

“ The Respect and Protection of minority rights in Albania”

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Abstract

Every country has national, ethnic, religious and linguistic minorities within its borders. When one talks about these minorities in Albania, the issue appears as a redundant topic but also abstract, to many others. Albania began its path to form its democratic state only after 90 years. The legal system of that time should be modified in accordance to the established international standards based on international instruments. Among the main objectives, the most important was the creation of human rights standards, closely related to the rights of minorities, which is the purpose of reference of this paper. In this paper there will be giving the example of the situation of the different minority rights in Albania and describing the measures taken by the Albanian Governments to accomplish the international standards.

I will give a short description on the Republic of Albania, about the typology of minorities and the minority groups, with the aim to make clear what kind of minorities do exist in Albania and what attention that was paid to them.

This paper describes and analyzes the international standards and examines the gaps that are in it, where the most important thing is to analyze the implementation of these rights. At the end of the work there will be summarized some conclusions and recommendations, bearing in mind that the primary responsibility is to ensure the respect, protection and fulfillment of minority rights within the country.

Keywords: *Minority rights, international standards, implementation, responsibility, protection.*

Methodology

Analysis of the content of the documents is one of the main techniques used in this paper. There are analyzed a series of official and unofficial documents, primary and secondary public. These documents are official document / primary legislative national documents within the various member states' as well as at European Union level, various government documents such as reports, recommendations, and publications.

Among the unofficial / secondary documents there were taken into analysis historical documents, reports, newspaper articles and various representatives of international organizations.

It was made a general research on minority groups by using methods of collecting information, processing them and the subsequent interpretation.

The issue of minority groups has gone beyond national borders. The problems of the individual member countries are now addressed at Community level on the basis of a common policy based on unity and solidarity.

General information about Albania

Albania is a country situated in the western part of Balkan Peninsula and it has an area of 28.750 square kilometers. It borders with Montenegro and Kosovo in the North, Former Yugoslav Republic of Macedonia in the Northeast and Greece in the South. Albania is washed by Adriatic and Ionian seas in the West and Southwest.¹The Albanian predecessors were the Illyrians. For some consecutive centuries, Albania was firstly under the Roman Empire and later under the Ottoman one. The independence from the Ottoman Empire was declared on November 28th, 1912. After WWI, in Albania there was established the parliamentary republic, which soon changed into a constitutional kingdom. King Zog ruled the country until 1939, when Albania was invaded by Italian fascists, and after by the Nazis. In November 1944, it was liberated from the Nazi invaders and lived, for nearly 50 years, under a single-party system, communist one, in complete isolation and poverty.

¹The data and information about Republic of Albania were taken from the Albanian State Report submitted to the Advisory Committee of the Framework Convention on the Protection of the National Minority, 2001, ACFC/SR(2001)2005; and Albanian State Report submitted to the Committee on the Elimination of Racial Discrimination, 2002, CERD/C/397/Add.1..

It was after 1990s that Albanians won their fundamental rights such as civil and political rights, economic, social and cultural ones. Population of Albania is 2 821 977 inhabitants (the 2011 census) and the official language is Albanian, an Indo-European language. From the ethnic point of view, according to the Albanian government's reports, 82.58% percent of the population is Albanian, only 0.87 percent consists of Greek, 0.20 percent of Macedonian, 0.20 percent of Montenegrin recognized as national Minorities while Roma 0.30 percent and 0.30 percent of Aromanian recognized as ethnic - linguistic Minorities by the Albanian state. The number of non-responses to this question constitutes 13.96% of total population.²

The terminology of minority³

In order to make possible the reality of ethno demographic structuring, it is necessary to know, clarify and define the respective terminology and its significance.

“National minority” in the framework of the population implies the confrontation of the respective community with the groups of the majority, but the individuals of this “minority” should be citizens of the state they live in. In this context, refugees, economic emigrants, illegal emigrants, linguistic islands are not included. Following this, it is worth mentioning the fact that the minority/ national minority is closely related to the creation and the consolidation of the national state, initially a “timed” concept but widely spread afterwards.⁴

Based on the international documents of the First World War, it is such a definition, but it is not a satisfactory one and leaves plenty of room for all sorts of interpretation and misinterpretations. In the course of time, this concept was extended further and the objective and subjective criteria related to this identification were further clarified.⁵

In order not to confuse or misunderstand these definitions, it is necessary to take into consideration international documents. For instance, the Framework Convention for the Protection of National Minorities states: “Every person belonging to a national minority shall have the right to freely choose to be treated or not to be treated as such and no disadvantages shall result from this choice or from the exercise of the rights which are connected to that choice.”⁶

The choice of the individual should be based on objective criteria as a language, religion and culture, related to the identity of the person. The general meaning of minority/ national minority implies a group of people who are citizen of a country they live in, who have different

²Taken from: INSTAT, Final results of the Population and Housing Census 2011.

³ ‘European Minorities’, Vol.4, New York, 1991, pg 13-16

⁴ Prof.dr. Berxholi Arqile, “Minority in Albania”, 2005, pg 23

⁵ Ibid, pages 24

⁶ Comments of the Albanian Government on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Albania, 2003, page 7; GVT/Com/INF/OP/I(2003)004

characteristic from the majority and who sociologically maintain elements of society or of compact social class.

Minority/ Ethnic minority in the Republic of Albania

The term “ethnic group”, “ethnic structuring”, ethnic communities” and further “ethnic cultural” groups can be found in various documents.

“Ethnic group” is a historical outcome, which develops over time due to social-economic changes. The ethnic group, with its recent ethno-cultural unity, becomes the core of “nationality”, which is primary outcome of the ethno-cultural development of the feudal society.⁷

However, not all people had the same luck of successfully going through the complex dynamics of their ethno genesis. Some of them not strongly consolidated and under pressure from other populations, lost their identity or remained merely linguistically isolated. Despite division and expulsion from the region, these populations managed to preserve their individuality and emerge, to this day, as separate population such as the Vlach and Roma people, distinguished for their ethno-psychological physiognomy.

Various scholars, accept the differences between “ethnic group” and “nation” in order to identify “ethnic group” use other terms such as minority, “not –formed national minority”, “minority/ethnic minority”, “ethnic group”, “ethno cultural community”, “ethno linguistic minority community” , etc and do not approve the concept “linguistic minority” since according to their languages do not oppose one another, but are simply different.⁸

These communities which have settled in various nation states, have had partially the same dynamics of ethno genesis as the majority, do not have a homeland, but are distinguished from the majority in important elements. They mainly constitute a community of people united by a common culture, language and tradition.⁹

In the early stages of the Albanian state, minorities were not devoted to any special importance as long as Albania itself was in its very first steps of state building. Albania became independent owing to the post-WWI treaties and consequently committed itself to the international law and organization (League of Nations) to protect the minority rights in conformity with the provisions of the Minority Treaties. Albania was subsequently admitted to the membership of the League of Nations by a vote of the Assembly on December 17th, 1920. On October 2nd, 1921¹⁰ Albania

⁷ National Conference in the formation of Albanian population, its language and culture, Tirana 1982,pg.19

⁸ Dictionary of today’s Albanian language, Academy of Sciences, Tirane, 1980,pg. 852-853

⁹ Minorities and the Protection of their Rights in Albania, Tirane, pg.150

¹⁰ Advisory Opinion of the Permanent Court of Justice, April, 6th, 1935, page 7, series A/B, 64

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made a special declaration through which it pledged itself to protect and respect the rights of the national minorities within its territory.¹¹

During the Second World War, the policy of the communist government towards minorities was a cautious one. On one hand it showed tolerance and care, especially for the inclusion of minority population members into governance and for issues of their education and culture, on the other hand it manifested a visible differentiation of attention towards minorities in general .

As mentioned above the Greek minority and to some extent the Macedonian one were very much cared for, but there was almost no talk whatsoever for the other minorities: Vlachs, Romas, Egyptian , Bosnians or Serb-Montenegrins.¹²

Situation of minorities after ‘90s

Nevertheless, after the ‘90s with the democratic changes in Albania, the treatment of the national minorities assumed a new dimension, which is clearly expressed in Albania’s membership in international organizations, such as UN, OSCE, the Council of Europe, etc. Another reason for such new dimension is that after 1990s the long isolation ended and minorities had not only the possibility of movement (Greek, Macedonian, and Montenegrin Minority where supported with five years visa by the respective mother tongue neighbors country¹³)but also to think freely. Albania has had and still continues to have a permanent commitment regarding the continuously improvement of the standards related to the protection and respect of human rights including the rights and freedoms belonging to minorities.

The Constitution of Albania of 1998, drafted in accordance with most progressive European Standards, has classified national minorities as an integral part of Albanian society, recognizing their rights as equal to other Albanian citizens and guaranteeing conditions to preserve and develop their national, cultural and religious identity.¹⁴

By decision no.463, dated 12 July 2006, the Council of Ministers approved the national plan for the implementation of the Stabilization and Association Agreement, an important part of which is the undertaking of institutional and legal reforms to guarantee and achieve higher levels of basic rights and freedoms of individuals and more particular of the rights of minorities.¹⁵In

¹¹ The Albanian declaration of October 2nd, 1921 set out the protection of minorities, general principles of the Minorities Treaties, the conception of “equality in law” and “equality in law and in fact”, obligation to allow minorities to establish and maintain private schools .

¹² See Report of AHRG on the situation of minorities in Albania and also First Report on National Minorities in Albania, submitted by Republic of Albania, under Article 25, paragraph 1, of the Council of Europe’s Framework Convention for the Protection of National Minorities, to the Advisory Committee,2001, ACFC/SR (2001)005

¹³ See First Report on National Minorities in Albania, submitted by the Republic of Albania, under Article 25, paragraph 1, of the Council of Europe’s Framework Convention for the Protection of National Minorities, to the Advisory Committee, 2001, page 14; ACFC/SR(2001)005

¹⁴ Albanian Constitution, 1998

¹⁵ Stabilization and Association Agreement between European Communities and Albania signed in 12.06.2006, enter into force 1.04.2009

accordance to international instruments in the field protection of minorities and obligations arising from the European integration process, the Albanian Government is committed to reach and apply the highest standards of respects for the rights of all minorities living in Albania.

All steps and initiatives to be taken will aim to the implementation and the full compliance with the European Convention of Human Rights and the Framework Convention “For the Protection of National Minorities” ratified by Albania.¹⁶

Albanian legal Framework has adopted UN instrument against ICCPR, ICESCR, CRC, UNESCO Convention against Discrimination in Education, The Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities.

The ICCPR was adopted in 1966 and entered into force in 1976. The Republic of Albania adhered to the International Covenant on Civil and Political Rights on October 4, 1991,¹⁷ which entered into force on Jan. 04, 1992. Article 27 of the Covenant has been described as “the first internationally accepted rule for the protection of minorities.”¹⁸

The International Covenant on Economic, Social and Cultural Rights was adopted in 1966 and entered into force in 1976. The Republic of Albania adhered to the ICESCR on October 4, 1991¹⁹, which entered into force on Jan. 04, 1992. Even though the ICESCR has a particular importance, concerning the minority groups, because its provisions are firstly based on the principle of equality and non-discrimination for instance article 2 on non-discrimination.²⁰

The Convention on the Rights of the Child was adopted in 1989 and entered into force in 1990. The Republic of Albania signed the CRC on Jan.26, 1990, and ratified it on Feb. 27, 1992, which entered into force on March 28, 1992. This Convention sets forth the standards for the protection of the child and the harmonious development of his or her personality²¹

The United Nations Educational, Scientific and Cultural Organization²² Convention against Discrimination in Education was adopted in 1960 and entered into force in 1962. Republic of Albania ratified the UNESCO Convention against Discrimination in Education on Nov. 21, 1963

The Convention includes racial discrimination principle, directing itself against any distinction, exclusion, limitation or preference which being based on race, colour, sex, language, religion,

¹⁶ “Framework Convention for the Protection of National Minorities” is signed by Republic of Albania on 29.06.1995, and ratified from Parliament of Albanian Republic with Law 8496, date 28.09.1999 and after deposition of ratification instruments on 28.09.1999, became valid on 01.01.2000)

¹⁷ See Initial Albanian Report to the Human Rights Committee, 16/02/2004, page 4, para.3, CCPR/C/ALB/2004/1.

¹⁸ See F. Capotorti, “*Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities I*”(U.N.Doc.E/CN.4?Sub.2/34?Rev.1.1979

¹⁹ See www.ohchr.org/english/bodies/ratification/3.htm

²⁰ Article 2 of the ICESCR inter alia states:”2. *The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

²¹ General Comment nr.23, of HRC, paragraph 6.1

²² UNESCO is a specialized agency of the UN, and its competence relates to education, science, culture and communication and the organization’s interest in human rights is limited to these four aspects

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political or other opinion, national or social origin, economic condition or birth, and which has the purpose or effect of nullifying or impairing equality of treatment in education.

Conclusions

Republic of Albania has made progress in the legislative and institutional reform after 1990s. This progress could be proved by the incorporation into legal system of the international minority rights standards and by the ratification of the main international human rights instrument. Albania should continue to complete this process:

-by ratifying other international human rights instruments including minority ones, for instance the European Charter for Regional and Minority Languages.

-by making possible for the individuals or groups belonging to the minority groups address their claims and alleged violations of their rights to the defined international monitoring bodies.

Albania should develop and improve the judiciary system based on the rule of law and the democratic principles of independence and impartiality, to make possible for the members of the minority groups to file complaints to the courts and ask for juridical remedies in cases of violations of their rights. Different minority groups, for instance members of Roma minority and Egyptian community are not equal to other members of society. Their integration into the social life appears to remain a complicated challenge for the state institutions, the civil society and the media.

Albanian government has the obligation to improve the economic situation of the whole population but in particular should undertake special programmes to improve the situation of the minority group. More jobs, more social welfare, more possibilities to preserve their language and culture-these should be the directions to be focused on. Finally it can be said that the process of implementation in practice of the minority rights is an ongoing one and always needs to improve the current situation.

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