

Guidebook

FOR THE

MUNICIPAL
COUNCILS



Mission to Serbia

ORGANIZATION FOR SECURITY
AND CO-OPERATION IN EUROPE

for
Interethnic
Relations

Goran Bašić

Guidebook for
the Municipal Councils
for Interethnic Relations



Belgrade, 2006

Guidebook for the Municipal Councils for Interethnic Relations

First edition

Publisher:

Standing Conference of Towns and Municipalities

www.skgo.org

Donor:

OSCE Mission to Serbia

On behalf of the publisher:

Đorđe Staničić, Secretary General

Text by:

Goran Bašić

Editorial Board:

Shaun R. Barcavage,

Governance Advisor, OSCE Mission to Serbia

Jasmina Krunić Pasku,

Municipal Support Project Advisor, Standing Conference of Towns
and Municipalities

Željko Jovanović,

OSCE Project Assistant,

Irina Schmakova,

OSCE/CANADEM Intern

Prepress and printing:

DOSIJE, Belgrade

Circulation:

100 copies

ISBN: 86-82455-39-0

Belgrade, November 2006

The publication of this Guidebook was made possible by the OSCE and specifically by a donation of its Participating States, the Federal Republic of Germany and the United States of America.

The content of this Guidebook reflect the views and opinions of individual author which do not necessarily coincide with those of the OSCE.

Originalno izdanje ove publikacije objavljeno je na srpskom jeziku, u izdanju Stalne konferencije gradova i opština, u Beogradu, 2006 godine.

Najlepše se zahvaljujemo Misiji OEBS i vojvodanskom Sekretarijatu za upravu, propise i nacionalne manjine na pomoći pri prevođenju publikacije na jezike manjina.

The original version of this booklet is published in Serbian language by the Standing Conference of Towns and Municipalities, in Belgrade, 2006.

We would like to thank the OSCE Mission to Serbia as well as the Provincial Secretariat for Regulations, Administration and National Minorities of Vojvodina for helping with the translation of the booklet in to additional languages.

Forward

Since October 2000 Serbia has been undergoing the economic, political and social reforms where the process of decentralization became one of the key goals on the way to Serbia's democratization. This process implies transferring competencies, responsibilities and resources from central organs to municipalities and towns thus strengthening local authorities and enabling them to solve their problems in a more efficient way.

The Law on Local Self-Government, which was passed in February 2002, introduced a number of significant novelties related to the organization of the new system and organs of local authorities. Among these initiatives, harmonization of interests of different ethnic groups through the creation of new local bodies is an important focus of the decentralization practice in Serbia. The Law on Local Self-Government stipulates the establishment of the Councils for Inter-Ethnic Relations – local bodies whose main jurisdiction is to protect and promote ethnic equality in multiethnic municipalities.

Throughout the process of building the democratic environment in Serbia, the Standing Conference of Towns and Municipalities (SCTM) has been dedicated to the promotion and development of local self-government; supporting the interests of and promoting co-operation among the local authorities. In this regard, the SCTM has decided, through its *Municipal Assemblies Support Project*, funded and jointly implemented with the OSCE Mission to Serbia and Montenegro, to publish a comprehensive, easy-to-read Guidebook for the Councils for Inter-Ethnic Relations which is hereby presented to you.

This Guidebook, an outcome of collaboration and consultation between the OSCE Mission to Serbia and Montenegro, the SCTM, the Ministry of Public Administration and Local Self-Government, and the Centre for Ethnicity Research of the Serbian Academy of Sciences, seeks to provide support to ethnically mixed municipalities in their effort to build an ethnically tolerant environment where all citizens enjoy equal rights. It does so by presenting relevant information on the ethnic composition of Serbia as well as the domestic and international legislation related to the protection of minority rights, providing explanations and giving advice to the multiethnic municipalities with regard to the work of the Councils.

The Guidebook includes the case studies, developed as a result of visits to select municipalities. These might be of particular interest to municipal employees as they describe the experience of Serbian municipalities – pioneers in the establishment of the Councils for Inter-Ethnic Relations. It also provides a list of suggestions concerning the establishment and functioning of the Councils which are in no way binding, but rather suggest possible solutions to the problems that might arise in your day-to-day activities.

According to the Law on Local Self-Government, the municipal assemblies have full discretion to constructively use the existing legal framework and make the Councils efficient bodies of the local self-government in multiethnic municipalities. Therefore, we hope that this Guidebook will serve as a useful tool in the daily activities of your Councils.

We are open for your suggestions and ideas on how to improve this practice by encouraging you to work together with us on building democratic and tolerant local self-government in Serbia.

POTPIS ???

TABLE OF

Contents

1. Introduction
 - The purpose of the Guidebook
 - How the Guidebook was created
 - Terminology
 - How to read and use the Guidebook

2. Legal Grounds for Establishing the Councils for Interethnic Relations in Multiethnic Municipalities
 - Article 63 of the Law on Local Self-Government.
 - Multiethnic municipalities in Serbia.

3. Councils for Interethnic Relations in Multiethnic Municipalities
 - Multiethnic Municipalities with Councils for Interethnic Relations
 - Establishment of the Council and selection of Council members
 - Procedure for establishing the Council for Interethnic Relations.
 - Practice in local self-governments
 - Nomination and selection of Council members belonging to national minorities
 - Nomination and selection of Council members belonging to the Serbian national community
 - Citizen participation in the work of the Council ..

Dilemmas of local self-governments related to the establishment of the Council and selection of its members.	
Who are the "beneficiaries" of Article 63?.	
Who nominates the Council members?	
Which communities are represented in the Council?	
Competencies of the Council for Interethnic Relations .	
Main competencies	
Competencies defined by the municipal assembly decisions	
Practice in local self-governments related to the Council's competencies.	
Dilemmas related to the Council's competencies	
What are the competencies of the Council?.	
Overlapping of competencies	
4. Suggestions for Establishing and Functioning of the Municipal Councils for Interethnic Relations	
General suggestions	
Suggestions for establishing the Council for Interethnic Relations	
Suggestions for the selection of Council members	
Suggestions regarding the competencies of the Council	
Suggestions regarding the rules of procedure of the Council	
5. Concluding Remarks	
Annex 1: Ethnic Structure of Serbia	
Annex 2: Protection of Rights of National Minorities.	

1

Introduction

THE PURPOSE OF THE GUIDEBOOK

After adoption of the Law on Local Self-Government in February 2002, new institutions were introduced into the social and legal practice of Serbia. At the same time, municipalities were given competencies to autonomously administer. The aim of these measures was **to support the decentralisation of governance and give new competencies** to municipalities in the process of strengthening local democracy. An important part of this process was to encourage citizen initiatives and strengthen the citizen's sense of responsibility for the situation in their local communities.

The Council for Interethnic Relations, according to the Law on Local Self-Government, is one of the newly formed institutions which should be established in municipalities with several nationalities. The main jurisdiction of the Council is to deliberate the decisions of the municipal assembly which are related to the issues of protecting and promoting equality amongst national minorities, and to put forth initiatives foreseen by the law aimed at supporting the protection of minority rights. In a broader sense, the functions of this body could include other matters related to social stability in a local community such as: conflict prevention and resolution, promotion of tolerance and respect for diversity, and fostering multiethnic dialogue.

According to Article 63 of the Law on Local Self-Government, there are 68 multiethnic municipalities in Serbia, and only 18 of them have established the Councils for Interethnic Relations so far. Those municipalities which established such bodies, experience considerable problems related to the functioning of the Councils, selection of Council members, and other matters.

The Guidebook for the Municipal Councils for Interethnic Relations is intended for **Council members and local government authorities** with the aim to introduce them to the basic concepts, legal decisions, and procedures faced by the Council members. This text seeks, therefore, to contribute to their **easier understanding** of the issues related to the realisation of national equality. One should also bear in mind that in a local self-government unit, the majority community may find itself in a position of a minority, and also that the majority of the Council's competencies is related to the protection of national minorities' rights.

Therefore, **the main purpose of the Guidebook** is to assist municipal assemblies and citizens to recognise the need for establishing the Council for Interethnic Relations, to provide direction to the relevant bodies regarding the manner of selection of Council members and the competencies of these bodies, and to point out the existing and potential problems and obstacles in this process.

The Guidebook contains **suggestions** for the establishment, functioning and improvement of work of the Councils for Interethnic Relations. These suggestions, however, should not be understood as a universal model to be applied unconditionally and uncritically. Rather, they are observations which, in certain cases, might help in solving potential dilemmas. The main value of these suggestions is that most of them have resulted from the practice of multiethnic municipalities which had established the Councils for Interethnic Relations: they contain remarks and suggestions expressed by the Council members, municipal assembly councillors, and citizens in those municipalities.

HOW THE GUIDEBOOK WAS CREATED

The preparation and publication of the Guidebook, whose purpose is to help multiethnic municipalities to establish the Councils for Interethnic Relations and define their competencies, was initiated within the second phase of the OSCE Municipal Support Program, implemented by the Standing Conference of Towns and Municipalities, with the assistance of the OSCE Mission to Serbia and Montenegro.

Research that preceded the writing of the Guidebook was done during the last three months of 2005. In that period, the **research** was conducted in 12 municipalities where the Councils for Interethnic Relations were established, and in 4 municipalities where the procedure for establishing the Council was in progress.

Additional data was gathered through analysing municipal statutes and other documents adopted since February 2002 until the end of 2005, and from the research project "*Local Democracy and Administration in Multiethnic Local Communities in Serbia*," carried out by the Centre for Ethnicity Research of the Serbian Academy of Sciences and Arts.

TERMINOLOGY

The Guidebook uses the **terms** which define more precisely the role and purpose of the Councils for Interethnic Relations. Most of these terms, however, are polysemous, that is, have multiple meanings, and, depending on the discipline and theoretical foundation, can be interpreted differently. Therefore, **interpretations of the key terms** with regard to the laws and practices in Serbia are presented here.

Nationally mixed municipalities (multiethnic municipalities)

Nationally mixed municipalities are those municipalities in which one national community accounts for more than **5%** of the total number of inhabitants, or all nationally mixed communities account collectively for more than **10%**, according to the last census in the Republic of Serbia (The Law on Local Self-Government, Article 63, February 2002).

National minority

A national minority is any group of citizens of the Federal Republic (FR) of Yugoslavia which are numerically sufficiently represented, and, although they represent a minority on the territory of FR Yugoslavia, they belong to a group of residents who have a long-term and solid bond with the territory of the FR Yugoslavia. These groups possess characteristics such as language, culture, national or ethnic affiliation, origin or confession, which differentiate them from the majority of the population, and their members are distinguished by their care for collective nurturing of the common identity, including their culture, traditions, language or religion. All groups of citizens defined as nations, national or ethnic communities, national or ethnic groups, and nationalities shall be deemed national minorities for the purpose of this Law” (Law on the Protection of Rights and Freedoms of National Minorities in FR Yugoslavia, Article 2, February 2002).

National community

Although present in Article 63 of the Law on Local Self-Government and the Rules of Procedure of the National Assem-

bly of the Republic of Serbia, this term is not defined in our legal system. It is derived from the term "nation," and for the purpose of this Guidebook it can be defined as a group of people of the same ethnic background living in Serbia and sharing the same mother country.

Ethnic community

As well as the term "national community," the term "ethnic community" has no legal definition. For the purpose of this Guidebook, it is defined as a group of people of common ethnic origin without having a mother country.

HOW TO READ AND USE THE GUIDEBOOK

The Guidebook introduces **basic concepts** related to the establishment of the Council for Interethnic Relations, analyses the **experience of multiethnic municipalities** which have established the Councils, and proposes **suggestions** which should help municipalities in the process of establishing the Councils and defining their role and competencies in the context of local democratic development.

The readers should pay attention to those parts of the Guidebook which describe the case studies from Serbian municipalities. They present the **best practice examples**, as well as **dilemmas** faced by the local self-governments in the course of work of the Councils for Interethnic Relations.

The introductory, **first chapter**, sets out the basic ideas related to the purpose and structure of the Guidebook, terminology

and main methodological procedures used for gathering and analysing data related to the work of the Councils for Interethnic Relations.

The **second chapter** of the Guidebook describes the legal grounds for establishing the Councils, and also lists the multi-ethnic municipalities in Serbia.

The **third chapter** forms the core of the Guidebook and focuses on several short sections related to the conditions specified by the Law on Local Self-Government with regard to the establishment, competencies, and functioning of the Councils for Interethnic Relations. This chapter emphasises the best practice examples from multiethnic municipalities where such bodies are established, and illustrates the problems and dilemmas faced by the local self-government units in this respect.

The **fourth chapter** offers suggestions for the improvement of the work of the Councils for Interethnic Relations, as well as suggestions that would assist local self-governments to establish the Councils more efficiently, by passing the necessary decisions, nominating and selecting the members and following the procedures.

Finally, brief concluding remarks precede **two annexes**. **Annex One** describes the ethnic structure of Serbia, and then lists municipalities which have a multiethnic composition according to Article 63 of the Law on Local Self-Government.

Annex Two is dedicated to the issue of the protection of national minorities' rights. Although the description of the Council's competencies does not literally refer to national minorities, but rather to national and ethnic communities, including Serbian and Montenegrin communities, in practice, most of the Council activities are related to the problems of the national minorities' members. Therefore, trying to guide the Council members through the complex issue of protecting minority rights, this

Annex includes **the international standards and instruments existing in the domestic constitutional and legal systems** related to the protection of minority rights. Finally, the Annex describes how the minority rights are exercised **in local self-government units**.

Legal

2

Grounds for Establishing the Councils for Interethnic Relations in Multiethnic Municipalities

ARTICLE 63 OF THE LAW ON LOCAL SELF-GOVERNMENT

One of the attempts to improve multiethnic relations at the local level is **Article 63 of the Law on Local Self-Government**.¹ This Article has introduced a new

1 "In nationally mixed municipalities, a council for inter-ethnic relations shall be formed and comprise representatives of all national and ethnic communities. For the purpose of this Law, nationally mixed municipalities shall be considered municipalities with one ethnic community accounting for more than 5% of the total number of inhabitants or all ethnic communities collectively accounting for more than 10%, according to the last census in the Republic of Serbia. The communities, which account

body into the legal and social life of the country – the municipal **Council for Interethnic Relations**, which is expected to monitor the situation and deal with the issues of realization, protection, and improvement of ethnic equality in local communities.

Paragraph 1 of the Article stipulates that "in the nationally mixed municipalities, a Council for Interethnic Relations shall be formed and comprise representatives of all national and ethnic communities." Thus, the legislator has clearly **defined the obligation** of the municipalities with a multiethnic composition to establish Councils for Interethnic Relations. However, respecting the principle of autonomy of local self-government units, it has created a flexible framework for their establishment. As a result, local self-governments are authorised to define the manner in which they will select Council members and formalize their competencies according to the law.

for more than 1% of the total number of the municipality population, may have their representatives in the council.

The council shall deliberate issues related to the achievement, protection and promotion of national equality, in accordance with the law and statute. The council shall inform the municipal assembly on its positions and proposals, and the assembly shall render an opinion thereupon at its next session, but not later than within 30 days. The municipal assembly shall submit all proposals of decisions related to the rights of national and ethnic communities to the council for inter-ethnic relations for an opinion. The council for inter-ethnic relations shall be entitled to institute legal proceedings before the Constitutional Court requesting a ruling on the constitutionality and legality of a decision or other act of the municipal assembly, should it deem that they violate directly the rights of national and ethnic communities represented in the council for inter-ethnic relations. The council shall also be entitled to institute legal proceedings, under the same conditions, before the Constitutional Court in order to assess the compliance of a decision or another act of the municipal assembly with the municipality statute. The jurisdiction, composition and manner of work of the council for inter-ethnic relations shall be regulated by the decision of the municipal assembly, in accordance with the statute." (Law on Local Self-Government, Article 63, "Official Gazette of Republic of Serbia," No. 9 of 26 February 2002).

In practice, this means that the municipalities which meet the criteria of multi-ethnicity according to the last census (i.e. municipalities where one national community accounts for **more than 5% of the total population** or **all national communities collectively account for more than 10% of the municipality's population**), should foresee the establishment of the Council for Interethnic Relations in their statutes (Paragraph 2, Article 63).

Paragraph 3 of Article 63 specifies that **"the communities which account for more than 1% of the total number of the municipal population** may have their representatives in the Council." This statement is in contradiction with the aforementioned first paragraph of the same Article which clearly stipulates that this body should comprise **the representatives of all national and ethnic communities**. It is not clear why the legislator uses contradictory provisions, thus enabling different interpretations of the law.

Although Paragraph 8 of Article 63 specifies that the jurisdiction of the Council should be regulated by a separate decision of the municipal assembly, **the main jurisdiction of the Council is described in Section 4** stating that "the Council shall deliberate issues related to the achievement, protection and promotion of national equality, in accordance with the law and the Statute."

Such formulation contains two major problems:

- 1) The expression "in accordance with the law" can refer to both the Law on Local Self-Government and the entire constitutional and legal system.
- 2) The fact that the jurisdiction is established by the law, but entrusted to the municipal assembly, might indicate that the decision of the municipal assembly elaborates only the procedure established by the statute, which should be in accordance with the law. However, it might also imply

that Paragraph 8 opens the possibility for changing the manner of work foreseen by the law and the statute.

This conclusion is not unfounded, since the manner of work of a certain body is not "only" a procedural issue. One should remember that through the procedure it is possible to obstruct or misdirect the work of any body or institution. It appears that this issue should be solved by an official interpretation of the relevant state body; until then, the jurisdiction should be regulated by the decision of the municipal assembly.

Competencies of the Council for Interethnic Relations are derived from its jurisdiction. The main competencies defined by the Law are:

- ❑ To inform the municipal assembly on its positions and proposals, and the assembly shall render an opinion thereupon at its next session, but not later than within 30 days;
- ❑ To initiate the procedure before the Constitutional Court for the assessment of the constitutionality and legality of a decision or other general act of the assembly if it considers that it directly violates the rights of national and ethnic communities represented in the Council for Interethnic Relations, and to initiate the procedure before the Constitutional Court for the assessment of compliance of the decision or some other general act of the municipal assembly with the statute of the municipality under the same conditions;
- ❑ By the decision of the municipal assembly **other competencies of the Council can also be established.** In this case, it is important to ensure that the Council does not overtake the competencies of other working or executive bodies within the municipal assembly, or other bodies in general.

MULTIETHNIC MUNICIPALITIES IN SERBIA

According to the criteria set out in Article 63 of the Law on Local Self-Government, there are 68 multiethnic municipalities in Serbia, out of which 41 are located in the province of Vojvodina, and 27 – in central Serbia.

Municipalities in Vojvodina which meet the criteria for the establishment of the Council for Interethnic Relations according to the Law on Local Self-Government

MUNICIPALITIES	TOTAL POPULATION	TOTAL MEMBERS OF NATIONAL MINORITIES	
Ada	18 994	15 297	80.54
Alibunar	22 954	8 711	37.95
Apatin	32 813	10 384	31.65
Bač	16 268	7 743	47.60
Bačka Palanka	60 966	10 703	17.56
Bačka Topola	38 245	24 912	65.14
Bački Petrovac	14 681	10 412	70.92
Bečej	40 987	22 423	54.71
Bela Crkva	20 367	3 652	17.93
Beočin	16 086	4 230	26.30
Čoka	13 832	8 091	58.49
Indija	49 609	5 211	10.50

MUNICIPALITIES	TOTAL POPULATION	TOTAL MEMBERS OF NATIONAL MINORITIES	%
Irig	12 329	1 670	13.55
Kanjiža	27 510	24 964	90.75
Kikinda	67 002	12 792	19.09
Kovačica	27 890	17 775	63.73
Kovin	36 802	7 098	19.29
Kula	48 353	13 325	27.61
Mali Idoš	13 494	8 008	59.34
Nova Crnja	12 705	3 478	27.38
Novi Bečej	26 924	7 119	26.44
Novi Kneževac	12 975	4 884	37.64
Novi Sad – grad	299 294	48 366	16.16
Odžaci	35 582	4 455	12.52
Pančevo	127 162	22 279	17.52
Plandište	13 377	5 406	40.41
Sečanj	16 377	4 050	24.73
Senta	25 568	21 895	85.63
Šid	38 973	7 210	18.50
Sombor	97 263	30 140	30.99
Srbobran	17 855	5 127	28.71
Sremski Karlovci	8 839	1 422	16.09
Stara Pazova	67 576	10 075	14.91
Subotica	148 401	102 330	68.96

MUNICIPALITIES	TOTAL POPULATION	TOTAL MEMBERS OF NATIONAL MINORITIES	%
Temerin	28 275	9 284	32.83
Titel	17 050	1 883	11.04
Vrbas	45 852	10 025	21.86
Vršac	54 369	12 337	22.69
Žabalj	27 513	3 153	11.46
Žitište	20 399	7 038	34.50
Zrenjanin	132 051	26 168	19.82

* The following national communities are included: Yugoslavs, Albanians, Bosniaks, Bulgarians, Bunjevs, Vlachs, Gorans ("Goranci"), Hungarians, Macedonians, Muslims, Germans, Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenians, Ukrainians, Croats, and Czechs.

Source: Centre for Ethnicity Research, Research: Administration in Multiethnic Municipalities, 2004 – 2005.

**Municipalities in central Serbia
which meet the criteria for the establishment of the
Council for Interethnic Relations according to the Law on
Local Self-Government**

MUNICIPALITIES	TOTAL POPULATION	TOTAL MEMBERS OF NATIONAL MINORITIES	%
Babušnica	15 734	1 219	7.75
Bela Palanka	14 381	1 272	8.85

MUNICIPALITIES	TOTAL POPULATION	TOTAL MEMBERS OF NATIONAL MINORITIES	%
Bojnik	13 118	1 391	10.60
Boljevac	15 849	4 663	29.42
Bor	55 817	12 758	22.86
Bosilegrad	9 931	7 378	74.29
Bujanovac	4 302	27 656	63.87
Dimitrovgrad	11 748	6 433	54.76
Doljevac	19 561	1 106	5.65
Golubac	9 913	1 051	10.60
Koceljeva	15 636	875	5.60
Kučevo	18 808	5 476	29.12
Majdanpek	23 703	3 145	13.27
Medveđa	10 760	2 951	27.43
Negotin	43 418	3 877	8.93
Nova Varoš	19 982	1 680	8.41
Novi Pazar	85 996	67 612	78.62
Petrovac	34 511	4 324	12.53
Preševo	34 904	31 487	90.21
Priboj	30 377	7 187	23.66
Prijepolje	41 188	17 221	41.81
Sjenica	27 970	21 232	75.91
Surdulica	22 190	3 306	14.90
Tutin	30 054	28 605	95.18

MUNICIPALITIES	TOTAL POPULATION	TOTAL MEMBERS OF NATIONAL MINORITIES	%
Vranje	87 288	5 436	6.23
Žagubica	14 823	3 378	22.79
Žitorađa	18 207	1 171	6.43

* The following national communities are included: Yugoslavs, Albanians, Bosniaks, Bulgarians, Bunjevs, Vlachs, Gorans ("Goranci"), Hungarians, Macedonians, Muslims, Germans, Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenians, Ukrainians, Croats and Czechs.

Source: Centre for Ethnicity Research, Research: Administration in Multiethnic Municipalities, 2004 – 2005.

3

Councils

for Interethnic Relations in Multiethnic Municipalities

MULTIETHNIC MUNICIPALITIES WITH COUNCILS FOR INTERETHNIC RELATIONS

According to the data gathered by the Standing Conference of Towns and Municipalities and the Centre for Ethnicity Research as of the beginning of December 2005, 16 municipalities in Vojvodina and 2 municipalities in central Serbia have established the Councils for Interethnic Relations, and the Council members were appointed in these municipalities.

Municipalities in Vojvodina with Councils for Interethnic Relations

Ada
Apatin

Bečej
Kovačica
Kovin
Novi Bečej
Novi Sad
Odžaci
Plandište
Subotica
Temerin
Vršac
Žabalj
Žitište
Zrenjanin
Novi Kneževac

Representatives of Montenegrin, Bunjev, Croatian, Macedonian, Hungarian, Romanian, Roma, Slovak and Serbian communities participate in the work of 16 Councils for Interethnic Relations established in Vojvodina.

Statutes of the following municipalities foresee the establishment of the Councils for Interethnic Relations (however, the bodies are not established yet): Bač, Bačka Palanka, Bačka Topola, Bela Crkva, Beočin, Irig, Kanjiža, Kula, Nova Crnja, Pančevo, Sremski Karlovci, Sremska Mitrovica, Stara Pazova, Sečanj, Senta, Srbobran, Titel, and Vrbas.

Municipalities in central Serbia with Councils for Interethnic Relations

Prijepolje
Priboj

On the territory of central Serbia, **27 multiethnic municipalities** meet the criteria set out by Article 63 of the Law on Local Self-Government. National communities whose members should be represented in the Councils for Interethnic Relations are as follows: Albanians, Bosniaks, Bulgarians, Montenegrins, Muslims, Roma, Serbs, Vlachs and Yugoslavs; the latter accounting for 2% of the population in the municipalities of Bosilegrad and Dimitrovgrad, which are predominantly inhabited by the representatives of Bulgarian national minority.

The statutes of the Aleksandrovac, Bujanovac, Bosilegrad, Dimitrovgrad, Kraljevo, Leskovac, Malo Crniće, and Nova Varoš municipalities also foresee the establishment of the Councils for Interethnic Relations, however, they have not made the decision yet on the establishment and appointment or election of the Council members.

It is interesting to note that the municipalities of Leskovac (Roma comprise 6,989 out of 156,252 inhabitants, or 4.47% of the total population), Kraljevo (Roma comprise 867 out of 121,707 inhabitants, and, collectively, only 0,72% of the total population are not Serbs), Malo Crniće (Vlachs comprise 401 or 2.89%, and Roma – 194 or 1.40% of the total population of 13,853 inhabitants), and Aleksandrovac (where 98,79% of the population are Serbs), which are not multiethnic according to the Law on Local Self-Government, also foresee the establishment of the Councils for Interethnic Relations in their statutes.

ESTABLISHMENT OF THE COUNCILS AND SELECTION OF COUNCIL MEMBERS

The Council for Interethnic Relations should be established in the municipalities with nationally mixed population under the conditions set out in Article 63 of the Law on Local Self-Government (See Chapter II).

Procedure for establishing the Council for Interethnic Relations

The procedure for establishing the Council for Interethnic Relations is **entrusted to the municipal assembly**. It commences with the confirmation, in the statute of a multiethnic municipality, of the legally set obligation to establish the Council for Interethnic Relations, and ends with the passing of the decision by the municipal assembly to establish the Council and nominate Council members. In the meantime, the procedure for the selection of Council members is underway.

❖ Procedural Steps for Establishing the Council for Interethnic Relations:

1. The Council for Interethnic Relations is defined in the municipal statute;
2. Establishment of the Council is initiated;
3. Candidates are nominated for the posts of Council members, and their candidacies are discussed;
4. Municipal assembly passes the decision on the jurisdiction, composition and rules of procedure of the Council;

5. Municipal assembly passes the decision on the establishment of the Council for Interethnic Relations and on the appointment of Council members.

The majority of the municipalities, which have established the Councils for Interethnic Relations, followed the described procedure. Their municipal statutes usually contain the **article which foresees the establishment of the Council**, and which stipulates that all other decisions and obligations regarding the Council are entrusted to the municipal assembly.²

One finds a certain void in the procedure here since neither the law nor the statutes specify **who initiates the establishment of the Council**, and **who nominates the Council members**. The fact that the Councils have been established only in eighteen out of 68 multiethnic municipalities in Serbia clearly illustrates the point.

Further adding to the confusion is a long period between the recognition by the municipality of its statutory obligation to establish the Council and passing of the decision by the municipal assembly to do so. This requires further clarification:

In the majority of the municipalities with established Councils for Interethnic Relations, **municipal assemblies initiated the procedure**.

The nomination of candidates for the posts of Council members follows the initiation phase of the Council's establishment. Various experiences of local self-governments have been noted with regard to this part of the procedure. While **the general principle** according to which the Council should encompass the representatives of all national and ethnic communities accounting for at least 1% of the total

2 For example, see the Statutes of the following municipalities: Ada (O.G. No. 22/2004); Bečej (O.G. No. 3/2002); Apatin (2002); Žabalj (O.G. No. 6/2002); Zrenjanin (O.G. 3/2002); Žitište (O.G. 4/2005); Kovačica (O.G. No. 5/2002); Subotica (O.G. No. 19/2002), Novi Sad (O.G. No.11/2002); Plandište (May 31, 2002), Temerin (O.G. 4/2002).

population of the municipality is largely followed, certain ambiguities and irregularities occur due to the absence of the instructions related to the nomination of candidates.

Practice in local self-governments

Nomination and selection of Council members belonging to national minorities

- ❑ In several municipalities, the **National Minority Councils** were the nominators of the candidates for the post of Council members from among national minorities (See Annex 2). Thus, in the municipalities of **Apatin, Kovačica, Zrenjanin and Žabalj**, the National Minority Councils nominated the Council members directly.
- ❑ **Municipality of Novi Bečej:** In the municipality of **Novi Bečej** the initiative for the establishment of the Council for Interethnic Relations and selection of its members was put into effect by the Decision on the establishment of the Council adopted at the Municipal Assembly's meeting on 29 March 2005. This document explicitly names the national and ethnic communities which account for more than 1% of the municipality's population, and stipulates that each community which meets the criteria would be represented in the Council by two representatives. The same document foresees that the Municipal Assembly should initiate the procedure for selecting the Council members, and that the following groups of people have the right to propose the candidates: citizen groups which comprise a minimum of ten members of a certain community; Municipal Assembly councillors can propose candidates from their commu-

nity; and, finally, associations registered with the aim to protect national, ethnic and cultural distinctiveness of the communities. The proposal for a candidate should be submitted along with the personal information of the candidate, a written statement by the candidate regarding his or her ethnic background, and the evidence that the proposal was submitted by an authorised nominator.

- **Municipality of Plandište:** According to the Decision on the jurisdiction, composition and rules of procedure of the Council for Interethnic Relations in the municipality of **Plandište**, the following members of national minorities inhabiting the municipality are represented in the Council: Hungarians, Romanians, Slovaks, Macedonians, and Roma. The Council has ten members which are selected on the basis of the proposal put forth by the associations of national minorities represented in the municipal council, or put forth by the neighbourhood communities (*mesna zajednica*), whose national and ethnic minorities account for more than 50% of the total population of the locality.³

As opposed to the formalised and well planned procedure for nominating the candidates belonging to national minorities in the municipalities of Bečej and Plandište, the

3 The municipality of Plandište has no representatives of the Serbian national community in the Council. Keeping in mind the fact that the Serbian community in Plandište constitutes more than 60% of the population, and that the Council's jurisdiction is to manage interethnic relations at the local level, there are no socially justifiable or legal reasons for the absence of the representatives of this community in the Council. On the other hand, since the absolute majority in the Plandište Municipal Assembly, which adopted all the mentioned decisions, is comprised of the councillors from the "majority" political parties, it is possible that they did not want to participate in the work of this body. This situation shows that the authorities, rather than having bad intentions or neglecting the procedure, have not carefully thought through the process of the Council's establishment.

establishment of the Council according to the decisions made in the majority of municipalities is carried out in a different manner, sometimes lacking legal grounds or a clear procedure.

- ❑ **City of Novi Sad:** The procedure for nominating the Council members belonging to national minorities in the **city of Novi Sad** is a case in point. According to the Decision on the jurisdiction, composition and rules of procedure of the Council for Interethnic Relations of Novi Sad, adopted on 9 September 2005,⁴ members of the Council can also be selected from among the respectable citizens belonging to national and ethnic communities. They are selected upon the proposal from their communities and after consultations with representatives of national and ethnic community organisations active in the city. The manner in which this right for nomination is formulated in the city of Novi Sad makes it possible to block the establishment of the Council, as well as to potentially obstruct the work of this body in the future. In practice, it may seem as if the candidates are nominated by numerous minority organisations, citizen groups, independent candidates active in the city, however, some candidates are nominated and selected according to uncertain criteria even though they have no influence on a later decision-making process.
- ❑ **Municipality of Žitište:** A similar situation was found in the municipality of **Žitište** where the National Minority Councils were not consulted during the nomination process of the candidates belonging to such national minority communities as Hungarians, Slovaks, Romanians and Roma. Instead, public debates were organised in which

4 Official Gazette of Novi Sad, year XXII – No 11, June 2002

neither the representatives of the opposition political parties nor the majority of their voters participated.⁵

In those cases when the National Minority Councils are not consulted about the selection of Council members, and the clear criteria for the selection of Council members are not established, the legitimacy of the selection is seriously violated.

- ❑ **Municipality of Odžaci:** The Decision⁶ to establish the Council for Interethnic Relations in the **Odžaci municipality** is another example which demonstrates the variety of procedures for the nomination and selection of Council members existing in the municipalities. In this municipality the Council has seven members: the president and two members are selected among the Municipal Assembly councillors, and four members are selected from the Serbian, Hungarian, Slovak and Roma communities. The draft Decision on appointing Council members is prepared by the Municipal Assembly Committee for Personnel, Administration and Working Relations. This is done based upon their own initiative; based on the suggestion of the councils in neighbourhood communities (*mesna zajednica*); or based on the suggestion from the associations representing the national and ethnic communities.

In this case various criteria regarding the definitions of what a "*national and ethnic community*" is, guided the process of selection of Council members from the national and ethnic communities. In fact, all the communities were defined as national communities, and only the Roma

5 The authorities of the Žitište municipality tried to overcome this problem by passing an informal decision which stated that representatives of National Minority Councils inhabiting the municipality should be invited to the meetings.

6 Municipal Assembly Odžaci, No 011-1/2005-1 of 31 January 2005.

community was defined as an ethnic one. However, after referencing the Law on the Protection of Rights and Freedoms of National Minorities, this perspective was abandoned, since it extends the status of a national minority to the Roma community with all the rights ensuing from the Law.

- ❑ **Municipality of Subotica:** At the 17th meeting of the **Municipal Assembly of Subotica**, held on 18 November 2005, the Decision on the jurisdiction, composition and rules of procedure of the Council for Interethnic Relations was passed. Accordingly, this body was formed in proportion to the national structure of the municipality's population. As a result, the Council has nine members (4 Hungarian, 2 Serbian 1 Croatian, 1 Bunjev and 1 Montenegrin). Since 0.97% of the total population is Roma according to the latest census, 1 representative from the Roma community is included in the work of the Council, but has no right to participate in the decision-making process. Council members are selected among the councillors, and appointed by the Municipal Assembly upon the proposal of the president of the Assembly, who is also obliged to consult the National Minority Councils when selecting the Council members from minority communities.

Considering the fact that the Council members in the Subotica municipality are selected among the municipal councillors, there is an open question with regard to the selection mechanism of the Council members who do not win councillor seats in the municipal assembly.

The municipalities of **Odžaci** and **Subotica** are the examples of municipalities which have harmonised the ethnic criterion with the criterion of belonging to a political party during the process of selecting the Council

members. However, in several other municipalities such as **Temerin**, **Novi Sad**, **Novi Kneževac** and **Žitište**, political parties had an indirect but crucial influence on the process of nominating and selecting the candidates.

Nomination and selection of Council members belonging to the Serbian national community

It appears that the process of nomination and selection of the Council members belonging to the Serbian national community constitutes even a greater challenge. The Serbs make up the majority population in 55 multiethnic municipalities, and constitute a considerable number in 13 municipalities where national minority members constitute absolute majority of the population. This fact indicates that the members of the Serbian community, due to their majority status, are the ones who are most responsible for the situation and stability of interethnic relations. Therefore, the selection of members of the Serbian nationality for the Councils for Interethnic Relations is of special significance. Since there are no general instructions related to this issue, the municipalities have developed their own different approaches.

- **Municipality of Žabalj:** In the **Žabalj municipality**, the Council members of the Serbian nationality are nominated by the Serbian Orthodox Church, more precisely, by its parish in this municipality. It should be emphasised that the Serbian Orthodox Church is only one of the possible nominators. According to the constitutional and legal system of the country, all the churches and religious communities are considered to be a part of civil society. Formally and legally they are equal to non-governmental organisations, cultural associations and other organisations active in the local self-government units. However, the real influence of traditional institutions, such as the Serbian

Orthodox Church, is far stronger than that of the majority of other civil organisations. Therefore, the expectations of local self-government units are somewhat justified that the legitimacy of Council members proposed by the municipal church board of the Serbian Orthodox Church will be rooted in the trust enjoyed by such an institution. A problem might occur if the local self-governments would ask other churches and religious communities to propose their members for the Council. In that case, the main reason for the establishment of the Council would be lost, and their competencies would be shifted from considering interethnic relations to considering inter-religious relationships and problems.

- ❑ **Municipality of Zrenjanin:** In the **municipality of Zrenjanin**, the Council members belonging to the Serbian community, as well as to the national and ethnic communities which do not have the National Minority Councils, are proposed by the Committee for Personnel, Administration and Working Relations of the Municipal Assembly.
- ❑ **City of Novi Sad:** It was already mentioned that the selection of Council members from national minorities is not regulated appropriately in the **city of Novi Sad**. The same situation occurred during the selection of Council members from the Serbian community. Five out of the total of nine Council members are of the Serbian nationality, and were obviously selected from the political parties represented in the Town Assembly. This manner of selection and the structure of the Council, similar to those in the municipalities of Žitište and Prijepolje, have led to the domination of majority groups, or the "majorisation."
- ❑ **Municipality of Apatin:** In the **municipality of Apatin**, the Decision on the establishment of the Council

for Interethnic Relations adopted by the councillors,⁷ stipulates that the Council members are selected according to the ethnic background of the citizens; that the National Minority Councils nominate the Council members selected from the ethnic minorities which constitute more than 1% of the municipality's population; and, that the citizens of the Serbian background nominate the Council members from the Serbian community. According to the Decision of 3 October 2005, two representatives from the Serbian, Hungarian and Croatian communities should be appointed as Council members, and one representative each from the Romanian and Roma communities.⁸

Citizen participation in the work of the Council

Municipality of Ada: The municipality of Ada was the only municipality which favoured the civic principle over both the ethnic principle and the interests of political parties represented in the municipal assembly during the nomination and selection of Council members. Article 63 of the Ada⁹ Municipal Statute foresaw the establishment of the Council for Interethnic Relations in which the representatives of all national and ethnic communities would participate in the Council. However, Article 65 of the Statute specified that the jurisdiction, composition, rules of procedure and the selection of Council members were to be established by a separate decision of the Municipal Assembly. This Decision¹⁰ was adopted three years later, on 21 April 2005,

7 Official Gazette, Municipal Assembly Apatin, No. 8, of May 23, 2005

8 Official Gazette, Municipal Assembly Apatin, No 11, of October 3, 2005

9 Official Gazette of Ada municipality No 22/2004

10 Decision on the jurisdiction, composition and rules of procedure of the Council for Interethnic Relations, Municipal Assembly Ada, No 02-23/2005-01 of April 21, 2005

confirming the competencies of the Council according to the Municipal Assembly Statute, in essence from the Law on Local Self-Government. The third part of the Decision relates to the selection of Council members, stating that apart from the councillors, **citizens can also be represented** in the work of this body. However, the Chairman must be a councillor in order to efficiently represent the interests of this standing working body of the municipal assembly before the councillors and other municipal bodies.

Finally, the aforementioned Decision was preceded by the Decision on the establishment of the Council for Interethnic Relations wherefrom it can be concluded that the citizens could participate in the work of this body, but not the representatives of national communities. Although it is clear that the representatives of a number of ethnicities, such as Serbs, Hungarians and Roma, participate in the work of this body, the crucial criterion for their selection was not their national or ethnic background, but their councillor status or the proposal by citizens which ensured them the mandate to represent their interests in this body during the four-year period.

*Dilemmas of local self-governments related to the
establishment of the Council and selection
of its members*

Who are the beneficiaries of Article 63?

Article 63 of the Law on Local Self-Government strictly specifies that **the Councils are established in order to bring about equality of national communities in multiethnic municipalities**. The same article sets out the criteria according to which a municipality is considered multiethnic if the members

of one community account for more than 5%, or the members of all communities account for more than 10% of the total population of the municipality according to the latest population census. Therefore, it is clear that the **beneficiaries of the Law are national (ethnic) communities representing a minority in the municipality**. The Law, however, does not make any difference among the members of the Serbian community, Montenegrins or the members of national minorities.

If we accept the definition according to which the national communities are the bearers of the rights specified in Article 63, we find ourselves in a difficult situation. Since every municipality has a Serbian national community, which constitutes more than 5% of the municipality's population, where other communities (minorities) constitute another 1% of the population, the Council for Interethnic Relations should be established in each and every municipality according to the Law.

On the other hand, the confusion comes from the practice of local self-governments and the Councils for Interethnic Relations, which focus their jurisdiction more often on the problems of national minorities. Considering the ethnic structure of the population in Serbia, as well as the regional and local characteristics and problems related to the status of national minorities and the realisation of their rights, **the real jurisdiction of the Council for Interethnic Relations** is rightfully focused on the issues related to the equality of the members of national minorities and their communities.

In the existing social and legal circumstances, the ambiguities in Article 63 of the Law on Local Self-Government would be eliminated if the Article was modified to use more precise terms – "Serbian national community" and "members of national minorities." The inspiration for and source of the modification of Article 63 should be Article 55 of *The Charter on Human and Minority Rights and Civil Liberties* which stipulates that the member

states of the State Union of Serbia and Montenegro ”shall adopt, wherever necessary, appropriate measures towards advancing full and effective equality between members of national minorities and members of the majority in all spheres of economic, social, political and cultural life.” Although this constitutional Article is related directly to the measures of affirmative action, it is also indirectly related to all other areas where some minority communities greatly suffer from their unequal social status.

Who nominates the Council members?

As it is most often the case, the **nominators** are the councillors from the municipal assemblies, the National Minority Councils, the Serbian Orthodox Church, citizen groups, cultural associations of national minorities and non-governmental organisations.

The main ambiguity in this regard is who should initiate the procedure for establishing the Council, and subsequently gather proposals for the candidates and opinions on the proposed candidates from the institutions they are expected to represent.

Therefore, a decision on the establishment of the Council **should authorise a body** within the municipal assembly to initiate the procedure for setting up the Council, as well as the procedures for its formation.

Which communities are represented in the Council?

In addition to the dilemmas related to the rights of nominators, there is a **problem of representation of national communities in the Council** in several municipalities.

In a smaller number of municipalities the prevailing opinion is that the Council members should only be elected among the representatives of national minorities, and not among the

representatives of the Serbian community. It seems that such a position does not match the intention of the legislator to establish a body which would comprise the representatives of all national communities in a multiethnic municipality, who meet the criteria set out by Article 63 of the Law on Local Self-Government.

COMPETENCIES OF THE COUNCIL FOR INTERETHNIC RELATIONS

Competencies of the Council for Interethnic Relations can be divided into:

- A) Main competencies **derived from Paragraphs 4 and 7** of Article 63 of the Law on Local Self-Government;
- B) Competencies **defined by the municipal assembly's decisions.**

Main competencies

It should be emphasized that the main competencies of the Council, which are related to the issue of national equality, are further **verified and defined additionally by the municipal assembly**. Within its competencies, the **Council presents its opinion** on every suggestion of the municipal assembly related to the issue(s) of national equality, and has the **right to initiate proceedings** before the relevant constitutional court if it considers the decision of the municipal assembly to be in contradiction with the municipal statutes.

The realisation of these competencies raises two open questions: The first question refers to the **definition of the term "national equality"**. The second questions the development

of **mechanisms** in the municipal assembly that would **ensure efficient work of the Council**.

Definition of the term "national equality"

This question is much more difficult to answer due to the following reasons:

In a broader sense, national equality is realised in every segment of one's social life: education, employment, information, economy, social relationships, and even when it comes to the matters concerning the municipal urban planning or the regulation of infrastructure. Such an interpretation of the term would require the Council for Interethnic Relations to consider a large number of suggestions and decisions of the municipal assembly.

Strictly speaking, the concept of national equality, in terms of implementing Article 63, is related to the cases when the municipal assembly makes decisions affecting the realisation of personal and collective rights of the national minorities' members. Examples would be: equality in employment policy in public services; official use of languages and alphabets in national minority communities; access to pre-school and elementary school institutions; appointment of directors of public institutions; representation of communities in mass media founded by the municipal assembly, and other issues.

Development of mechanisms

The problem of mechanisms that should be developed to make the work of the Councils for Interethnic Relations efficient is related to **regular and timely submission of suggestions** of the municipal assemblies to the Council members. In practice, local self-governments submit materials selectively and often too late. Considering the fact that the Councils hold meetings rarely, and also that until December 2005 there were no significant

reactions from the Councils towards the decisions of the municipal assemblies, one could conclude that the Councils do not focus their activities on their main competencies, but rather deal with marginal activities.

In certain municipalities, the immediate cause for holding a Council meeting and its subsequent activities (operation) stemmed from a conflict among citizens of different nationalities. Although such cases fall under the competence of the police and court organs, members of the Councils are trying to react to these incidences in the post-conflict period. Such activities are worth paying attention to, but they certainly do not fall under the main competencies of the Councils.

Competencies defined by the municipal assembly's decisions

The competencies defined by the municipal assembly's decisions are **considerably broader** and often **overlap with the competencies of other working bodies** of the municipal assembly.

Municipality of Apatin: The Decision on establishing the Council for Interethnic Relations in the **Apatin municipality** is a typical example. It states that the goals of this body's work are related to:

- ❑ enhancing the activities of the local self-government units; interethnic tolerance; protection of human rights;
- ❑ preservation of ethnic and cultural identity of the communities; promotion of multiculturalism;
- ❑ nourishing of civic virtues and traditions of common life;
- ❑ opposing the language of hatred and xenophobia; development of a democratic and civil society;

- ❑ creating conditions for and encouraging the use of minority languages in public communications;
- ❑ motivating the media to support the traditions;
- ❑ culture and languages of national and ethnic communities;
- ❑ developing cooperation among citizens and NGOs with the local self-government units;
- ❑ defining the Council's competencies with regard to the realisation of national equality in education, culture, social organization; and
- ❑ exercising of administrative control over and organisation of municipal public services, public communications, employment and protection of cultural monuments.

The Decision specifies that in order to realise its competencies, the Council for Interethnic Relations in the Apatin municipality can undertake measures related to the prevention of ethnic tensions. In other words, it supports the measures aimed at better appreciation of national and ethnic communities and the creation of a favourable social atmosphere in the municipality. According to the Decision, the Council can also undertake measures to address the issues related to socio-economic problems of the members of ethnic communities.

Thus, the Decision stipulates that "the Council is to undertake activities aimed at equal participation of all national and ethnic communities on the territory of the municipality in developing and strengthening small and middle-size businesses." The Decision also states that, "particular attention should be paid to equal employment of all national and ethnic communities on the territory of the municipality, and that the funds allotted for the development of small and middle-size businesses and other activities in the field of economic and overall social life should

be equally available to the members of all national and ethnic communities on the territory of the municipality.”¹¹

Undoubtedly, competencies understood so widely **exceed the original idea of the legislator** according to which the Councils for Interethnic Relations should deal with the realisation of national equality in the municipality, consider and give opinions on the municipal assembly decisions related to the status of national and ethnic communities, and initiate the development of mechanisms for legal protection of their rights.

It would be understandable, along these lines, that the **competencies of municipal Councils for Interethnic Relations** related to promoting equality in employment policy of ethnic minorities become focused on monitoring their equal representation in municipal public services. The solutions adopted by the Apatin municipality, regardless of the fact that they can derive their legitimacy from the mentioned Article 55 of the Charter on Human and Minority Rights and Civil Liberties, point to the fact that the Council competencies could exceed the competencies established by the Law and interfere with a complex medley of social relations within the multiethnic municipality.

Municipality of Zrenjanin: The Municipal Assembly of **Zrenjanin** defined the main competencies of the Council by its Decision on the establishment of the Council for Interethnic Relations.¹² The Decision also foresees that the Council can form a working group or authorise several members to examine certain issues in the field of its activities, and to inform the Council on those issues. The mentioned Decision, adopted at the Council’s meeting on 29 June 2005, stipulates that the Council should develop **Rules of Procedure**. The Rules of Procedure establish the manner of work of the Council, cooperation with the

11 Article 13 of the Decision on the establishment of the Council for Interethnic Relations of the Municipal Assembly of Apatin.

12 Official Gazette of the Zrenjenin municipality No.3/2005.

local self-government bodies, preparation and conduct of the meetings, and the way the decisions are made at the meetings.

The minutes taken at the Council's meetings show that the Council, apart from the problems related to its competencies, has also dealt with the issues related to the realisation of national minorities' rights, such as promotion of information in the national minorities' languages, funding the work of cultural and art associations, and others.

Practice in local self-governments related to the Council's competencies

According to the practices of the Councils for Interethnic Relations recorded until December 2005, the majority of their activities were related to examining **the issues related to the status of national minorities**. This is understandable given the fact that there is no appropriately developed strategy for the integration of national minorities in the country. The Charter on Human and Minority Rights and Civil Liberties and the Law on the Protection of Rights and Freedoms of National Minorities are the documents which, at the beginning of the decade, directed the development of human and minority rights towards democratic principles. However, more comprehensive measures are necessary with regard to the realisation of rights of national minorities due to the lack of clarity in the documents, declaratory character of the Law on the Protection of Rights and Freedoms of National Minorities, open political and legal issues, and lack of harmonisation of the majority of laws regulating the status of national minorities with these documents. The weaknesses of inconsistent policies are most visible in multiethnic municipalities.

The situation is more favourable in the municipalities of Vojvodina, than the municipalities in central Serbia. It is an

illustrative fact that by the end of 2005, out of 44 multiethnic municipalities in Vojvodina the Councils for Interethnic Relations were established in 16 municipalities as compared to only two (2) Sandžak municipalities in Serbia.

Problems related to the **implementation of rights of national minorities** are often present in the practice of these municipalities. Moreover, the Law on Local Self-Government obliges the municipalities to take special care about the realisation of individual and collective rights of national minorities, particularly concerning the official use of their languages and alphabets (See Annex 2).

Furthermore, **it should be emphasised** that due to the engagement of the National Minority Councils in the process of nomination and selection of Council members, the questions regarding the work of these national institutions were indirectly introduced into the work of the local bodies. This is understandable given the fact that the National Minority Councils have considerable difficulties related to the implementation of the cultural policy of minorities in local communities. Apart from the fact that the mechanisms for realisation of rights of national minorities established by the law are weak, the problem of legitimacy of minority local self-governments, elected exclusively at the national and not the local level, is prominent.

Dilemmas related to the Council's competencies

What are the competencies of the Council?

If the competencies of the Council, which are defined by Article 63 and related to the decisions of municipal assemblies regarding the rights of national minorities and creation of mechanisms for protecting their interests in the municipality, are

implemented consistently, there should be no ambiguities about the work of these bodies. However, since the jurisdiction of the Council is determined by the municipal assembly in accordance with its statutes, it is possible to **extend the competencies of this body**.

The grounds for the extension of competencies are rooted in the **real needs of citizens and the situation in the municipalities**. This concerns the situation of interethnic relations as well as the aforementioned Article 55 of the Charter on Human and Minority Rights and Civil Liberties which ensures equality in the economic, social and cultural life. The competencies derived from these needs and legal foundations are much broader than those defined by Article 63 of the Law on Self-Government. Therefore, it is difficult to distinguish which issues decided upon by a municipal assembly are not related to the national equality of residents. Such issues could be related to the construction of infrastructure in the localities with national minorities, or the realisation of the right to equal economic development of all parts of the municipality.

Overlapping of competencies

Apart from the fact that the competencies of the Council for Interethnic Relations overlap with the competencies of other municipal working bodies, in certain municipalities **its competencies also overlap with the competencies of the municipal executive bodies**. In the municipalities where members of national minorities constitute a local majority, it is obvious that the competencies of the Councils for Interethnic Relations overlap with the competencies of the National Minority Councils specified by the Law on the Protection of Rights and Freedoms of National Minorities.

Overlapping of the Council's competencies with the competencies of the National Minority Councils

National Minority Councils are minority self-government institutions that represent national minorities in the realisation of their right to cultural autonomy. These bodies are established in accordance with the *Law on the Protection of Rights and Freedoms of National Minorities* and the *Bylaw on the Mode of Operation of the Electoral Assembly for the Election of the National Minority Councils*, adopted by the Minister for National and Ethnic Communities (See Annex 2).

The National Minority Councils and the Councils for Interethnic Relations derive their legitimacy from various social and political circumstances, and have different levels of competencies in local self-government. **The main difference** is that the Councils for Interethnic Relations are a **part of the local self-government units**, directly related to the municipal assemblies. **The National Minority Councils**, being the minority self-government institutions, are the **institutions representing minority interests before the administrative bodies in the field of cultural autonomy**.

It should be mentioned that the relationship between the National Minority Councils and local self-governments is **realised indirectly through the councillors** on the municipal assemblies, elected to the National Minority Councils as municipal officials.

It is particularly important to emphasise the fact that these minority self-government bodies are elected at the national level only, and according to our current laws, such bodies cannot be elected at the local self-government level. Therefore, it is recommendable, whenever possible, to **separate formally and legally the competencies** of the minority self-government units, such as the National Minority Councils, from the competencies of the Councils for Interethnic Relations. Naturally, that **does not**

exclude the cooperation of these bodies in seeking and giving opinions on various issues, taking joint actions and engaging in common activities, etc.

However, direct overlapping of competencies might lead to a situation where politically well-organised minorities, having developed strong minority self-government units, have the possibility to establish municipal minority self-government units indirectly. As a result, they may have the power to influence the decisions which are of interest only to the members of that minority in certain local self-government units. That would enable the members of a certain minority or a part of the minority to have more favourable position compared to other minority communities or their compatriots in other municipalities.

Such a situation might improve if the Law on the Protection of Rights and Freedoms of National Minorities is amended in terms of establishing municipal minority self-government units as well as reducing the impact of political parties on the nomination process of its members.

Overlapping of the Council's competencies with the competencies of the executive bodies

Since it is not stated explicitly **how to select members of the Council for Interethnic Relations**, it is possible for the **municipal council members** to be nominated and selected as the members of the Councils for Interethnic Relations. It is also possible for a municipal council to organize part of its administration to deal with the same issues as the Council for Interethnic Relations. In both cases, there is neither any conflict of interest nor other circumstances defined by the law that could explicitly forbid them to do so. In any case, **influence of the executive authorities on the activities of the Councils should be avoided** and their autonomy respected.

There is another ambiguity regarding this problem as Article 63 is placed within section 4 of the Law on Local Self-

Government. Section 4 is dedicated to defining and organizing the Municipal Administration. By placing Article 63 within this section, it enables one to **interpret that these bodies can be established as professional services in the municipalities.**

However, paragraphs 4 – 6 within Article 63 contradict such an interpretation since they outline that **competencies and work of the Councils for Interethnic Relations are directed by municipal assemblies.** Article 34 of the Law on Local Self-Government reinforces the idea by stating more precisely that the municipal assemblies should direct the work of the Councils for Interethnic Relations. The Article foresees that the **municipal assembly, according to its statutes, may establish permanent or ad hoc working bodies** to render opinions, among other things, on the proposed regulations and decisions made by the municipal assembly.

In the **practice** of local self-government units, there are distinctive **examples of three municipalities** where municipal officials are the members of the Councils for Interethnic Relations. Their participation in the work of these bodies could direct decisions of the Councils and competencies defined by the law and the statutes towards the interests of local administration or certain national communities.

Municipality of Bečej: According to the Statutes, the Council for Interethnic Relations was established twice in the **Bečej municipality.** The first Council was established in 2003. The next year, following the elections, it was adjourned by the Decision on the abolition and appointment of the president and members of the Council for Interethnic Relations of the Bečej municipality.¹³ Upon the proposal of political parties represented in the municipality, the existing six members of the current Council were appointed. In the municipality with approximately 41% of Serbian and 48% of Hungarian population, the Council had its first meeting on 3 November 2005.

13 Municipal Assembly Bečej, No 021-19/05-1 of July 1, 2005

The inactivity of the Council members was most probably caused by the decision of the municipal council to make one of its members responsible for the matters related to interethnic relations and cooperation with religious communities. Activities of this municipal council member overshadowed the activities of the Council for Interethnic Relations. Although in this case, the municipal council had good intentions of enhancing efficiency and effectiveness of its work, they should have ensured that the activities and competencies of the executive authorities in the municipality did not coincide with the activities performed by the working bodies of the Municipal Assembly; or at least ensured a high level of cooperation and division of institutional competencies among them.

Municipality of Žitište: In the **Žitište municipality**, members of the Council for Interethnic Relations are the president and the secretary of the Municipal Assembly who chairs this body. Since the Council in this municipality held its first meeting only at the end of October 2005, it is yet to be assessed how much the presence of the "top man" in the Municipal Assembly and the most responsible member of the municipal administration will influence the work and decisions of the Council.

Municipality of Priboj: Finally, the **Priboj municipality** passed the Decision on the establishment of the Council for Interethnic Relations according to Article 54 of its Statutes as well as the Decision on the appointment of the President and Members of the Council. The decision itself does not contain essential differences as regards Article 63 of the Law on Local Self-Government, nor does it differ much from the practice related to the establishment of these bodies in other municipalities in Vojvodina. However, in the Decision on the appointment of the president and members of the Council one can notice an approach which is characteristic only of the Priboj municipality. All the Council members appointed by the Municipal Assembly are

at the same time the members of the municipal council. According to the Decision, the president of the Council is the president of the municipality, and it is not clear who nominates the other members, since they are nominated by the Municipal Assembly.

In general, **it is always better for the Council members to be independent candidates**, i.e. citizens proposed by the associations and institutions dealing with the issues which fall within the Council's competencies, or to be selected from among the municipal assembly councillors. Engagement of the members of executive authorities only in the work of the Council might create problems that could paralyse its efficient work and marginalize the impact of the citizens on the competencies of these bodies established by the law.

However, as Priboj is a local self-government unit where during the 1990's the interethnic relations worsened considerably, and whose residents are probably still burdened by the consequences of past events. The intention of the executive authorities to entrust this delicate issue, which could destroy the fragile foundations of multiethnic trust, to a small group of people is understandable.

The question then is to what extent this manner of making decisions is in accordance with the principles of decentralisation of authorities in local self-government units, and whether municipal authorities should deal exclusively with the promotion of interethnic relations, or all segments of local democracy.

4

Suggestions

for the establishment and functioning of the municipal Councils for Interethnic Relations

The practice of the municipalities which have established the Councils for Interethnic Relations offers different experiences. This includes the examples of good and efficient solutions as well as the approaches that require further consideration and examination from the perspective of the Law on Local Self-Government regarding the efficient work of these bodies in local self-government units. Until the year 2002 and the adoption of the latest Law on Local Self-Government, such an institution did not exist in the practice of social and political life in our local self-government units. Therefore, **every experience is precious** and makes a step forward towards the establishment of efficient and useful work of this body.

The following suggestions result from the practice of the municipalities where the Councils for Interethnic Relations were established, analysis of the Law on Local Self-Government, statutes and decisions of the municipal assemblies, as well as from the research carried out for this Guidebook by the author and the staff of the project for *Local Democracy and Administration in Multiethnic Local Communities in Serbia*, conducted from 2002 until the end of 2005.

The suggestions **take into consideration Article 63 of the Law on Local Self-Government and the existing practices**. However, they do not represent an ideal model for the establishment and functioning of the Councils for Interethnic Relations.

The most appropriate solution would be to amend Article 63 and other contradictory Articles and terms in the process of modifying the Law on Local Self-Government to harmonise it with the international and domestic legal standards. It is also advisable for the responsible administrative body to adopt the instructions related to other issues important for the establishment and work of the Council as well as the selection of its members.

Finally, since the provisions of Article 63 of the Law on Local Self-Government are related to the protection of rights of local minorities (and the members of national minorities find themselves in a similar situation in the majority of local self-government units), the most suitable solution in this case would be to initiate the change of the Law on the Protection of Rights and Freedoms of National Minorities regarding the establishment of local minority self-government bodies. This would also entail giving a precise definition of their competencies in the municipalities as well as explicit guidelines for cooperation with other authorities.

GENERAL SUGGESTIONS

- ❑ The Council should be established **in accordance with the Law** on Local Self-Government and the municipal statutes;
- ❑ Multiethnic local self-government units **are obliged** to establish the Councils for Interethnic Relations **by the law**;
- ❑ The Council should be a **working and independent body** accountable to the municipal assembly;
- ❑ Members of the municipal councils and other bearers of administrative authority **should not** be the members of the Council for Interethnic Relations;

- ❑ **The terms ‘national’, ‘ethnic community’, and ‘national minority’ should be separated** during the process of passing decisions on the establishment, competencies and selection of Council members;
- ❑ The Ministry for Public Administration and Local Self-Government should conceive a way of providing professional and legal assistance for the interpretation of Article 63 and Article 18 of the Law on Local Self-Government. In addition, the Ministry could provide professional assistance related to the Council’s competencies according to Article 63, without jeopardising the principle of the Council’s work.

SUGGESTIONS FOR ESTABLISHING THE COUNCIL FOR INTERETHNIC RELATIONS

- ❑ The Council should be established **according to the decision** made by the **municipal assembly**;
- ❑ The procedure for establishing the Council should be initiated by the **president of the municipal assembly**;
- ❑ Appointment of Council members should be carried out according to the **decision on the appointment of the members** made by the municipal assembly;
- ❑ **Decision** on the establishment and the **Decision** on the appointment of Council members should be **published in the official gazette** of the municipal assembly.

SUGGESTIONS FOR THE SELECTION OF COUNCIL MEMBERS

- ❑ In the current situation, the procedure for selecting the Council members should be "delicately" **agreed upon**;
- ❑ The **nominator** of the Council members should be the **president of the municipal assembly**;
- ❑ **The National Minority Councils should be consulted** when the list of candidates belonging to national minorities is finalized. In case the National Minority Council of a certain national minority does not exist, the **associations of national minorities** registered in the municipality **should be consulted**. If there are no registered associations of this kind, the nominator should be the neighbourhood community council (*savet mesne zajednice*) where the minority members live;
- ❑ When finalizing the list of candidates belonging to the Serbian community, it would be most appropriate if the **nominators** were the **councillor groups** of the municipal assembly belonging to the political parties or coalitions in power and in opposition. Both councillor groups should nominate the same number of candidates;
- ❑ If the member or members of the Council leave this body during their term of office, the nominator should have the right to replace them;
- ❑ If more than 50% of the Council members leave the body during their term of office, the municipal assembly should **adjourn the Council** and **repeat the selection procedure** within 30 days from the moment the decision on the cessation of the Council's work was made;

- ❑ **The number of Council members** should be **determined by the municipal assembly's decision** on the establishment of the Council;
- ❑ The national composition of the Council should either **correspond proportionally** to the national structure of the municipality according to the latest population census, or the national communities should be **equally represented in the Council**;
- ❑ During the selection of Council members it should be ensured, if possible, that the **members from different localities (neighbourhood communities) are represented** in the new composition of the Council.

SUGGESTIONS REGARDING THE COMPETENCIES OF THE COUNCIL

- ❑ **The main competencies of the Council** related to protection and promotion of national equality according to the law are:
 - ❑ to initiate procedures before the Constitutional Court to assess the constitutionality and legality of the assembly's decision or other general act, if the Council considers that the decision directly violates the rights of ethnic and national communities represented in the Council,
 - ❑ to initiate procedures before the Constitutional Court to determine the compliance of the decision or other general act of the municipal assembly with the statute of the municipality;
- ❑ The Council should **regularly inform** the municipal assembly on its opinions regarding the realisation of national equality in the municipality;

- ❑ The Council should **present its opinions** on the proposals of all municipal assembly's decisions related to the rights of national and ethnic communities;

The decision on establishing the Council can also foresee **other competencies of the Council**, depending on the specific circumstances in the multiethnic municipalities. As these competencies are defined more widely than the competencies foreseen by the law, the following should be taken into consideration:

- ❑ For the realisation of those competencies, the municipalities should ensure conditions and provide funds out of the communal budget;
- ❑ The competencies should not overlap with the competencies of the municipal executive bodies or other working bodies of the municipal assembly;
- ❑ The competencies should not overlap with the competencies of the National Minority Councils.
- ❑ More widely defined competencies could include the following:
 - ❑ conflict prevention and resolution;
 - ❑ promotion of tolerance and respect for diversity;
 - ❑ fostering interethnic dialogue;
 - ❑ obtaining citizens' opinions on the state of interethnic relations and realisation of national minorities' rights;
 - ❑ monitoring of laws and regulations in the field of protection of national minorities' rights;
 - ❑ cooperation with the National Minority Councils which have their ethnic minority represented in the Councils for Interethnic Relations;
 - ❑ cooperation with the institutions in the local community, province or republic responsible for the protection of rights of national minorities;
 - ❑ cooperation with relevant civil society organisations.

SUGGESTIONS REGARDING THE RULES OF PROCEDURE OF THE COUNCIL

- ❑ The Council should have its **Rules of Procedure**;
- ❑ The Council should **meet before every meeting of the municipal assembly**, and more often if required;
- ❑ The municipal assembly is obliged to **submit materials to the Council members** related to the scope of the Council's work at least 7 days prior to the municipal assembly's meeting;
- ❑ **Decisions should be made by the consensus** of the Council members;
- ❑ In case the Council members do not possess the expertise to provide their opinion on the proposal of a decision or any other act of the municipal assembly related to the rights of national communities, **professional assistance should be sought** in local self-government units, as well as in other institutions;
- ❑ **Citizens should be frequently informed** on the working results, problems, and other issues related to the work of the Council, and **representatives of the public services and councillors of the municipal assembly should be invited** to attend the Council's meetings;
- ❑ The Council should **cooperate**, whenever possible, **with the municipal professional services**;
- ❑ The Council **should establish cooperation** with the Ombudsmen in the republic, province and municipality

5

CONCLUDING

Remarks

It is obvious that this Guidebook **cannot conclude with providing strict recommendations and construction of a standard model** which would resolve the problems related to the establishment, competencies, and selection of the members of the Councils for Interethnic Relations. The construction of such a model is hindered for two reasons:

The first relates to the aforementioned contradictions in Article 63 of the Law on Local Self-Government.

The second stems from the real needs of a democratic society to uphold the principle of autonomy of local self-government units.

In this regard, the process of transferring the competencies to the local self-governments to administer autonomously should be continued according to the Law on Local Self-Government, but also in accordance with the specific circumstances and needs of citizens.

The citizens and authorities in multiethnic municipalities should recognise the need to establish these bodies, and they should do so in accordance with the existing Law. The composition and work of these bodies should be developed based on the specific circumstances.

In this regard, the Guidebook is intended to be useful and practical. It offers **a summary of the existing experiences** related to the work of these bodies in the municipalities, and, accordingly, **suggests possible solutions** for solving dilemmas.

Annex 1

ETHNIC STRUCTURE OF SERBIA

According to the results of the population census conducted in Spring 2002 in Serbia, 82.9% of persons declared themselves to belong to the Serbian population, 0.92% of citizens claimed to belong to the Montenegrin ethnic background, and 2.03% of the population were undetermined regarding their national or regional background. There are numerous ethnic minority communities, i.e. national minorities, in Serbia, among which the largest minorities are Hungarians, with 293,299 members (3.9%), Bosniaks with 136, 087 members (2.1%), and Roma with 108,193 members (1.4%).

Ethnic structure of the population of Serbia according to the 2002 census (without Kosovo and Metohija)

ETHNICITY	SERBIA	CENTRAL SERBIA	VOJVODINA
TOTAL	7 498 001	5 466 009	2 031 992
Serbs	6 212 838	4 891 031	1 321 807
Montenegrins	69 049	33 536	35 513
Yugoslavs	80 721	30 840	49 881

ETHNICITY	SERBIA	CENTRAL SERBIA	VOJVODINA
Albanians	61 647	59 952	1 695
Bosniaks	136 087	135 670	417
Bulgarians	20 497	18 839	1 658
Bunjevs	20 012	246	19 766
Vlachs	40 054	39 953	101
Goranci	4 581	3 975	606
Hungarians	293 299	3 092	290 207
Macedonians	25 847	14 062	11 785
Muslims	19 503	15 869	3 634
Germans	3 901	747	3 154
Roma	108 193	79 136	29 057
Romanians	34 576	4 157	30 419
Russians	2 588	1 648	940
Ruthenians	15 905	279	15 626
Slovaks	59 021	2 384	56 637
Slovenians	5 104	3 099	2 005
Ukrainians	5 354	719	4 635
Croats	70 602	14 056	56 546
Czechs	2 211	563	1 648
Others	11 711	6 400	5 311
Undetermined	107 732	52 716	55 016
Regional belonging	11 485	1 331	10 154
Unknown	75 483	51 709	23 774

Source: Communication No 295, Republic Statistical office, Belgrade, 2003

CENTRAL SERBIA

In central Serbia, Serbs have an absolute majority in 109 municipalities, Bosniaks – in 3 municipalities (Tutin – 94.2%, Novi Pazar – 78.2%, and Sjenica – 75.5%), Albanians – in 2 municipalities (Preševo – 89.1%, and Bujanovac – 54.7%), and Bulgarians have an absolute majority in 1 municipality (Bosilegrad – 70.9%) and a relative majority of the population in 1 municipality (Dimitrovgrad – 49.7%). As for other ethnic communities, some are widely dispersed, i.e. Roma, while others are concentrated in certain regions, i.e. Vlachs in north-eastern Serbia.

Among Serbian minority ethno-cultural groups, the following national communities, or national minorities, are the largest: Albanians, Bosniaks, Bulgarians, Roma, and Vlachs.

The table below shows the overall and percentage share of the minority communities' population, i.e. national minorities, vis-a-vis the population of multiethnic communities in Serbia.

Minority communities' population in the municipalities of central Serbia

MUNICIPALITY	TOTAL POPULATION	MINORITY COMMUNITY	NUMBER OF MEMBERS OF THE MINORITY COMMUNITY	%	MINORITY COMMUNITY	NUMBER OF MEMBERS OF THE MINORITY COMMUNITY	%
Mačva District							
Koceljeva	15,636	Roma	826	5.28			
Braničevo District							
Golubac	9 913	Vlachs	870	8.78			
Žagubica	14 823	Vlachs	3 268	22.05			
Kučevo	18 808	Vlachs	5 204	27.67			
Petrovac	34 511	Vlachs	3 535	10.24			

MUNICIPALITY	TOTAL POPULATION	MINORITY COMMUNITY	NUMBER OF MEMBERS OF THE MINORITY COMMUNITY	%	MINORITY COMMUNITY	NUMBER OF MEMBERS OF THE MINORITY COMMUNITY	%
Bor District							
Bor	55 817	Vlachs	10 064	18.03	Roma	1 259	2.26
Majdanpek	23 703	Vlachs	2 817	11.88			
Negotin	43 418	Vlachs	3 000	6.91			
Zaječar District							
Boljevac	15 849	Vlachs	4 162	26.26	Roma	229	1.44
Zlatibor District							
Nova Varoš	19 982	Bosniaks	1 028	5.14	Muslims	502	2.51
Priboj	30 377	Bosniaks	5 567	18.33	Muslims	1 427	4.70
		Montenegrins	432	1.42			
Prijepolje	41 188	Bosniaks	13 109	31.83	Muslims	3 812	9.26
Sjenica	27 970	Bosniaks	20 512	73.34	Muslims	659	2.36
Raška District							
Novi Pazar	85 996	Bosniaks	65 593	76.27	Muslims	1 599	1.86
Tutin	30 054	Bosniaks	28 319	94.23			
Nišava District							
Doljevac	19 561	Roma	1 049	5.36			
Toplice District							
Žitorađa	18 207	Roma	1 142	6.27			
Piot District							
Babušnica	15 734	Bulgarians	1 017	6.46			
Bela Palanka	14 381	Roma	1 228	8.54			
Dimirtovgrad	11 748	Bulgarians	5 836	49.68	Yugoslavs	472	4.02
Jablanica District							
Bojnik	13 118	Roma	1 363	10.39			
Medveda	10 760	Albanians	2 816	26.17	Roma	108	1.00
		Montenegrins	372	3.46			
Pčinj District							
Bosilegrad	9 931	Bulgarians	7 037	70.86	Yugoslavs	288	2.90

MUNICIPALITY	TOTAL POPULATION	MINORITY COMMUNITY	NUMBER OF MEMBERS OF THE MINORITY COMMUNITY	%	MINORITY COMMUNITY	NUMBER OF MEMBERS OF THE MINORITY COMMUNITY	%
Bujanovac	43 302	Albanians	23 681	54.69	Roma	3 867	8.93
Vranje	87 288	Roma	4 647	5.32			
Preševo	34 904	Albanians	31 098	89.10			
Surdulica	22 190	Roma	2 119	9.55			

Source: Centre for Ethnicity Research, Research: Administration in Multiethnic Communities, 2004 – 2005.

VOJVODINA

Representatives of national minority communities constitute a considerable part of the ethnic structure of Vojvodina where the Serbian national community is nonetheless the largest. Members of the Hungarian national minority make up 14.3% of the Vojvodina's population, and predominantly inhabit the northern districts of Vojvodina – Severna Bačka and Severni Banat – where they have an absolute majority of the population in six municipalities: Kanjiža – 86.5%, Senta – 80.5%, Ada – 76.6%, Bačka Topola – 58.9%, Mali Idoš – 55.9%, and Čoka – 51.6%. The relative majority of the population is located in the municipalities of Bečež – 48.8% and Subotica – 38.5%.

Members of the Croatian national community make up 2.78% of the Vojvodina's population, Slovaks – 2.79%, Romanians – 1.5%, Roma – 1.43%, Bunjevs – 0.97%, Ruthenians – 0.77%, Macedonians – 0.58%, Ukrainians – 0.23, Muslims – 0.18%, Germans – 0.16%, Slovenians – 0.1, Albanians, Bulgarians, and Czechs – 0.08% each, Russians – 0.05%, Gorans – 0.03%, Bosniaks – 0.02%, and Vlachs – 0.01%. Apart from these national

communities, there are 2.45% of citizens in Vojvodina who declare themselves to belong to the Yugoslavs community. In certain local communities their number is significant, especially in Subotica where they amount to 8,562 or 5.77% of the population, Bačka Topola – 831 or 2.17%, Sombor – 5,098 or 5.24%, and Pančevo – 2,992 or 2.35%. In other 19 municipalities the Yugoslavs constitute between 1 and 2% of the population, and, thus, have certain impact on the composition of the Councils for Interethnic Relations.

With the exception of the Hungarian national community, no other national minority community constitutes an absolute majority of the population in any municipality of Vojvodina. However, the majority of municipalities in Vojvodina are multi-ethnic, where minority members make up a significant part of the population.

The table below shows the national structure of national minority communities in the municipalities of Vojvodina.

Population of minority communities in the municipalities of Vojvodina

MUNICIPALITY	TOTAL POPULATION	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%
Northern Bačka District							
Bačka Topola	38 245	Hungarians	22 543	58.9	Yugoslavs	831	2.17
		Croats	454	1.19	Montenegrins	547	1.43
Mali Idoš	13 494	Hungarians	7 546	55.9	Montenegrins	2 812	20.84
		Roma	138	1.02			
Subotica	148 401	Hungarians	57 092	38.4	Croats	16 688	11.25
		Bunjevs	16 254	10.9	Yugoslavs	8 562	5.77
		Montenegrins	1 860	1.25			

MUNICIPALITY	TOTAL POPULATION	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%
Central Banat District							
Žitište	20 399	Hungarians	4 017	19.69	Romanians	1 837	9.01
		Roma	765	3.75	Yugoslavs	266	1.30
Zrenjanin	132 051	Hungarians	14 211	10.76	Romanians	2 511	1.90
		Roma	2 471	1.87	Yugoslavs	2 559	1.94
		Slovaks	2 403	1.82			
Nova Crnja	12 705	Hungarians	2 369	18.65	Roma	869	6.84
Novi Bečej	26 924	Hungarians	5 177	19.23	Yugoslavs	567	2.11
		Roma	968	3.60			
Sečanj	16 377	Hungarians	2 068	12.63	Yugoslavs	266	1.62
		Romanians	642	3.92	Roma	609	3.72
Northern Banat District							
Ada	18 994	Hungarians	14 558	76.65	Yugoslavs	275	1.45
		Roma	277	1.46			
Kanjiza	27 510	Hungarians	23 802	86.52	Roma	530	1.93
Kikinda	67 002	Hungarians	8 607	12.85	Yugoslavs	1 670	2.49
		Roma	1 564	2.33			
Novi Kneževac	12 975	Hungarians	3 864	29.78	Yugoslavs	207	1.60
		Roma	655	5.05			
Senta	25 568	Hungarians	20 587	80.52	Yugoslavs	392	1.53
		Roma	581	2.27			
Čoka	13 832	Hungarians	7 133	51.57	Yugoslavs	228	1.65
		Roma	337	2.44	Slovaks	201	1.45
Southern Banat District							
Alibunar	22 954	Romanians	6 076	26.47	Slovaks	1 195	5.21
		Roma	657	2.86	Hungarians	309	1.35
Bela Crkva	20 367	Romanians	1 101	5.41	Czechs	814	4.00
		Roma	619	3.04	Yugoslavs	283	1.39
		Hungarians	459	2.25			

MUNICIPALITY	TOTAL POPULATION	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%
Vršac	54 369	Romanians	5 913	10.88	Yugoslavs	1 019	1.87
		Hungarians	2 619	4.82	Roma	1 186	2.18
Kovačica	27 890	Slovaks	11 455	41.07	Yugoslavs	349	1.25
		Hungarians	2 935	10.52	Romanians	1 950	6.99
Kovin	36 802	Hungarians	3 408	9.26	Romanians	1 363	3.70
		Roma	1 143	3.11			
Pančevo	127 162	Hungarians	4 037	3.17	Macedonians	5 276	4.15
		Romanians	4 065	3.20	Slovaks	1 578	1.24
		Roma	1 392	1.09	Yugoslavs	2 992	2.35
Plandište	13 377	Hungarians	1 619	12.10	Macedonians	1 297	9.70
		Romanians	965	7.21	Yugoslavs	300	2.24
		Slovaks	725	5.42	Roma	269	2.01
Western Bačka District							
Apatin	32 813	Hungarians	3 785	11.54	Croats	3 766	11.48
		Romanians	1 191	3.63	Yugoslavs	727	2.22
		Roma	524	1.60			
Kula	48 353	Montenegrins	7 902	16.34	Ruthenians	5 389	11.19
		Hungarians	4 082	8.46	Ukrainians	1 453	3.01
		Croats	806	1.67	Yugoslavs	740	1.53
Odžaci	35 582	Hungarians	1 572	4.42	Slovaks	1 002	2.82
		Roma	839	2.36			
Sombor	97 263	Hungarians	12 386	12.73	Yugoslavs	5 098	5.24
		Croats	8 106	8.33	Bunjevs	2 730	2.81
Southern Bačka District							
Bač	16 268	Slovaks	3 213	19.57	Croats	1 389	8.54
		Hungarians	992	6.10	Yugoslavs	805	4.95
		Romanians	570	3.50	Muslims	216	1.33
		Roma	318	1.95			
Bačka Palanka	60 966	Slovaks	5 837	9.57	Hungarians	1 490	2.44

MUNICIPALITY	TOTAL POPULATION	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%
		Croats	982	1.61	Yugoslavs	1 041	1.71
		Roma	841	1.38			
Bački Petrovac	14 681	Slovaks	9 751	66.42	Yugoslavs	293	2.00
Beočin	16 086	Roma	1 048	6.51	Slovaks	959	5.96
		Croats	757	4.71	Yugoslavs	861	5.35
		Hungarians	288	1.79			
Bečej	40 987	Hungarians	20 018	48.84	Yugoslavs	1 070	2.61
		Roma	479	1.17	Croats	437	1.07
Vrbas	45 852	Montenegrins	11 371	24.80	Ruthenians	3 765	8.21
		Hungarians	2 885	6.29	Ukrainians	975	2.13
		Croats	659	1.44	Yugoslavs	675	1.47
Žabalj	27 513	Ruthenians	1 407	5.11	Roma	768	2.79
		Hungarians	305	1.11			
Novi Sad	299 294	Hungarians	15 687	5.24	Yugoslavs	9 514	3.18
		Slovaks	7 230	2.42	Croats	6 263	2.09
		Montenegrins	5 040	1.68			
Srbobran	17 855	Hungarians	3 920	21.95	Yugoslavs	462	2.59
		Roma	361	2.02			
Sremski Karlovci	8 839	Croats	753	8.52	Yugoslavs	254	2.87
		Hungarians	215	2.43	Montenegrins	89	1.01
Temerin	28 257	Hungarians	8 341	29.50	Yugoslavs	407	1.44
Titel	17 050	Hungarians	902	5.29	Yugoslavs	318	1.87
		Roma	229	1.34			
Srem District							
Indija	49 609	Hungarians	962	1.94	Yugoslavs	969	1.95
		Croats	1 904	3.84			
Irig	12 329	Hungarians	816	6.62	Yugoslavs	295	2.39
		Croats	289	2.34			
Stara Pazova	67 576	Slovaks	5 992	8.87	Yugoslavs	754	1.12

MUNICIPALITY	TOTAL POPULATION	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%	MINORITY COMMUNITY	NUMBER OF MEMBERS OF MINORITY COMMUNITY	%
		Croats	1 615	2.39	Roma	1 085	1.61
Šid	38 973	Slovaks	2 521	6.47	Croats	2 086	5.35
		Ruthenians	1 318	3.38	Yugoslavs	739	1.90

Source: Centre for Ethnicity Research, Research: Administration in Multiethnic Communities, 2004 – 2005.

Annex 2

PROTECTION OF RIGHTS OF NATIONAL MINORITIES

Many of the issues observed in the practice of municipal Councils for Interethnic Relations point to the fact that the competences and functions of these bodies are mainly related to the rights of national minorities. Moreover, these bodies are formed in the multiethnic municipalities where the realisation of national minorities' rights, the rights guaranteed by the international standards and national legislation for the protection of minorities, should be implemented and controlled. The work of Council members in the future will also be mostly related to the revision of municipal assemblies' decisions regarding the realisation of rights of national minorities.

INTERNATIONAL STANDARDS FOR THE PROTECTION OF RIGHTS OF NATIONAL MINORITIES

During the last decade, the standards for the protection of national minorities' rights have been improved in Europe. Some authors believe that a particular European law for the protection of minorities' rights has been developed, and that the European international institutions – the Council of Europe and the Organisation for Security and Cooperation in Europe – exerted a significant influence over the development of political and legal awareness about the promotion of rights and the status of ethno-cultural minorities. The Council of Europe started this process back in 1950, by adopting the Convention for the Protection of Human Rights and Fundamental Freedoms, and continued it by having adopted the European Charter for Regional or Minority Languages (1992), and, three years later, by having ratified the Framework Convention for the Protection of National Minorities, so far the only multilateral instrument for the protection of national minorities' rights in Europe.

The European Charter for Regional or Minority Languages

The European Charter for Regional or Minority Languages was the first instrument adopted under the auspices of the Council of Europe to protect and preserve the identity of ethno-cultural minorities. It was initiated in the early 1990s by the former

Standing Conference and currently the Congress of Local and Regional Authorities of Europe.¹⁴

The aim of the Charter is to contribute to the preservation of the language wealth of Europe as a part of its cultural heritage. Therefore, the signatory countries are obliged to undertake measures contributing to the preservation and development of regional and minority languages in various aspects of private and public life. Regional languages are considered to be the languages spoken in a limited part of the territory of a state, while minority languages are the languages spoken by the persons who are not concentrated on a specific part of the territory of a state, or spoken by a group of persons, which, although concentrated on part of the territory of the state, is numerically smaller than the number of people speaking the majority language of this state.

The purpose of the Charter is rooted in the fact that in each European country, parts of the population are speaking the languages which differ from the official language. These languages are most often spoken by the members of the most numerous language (ethnic) group, and insufficient attention is paid to these minority languages. Moreover, some languages are dispersed over the territories of several countries and, therefore, the language which is official in one country, becomes a minority language in another neighbouring country. Furthermore, there are many dialects within one language, which, regarding the riches of diversity, should have equal preservation conditions.

Serbia, i.e. the State Union of Serbia and Montenegro, signed the European Charter for Regional or Minority Languages in 2005. Recently, it adopted the proposal of measures and

14 The Charter entered into force on March 1, 1998, three months after it had been ratified by five European member countries. So far, 17 countries have ratified the Charter: Armenia, Austria, Croatia, Cyprus, Denmark, Finland, Germany, Hungary, Liechtenstein, Netherlands, Norway, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom.

mechanisms for the protection of certain minority languages at the State Union Assembly. The documents related to the ratification of the Charter were submitted by the Ministry of Human and Minority Rights to the State Union Parliament after consultations with the relevant ministries in the Member States. These documents demonstrate that in relation to the Charter, the administrative bodies in Serbia have decided to consider the following languages as regional and minority languages: Albanian, Bosnian, Bulgarian, Hungarian, Roma, Romanian, Ruthenian, Slovak, Ukrainian and Croatian. In practice, it will mean that these languages must be represented in the public life of municipalities where the representatives of minorities constitute 15% of the population. The minorities will be able to realise these rights according to Article 8 of the Law on the Protection of Rights and Freedoms of National Minorities, and Article 57 of the Charter on Human and Minority Rights and Civil Liberties, which guarantee the realisation of the acquired rights. Apart from the official use of language, local communities will ensure protection of all other rights related to the use of languages of national minorities in education, provision of information, in local and other elections.

The Framework Convention for the Protection of National Minorities

The Framework Convention for the Protection of National Minorities sets out the principles and the minimum requirements for the protection of national minorities' rights, which a State should ensure for the members of national minorities while building its future within European integration trends. Therefore, the provisions of the Framework Convention are not binding for the signatory countries which have the discretionary right to establish the modalities of the implementation of its objectives.

The Framework Convention establishes the principles for the protection of the minorities' rights compatible with the principles of European democracies. At the same time, it respects the specific circumstances in various European regions and countries and recognises the fact that within Southeast Europe there are states which perceive the relationship between an ethnic majority and a minority differently.

The Convention does not guarantee concrete rights to the members of national minorities, however, it sets out the desirable activities and measures that countries should undertake in order to create conditions for the protection and promotion of the minority rights. The states accept these obligations believing that "the protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights..." (Article 1 of the Framework Convention for the Protection of National Minorities), as well as that the protection of minorities is realised "within the rule of law, respecting the territorial integrity and national sovereignty of states" (Preamble of the Framework Convention for the Protection of National Minorities).

The latter statement, although generalised, is especially important from the states' point of view, since it defines the responsibilities of minorities in their relationships with the state and state institutions. Thus, Article 20 of the Framework Convention requires minorities to respect national legislation and the rights of others, especially when minority members represent the majority on a specific part of the territory of a country.

Other characteristics of the Framework Convention include an open approach to the definition of national minority and the attitude to collective rights. Although there are many definitions of the term "national minority," the Framework Convention does not use any of them, but leaves it up to the members of minorities to choose whether they wish to be treated as such

(Article 3). This means that the subjective choice of an individual is related to the objective criteria relevant to his/her identity. The Framework Convention does not mention collective rights, however, it opens the possibility for certain rights to be exercised jointly and in a group by stating that the minority members may exercise their rights individually or "in community with others."

The Framework Convention recommends that the states shall:

- ❑ Refrain from policies aimed at forcible assimilation of national minorities and promote the conditions to maintain and develop the culture and identity of national minorities (Article 5 of the Framework Convention).
- ❑ Create the conditions to facilitate access to the media for persons belonging to national minorities; ensure the conditions to use their mother tongue in private and public life; promote equal opportunities for access to education in the minority languages at all levels; and, create the conditions necessary for the efficient participation in economic, social and cultural life and in public affairs (Article 10-15).
- ❑ Refrain from taking measures aimed at changing the proportion of the population in the areas inhabited by persons belonging to national minorities (Article 16). This particularly refers to the cases of reshaping the existing units of local self-government or state administration; thus restricting the existing or gained rights of national minorities.
- ❑ Enable the members of national minorities, without interference of the state, to establish and maintain free and peaceful contacts with their mother countries, and conclude bilateral and multilateral agreements aimed at promoting minority rights, as well as trans-border cooperation (Articles 17 and 18).

Implementation of national minorities' rights defined in the Framework Convention is monitored by the Committee of Ministers, established by the Advisory Committee and comprised of respectable experts in the field of protection of national minorities. The Advisory Committee, as an independent expert body, monitors the implementation and realisation of the national minorities' rights in the signatory countries through the reports submitted by the states and nongovernmental organisations (*shadow report*), by obtaining the opinions, additional explanations, and plans regarding these issues, and conducting field visits to examine the situation on the ground. The state reports contain the information on the measures undertaken to realise and uphold the principles of the Framework Convention, as well as the information on the concrete activities conducted in accordance with the relevant laws and policies. Special attention in this process is given to national nongovernmental organisations which submit the "shadow reports" to the Advisory Committee. The reports are then reviewed and compared in an objective, precise and comprehensive manner. Based on the analysis of the information provided by the state, and information obtained from independent sources, the Advisory Committee defines its position and forwards it to the Committee of Ministers.

Until now, the Framework Convention has been signed by forty-one states and ratified by thirty-seven states.

The State Union of Serbia and Montenegro submitted its first report on the implementation of the Framework Convention for the Protection of National Minorities on October 16, 2003, and the Advisory Committee adopted its stance on the report at its 18th meeting held on November 27, 2003.¹⁵ The opinion of the Advisory Committee was positive, primarily due to the fact that Serbia had adopted the Law on the Protection of Rights and Freedoms of National Minorities and the Convention for the Protection of Human Rights and Fundamental Freedoms.

15 ACFC/OP/I(2003)008.

However, it was submitted by the Advisory Committee along with a range of serious recommendations that should be fulfilled in order to realise the stated rights.

According to the Law on the Protection of Rights and Freedoms of National Minorities, the Charter on Human and Minority Rights and Civil Liberties, and particularly Article 28 of the Law on Local Self-Government, local self-government units in Serbia are obliged to ensure the conditions for the realisation of national minorities' rights as specified in the Framework Convention. As far as the work of the Councils for Interethnic Relations is concerned, members of these bodies should give their opinions regarding every decision of the municipal assembly related to the realisation of national minorities' rights and contribution to national equality and, in cases where the equality is jeopardized, undertake measures to protect these rights.

Bilateral Agreements on the Protection of Rights of National Minorities

Bilateral agreements on the protection of national minorities' rights are the instruments which states mutually use to regulate the specific issues related to the rights and the status of national minorities. Up till now, the following countries in Central and South-Eastern Europe have concluded these agreements: Hungary – with all its neighbouring countries; Romania – with Hungary; Ukraine and Serbia and Montenegro; Slovenia – with Croatia; Hungary and Italy; Croatia – with Slovenia; Hungary, Italy and Serbia and Montenegro; and, Poland – with Lithuania and Russia.

Serbia, i.e. the State Union of Serbia and Montenegro, apart from the aforementioned agreements with Romania, Hungary and Croatia, has also reached an agreement with Macedonia on mutual protection of national minorities.

Recommendations of the OSCE High Commissioner on National Minorities

Since the adoption of the Final Act at Helsinki meeting (1975), the Organisation for Security and Cooperation in Europe has been paying attention to the protection of rights of national minorities. Although the issue of national minorities was not discussed with equal attention at the OSCE's meetings, and the impact of the organisation was not directly related to this issue, except in the cases when interethnic tensions threatened to jeopardise peace in Europe, the OSCE missions, institutions and documents have undoubtedly contributed to the standardisation of rights of national minorities.

Consequently, upon the adoption of Helsinki Decisions in July 1992, the OSCE established the office of High Commissioner on National Minorities. The institution of the High Commissioner is expected to play a preventive role in situations resulting in interethnic conflicts. Responsibilities of the High Commissioner, who is recruited among distinguished European diplomats and politicians, are to ensure a timely and "early warning" and, as appropriate, "early action" at the earliest possible stage aimed at preventing conflicts. In practice, it means that the High Commissioner and his/her Office in the Hague gathers and receives the information on the issues related to national minorities and assesses at an early stage the role of the parties directly involved in the conflict, and the history and nature of the conflict. He then recommends measures for resolving such situations, which also include enhancement of the dialogue and promotion of trust and cooperation between the parties to the conflict.

In its attempt to enhance the implementation of the rights of national minorities, the High Commissioner's Office has prepared recommendations related to the education rights (1996),

linguistic rights (1998) and effective participation in public life (1999). Although the recommendations do not have a binding character, their importance is significant for the implementation of the existing standards at the regional, national and local levels. Generally, members of national minorities realise these rights in a community with their compatriots, in places and regions they inhabit, and rarely in places where they are regionally dispersed.

- ❑ Attempting to ensure the realisation of minority education rights, the Hague Recommendations (1996) propose the following measures to be taken in local communities: The states should create conditions enabling institutions representing the members of national minorities to participate, in a meaningful way, in the development and implementation of policies and programmes related to minority education; The states should endow regional and local authorities with appropriate competencies concerning minority education thereby also facilitating the participation of minorities in the process of policy formulation at a regional and/or local level; Moreover, the states should adopt measures to encourage parental involvement and choice in the educational system at a local level, including in the field of minority language education (The Hague Recommendations Regarding the Education Rights of National Minorities, 1996).
- ❑ The Oslo Recommendations (1998) foresee the role of local and regional authorities in the process of realisation of the linguistic rights of national minorities: In areas inhabited by significant numbers of persons belonging to a national minority and when there is sufficient demand, public authorities shall make provision for the display, also in the minority language, of local names, street names and other topographical indications intended for the public; Furthermore, regional and/or local authorities and public

institutions shall, wherever possible, ensure that public services are provided also in the language of the national minority; In addition, members of national minorities shall have adequate possibilities to use their language in communications with administrative authorities especially in regions and localities where they have expressed a desire for it and where they are present in significant numbers; In regions and localities where persons belonging to a national minority are present in significant numbers, the State shall take measures to ensure that elected members of regional and local governmental bodies can use also the language of the national minority during activities relating to these bodies (The Oslo Recommendations Regarding the Linguistic Rights of National Minorities, 1998).

- In the Recommendations on the effective participation of national minorities in public life (1998), equal attention is paid to the participation of minorities in the exercise of power at the central, regional and local level. For that purpose, State and local authorities should undertake special measures to ensure guaranteed positions for the representatives of national minorities in representative and executive bodies. They should also adjust the electoral system in order to facilitate the representation and impact of national minorities.

The list of the aforementioned documents, which represent the most important instruments for the protection of rights of national minorities, does not exhaust the possibilities for improvement of conditions in this field. Regional initiatives and cooperation between the states, regions and local authorities adjust the applicable standards to concrete circumstances, thus aiming at the promotion of the status and preservation of identity of minority communities, and at overcoming hostilities, or acting preventively in situations related to ethnic tensions.

CONSTITUTIONAL AND LEGAL POSITION OF NATIONAL MINORITIES IN SERBIA

The basis for the constitutional and legal protection of national minorities' rights in Serbia is acknowledged by:

- ❑ The Constitutional Charter of the State Union of Serbia and Montenegro;
- ❑ The Charter on Human and Minority Rights and Civil Liberties;
- ❑ The Constitution of Serbia;
- ❑ The Law on the Protection of Rights and Freedoms of National Minorities; and,
- ❑ The Law on Local Self-Government.

The Constitutional Charter of the State Union of Serbia and Montenegro

In general, the Constitutional Charter regulates the constitutional guarantees for the protection of national minorities' rights. Article 9 emphasises the obligation of the member states of Serbia and Montenegro to "regulate, ensure and protect human and minority rights and civil freedoms in their respective territory." As well, it stipulates that "the attained level of human and minority rights, individual and collective and civil freedoms may not be lowered."

The following section of the same article regulates the range of competences of the State Union of Serbia and Montenegro

with regard to the realisation of human and minority rights and civil liberties by stating that "Serbia and Montenegro shall monitor the exercise of human and minority rights and civil freedoms and ensure their protection in the case when such protection has not been provided in the member states."

*The Charter on Human and Minority Rights
and Civil Liberties, The Constitution of Serbia,
and The Law on the Protection of Rights
and Freedoms of National Minorities*

Definition of the term "national minority" and constitutional and legal approach to the protection of rights of minorities.

The Charter on Human and Minority Rights and Civil Liberties regulates in more details the rights guaranteed to national minorities. However, it should be mentioned that the majority of rights acknowledged by this Charter are also acknowledged by *the Law on the Protection of Rights and Freedoms of National Minorities*. The correlation of these documents is obvious, and it appears that some constitutional definitions were taken from the text of the Law, although not mentioned directly in the Charter. The Law on the Protection of Rights and Freedoms of National Minorities regulates the protection of identities of minority communities regardless of their number, and adopts an open approach to defining a minority identity. In other words, the Law ensures that a different understanding of identity can be deduced for the term of national minority. According to the Law, " a national minority is any group of citizens of the Federal Republic (FR) of Yugoslavia which are numerically sufficiently represented, and, although they represent a minority on the territory of FR

Yugoslavia, they belong to a group of residents who have a long-term and solid bond with the territory of the FR Yugoslavia. They possess characteristics such as language, culture, national or ethnic affiliation, origin or confession, which differentiate them from the majority of the population, and their members are distinguished by their care for collective nurturing of the common identity, including their culture, traditions, language or religion. All groups of citizens defined as nations, national or ethnic communities, national or ethnic groups, and nationalities, which meet the criteria specified under Section 1 of this Article, shall be deemed national minorities for the purpose of this Law” (Law on Protection of Rights and Freedoms of National Minorities in FR Yugoslavia, Article 2, February 2002).¹⁶

As for the definition of national minority, the Constitution of Serbia is outdated in this regard, since it uses the term ”nationality” which is difficult to explain, and which should refer to national and ethnic minority communities.

Prohibition of discrimination and affirmative action measures

One of the rare issues which all the main documents on the protection of rights of national minorities agree on, is the prohibition of discrimination of citizens based on nationality, ethnicity, race, religion or linguistic characteristics.¹⁷

The Law on the Protection of Rights and Freedoms of National Minorities, and later the Small Charter, introduces the term of affirmative action or positive discrimination into our constitutional and legal practice. In contrast to the Constitution of

16 Official Gazette of FRY, No 11, February 27, 2002

17 See the Charter on Human and Minority Rights and Civil Liberties, Article 2; The Constitution of Serbia, Article 13; The Law on the Protection of Rights and Freedoms of National Minorities, Article 3.

Serbia, these documents acknowledge the measures of affirmative actions towards the groups with an unfavourable status, or towards those whose rights are permanently jeopardised. The intention of the legislator to ensure privileged conditions in order to overcome such status of minority groups finding themselves in an unfavourable position in relation to the majority nation, is included in Article 4 of the Law, entitled *Measures Ensuring Equality*.

Freedom of national affiliation and expression

The Law on the Protection of Rights and Freedoms of National Minorities, Article 5, Section 1 specifies that no one may suffer injustice due to his/her commitment or expression of national affiliation or refraining from doing so.

The Constitution of Serbia, Article 49, specifies that "the citizen is guaranteed the freedom of expression of national affiliation and culture..." The Charter on Human and Minority Rights and Civil Liberties derives its legitimacy from this source and states that "the freedom to express ethnic affiliation shall be guaranteed. No one shall be bound to declare his/her ethnic affiliation" (Article 48).

Regarding the subject of the freedom of affiliation and expression of national identity, the Law on the Protection of Rights and Freedoms of National Minorities also provides for the prohibition of "registration of persons belonging to a national minority obliging them to declare their national affiliation against their will" (Article 5, Section 2), as well as the prohibition of "any action or measure of forced assimilation of persons belonging to a national minority" (Article 5, Section 3).

Interaction with compatriots at home and abroad

Article 6 of the Law on the Protection of Rights and Freedoms of National Minorities guarantees the right "to freely

establish and maintain peaceful relations” within the State Union of Serbia and Montenegro and outside of its borders with their compatriots. The basic source of this provision is Article 17 of the Framework Convention for the Protection of Rights of National Minorities, wherefrom it was taken.

Duties of national minorities

The Law on the Protection of Rights and Freedoms of National Minorities defines the duties of national minorities with regard to respecting the constitutional order, the principles of international law and public moral, which, in practice, should imply all actions directed at violent subversion of the constitutional order, violation of territorial integrity of the country, violation of guaranteed freedoms and rights of men and citizens, and instigation of national, racial and religious intolerance and hatred (Article 7).

Acquired rights

Article 8 of the Law on the Protection of Rights and Freedoms of National Minorities introduces the mechanism for the protection of acquired rights into our constitutional and legal practice, according to which the acquired rights of the members of national minorities cannot be abolished, pursuant to international conventions to which a state is a signatory, as well as to the existing internal regulations.

The Charter on Human and Minority Rights and Civil Liberties confirms this position with a similar statement, strengthened by the first paragraph of Article 57 which stipulates that “the achieved level of human and minority rights, individual and collective, may not be reduced.”

Collective rights

The section of the Law on the Protection of Rights and Freedoms of National Minorities, called "*The Right to Preserve the Identity*," contains the rights which were mainly included in the former constitutional and legal solutions, but now were altered with regard to the issue of equality. In spite of the fact that the rights regulating the protection of identity of national minorities are related to an individual, the Section undoubtedly refers to the rights related to minority communities. Therefore, it is necessary to mention that the attitude towards collective rights is determined at the beginning of the Law on the Protection of Rights and Freedoms of National Minorities, in Article 1. The Article expresses the basic objectives and ideas by stating that "this Law shall govern the manner of exercising individual and collective rights of national minorities set forth in the Constitution of the Federal Republic of Yugoslavia and guaranteed by international treaties." Further on, Paragraph 2 of the Article states that "this Law shall establish instruments to ensure and protect particular rights of national minorities with respect to self-government, language, information and culture..."

The Charter on Human and Minority Rights and Civil Liberties, Article 47, specifies that "members of national minorities shall have individual and collective rights that are exercised individually or together with others, in conformity with the law and up to the international standards." Collective rights imply that "members of national minorities may take part, directly or through their elected representatives, in the decision-making process or decide on issues related to their culture, education, information and the use of language and alphabet, in accordance with the law."

The practice has introduced two categories unknown to our legal system so far— collective rights of national minorities and

the right to self-government. The collective rights exercised by national minorities in the sphere of cultural autonomy are not a privilege, since they had already been exercised by the majority members. These are the universal rights that should be guaranteed and equally available to everyone.

Cultural autonomy

The right to cultural autonomy is set forth by Articles 9 to 17 of the Law on the Protection of Rights and Freedoms of National Minorities. These rights are related to the protection of ethno-cultural characteristics of the members of national minorities and the affirmation of their language and cultural rights.

The Charter on Human and Minority Rights and Civil Liberties clearly specifies that *”the right to the preservation of identity”* implies that the members of national minorities have the rights to: express and publicly manifest their national and ethnic, cultural and religious identity; use freely their language and alphabet; have proceedings conducted by the authorities in the language of the minority population having a considerable minority population; receive education in their language in state institutions; use their own name and surname in their own language; and, be fully and impartially informed in their own language, including the right to express, receive, send and exchange information and ideas.

In the Law on the Protection of Rights and Freedoms of National Minorities, cultural autonomy is based on the right of members of national minorities to freely choose and use their personal names and the names of their children, and to enlist personal names in all public documents, official records and personal databases in the language and alphabet of the person belonging to the national minority (Article 9).

The official use of language and alphabet

The Law on the Protection of Rights and Freedoms of National Minorities foresees that the members of national minorities may freely use their language and alphabet in both private and official use. Article 11 of the Law specifies that the language and alphabet of national minorities may be in equal official use within their respective territories of the local self-government units inhabited by persons belonging to national minorities. The following paragraph of the Article obliges local self-government units to equally introduce the official use of the language and alphabet of a national minority, where there are more than 15% of minority population, and to ensure an equal use of the language of national minority in the official use – in administrative and court proceedings, in communication between administrative bodies and residents, when issuing public documents, in the ballots and printed materials used for voting, and in the work of representative bodies.

The same article sets forth the way of displaying signs in the languages of minorities, using the former Constitution of FR Yugoslavia where official languages in the federal administration were the languages of national minorities accounting for, at least, 2% of the total population of the country in accordance with the previous census. According to the law, this should be applied in the future as well.

With regard to acquired rights and prominent de-population trend among the traditional minorities in Vojvodina, it foresees that in the local self-government units where a language of a national minority was in official use at the moment of issuance of this Law, although the national minority did not account for 15% of the population, this language should remain in official use.

Preservation of ethno-cultural identity

The Law on the Protection of Rights and Freedoms of National Minorities, Article 12, stipulates that the expression, preservation, cherishing, developing, handing down and public demonstration of national, ethnic, cultural, religious and language particularities are an inalienable individual and collective right of national minorities. The realisation of this right is entrusted to the minority communities, which may establish separate associations, specialised institutions and foundations with the aim to protect their ethno-cultural identities. The state may participate in financing these associations in accordance with its capacities, and ensure the preservation and protection of cultural and historic heritage of national minorities through the museums, public records, and institutions founded to protect cultural monuments. The influence of minorities on the presentation of their culture and traditions is ensured by the participation of representative of National Minority Councils in deciding the manner of preservation of national minorities.

Right to education in one's mother tongue

The right to education in the mother tongue of the members of any community falls into the category of rights which undoubtedly belong to minority communities. The individual right of a citizen to education is only a basis for the collective right resulting from the will of the citizen to be educated in his/her mother tongue. The mentioned Article 52 of the Charter on Human and Minority Rights and Civil Liberties specifies that the members of national minorities have the right to education in their own language in state institutions, as well as to founding private educational institutions at all levels.

The Constitution of Serbia provides the members of nationalities with an unalienable right to education in the mother tongue to.¹⁸

The Law on the Protection of Rights and Freedoms of National Minorities, Article 13, specifies that "the persons belonging to national minorities shall have the right to education in their own language in the institutions of pre-school, elementary and high school education," as well as that the state is obliged to create the conditions for organising education in the language of national minorities, or to provide bilingual classes or studying of national minorities languages with elements of national history and culture.

The next Paragraph of the Article points to the issue of positive discrimination (Article 4 of the same Law), stating that the number of pupils to be educated in their mother tongue "may be less than the minimum number of pupils prescribed by the law with respect to ensuring the appropriate forms of tuition and education."

Apart from mandatory elementary education, tuition in the languages of national minorities is organised at the high school and university levels. According to the Law, these kinds of educational institutions may be founded by the organisations of national minorities and individuals. Local and foreign organisations, foundations and individuals may participate in financing of these institutions, while the state is obliged to provide certain relief and exemption from levies.¹⁹

To meet the requirements for educating in the languages of national minorities, teachers and instructors should receive education at the relevant colleges. Some faculties, which are part of the university education provided by the state, organise instructorship

18 The Constitution of Serbia, Article 32.

19 The Law on the Protection of Rights and Freedoms of National Minorities, Article 15.

in the languages of national minorities, where students belonging to national minorities may learn the professional terminology in their mother tongue.²⁰

The Law stipulates that the representatives of National Minority Councils, as the local self-government bodies, may participate in the creation of curricula for all levels and forms of tuition of national minorities. As well, the diplomas obtained abroad, in the mother countries of national minorities, should be recognised in accordance with the Law.

A step towards integrating the issue of multi-ethnicity was made by the legislator by prescribing the mandatory studying of the Serbian language for the members of national minorities. In addition, the last paragraph of Article 13 established a desirable model of education in a multiethnic and multicultural society by stating the following: "The curricula in educational institutions and schools with tuition in the Serbian language should, aiming at promoting tolerance with respect to national minorities, contain the tuition that includes history, culture and position of the national minorities, and other contents that improve mutual tolerance and coexistence. In the territories where the language of national minorities is in official use, the curricula in schools should contain the possibility of studying in the language of the respective national minority."

Right to public information in the mother tongue

Article 17 of the Law stipulates that minorities are entitled to complete and impartial information in their own language, including the right of expression, receipt, sending and exchange of information and ideas via press and other mass media.

The Law stipulates that the members of national minorities have the right to establish and maintain media outlets in their

20 Ibid, Article 14.

own language, and it also foresees the obligation of the state to provide information, and cultural and educational components in public service programs, TV and radio in the language of national minorities.

The Constitution of Serbia does not deal in detail with the issue of information in the language of national minorities, however, its Article 46 guarantees the freedom of press and other forms of public information to the citizens.

The Charter on Human and Minority Rights and Civil Liberties recognises the right of national minorities to compete and impartial information in their mother tongue.

Use of national symbols

The Charter on Human and Minority Rights and Civil Liberties acknowledges the right of members of national minorities to use their symbols in public places.

The Constitution of Serbia does not prescribe the manner in which the symbols of national minorities can be used. However, the Law on the Protection of Rights and Freedoms of National Minorities recognises the right of the members of national minorities to choose and use national symbols and signs. The national symbols and signs should not be identical to the signs and symbols of another state, i.e. a mother country. The Law stipulates that the symbols and signs of national minorities may be officially displayed during public holidays and the holidays of national minorities on the buildings and in the premises of local bodies and organisations with administrative authority in the territory, where the language of the national minority is in official use. The symbols and signs of a national minority should be displayed together with the signs and symbols of the member state.

Effective participation of national minorities in government and public administration's decision-making process on the specific issues related to national minorities

The basis for an effective participation of national minorities in the decision-making process related to the protection of their particularities is the right to self-government, realised through the institutions of National Minority Councils.²¹ National Minority Councils are established with the purpose to exercise rights of self-government regarding the use of language and alphabet, education, information and culture, and, as such, participate in the process of decision-making, decide on the issues in the aforementioned fields, and establish relevant institutions.

The state bodies, territorial autonomy or local self-government units are obliged to request for an opinion of the Council when deciding on the mentioned issues. Moreover, part of the activities related to these issues may be entrusted to the National Minority Councils, and the state should provide the funds for the realisation of these activities.

Efficient participation of minorities in political life is realised in the local self-government units where minorities constitute a considerable part of the overall population. In these municipalities, minorities can nominate their candidates for the list of the candidates and vote for their representatives in municipal assemblies in accordance with the general rules set out for the selection of local councillors. Members of national minorities also indirectly participate in the political life of municipalities since the councillors selected from the lists of other political parties.

21 Article 19 of the Law on the Protection of Rights and Freedoms of National Minorities.

During the councillor elections in the Assembly of AP Vojvodina held in September 2004, affirmative action measures were taken with regard to the political parties of national minorities for the first time in Serbia. The elections were held according to a combined electoral system, with no requirement for political parties of national minorities to meet the number of votes required from other political parties. Thus, the number of necessary signatures on the electoral list was reduced from 6 000 to 3 000 for the political parties of national minorities. Electoral success, however, was achieved only by the members of Hungarian national minority whose political parties won six councillor seats from the proportional list, and five – from the majority list.

Rights of National Minorities in Local Self-Governments

The Law on Local Self-Government²² stipulates that the local self-government units, including their original competences, are responsible to "ensure the protection and realisation of personal and collective rights of national minorities and ethnic groups" (Article 18, Section 28), and to "determine the language and alphabet of national minorities in official use on the territory of the municipality" (Article 18, Section 29).

In practice, it means that the competences of local self-governments related to the rights of national minorities consist of establishing the institutions and organisations in the field of education, protection of cultural heritage, work of libraries, museums and other cultural institutions, providing public information, introducing the language and alphabet of national minorities into the public communication, etc.

22 *Official Gazette of RS*, No 9/2002, 33/2004

Such formulation of the original competences of municipalities thus implies that the local self-government units in Serbia have to ensure the realisation and protection of rights of national minorities guaranteed by the constitutional and legal system of the country. In practice, it means that the local self-governments should ensure the conditions for the protection of the rights, and for the preservation and promotion of identities of national minorities living on their territory. Although the basic law in this field, the Law on the Protection of Rights and Freedoms of National Minorities, foresees the protection of identities of minority communities by stating that the criterion regarding their number is not crucially important in the realisation of their rights, in practice, there are certain numerical criteria according to which the local self-governments are obliged to take actions related to their original competences.

The Law on the Protection of Rights and Freedoms of National Minorities states that the official use of a minority language is mandatory in a municipality where 15% of the population belongs to that national minority. The Law on Elementary Schooling also sets the conditions regarding the number of students who are entitled to education organised in the language of their national minority.

The right to the official use of language is one of the basic rights realised by national minorities with regard to the preservation of their identity. The problems related to the implementation of the rights of minorities to use their language officially are easy to notice, and, in general, they create tensions and disturbance in interethnic relations. The realisation of this right is entrusted to local self-government units as their original competence.

The official use of the language is specified by the Law on Official use of Languages and Alphabets of the Republic of Serbia. It states that "on the territories of the Republic of Serbia

inhabited by the members of national minorities, their native tongues and alphabets, in addition to the Serbian language, are in official use established by this Law.” In the Autonomous Province of Vojvodina, the Statute of the Province obliges the provincial bodies, in addition to the Serbian language, to ”ensure the official use of the Hungarian, Slovak, Romanian and Ruthenian languages and alphabets, and the alphabets of other national minorities, in accordance with the Law.”²³

Local self-governments have the right to regulate the use of minority languages by the statute in places where the minorities dominate in the structure of population. When the language of national minority is in official use, the text of this language is written below the text in Serbian, or to its right side, using fonts of the same shape and size in accordance with the provisions of the Constitution and the law.

Article 7 of the Law on Official Use of Languages and Alphabets stipulates that the geographical terms and personal names in public announcements cannot be replaced by other names, but must be written in the language of a national minority, in accordance with the orthography of that language.

Article 12 of the Law foresees that the first instance proceedings, administrative, criminal, litigious and other procedures, are to be carried out in the Serbian language. They can also be conducted in the minority language which is in official use. If the institution, which carries out the proceedings, is responsible for several nationally heterogeneous municipalities, the proceedings can be carried out in the mother tongue of the members of minorities which have permanent residence on the municipal territory.

In the regions where the languages of minorities are not in official use, the institutions responsible for conducting the

23 Statute of AP Vojvodina, Article 10, Section 4, Official Gazette of APV, No 17/1991

proceedings are obliged to allow the minority members to use their mother tongues and alphabets. They are also allowed to use their mother tongue for submitting petitions, appeals and proposals, and to receive court documentation in the same language.

In the municipalities where the minority languages are in official use, the certificates demonstrating education degree and other documents can be issued in their mother tongue upon request. In these municipalities, the registers are kept in the minority languages, and the forms are printed in both languages, Serbian and the minority language which is in official use (Article 18).

The Decision of the Assembly of the Autonomous Province of Vojvodina to regulate more precisely the issues related to the official use of languages and alphabets of national minorities on the territory of AP Vojvodina, adopted on May 15, 2003, is an important improvement in the normative and actual sense. The Decision determines more precisely certain issues related to the official use of languages and alphabets of national minorities on the territory of AP Vojvodina. These issues include the following: the method of realisation of equal official use of the languages and alphabets of national minorities in the work of provincial bodies, bodies and organisations of local self-government units, organisational units of state administrative bodies, public companies, institutions and services founded for the entire territory of the Republic of Serbia, with the seat on the territory of the Province; the right to chose and use the names and surnames of members of national minorities, as well as to issue public documents and other documents relevant for the realisation of citizens' rights established by the law; the use of the language in the field of economic and public services, and preparation of information signs with the names of towns, villages, and other geographical names, the names of squares and streets, administrative bodies, organisations and firms, public

announcements and warnings, and other public signs; the conditions for introducing equal use of languages and alphabets of national minorities in the local self-government units; submission of the reports to the Assembly of AP Vojvodina on the realisation of the right to officially use the languages and alphabets of national minorities, etc.

The Assembly of AP Vojvodina has reached the Decision on multilingual registry forms and the manner of completing them,²⁴ according to which the registry forms are printed in two languages, Serbian and the language of a national minority. The text in the language of a national minority is written in the form below the text in Serbian, and the registry certificates are issued in two languages.

Responsibilities of local self-governments related to the realisation of the right to officially use the languages of national minorities are also determined in Article 60, Paragraph 6 of the Law on the Election of Members of Parliament. It stipulates that "in the municipalities where the languages of national minorities are in official use, voting ballots are printed in these languages as well," and that it is the responsibility of electoral bodies to print reports on the work of electoral boards in minority languages in these municipalities. Finally, Article 100 of the Law foresees that the supervising council for the election campaigns is responsible for initiating the procedure before the relevant state bodies against those who called for violence and spreading of national and religious hatred during the election campaign.

It should be emphasised that the competencies of local self-governments mentioned earlier, are realised differently in various parts of Serbia. High standards have been reached in Vojvodina, where certain rights based on the demographics of minorities, are realised regardless of the fact that some minority

24 Official Gazette of AP Vojvodina, No 1/2001 and 8/2003

communities are demographically below the minimum standards established by the Law.

Languages and alphabets officially used in the local self-governments of AP Vojvodina in addition to the Serbian language and Cyrillic alphabet

1.	Ada	Hungarian
2.	Alibunar	Romanian and Slovak
3.	Apatin	Hungarian
4.	Bač	Hungarian and Slovak
5.	Bačka Palanka	Slovak
6.	Bačka Topola	Hungarian, Ruthenian and Slovak
7.	Bački Petrovac	Slovak
8.	Bela Crkva	Hungarian, Romanian and Czech
9.	Beočin	Slovak
10.	Bečej	Hungarian
11.	Vrbas	Hungarian and Ruthenian
12.	Vršac	Romanian and Hungarian
13.	Žabalj	Ruthenian
14.	Žitište	Hungarian, Romanian
15.	Zrenjanin	Hungarian, Romanian, Slovak
16.	Kanjiza	Hungarian
17.	Kikinda	Hungarian
18.	Kovačica	Slovak, Hungarian, Romanian
19.	Kula	Ruthenian, Hungarian

20.	Mali Idoš	Hungarian
21.	Nova Crnja	Hungarian
22.	Novi Bečej	Hungarian
23.	Novi Kneževac	Hungarian
24.	Novi Sad (grad)	Hungarian, Slovak, Romanian, Ruthenian
25.	Odžaci	Hungarian, Slovak
26.	Plandište	Hungarian, Slovak, Romanian
27.	Senta	Hungarian
28.	Sečanj	Hungarian, Romanian
29.	Sombor	Hungarian
30.	Srbobran	Hungarian
31.	Stara Pazova	Slovak
32.	Subotica	Hungarian, Croatian
33.	Temerin	Hungarian
34.	Titel	Hungarian
35.	Čoka	Hungarian
36.	Šid	Slovak, Ruthenian

There are serious problems related to the realisation of national minorities' rights in other regions of Serbia. In the municipalities of the Sandžak region territorially divided into two administrative districts, the realisation of such rights as the official use of language and alphabet, education, protection of cultural heritage, is happening very slowly, and with significant resistance from the majority of the population and their traditional institutions. This tension can be seen in the fact that the

municipalities of Novi Pazar, Tutin and Sjenica, where Bosniak political parties are in power, have reached decisions on the official use of the Bosnian language, while the municipalities of Prijepolje and Priboj did not. According to the Law on the Protection of Rights and Freedoms of National Minorities, the Law on the Official Use of Languages and Alphabets, and the Law on Local Self-Government, these two municipalities were expected to do so.

Regarding the realisation of the right to education in the national minorities' languages, local self-governments possess significant competences resulting from the Law on the Foundations of Educational System.²⁵ Apart from the general provisions such as an equal access to education for all citizens, development of the culture and traditions of national minorities, prohibition of discrimination against students on the basis of race, national and ethnic background, the right of national minorities to attend lectures fully or partially in their mother tongue, and the right of the National Minority Councils to propose a candidate for the National Education Board, there are also some specific competences and obligations of local self-government units related to the education in a local community. Local self-governments can establish pre-school, elementary school and high school institutions, and plan the number and territorial distribution of the institutions according to the Act on the networks of institutions. The Act on the networks of kinder-gartens and elementary schools is passed by the municipal assembly according to the criteria set forth by the government. The Ministry of Education and Sport of the Republic of Serbia gives its consent to the Act. Then, with the approval of the Ministry,

25 The Law was issued in the "Official Gazette of RS" No 62/2003 and 64/2003), and entered into force on May 25, 2003. The Law on Changes and Amendments to the Law on the Foundations of Educational System was issued in the "Official Gazette of RS", No 58/04 and 62/04 of May 28, 2004 and entered into force on June 5, 2004.

a local self-government unit can establish an educational institution to conduct its work in a separate department of its main headquarters.

As for the realisation of the right of national minorities to education in their mother tongue is concerned, the competence of local self-government units is important with respect to the appointment and dismissal of the educational institution's managing body, where one third of the members are proposed by the local self-government unit.

Finally, the local self-government unit is responsible for funding the activities of the institutions it has established.

AP Vojvodina has introduced a developed system of education in the languages of national minorities. In accordance with the regulations prescribed by the Law, the education is fully organised in the languages of national minorities, bilingually and also through a course called "Mother Tongue with the Elements of National Culture." In eight elementary schools, the classes are organised exclusively in Hungarian, in 5 schools – in Slovak, in 4 schools – in Romanian, and in one school – in Ruthenian. In another 92 elementary schools (27%) classes are conducted bilingually, and in 6 schools – in three languages – Serbian and the languages of national minorities.

High-school classes are organised in the languages of national minorities according to the Law on High School, and the Law on the Foundations of Educational System. This kind of classes are organised in the case if at least 15 students apply for them during their first year of high school. In AP Vojvodina, this right can be exercised even by a smaller number of students if the permission is given by the Province Secretariat for Education and Culture. In high schools of Vojvodina, classes are organised in the Hungarian, Slovak, Romanian and Ruthenian languages. Classes in the languages of national minorities are organised in 17 local self-government units, and in 39 high schools, out of

which 14 are gymnasiums, 24 – comprehensive schools, and one – an art school.

However, there are regions and local self-government units in Serbia where the measures of protection of collective rights of national minorities are not carried out. Reasons for this vary. In some municipalities the members of national minorities are not interested in enjoying the rights to which they are entitled. Without discussing any further the reasons and motives of the members of national minorities for not realising some of the collective rights, we can say that it is quite legitimate, if their decision is made by the free will and without any influences and pressures from the local majority population. In other municipalities, there is resistance from the majority population against acknowledging the rights of the members of national minorities, since they consider such tendencies to be disintegrative and related to both, the unity of a broader local community and the Serbian national corps.

Such local self-governments lack the educational programmes which would teach the citizens about the values of integrative multiculturalism, and how to strengthen the knowledge of municipal authorities about governance of multiethnic communities. Finally, strict application of laws in certain regions could also lead to the worsening of interethnic relations and destabilise the situation in the region. In such cases, it is necessary to take action aimed at developing the sensitivity of citizens in order to overcome the existing animosities and confront the events from the past.

Consequently, national minorities in local self-governments should realise the majority of rights related to their cultural autonomy – education, information, the use of mother tongue in public communication, and protection and promotion of cultural identity – according to the existing laws. Local self-government units make decisions individually on some of these rights and,

therefore, the *sine qua non* of the realisation of minorities' rights. The basis for the development of local democracy is to recognise the interests of a local community, and to include national minorities as communities in that process. The next step in the realisation of the minorities' rights and achieving stable inter-ethnic relations is the development of mechanisms in a local community that would allow them to participate efficiently in defining their needs, and to influence the realisation of these rights. Hence, examples of bad practice should not be present in those segments of minority rights' protection which the local self-governments should implement within their original and direct competences.

Therefore, we should mention other articles of the Law on Local Self-Government, which provide enough space for the municipalities to regulate the issues in this field, and also determine certain corrective mechanisms regarding the possible violation of rights related to the national or religious equality. The local self-government units adopt statutes and other acts specifying the symbols, holidays, names of the streets, squares and other parts of towns individually, or upon the approval of the relevant state administrative body. In case the contents of the statute provisions or other acts do not comply with historical or actual facts, or if any national or religious feelings are thereby violated, the Ministry of Local Self-Government is obliged to agree or deny the approval for such a provision within 60 days from the day the statute or document was received.²⁶

In addition, according to the Law on Local Self-Government, all citizens, as well as national minorities, are allowed to initiate the procedure for the protection and realisation of their rights through direct civic engagement such as "citizens' initiative, citizens' gathering and referendum" (Article 65).

26 Article 121 of the Law on Local Self-Government.

Furthermore, Article 126 of the Law foresees the establishment of a civic defender, an *ombudsman* in local self-government units, whose responsibility is to "protect individual and collective rights and interests of citizens, by overseeing the work of the local administrative bodies and public services" (Article 126).

In Serbia, the institution of ombudsman is established by the Law on the Defender of Citizens, and implemented by the establishment of the ombudsman office in Vojvodina. According to the Law on the Defender of Citizens, this institution is defined as "an independent state body protecting the rights of citizens and controlling the work of the state administrative bodies..." In this regard, and especially in relation to the work of the Councils for Interethnic Relations, it is important to mention that within organisational and structural work of the Republic defender of citizens, a significant part of his/her work is devoted to the activities related to the protection of rights of national minorities. It also should be mentioned that according to the Charter on Human and Minority Rights and Civil Liberties, the Assembly of the Autonomous Province of Vojvodina established the Province Ombudsman on 23 December 2004 to deal with the issues of rights of national minorities, among other things.

According to Article 12 of the Law, the local self-government units may form an association for the purpose of realising development plans and programmes, as well as other needs of collective interest. They are allowed to establish their associations, cooperate with the local self-government units in other countries, and join international associations of local self-government.

According to Article 118 of the Law on Local Self-Government, only state and local self-government symbols may be displayed in the official premises of local self-government units. However, Article 16 of the Law on the Protection of Rights and Freedoms of National Minorities, which is "older" in the

state legal system, and has more power since it was adopted by the former Federal Parliament, stipulates that "the symbols and signs of national minorities may be officially displayed during public holidays and holidays of the national minorities on the buildings and in the premises of local bodies and organisations with administrative authority in the regions where the language of a national minority is in official use." At one point, the Ministry of Human and Minority Rights submitted an appeal to the Constitutional Court to harmonise these provisions, however, it is not known whether the Constitutional Court has ever considered it.

Finally, the Law on the Protection of Rights and Freedoms of National Minorities contains an article that binds the authorities and local self-government units to adopt regulations and take measures in order to achieve full and effective equality between the members of national minorities and members of majority nations. It particularly emphasises that those measures are to be taken with regard to the enhancement of the status of persons belonging to the Roma national minority. The local self-government units will have the opportunity to create local policies which should ensure special conditions for the development of certain national communities. Consequently, it is possible for the municipal assemblies to make decisions that will exceed the contents of the rights related to the protection of identity of national minorities, and be focused on socio-economic sphere. The members of the Councils for Interethnic Relations are expected to express their opinions not only on extremely sensitive issues, but also on the issues concerning a wide range of activities of local self-governments.

*Other sources of the protection of rights of
national minorities in Serbia*

- ◆ Law on Official Use of Language
- ◆ Law on the Foundations of Educational System (Official Gazette of RS, No 62/2003)
- ◆ Law on Social Care for Children
- ◆ Law on Elementary School
- ◆ Law on High School (Official Gazette of RS, No 50/92, 53/93, 48/94, 24/96), 23/2002, 25/2002)
- ◆ Law on Higher Education
- ◆ Law on University
- ◆ Law on Textbooks and other Instructional Materials
- ◆ Law on Activities of the Public Interest in the Field of Culture
- ◆ Law on Personal ID
- ◆ Criminal Law
- ◆ Law on Information
- ◆ Laws on Election of Deputies to the Assembly
- ◆ Law on State Holidays
- ◆ Law on Library Activity
- ◆ Law on Establishing Certain Competences of the Autonomous Province
- ◆ Decision of the Assembly of AP Vojvodina on the Multi-language Forms for Registries and the Manner of Completion
- ◆ Decision on better regulation of specific issues related to the official use of languages and alphabets of national

minorities on the territory of the Autonomous Province of Vojvodina

- ◆ Bylaw on the manner of work of the electoral assembly for the election of the National Minority Councils
- ◆ Provision on the Establishment of the National Minority Council of the Republic of Serbia

CIP – Каталогизација у публикацији
Народна библиотека Србије, Београд