an ethnic community (Law on local self-government, Article 55). There is no obligation to introduce such a commission where the share of minority population is lower than this threshold, but this can be done if deemed useful. The commission consists of an equal

number of representatives of each community resident in a municipality. The appointment of members is regulated by municipalities' statutes. When voting on issues related to culture and language used by less than 20 per cent of the resident citizens, as well as on issues concerning the use of symbols and flags, the Badinter principle applies. Nevertheless, the integration of minorities, according to this report, is 'quite limited'; some minorities remain disadvantaged in the education and employment sector (especially in the army and police); and not all commissions have been constituted in the concerned municipalities, marking the existing ones as not being effective. This report also emphasizes the issue of an over-employed public administration, where the members of the non-majority communities are employed without taking into consideration the actual necessity of human resources (Foundation Open Society Macedonia and Macedonian Center for European Training, 2013).

Great concern was expressed by the Commission and presented in the progress reports on the functioning of the Secretariat for the Implementation of the Ohrid Framework Agreement (SIOFA). The SIOFA was established to ensure the effective and full implementation of the Framework Agreement and the stability of the country by promoting the peaceful and harmonious development of society, respecting ethnic identity and the interests of all Macedonian citizens. The SIOFA, was continually assessed as a body with a lack of a sound administrative capacity (Stalic, 2013). With regard to institutional capacity, attention was also paid to the agency over the protection of the rights of minorities who represent less than 20 per cent of the population (the Agency) because of its limited resources. In spite of its visible efforts, it was feared that there was not sufficient capability to act according to law (European Commission, 2013). The Commissions are also frequently mentioned in the progress reports because of their scarce financial sources, and a lack of clearly defined competences and inefficient work.

In terms of the protection of cultural rights and the right to education in the minority language, the 2010, 2011 and 2012 progress reports continue to emphasize the question on the lack of adequate education in minority languages and problems in regards to the recruitment of a competent teaching staff. In line with this, are also the negative remarks noted in the 2010, 2011 and 2012 progress reports, with regard to the European Charter for Regional and Minority Languages which was still not ratified by Macedonia (European Commission, 2013). Many of the critical and negative issues that had been underlined in the first three progress reports have been repeated in subsequent progress reports. The under-representation of the Roma and Turks is an issue which had not been resolved and this was pointed out in almost every progress report. Another aspect which is constantly being repeated is the inter-ethnic tension especially noted in the education system and the regular negative reports on the use of minority language and a lack of adequate legal protection and regulation. The 2013 progress report issued by the EC (October 2013) underlined the necessity of progress on systematic issues relating to decentralization, non-discrimination, equitable representation, and the use of language and education. As a recommendation, the EC pointed out that the ongoing

review of the OFA must continue and recommendations should be implemented since the first review phase (SETimes, 2013) (European Parliament, 2012, p. 5) did not provide any significant results.

The elaboration of the conditionality principle application specifically in the field of minority protection in the EC progress reports aims to help candidate countries 'to pursue necessary reforms and eliminate persisting shortfalls' (Mauer, 2012, p. 12). In the case of the progress reports on Macedonia, an interesting analysis of the discourse used in the progress reports indicates that there are two fundamental shortcomings from which the pre-accession monitoring process greatly suffers (Stajic, 2012, p. 12). Stajic points to the progress reports' 'lack of clarity about the minority protection standards to which Macedonia needs to adhere' and the 'inferior quality of both analyses and [the] assessment of indicator findings' (Stajic, 2012, pp. 12-13). As it was seen from the short analysis above on all aspects concerning minority policies in the progress reports, attention has been given to the critical issues, however no comprehensible recommendations have been given further on necessary improvements and overcoming existing deficient policies.

The 2014 report clearly stated that no progress is being made: "The EU accession process for the former Yugoslav Republic of Macedonia is at an impasse". It noted that "the review of the Ohrid Framework Agreement still needs to be completed and its recommendations implemented." It reported a fragile inter-ethnic situation; the need for continued efforts to address concerns about prejudice and discrimination against the Roma population and a lack of trust which prevails between the communities. This report specifically noted the continuation of the practice of recruiting civil servants from non-majority communities, but without specifying defined posts or job descriptions, often at the expense of the principle of merit. In relation to the education sector, the incidents of inter-ethnic violence in secondary schools are reported as existent and continued from the last report, underlying the fact that unfortunately there is still a separation along ethnic lines in schools.

The subsequent 2015 report (comprising the period between October 2014 to September 2015) noted no progress from last reporting period. It still underlined that the review of the OFA needs to be completed and that the financial situation of the relevant authorities has not changed. No specificities were noted in this report, and by its nature, in relation to minority issues it remained very restrained.

The report from 2016 (comprising the period between October 2015 to September 2016) again underlined that the inter-ethnic relations remained fragile; and continued the criticism against the implementation of the OFA with another remark, reporting it as highly politicized. The OFA review was reported to the government in December 2015 however, as this progress reports states, no follow ups were made. What is evidenced as different from previous reports was the focus on the decentralization reforms as of great importance for the OFA implementation. This report also mentioned that there is a lack of transparency in the selection of state-funded projects on culture and inter-ethnic relations.

The last issued report from April, 2018 (comprising the period October 2016 to February 2018) clearly is one of the most positive ones over the last couple of years. Whereas in previous years there was a clear comment for the lack of implemented legal framework this report states that: “the overall framework for the protection of minorities is in place” (European Commission, 2018b, p. 32). The report welcomes the new law on the use of minority languages, adopted at the end of 2017. There is also some criticism which continues to refer to the status of the minorities representing less than 20 per cent of the population, which are not sufficiently included in policy-making and decision-making at the national level. This report also states that the country needs to address the recommendations issued by the Advisory Committee of the Framework Convention on National Minorities in its last report of December 2016.

### **Aspects of Monitoring of Serbia’s National Minority Policy in the EU Integration Process**

In the period between getting a positive assessment in the Feasibility Study on the readiness of Serbia and Montenegro to negotiate a Stabilization and Association Agreement with the EU (2005) and today the EC has adopted twelve annual progress state reports for Serbia, the last one for 2017. Progress report for Serbia share more or less the same structural parts regarding minority rights: 1) novelties in legislation on national minority rights (such as the Constitution, the Anti-discrimination Act, the National Minority Councils Act and its amendments) and their (probable) influence on the *de facto* situation, 2) the operation of state, provincial and local agencies competent for national minority issues (such as the Republican/National Council for Minorities, the Governmental Office for Human and Minority Rights, and inter-ethnic bodies in municipalities), 3) the frequency of ethnic incidents with a special focus on their territorial distribution as in the case of: the Autonomous Province of Vojvodina, Southern Serbia and the Sandžak (Southwest Serbia) and other regional discrepancies (social and economic), 4) the representation in public, provincial and local administration, individual cultural rights (especially in field of education, mass media, and the official use of language in general and with regard to respective ethnic groups), 5) the functioning of national minority councils, and bodies of the non-territorial autonomy of national minorities in Serbia (elections, competences, and funding), and 6) the status of Roma people. Besides issues that focus especially on the Roma ethnic group, some other communities and their needs and expectations were also particularly mentioned (for the sake of example, the uncertain status of Vlachs and Bunjevci, access to the right to information in Bulgarian, TV program broadcasting in Romanian, the availability of textbooks in Albanian and Hungarian, the establishment of the teaching faculty in the Hungarian language in Subotica, the appointment of an ethnic Albanian as the police chief in Bujanovac and court interpreters for the Bosnian language in the Sandzak), even though the approach to minority issues in the reports is primarily of a general character, and mainly repeats the conclusions



and recommendations of the advisory, monitoring bodies operating within the framework of the CoE.

Furthermore, the annual progress reports deal with the situation of refugees and internally displaced persons (IDPs) within the subchapter on minority rights, but we have not studied this aspect in the framework of political 'conditionality' of EU integration. Although refugees do constitute a separate *minority* group in the population who might have to leave the homeland because of their ethnicity (OHCHR, n.d.), and who might integrate into any of the recognized national minorities in the country (and in time claim cultural rights granted for persons belonging to national minorities), there is no definite link between refugees and IDPs on the one hand, and national minorities recognized as such in Serbian legislation on the other hand (Law on Protection of Rights and Freedoms of National Minorities, 2002). Their equalization well illustrates differences between the Western European and the Western Balkan approaches to multiculturalism, and implies the importance of the application of different minority integration strategies (Eplényi, 2013).

Concerning the main findings of the reports mentioned above - some of the particular remarks (both positive and negative) are summarized in the Table 2 below -, we can conclude that today "legislation to protect minorities is broadly in place but needs to be consistently implemented across the country" (European Commission, 2015b, 49). Pursuant to the EC the Autonomous Province of Vojvodina offers a high degree of minority protection (European Commission, 2014b), and the legislation is implemented most effectively in this part of the country (European Commission, 2015b); but, on the other hand, the Commission does not go into detail regarding the real, legal content of this minority protection. Its statement is actually based on a comparison of provincial circumstances with other regions of Serbia and relies on the relative stability of interethnic relations in the autonomous province. However, generally-speaking, the situation continues to be stable in other parts of the country (Southern and Western Serbia). Also, without considering those periodic tensions and sporadic incidents that necessarily appear from time to time between the respective national minorities (that is usually the dominant one in the concerned region) and the Serbian national majority (such as flag burnings, vandalism, non-attendance at political events or parliamentary work), in particular during the elections and following meetings with the political leaders of Kosovo. Because "the status of different minorities varies in practice from one region to another" (Commission of the European Communities, 2009b, 18), progress reports for Serbia devote special attention to these territories considering the positive evolution or regression of interethnic relations that are important (de)stabilizing factors in the Balkans, in general.

The last progress report adopted for Serbia, emphasizes the importance of tackling regional differences in the implementation of the relatively well elaborated minority-legislation in the country, mentions the Roma social inclusion strategy 2016-2025 and its anticipatory positive effects in practice (it is quite long part in comparison with other minority issues), and touches some novelties in field of education (European Commission, 2018c). However, it

mainly repeats the findings of the previous progress report. Furthermore, it emphasizes that any further step in order to increase the level of respect of and protection for minority rights in Serbia needs to be made in accordance with the so called Action Plan for the Realization of Rights of National Minorities (henceforth: Minority Action Plan), adopted as an integral part of the Action Plan for Negotiation Chapter 23, which implementation, by the words of the progress report, must be sped up.

Serbia was granted EU candidate status in March 2012. In accordance with the negotiating framework adopted by the European Council, Chapter 23 on the reform of the judiciary and fundamental rights, including the rights of persons belonging to minorities, which was opened in July 2016. This is highly relevant, in both Serbia's successful integration and the country's internal-regional stabilization, for several reasons (Milestones in EU – Serbia relations, n.d.). First, Chapters 23 and 24 are the two key reform and political chapters that were opened at the very beginning of the integration process and will be closed at the very end of that process. Second, the respect of and protection for minorities, along with international and regional peace and stability, the development of good neighbor relations and the human rights that constitute the core of these chapters are central to the Stabilization and Association process in the country (Stabilization and Association Agreement between the EC and Serbia, 2013, Article 5). Third, the protection of minorities, including the Roma, is one of the priorities for EU financial assistance (EU Pre Accession Assistance) to support Serbia for the period 2014-2020 (European Commission, 2014c). And finally, during the 2011 population census, 45 different ethnic communities, along with the Serbian (majority) nation were classified in the country (21 with more than two thousand members) (Statistical Office of the Republic of Serbia, 2013) this implies the importance of a functional national minority policy in both the internal and external (bilateral and multilateral) political relations of Serbia. For the sake of example, Romania explicitly conditioned its consent to granting Serbia candidate status for EU membership upon signing a protocol, including provisions on certain minority rights (Novaković & Đurđević, 2015).

The Minority Action Plan was adopted by the Government of Serbia on 3 March 2016 (after a series of consultations with the national minority councils, the NGO sector, provincial administrations and other representatives of national minorities), but some of the included activities had already been realized before the adoption of this document (in 2015 and even before). Serbia's Minority Action Plan devotes separate chapters (eleven altogether) on various aspects of national minority protection, dedicated to the prohibition of discrimination, the 'Roma-question', culture and media, the freedom of religion, the use of language, education, democratic participation, the appropriate representation of national minorities in the public sector, public enterprises, and national minority councils. However, it does not follow the buildup of the Serbian annual progress report and does not address directly in a distinct chapter the interethnic situation in respective parts of the country or the 'Roma-question' and status of refugees and IDPs, which issues, otherwise, occupy a certain place in progress

reports. Instead, it relies on the recommendations of the Advisory Committee of the CoE in the determination of specific strategic goals. The sixth quarterly report (on the Action Plan's implementation in the fourth quarter of 2017), prepared by the Governmental Office for Human and Minority Rights of Serbia, evaluates the records of planned measures and tasks, pursuant to the timing of realization. From the 115 activities only eight activities have not been completed at all (mostly from the field of appropriate representation in public sector) and almost 62 per cent of the activities have already been achieved or are continuously implemented (Office for Human and Minority Rights of Serbia, 2017).

The main question is whether or not the Minority Action Plan has been designed to serve as a display case for Serbia's integration process or if it is aimed at producing positive (both quantitative and qualitative) changes in the enforcement of national minority rights in the country. Although a deeper analysis would be necessary to get a relatively correct picture about the current *de iure* and *de facto* situation in field of national minority protection, which would consider the influence of the Minority Action Plan. It might be concluded that most of the projects, including the intense normative activity, and their probable consequences only scratch the surface, especially because the document does not take into account the differences among national minority groups in their wants, size, history (within Serbia) or state of infrastructural development. Treating them on an equal footing might result in the effacement of the needs of numerous (bigger) communities in favor of 'smaller' ones, whose wishes might be simple and less expensive.

### **Concluding Remarks**

Most progress reports for the Western Balkan countries are thematically organized in accordance with the principles enshrined in the CoE Framework Convention (Benedek et al., 2012). The reports do not contain separate main chapters to various aspects of national minority protection, but they place these aspects under the Political criteria in separate paragraphs. In Chapter 23 dedicated to the Judiciary and human rights further insights into the countries' situation are mentioned, however again these are not detailed as sometimes they are introduced at the beginning of almost every progress report. The 'Roma-question' and status of refugees and IDPs, occupy a certain place in the progress reports, however, as mentioned previously in the case study analysis, only the former was focused on in this chapter.

In the history of the EU integration of the Western Balkans, Croatia was the first country to gain candidate status (and the first and up until now the only country entering the EU from that region) on 1 June 2004, followed by Macedonia one year later, on 16 December 2005. Serbia on the other hand, was the first country that was invited to adopt a separate action plan on national minority rights. In reference to the adoption of an action plan, similar tools should be used in other countries of the region, including Macedonia, prioritizing key issues

in the respective state (European Commission, 2018a). That means that requirements in national minority protection vary from candidate state to candidate state, even though Serbia's Minority Action Plan may serve as a good starting point. As seen in this paper, in the Macedonian case, the OFA was mentioned as a key document to be followed but considering the constant negative remarks on its implementation the argument for other instruments holds as valid.

Until 3 April 2018 more than one million European citizens have signed the *Minority SafePack* which is: "a package of law proposals for the safety of the national minorities, a set of EU legal acts that enable the promotion of minority rights" (Federal Union of European Nationalities, n.d.). The goal of the initiative is to shift dealing with national minority issues to the EU level that would mean, among other things, a totally new understanding of this part of the Copenhagen criteria (including the observation of the respect of national minority rights in the old member states). Because of the success of the signature-collection the EC is obliged to engage in the proposal in accordance with the rules of the European Citizens' Initiative. However, currently it is unpredictable how this situation would affect the (trans)formation of the requirements towards Macedonia and Serbia in their respective integration processes. The progress reports so far did not show significant steps forward in this direction and are by no means considered as key documents from which the standards for minority protection can be shaped. And again, as mentioned previously, the "*sui generis* minority policy" at the EU level is dominant and subject to further novelties expected to be introduced in the upcoming period.

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## Tables

**Table 1.** An overview of the negative remarks and issues in the Progress Reports on protection of minorities in Macedonia (2006 – 2017) (Commission of the European Communities, 2007a); (Commission of the European Communities, 2008); (Commission of the European Communities, 2009a); (European Commission, 2010); (European Commission., 2011); (European Commission, 2012); (European Commission, 2013); (European Commission, 2014a); (European Commission, 2015a); (European Commission, 2016a); (European Commission, 2018b)

		Overall situation	Institutional capacity and legal framework	Cultural rights	Representation
Progress Reports	2006	dialogue; trust-building			under-represented non-majority communities
	2007	minorities' integration is 'quite limited'	Commissions not effective		over-employed public administration
	2008		ECRML not ratified; SIOFA lack administrative capacity	use of minority language by small ethnic groups not adequately covered by law; no consensus on the use of flags	employments of ethnic groups are politicized
	2009		SIOFA lacks administrative capacities; the Agency lacks functionality	small progress use of minority language of small ethnic groups; lack of consensus on the use of flags	under-represented non-majority communities; over-employed public administration without adequate competences
	2010	tensions in inter-ethnic political dialogue	ECRML not ratified; SIOFA fails to report its activities and progress	no adequate education in minority language no competent teaching staff; no consensus on the use of flags	over-employment, lack of adequate competences and working facilities; under-represented non-majority communities
	2011		ECRML not ratified; SIOFA with no competent personnel; Commissions lack of financial sources and clear competences; the Agency not efficient according to law	No adequate education in minority language not; no clear monitoring mechanism for the Law on the use of minority language implementation; ethnic segregation in schools	no. of employed members of ethnic groups are on payrolls without defined tasks and responsibilities
	2012	ethnic tensions	ECRML not ratified; OFA review; SIOFA further capacity building; Agency-limited human resources	same as in 2011	not-equitable representation in public administration

<b>Progress Reports</b>	2013	rare initiative promoting interethnic harmony; ethnic tensions	OFA implementation; first phase of OFA review ; necessity of coordination between SIOFA and other government institutions; SIOFA lacks administrative capacity	same as in 2011 and 2010; necessity for state financing of the strategy for integrated education	under-representation of non-majority communities
	2014	insufficient financial and human resources and inadequate cooperation between the authorities concerned.	The Law on Use of Languages and the Law on Use of Flags of the Communities still not been properly implemented.	Increased political support and state funding are necessary for efficient implementation of the Strategy on Integrated Education.	In 2013, the overall proportion of civil servants coming from non-majority communities increased slightly to reach 19 %.
	2015	Inter-ethnic situation remains fragile.	No progress in the past year.	Curricula for the Roma, Vlach and Bosnian languages in elementary schools developed, coming into effect from 2016/17.	The Agency for the Protection of Minorities representing less than 20 % of the population still struggles with an inadequate mandate, insufficient budget and a lack of support from relevant institutions.
	2016	Inter-ethnic tensions calmed by community and political leaders.	The legal and institutional frameworks are largely in place, however, no progress in the past year. The legal framework for local self-government needs to be reviewed.	The selection of state-funded projects on culture and inter-ethnic relations lacks transparency.	Minorities representing less than 20 % of the population are left outside the mainstream policy and decision-making process.
	2017	Overall framework for the protection of minorities is in place	The 2001 Ohrid Framework Agreement and relevant constitutional amendments frame inter-ethnic relations	Measures to address separation along ethnic lines, notably in education or youth, are still lacking	Minorities representing less than 20 % of the population are not sufficiently included in policy-making and decision-making at the national level.

**Table 2.** *An overview of some of the main remarks and issues in the Progress Reports on protection of minorities in Serbia (2005 – 2017)*

		<b>Legislation</b>	<b>National Minority Councils</b>	<b>Individual (cultural) rights</b>	<b>Other relevant issues</b>
<b>Progress Reports</b>	2005	separate National Minority Councils (NMC) Act should be adopted	NMC operate under the 2002 Minority Protection Act, funding is not regulated		establishment of the Council for National Minorities, chaired by the Serbian Prime Minister, after incidents in Vojvodina
	2006	provisions of the Criminal Code on racism and xenophobia	there has been no progress in the adoption of new legislation	progress in minority education and availability of textbooks; measures to increase minority representation in public administration and judiciary	
	2007	minority rights in the new 2006 constitution; removal of the 5% threshold for ethnic minority parties	ongoing finances, expired mandate of NMC elected under the 2002 Minority Protection Act (legal vacuum), no new legislation	progress in official use of languages and availability of textbooks	the Republican Council for Minorities has not met since 2006
	2008	municipality seals in minority language; constitution of inter-ethnic councils at local level	increased finances, but separate law on NMC should be adopted	disproportionately high level of unemployment among minorities	bilateral agreements with neighboring countries are not implemented; joint commissions are not operational
	2009	law on NMC; anti-discrimination act; affirmative measures on ethnic political parties			set of recommendations regarding the ECRML; meeting of the Serbian-Hungarian Inter-State Commission
	2010	new statute of the AP Vojvodina and law on its competences	first direct elections of NMC under the new law	information and education remain to be improved particularly in case of the Bosniak, Bulgarian, Bunjevci and Vlach minorities	the adoption of new laws on public property and on provincial own resources is still pending.

2012		the Bosniak National Councils has not yet been formally constituted; regular financial reporting of NMC	coordination between the central and local level needs to be further improved as well as awareness on the minority issues	Governmental Office for Human and Minority Rights was established; translated questionnaire and minority language speaking enumerators in the census
2013		recommendations of independent bodies concerning amendment of the Law on NMC	traineeship programme in public administration for underrepresented minorities	newly re-established National Council for Minorities has not yet met
2014	amendments to the Law on NMC regarding elections	elections scheduled for October; ruling of the Constitutional Court	national minorities' representation in public administration bodies, particularly at local level should be improved	the Republican Council for Minorities is not functioning; local councils for inter-ethnic relations remain under-used
2015	action plan on the protection of national minorities was finalized	20 national minorities elected their councils; a comprehensive revision of the Law on NMC needs to be adopted	ensure more consistent access to information in minority languages in public media service providers	the Republican National Minority Council was re-established; State Fund for National Minorities is not operational yet.
2016		changes are still pending to the Law on NMC	agreements on printing textbooks in minority languages; financial viability of media content in minority languages; access to justice in minority languages not ensured	better developed teaching of Serbian as a non-mother tongue; decree establishing a new Fund for National Minorities
2018	changes are still pending to the Law on NMC and Minority Protection Act	good cooperation between NMC and the Republic NMC; increased funding for NMC	broadcasting of programmes in minority languages remains vulnerable; improvement in teaching Serbian as second lang.	