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Minorities and Non-Territorial Autonomy: **Policy Papers**

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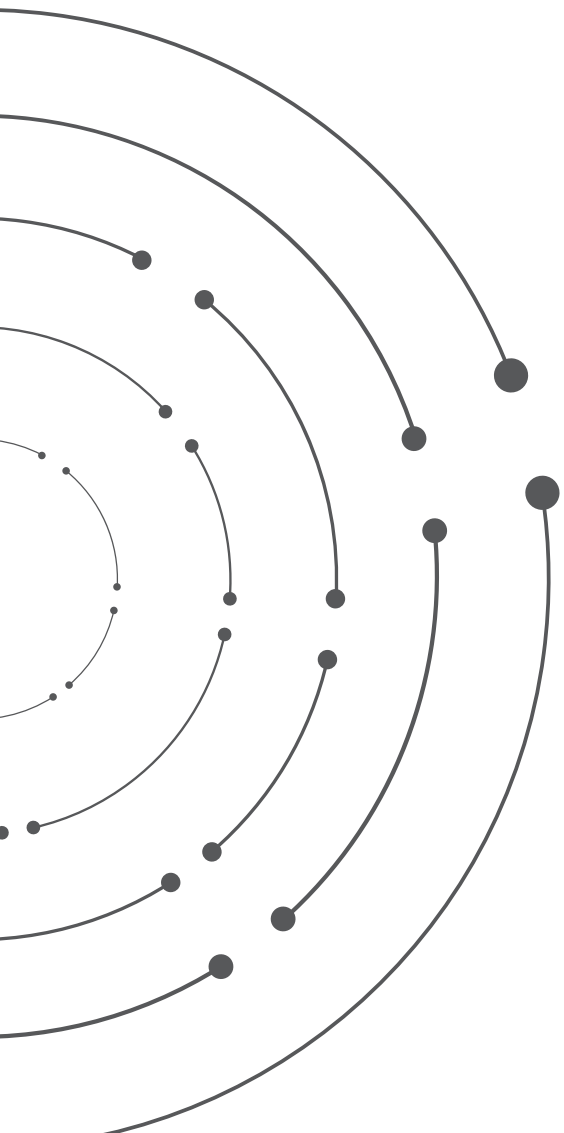

Minorities and Non-Territorial Autonomy: **Policy Papers**

ENTAN – The European Non-Territorial Autonomy Network

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Minorities and Non-Territorial Autonomy: Policy Papers

Edited by: Ivan Dodovski

ENTAN – The European Non-Territorial Autonomy Network aims at examining the concept of non-territorial autonomy (NTA). It particularly focuses on NTA arrangements for reducing inter-ethnic tensions within a state and on the accommodation of the needs of different communities while preventing calls to separate statehood.

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This publication is based upon work from COST Action "ENTAN – The European Non-Territorial Autonomy Network", CA18114 supported by COST (European Cooperation in Science and Technology).

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Minorities and Non-Territorial Autonomy: **Policy Papers**

Edited by:
Ivan Dodovski

Skopje, 2023

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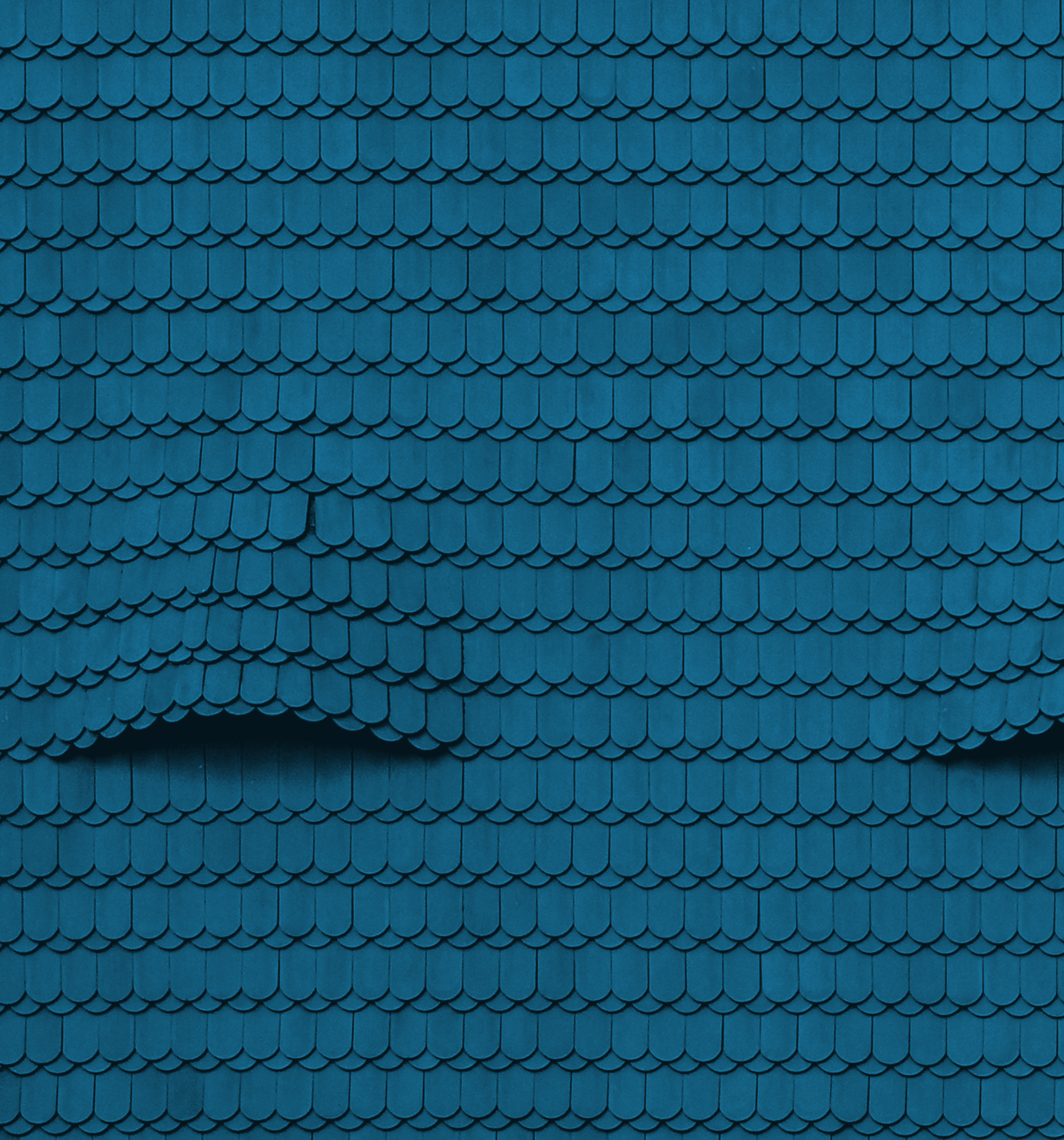

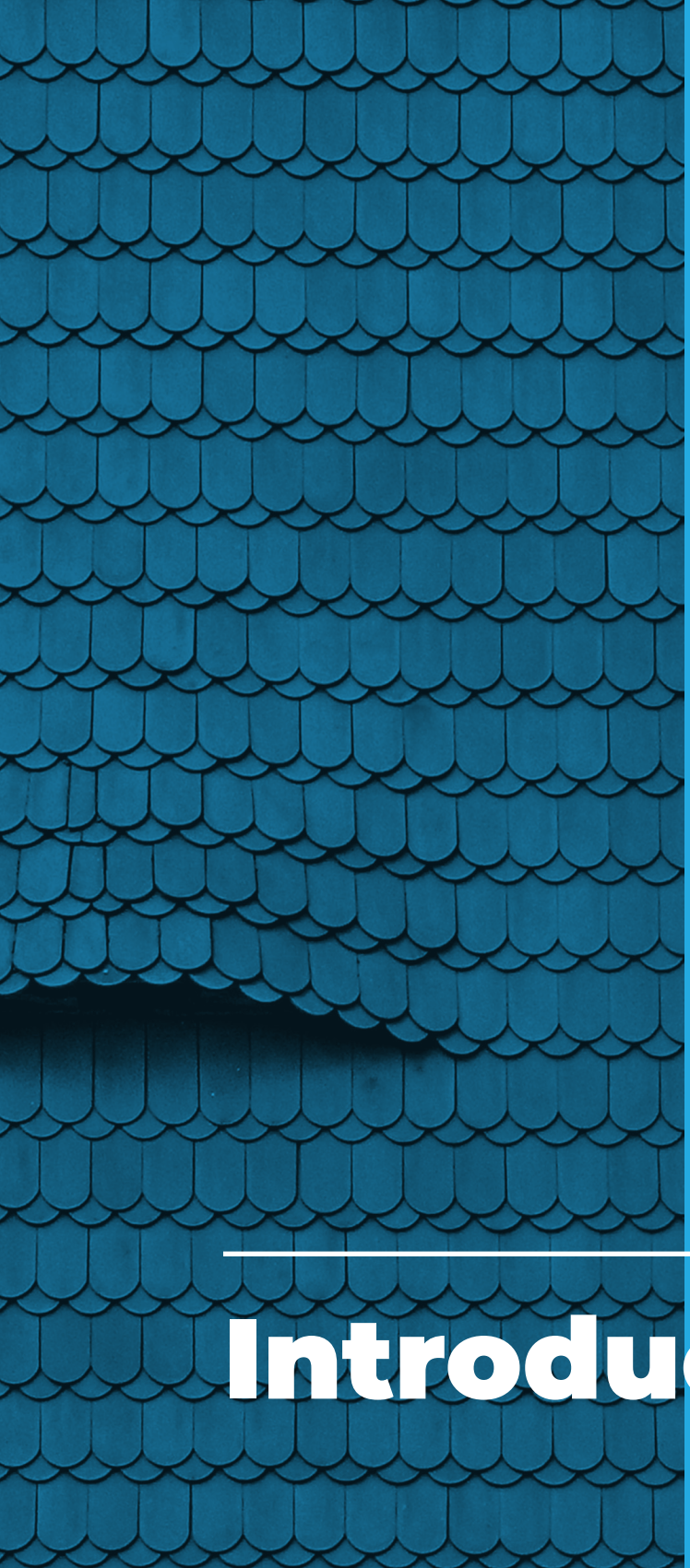

Introduction

This volume includes 12 policy papers that have resulted from the work of ENTAN – the European Non-Territorial Autonomy Network (www.entan.org) between 2019 and 2023.

ENTAN is an Action funded by COST (www.cost.eu) aimed at examining the concept of non-territorial autonomy (NTA). It particularly focuses on NTA arrangements for reducing inter-ethnic tensions within a state and on the accommodation of the needs of different communities while preventing calls to separate statehood. The main objective is to investigate the existing NTA mechanisms and policies and to develop new modalities for the accommodation of differences in the context of growing challenges stemming from globalisation, regionalisation, and European supranational integration.

In the four years of its operation, ENTAN has tackled the developments in the theories and practices of cultural diversity; minority rights (including linguistic and educational rights); state functions and sovereignty; conflict resolution through policy arrangements; policymaking and inclusiveness. Committed to fostering interdisciplinary and multidisciplinary work, the network has provided for the training and empowerment of young researchers, the organisation of academic conferences, and the production of seminal publications on the subject.

While a great deal of work has been completed on the theoretical front, we believe that more can be done for the dissemination of the academic findings among policy makers, civil society organisations, and communities. Consequently, we are pleased to present here a collection of policy papers written by members of ENTAN. These contributions provide focal conclusions and specific recommendations for a handful of policies and minority issues across several countries. We hope that by offering relevant insights on various cases through the NTA framework, this volume can assist policy makers and practitioners in designing new modalities for managing cultural diversity.

The authors of the policy papers compiled in this book focus on pressing minority issues and offer invaluable illuminations:

Joanna Kurowska-Pysz and Andrius Puksas consider the case of the Lithuanian minority in Puńsk, Poland and discuss how cross-cultural cooperation in the Polish-Lithuanian borderland can contribute to local development.

Christina Flora examines the importance of endangered minority languages. She offers recommendations for their preservation and revitalisation by analysing the cases of Cypriot Arabic in Cyprus, Arbresh in Sicily, Naro in Western Botswana and Eastern Namibia, Basque in Spain, and Võro in Estonia.

Triin Tark, Timo Aava, and David J. Smith examine the implementation of NTA across different historical and cultural contexts (e.g., in the Scandinavian countries, as well as in Estonia, Hungary, Serbia, and Croatia), addressing in particular the issue of ethnic registration as a basis for electing institutions of minority self-government and for claiming specific entitlements under NTA.

Balázs Dobos investigates the existing practices and criteria used to determine group membership and the rules for access to NTA institutions.

Natalija Shikova inspects the extent to which NTA can secure a self-governance for indigenous people.

Kyriaki Topidi discusses the implications of introducing religious schools related to the Muslim faith in Europe for the integration of the minority groups, and offers a concise overview of how the issue is treated in Belgium, Germany, and the UK.

Jelena Ćeriman puts forward recommendations on greater political participation of women in the work of National Minority Councils in Serbia.

Martin Klatt and Joanna Kurowska-Pysz review the importance of the media in a minority language as an essential tool for intra-minority communication in NTA settings.

Triin Tark analyses the legislation and functioning of cultural autonomy in Estonia.

Zerrin Savaşan assesses Sweden, Norway and Finland's stated objectives of guaranteeing the indigenous Sámi people's rights to land through the lens of cultural rights.

Katinka Beretka evaluates various strategy-making methods used by National Minority Councils in Serbia for the purpose of improving the lives of the communities they represent.

Konstantinos Tsitselikis advocates an up-to-date holistic approach of law and policy in treating the predominantly Turkish speaking Muslim minority of Thrace in Greece.

Our words of gratitude go to these authors for their critical contributions. We hope that this volume will prove invaluable for any work on NTA in the future, as well as benefit policy makers, minority representatives, and their communities.

18 April 2023

Ivan Dodovski,
Chair of ENTAN

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ENTAN

policy paper

July 2021

The National Minority as A Driver of Cultural Cross-Border Cooperation and Local Development: **Evidence from the Polish–Lithuanian Borderland**

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Summary

This paper considers the issue of minority participation in local cultural development, as illustrated by the case of the Lithuanian minority in Puńsk, Poland. The authors identify some factors which support engagement of the national minority in cross-border cultural cooperation. The illustrative case demonstrates how cross-border cooperation based on a minority's activities can lead to improved relations between neighbouring countries. For the analysed territory, the Lithuanian minority's activities make an important contribution to balancing bilateral relations and agreeing the strategic goals of borderland development. The activities attract tourists who want to experience the specific Lithuanian culture in Puńsk and Lithuanian minority activities there have become a tourist attraction for borderland visitors. The Puńsk case study shows how the Polish community's development has been strongly influenced both by Lithuanian culture and by the minority's activities.

Conclusions and recommendations

- National minorities are generally very interested in maintaining relations with their country of origin. When that country is the neigbour of the country of residence, national minority activities can strengthen cross-border cooperation. Such cooperation can dynamise the activities of the national minority in the country of residence and become a factor linking it with the country of origin. The only condition is that they are neighbouring countries.
- Culture is a unique basis on which to develop relations between neighbouring nations. Each country can have national minorities naturally interested in the heritage, language and tradition of their neighbouring kin state.
- Cultural activities are usually outside any political or historical tensions between neighbouring countries. Culture can contribute towards the strengthening of cross-border cooperation while avoiding topics of conflict.
- National minorities' activities in the borderland sometimes change the balance in cross-border cooperation such that representatives of the same nation are involved on both sides of the border. In some borderlands, this kind of partnership is not treated as cross-border cooperation, because it does not provide real cooperation between neighbouring nations.

- Active national minorities can act as a bridge between nations, thus enhancing cross-border cooperation. Two conditions apply: first, there should be positive cooperation between the nations, and second, the country of residence provides the national minority with adequate autonomy in its activities.
- The experience from cultural projects can be turned into good practices and long-term policies affecting the whole borderland. In this way, project results will be more sustainable and made available to all borderland communities. They can be adopted into both local and cross-border strategies as separate axes, priorities or tasks.
- The vibrant Lithuanian culture and heritage in Poland is becoming a competitive advantage for Puńsk on the borderland tourist map, with significant numbers of visitors enjoying the area in recent years. As a result, the national minority's potential and assets have become an important resource for Polish local development.

Introduction

Poland and Lithuania have a long history in common, including years of glory but also of conflicts caused by national tensions. Although a few political tensions still affect Polish–Lithuanian relations at the national and regional levels, the situation is notably better in the borderland where Poles and Lithuanians live together. Puńsk is one such example. Before World War II, this municipality in the Podlaskie region of Poland changed its affiliation to Lithuania, then later reverted to Poland. Poles and Lithuanians have always lived in the area. After World War II, Puńsk became the cultural capital of Polish Lithuanians. It is a good example of effective cooperation between Poles and the Lithuanian national minority in Poland. Puńsk plays an important role in the area's cultural, social and tourist development. Lithuanian culture has become Puńsk's key tourism asset and provides a platform on which to develop Polish–Lithuanian cooperation at the local level. From this example of good practices applied in the Polish–Lithuanian borderland, it is possible to identify factors which can contribute to engaging national minorities in cross-border cultural cooperation. The example also shows that "informal" cultural autonomy (Prina et al, 2018) for communities like that of the Lithuanian minority in Puńsk can influence local development in a very positive way.

National minorities in the borderlands

The presence of national minorities in border regions is a sign of ethnic diversity (Klatt, 2006) resulting, among other things, in a diverse cultural landscape. Borderland ethnic diversity can become one of the factors benefiting the cross-border cooperation. (Malloy, 2010) Cross-border relations are conditioned not only by institutional or financial factors but also by social factors (e.g. national minorities, language, cultural differences) and historical factors (e.g. past experiences, border changes) (Kurowska-Pysz & Szczepańska-Woszczyna, 2017). Cross-border cultural tourism can be a good platform on which to extend the relations between neighbouring societies. It is possible thanks to the minorities' cultural education, local heritage protection and other activities, such as those related to literature, music and art (Wróblewski & Kasperek, 2019). National minorities can play an important role in building mutually beneficial relations by acting as a link between neighbouring countries. Their activity in the neighbouring country may also mitigate the impact of the cultural barrier (including the linguistic one) and may contribute to building mutual trust (Laruelle & Peyrouse, 2009).

The range of autonomy for the Lithuanian minority in Poland, including support from the Lithuanian and Polish governments

Expatriate Lithuanians were among those who fostered national values at a difficult time for Lithuania, and their activities strongly contributed to the restoration of Lithuania's independence on 11 March 1990. It is no coincidence that national relations with Lithuanians abroad have always been declared a state priority and that the first modest initiatives were taken immediately after the restoration of independence. As early as 1992, the Government of the Republic of Lithuania adopted a resolution aimed at assisting Lithuanians living abroad to study in Lithuania. The government also periodically approved support programmes for Lithuanian communities abroad. The Commission for Coordination of Affairs of Lithuanians Living Abroad (Commission for Coordination, n.d.) was convened in 2009 for the first time. The Commission's task was to submit proposals to the Government of the Republic of Lithuania regarding:

- strategic directions of the state's relations with Lithuanians living abroad and their implementation;
- coordination of state institutions' actions in strengthening relations with Lithuanians living abroad to involve them in the political, social, economic and cultural life of Lithuania;
- the appropriateness of current and planned legislation regarding Lithuanian affairs abroad.

The Global Lithuania programme (2011–2019) was aimed at involving Lithuanians living abroad in the life of the state and was a new stage in such relations. The programme measures and their implementation indicators are reviewed periodically. The programme was updated for the period 2012–2020, then again until 2021.

The approved inter-institutional action plan includes a number of institutions implementing "Global Lithuania" and the funds provided for programme implementation. For example, in 2020, the Ministry of Foreign Affairs of the Republic of Lithuania confirmed that it would fully or partially finance 48 projects in 21 countries (76 project applications were submitted). A total of EUR 51,948 was allocated to the projects. Funds were provided for ten applications from Lithuanian organisations operating in Poland (five of the winning applications were submitted by the Lithuanian Society in Poland). Allocations of between EUR 300 and EUR 1,100 were provided to finance the activities of organisations operating in Poland. Such funded activities included covering the costs for organising the Assumption of Mary into Heaven Folklore Festival, World Lithuanian Prayer Day and similar events. The organisation of a series of activities dedicated to the 60th anniversary of the twice-weekly journal *Aušra* also deserves a separate mention. To implement "Global Lithuania", a resolution was adopted on 1 July 2020 regarding procedures for supporting people going to Lithuanian organisations or communities abroad to conduct cultural activities. The legal act seeks to create the appropriate financial conditions for people who promote and nurture cultural activities by involving Lithuanian organisations and communities operating abroad. The financial support is aimed at:

- helping Lithuanians living abroad to preserve their intangible cultural heritage and identity;
- supporting the dissemination of intangible cultural heritage and Lithuanian culture abroad;
- creating conditions for cognition of cultural heritage and self-expression in the Lithuanian language;
- helping foreign Lithuanians to integrate into Lithuanian cultural processes.

The Press, Radio and Television Support Fund provides, on a competitive basis, partial support for press and online dissemination sources for Lithuanian communities abroad, especially in Poland (for instance, punskas.pl).

The Lithuanian minority in Poland enjoys relatively good conditions for the development of cultural activities. Poland guarantees the freedom of Polish citizens belonging to national or ethnic minorities to maintain and develop their own language, customs, traditions and culture. The right to establish their own educational and cultural institutions is also assured, including those protecting religious identity. Citizens' freedom to participate in the resolution of matters concerning their cultural identity is also protected (Constitution of the Republic of Poland, 1997). Poland is a signatory to the Framework Convention for the Protection of National Minorities (1995) and the European Charter for Regional or Minority Languages (1992). Matters related to the preservation and development of the cultural identity of national and ethnic minorities are regulated by legislation on national and ethnic minorities and regional languages (Act of 6 January, 2005). The care for minorities involves

the minister of interior and administration, provincial leader, and local self-government. Each province has an official responsible for national and ethnic minorities[1]. At the prime ministerial level, the opinion-making and advisory body is the Joint Commission of the Government and National and Ethnic Minorities (15 lat istnienia Komisji, 2020). The Commission also includes representatives of the Lithuanian minority in Poland. The Polish authorities are taking steps to support activities aimed at the protection, preservation and development of the cultural identity of minorities as well as their civic and social integration. The measures may include, in particular, targeted or specific-purpose subsidies. It is possible to provide funding for organisations or institutions carrying out such activities. Subsidies are awarded, among other things, for: cultural institutions' activities, minority languages publications, supporting television and radio broadcasts produced by minorities, protection of places related to the culture of minorities, education of children and youths, and promoting knowledge about minorities.

The Education Development Strategy for the Lithuanian minority in Poland (Strategy for the Development of Education, 2001) is a manifestation of the Polish government's special care for the interests of the Lithuanian minority. The Lithuanian minority is not represented in the Polish parliament, but it is represented in the council of the Sejny district, in the Puńsk commune council and in the Sejny city and commune councils[2]. The Lithuanian minority in Poland has declared a special need for support in such areas as education, culture and access to the media. Lithuanian organisations receive from the Polish Ministry of Interior and Administration the vast majority of the funds for activities aimed at maintaining the national identity of Lithuanians in Poland.

1 https://www.gov.pl/web/mniejszosci-narodowe-i-etniczne/osoby-odpowiedzialne-za-sprawy-mniejszosci-narodowych-i-etnicznych-w-wojewodztwahtml

2 https://www.gov.pl/web/mniejszosci-narodowe-i-etniczne/litwini

Lithuanian minority cultural and tourism activities in Poland, especially on the Polish–Lithuanian borderland

Despite the modest and insufficient support from Lithuania, the Lithuanian national minority living in Poland has shown that it is not only important for them to integrate into Polish social and cultural life but also to foster the Lithuanian language, traditions and relations with Lithuania and its people. Many Lithuanian organisations operate on a national basis (e.g. the Lithuanian Community in Poland and the Lithuanian Society in Poland). Due to the lack of permanent sources of funding, most such organisations organise their activities on a voluntary basis. That is especially true in Puńsk, where the Lithuanian national minority is a significant part of this small town's population. The Lithuanian Culture House in Puńsk regularly organises cultural events attended by more than just the local Lithuanian population. The Lithuanian Ethnic Culture Society in Poland has been active in Puńsk since 1997. Active cultural and educational activities are also developed in Suwalki, Sejny and other areas with large Lithuanian populations. The Pontiff. A. Baranauskas Foundation's "Lithuanian House" organises traditional cultural events in Sejny, including concerts by art groups cherishing cultural traditions. Sejny is also home to the Lithuanian St. Casimir Society in Poland, while the Lithuanian Society in Warsaw operates in the capital. Age-based organisations are also active, including the Lithuanian Youth Union in Poland.

Most events are traditional or related to certain historical events (e.g. the millennial celebration in 2009 of the first written mention of the name Lithuania). Well-known Lithuanian personalities from the worlds of culture, art and politics are also invited to participate in the events.

Language and culture are also fostered in educational institutions. For example, the Puńsk 11 March Lyceum participates in an international project on national minorities (2018–2020) co-financed by the European Union's Erasmus+ programme. Such activities ensure that the younger ethnic Lithuanians do not forget the language and remain acquainted with Lithuanian culture and traditions.

The opportunity for older people to express their religious beliefs in their mother tongue is particularly important. Mass is still said in Lithuanian in Puńsk, Sejny, Suwalki, Warsaw and other places.

It is important for Lithuania that the heritage of the almost extinct Baltic tribes be cherished on the Polish–Lithuanian border. The restoration of a Prussian and Jotvingian settlement near Puńsk (in Oszkinie, Poland) is also a good example of how Lithuanian heritage has been transformed into a very popular Polish tourism product. Together with Lithuanian cuisine and cultural events, the settlement has become one of the most attractive parts of Puńsk and the wider Sejny region for tourists. It attracts tourists seeking a diverse range of activities covering educational, historical and cultural aspects, and those who desire unexpected emotions caused by contact with the metaphysical and mystical climate of Jotvingian heritage[3].

3 http://osada.prusaspira.org/

The Lithuanian Cultural Centre in Puńsk as an example of the national minority's activities

Lithuanian culture in the region of Puńsk has been cultivated since the 15th century. In Puńsk, 80% of the inhabitants belong to the Lithuanian minority (Wójcikowska, 2013). It is the only bilingual Polish–Lithuanian commune in Poland. Lithuanian has the status of an auxiliary language there. Since 2008, the names of places and natural landmarks have also been written in the minority language. All Lithuanians living in Puńsk are fluent in Polish, which they use in communications with Poles and in their professional lives. High competences in the state language and Polish culture do not interfere with a strong sense of cultural identity. Culture is an important source of the Lithuanian identity. Many elements of the old Lithuanian heritage which have already disappeared in the Republic of Lithuania (including songs, dances, music and national rituals) have been preserved in the Sejny region. The Lithuanian Culture House was opened in Puńsk in 1956. It offers local residents and tourists contact with Lithuanian history, language, culture and national heritage. The Lithuanian Culture House is known for its regular cultural initiatives (festivals, competitions, exhibitions and performances) and also makes a significant contribution to the cultural life of the inhabitants of Puńsk and the surrounding area. Thanks to its efforts, performances by professional artists and bands from Lithuania are organised in Puńsk (O nas, n.d). Many artistic groups are currently based in the Lithuanian Culture House in Puńsk (Zespoły artystyczne, n.d.), and it arranges various cultural, artistic, patriotic and integration events. Those include various cultural and cross-border projects, including: "If hands could speak..." (Współpraca na rzecz, n.d.); Historical Festival "Mindauginės; Jore 2010 – Spring Festival" (Zrealizowane projekty, n.d.). Three institutions documenting, protecting and promoting Lithuanian heritage are currently operating under the management of the Lithuanian Culture House in Puńsk, namely the Open-Air Museum, Regional Museum – Old Presbytery and the J. Vainas Ethnographic Museum. They play an important role in shaping and supporting Lithuanian identity, promoting the commune and increasing its tourist attractiveness (Wójcikowska, 2013).

The efforts of the Lithuanian Culture House in Puńsk confirm that cultural activities can strengthen the ties between the national minority's "home" country and where it lives. Indirectly, these activities have become the basis for the development of tourism in Puńsk, as they are the area's key distinguishing feature. When tourists who want to experience a place where a foreign language is officially used in Poland, they go to Puńsk. Tourists curious about the life of a national minority which enjoys a unique, though "informal" cultural autonomy in Poland, visit Puńsk. In doing so, they increase the demand for accommodation, restaurants, souvenirs and other elements indispensable for servicing tourist traffic. The local tourism sector also benefits from what can be described as "sentimental tourism". The essence of such tourism is the arrival of Lithuanian tourists interested in visiting places related to Lithuanian culture. This shows that the presence of the Lithuanian minority in this area is a factor that drives tourism and local development.

The case study: the cultural project enhancing the Polish–Lithuanian cross-border cooperation with the active participation of the Lithuanian minority in Poland

The co-authors of this report analysed the cross-border project "If the hands could talk" that was realised in 2018. The leading partner was the House of Lithuanian Culture in Puńsk, with the Culture and Communication Centre in Alytus as the Lithuanian partner. Puńsk was one of only five communes in Poland in which, according to the 2002 and 2011 censuses, the Polish population was a minority. As such, when discussing the cultural cross-border cooperation between Puńsk and Alytus, one should take into account the cultural and national backgrounds. The Polish project partner was represented by Polish citizens from the ethnic Lithuanian community who speak both languages to the same level and regard both countries as their homeland. This is very specific cross-border cooperation, with the Lithuanian partner cooperating formally with the Polish partner represented by the Lithuanian minority in Poland. The specific objectives for the project were:

- the improvement of the cross-border social and cultural infrastructure,
- the social inclusion of elderly people based on the cross-border cultural activities, and
- networking the borderland culture and social support institutions.

The project was co-funded by the INTERREG Programme Lithuania – Poland 2014–2020.

The partners organised a series of workshops for representatives of the cross-border society, especially seniors (silver economy stakeholders), who worked out the specific aspects and solutions for mutual cooperation and the exchange of knowledge. The key merit base could be further culture activities and social integration, which is very enjoyable for the older population. The result of the workshops was the establishment of the Cross-Border Aging Policy Group.

Research framework and results

The co-authors of this report conducted qualitative research in the form of in-depth interviews (VII–VIII 2020) to answer the research question: *Do cultural activities of the national minority facilitate the development of cross-border cooperation or rather enclose it within a narrow group of people of the same country origin?*

The respondents were people attending various activities or events at the Lithuanian Culture House in Puńsk (20 people, including 10 people who declared that they belong to the Lithuanian minority).

The research allowed the following factors supporting cultural cross-border cooperation to be identified:

1. Knowledge of the neighbour's language in both parts of the borderland.
2. Common cultural heritage that is attractive to the inhabitants of both parts of the borderland.
3. Favourable or neutral historical conditions that do not hinder cross-border cooperation.
4. Good relations between minorities and the local community in their home country.
5. Possibility of involving the national minority in the implementation of cultural activities in their country of residence.
6. Funds for the development of the national minority's cultural activities in the country of residence.

The co-authors of the report also conducted a focus group interview concerning the assessment of the impact of cultural activities undertaken by the Lithuanian Culture House on Polish–Lithuanian cross-border cooperation. The target group was local leaders involved in cross-border activities. The findings clearly confirmed the positive impact of cultural activities undertaken by the Lithuanian Culture House on relations among the local inhabitants of Puńsk, on the social relations in the borderland and on the bilateral relation of the states. Such assessments prevailed both among the representatives of the Lithuanian minority in Puńsk and among the other inhabitants of the area. Polish respondents did not feel marginalised by the high activity of the Lithuanian minority. It is not without significance that nearly three quarters of the inhabitants of Puńsk have Lithuanian origins and declare Lithuanian identity. In this case, it can definitely be confirmed that the activity of the Lithuanian minority in the field of culture contributes to the development of cross-border cooperation. The complete research results have been published (Kurowska-Pysz & Puksas, 2020).

Policy implications

The answer to the question about the role of national minorities in the development of cross-border cooperation between their country of residence and the kin-state is strongly related to the analysis of the aforementioned six factors supporting this cooperation. The Lithuanian minority, which enjoys a rather wide "informal" autonomy in Poland, has become an important stakeholder influencing the development of tourism. As tourists usually take the most attractive offer and explore the surrounding areas, the activities of the Lithuanian minority attract tourism to this part of the borderland and have a positive impact on the local development on both sides of the frontier.

Culture turns out to be a good and necessary platform for cross-border cooperation between the two countries. It fosters the building of relationships in everyday life, both in the area inhabited by minorities and across the entire borderland. Culture can be attractive to neighbouring countries as an area of cooperation, and it can be a factor in supporting both relations and tourism. To extend the borderland tourism offer, it is necessary to strengthen cross-border relations between neighbouring nations. Culture is an excellent basis for that.

Another important factor is access to finance for the development of cultural and tourism activities at the local, cross-border and international levels. Funds can come from the country of origin, the country of residence and international bodies, especially the INTERREG programme, which generally supports territorial cooperation and, in this case, cross-border cooperation in various fields, e.g. culture and cultural tourism. A national minority can be an attractive partner in developing cross-border cooperation if it can prepare a project which is interesting for selected target groups from both parts of the borderland, not just for a narrow group of people who identify with this minority. Otherwise, the project could be perceived as a waste of public funds.

Historical conditions are another important factor determining the possibilities of developing cross-border cultural cooperation with the involvement of national minorities. Where there are no historical antagonisms between border communities, it is usually much easier to develop good neighbourly relations, including those which build on the platform of a shared cultural heritage. There are many examples where political disputes have hindered the building of good relations in the borderlands (Popescu, 2008).

When assessing the possibilities for the development of cross-border cooperation with the involvement of national minorities, one should always take into account how large a percentage of the borderland population the given minority represents (in the case study discussed, the Lithuanian minority is the majority on the Polish side, e.g. about 80% of the inhabitants of Puńsk, hence the domination of Lithuanian culture and language is a natural and widely accepted phenomenon there). It is also worth emphasising once again the important role played by the Polish policy in relation to minorities. If the policy was not favourable, such cooperation would be difficult or even impossible to establish.

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ENTAN
policy paper
September 2021

Preserving and Revitalising Endangered **Minority Languages**

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Summary

The death of endangered minority languages (EML) is a phenomenon of global proportions, making their protection a critical issue to be undertaken by different states. Reversing the dying status of languages facing extinction is tightly connected to the strong language policy a state can implement. Examples of successful language policies show the various ways in which endangered languages can be preserved and revitalised, while also underlining the importance of joint initiative and cooperation on the part of different bodies and individuals. The aim of this review is to present the reasons leading to the subordination and, consequently, death of neglected minority languages, but most importantly, to highlight examples of language policies which, along with other factors, have contributed to the revitalisation of these languages.

Recommendations

The protection, preservation and revitalisation of endangered minority languages is a multi-dimensional project including various means and factors to reach its implementation. Taking into consideration the lack of linguistic policies aiming to preserve and revitalise minority languages in many states as well as the successful implementation of relevant policies in a few of them, the following measures are suggested:

- Establishing a common strategy to be implemented across all states through engaging international or European organisations.
- Having the countries with strong language policies lead the way.
- Engaging the linguistic minorities in the revitalisation process.
- Insertion of EML into the media spectrum.
- Launching changes in educational legislation in order to incorporate EML into the educational process.
- Engaging EML in the cultural landscape of the state.
- Offering EML as an alternative means of oral communication in regional public authorities.

Introduction

A language's obsolescence, and consequently its death, is a major issue for the global linguistic community, which recognizes this as a serious effect of language subordination. "Language subordination occurs when one language or language variety gains hegemonic power over others" (Cashman, 1999, p. 134).

The guiding force behind a community's native language gradually becoming obsolete is the decreasing number of speakers actively using their language, which could subsequently lead to changes in the established linguistic structures, speech habits, and lexical choices through loanwords from a possibly more dominant or intruding language (Brenzinger and Dimmendaal, 1992). Tsitsipis and Elmendorf (1983) further argue that abandoning a native language for another is often the result of socio-economic pressure exerted upon a group in its attempt to belong and adapt.

Such language shift[1] constitutes one of the main factors leading to the extinction of minority languages. Dorian (1982) identifies two different factors affecting language maintenance or shift, namely pragmatism and cultural stance. Regarding pragmatism, the speakers of a language keep the language alive because they think that using it allows them to meet their needs more proactively (Dorian, 1982). On the other hand, cultural stance is seen as a condition directly affected by the broader social and historical context to which a minority community belongs while it "develops clear and specific priorities in valuing things cultural" (Tsitsipis & Elmendorf 1983, p. 289).

Language loss as a result of language shift is tightly connected to the notion of the power a language acquires given the sociopolitical, economic and historical conditions of a region. Unequal power distribution is common in the EU nation-states, as the majority language, being the language of the state, overrules other minority languages. In the Greek context, the dominance of the Greek language is accentuated by the non-recognition of any linguistic minorities, which undermines the support and maintenance of identity.[2]

The preservation and revitalisation of EML is certainly linked to strong language policies implemented by states. However, their implementation is a result of many factors, such as the political, economic and societal setting. Engaging the minority group plays a further crucial role, but since many linguistic minorities have not been officially recognized and are often discriminated against or not protected by the state, the latter is the one to take the initiative towards a strong language policy. Often, it seems that linguistic minorities engage in the preservation of their language after they have ensured the security of their community.

On a global level, the UN International Covenant on Civil and Political Rights and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities state the commitment of the UN to fostering awareness and support of human rights and fundamental freedoms of all individuals regardless of their race, sex, language, or religion, with particular importance given, among

1 Language shift can be broadly described as the process in which the speakers of a linguistic minority gradually replace their language with the socio-politically and culturally dominant language (Austin & Sallabank, 2011).

2 The sole exception is the recognition of the Muslim minority in Western Thrace as a religious one.

others, to linguistic minorities.[3] The Council of Europe (CoE) and the Organisation for Security and Cooperation in Europe (OSCE) have respectively committed to protecting and promoting Europe's cultural diversity (Schmidt, 2008). Additionally, most CoE Member States have pledged their commitment to the protection of a diverse cultural heritage since 1992 by ratifying *the European Charter for Regional or Minority Languages* (ECRML). This charter was a milestone in legislation, since it provides details on measures to actively support the introduction of language rights, use and maintenance in all aspects of socioeconomic and cultural life.

For the same reasons, certain states have so far abstained from signing or ratifying ECRML [4](Schmidt, 2008). The first legally binding CoE document for the overall protection of national minorities was *the Framework Convention for the Protection of National Minorities (FCNM)*, which became active on 1st February 1998. The FCNM is intended to ensure minority participation in all areas of public life, freedom of expression and thought, conscience and religion, access to the media, as well as rights to education and use of one's own language. In the same spirit, the OSCE has been continuously promoting the safeguarding of minority rights in Europe since 1991, paying particular attention to their educational and linguistic rights with the respective publishing of the Hague (1996) and Oslo Recommendations (1998) (Schmidt, 2008).

There are, therefore, various helpful international and European instruments. Ultimately, however, it is down to individual states to decide on language policies. These vary widely depending on the context. I now go on to consider examples of good practice that could serve as a basis for stronger general guidelines in this area.

3 "Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities", derived from https://www.ohchr.org/en/professionalinterest/pages/minorities.aspx

4 Greece is among the states that have not committed to ratification and have neither ratified nor signed the ECRML ("Parliamentary Assembly", retrieved from https://www.refworld.org/pdfid/4d8b18322.pdf)

Strong Language Policies: Revival of Endangered Minority Languages

Although language attrition and death have long been common among endangered minority languages around the world, evidence from past and recent studies indicates that a strong language policy could, in fact, reverse language shift, change the speakers' attitudes towards their own language, and restore the living status of minority languages. In what follows, I outline five examples of significant efforts to revitalise endangered languages from Europe and Africa.

The Case of Cypriot Arabic in Cyprus

One such example is the recent effort to revitalise Cypriot Arabic, the moribund language of the limited number of Maronites living in the Northern part of Cyprus, in Kormakitis village.[5] The language is under the process of documentation and revitalisation after the establishment of the first primary school for Maronite children and teachers in 2002 in a suburb of Nicosia (Karyolemou, 2019). Along with the school, the establishment of an annual Summer Camp in the area of Kormakitis has led to a spike in interest within the younger CA speaking community. Karyolemou's (2019) study shows how these revitalisation efforts have positively influenced the language attitudes of the CA speaking community even though these action plans leave much to be desired in terms of efficacy and planning. The establishment of educational organizations allowed older CA speakers to perceive their language as part of an official educational program for the first time, while younger people became interested in learning it (Karyolemou, 2019). Moreover, the lifting of border restrictions on the Turkish Cypriot side in 2003 allowed more Maronites to return to Kormakitis, aiding the dwindling numbers of the community. However, such return waves require a solid-proof plan of action to sustainably revitalise the language. A good example of this is the 2019 initiative to offer regular CA classes to repatriated children in Kormakitis (Karyolemou, 2019).

5 Kormakitis village is the only village where CA is still spoken and which along with other Maronite villages is situated approximately 30 kilometers northwest of Nicosia "forming a linguistic enclave within a surrounding Greek speaking and, nowadays, Turkish speaking area" (Karyolemou, 2019, p. 4).

The Case of Arbresh in Sicily

In the same vein, Derhemi's (2002) study on Arbresh of Piana degli Albanesi, Sicily, indicates that the low endangerment status of the language in question can be attributed to a language policy plan that included the linguistic codification of Arbresh and the introduction of its written form in educational institutions. Thus, it is apparent that the language policy domain also plays a crucial role to the deceleration or even the reversal of the linguistic attrition process. It should also be noted that the sociolinguistic status of the Arbresh benefits from the fact that the entire community, regardless of their socioeconomic background, opts for this language as an informal means of communication, despite variations in the degree of linguistic competence (Derhemi, 2002). Taking all this into consideration, it can be seen that linguistic policy implementation works efficiently in the case of languages that are not in immediate danger of extinction due to their speakers' continuous use.

The Case of Naro in Western Botswana and Eastern Namibia

Another case of a successful effort towards the revival of a minority language after its documentation, can be found in Africa. Batibo (2009) reports the long-term efforts to revitalise the minority languages of Africa with a special focus on the Naro minority language spoken in Western Botswana and Eastern Namibia. The Naro Language Project launched by Reformists located in the village of D'kar in the 1980s contributed to the language system's description, increased literacy rates, and translation of the Bible. Batibo (2009) attributes the success of these documentation efforts predominantly to the community's high motivation and involvement in recording their language along with the collaboration among language experts, non-governmental organisations and Church groups providing "combined expertise, experience and resources" and securing enough funding (Batibo, 2009, p. 202). As a result, the Naro language has not only been revitalised but has also attracted second language speakers, who are motivated by the easy access to Naro publications. The Naro language has come to be one of the dominant languages in Botswana, since it is now partly used in the public domain and has gained a second language status (Batibo, 2009).

The Case of Basque in the Spanish side of the Basque Country

The solid and long-term language policy followed by the Basque Country in Spain towards Basque is deemed by Cenoz and Gorter (2006) as key to shaping the region's linguistic landscape.[6] For the past 40 years, the Basque Government has taken action towards promoting Basque in education, government services, the media and private companies. It has succeeded among other things in reversing language shift, meaning that a certain percentage of people have started using Basque more than Spanish, yet further actions are required to maintain momentum. Currently, around 40,000 adults are registered to take Basque lessons annually, which is crucial since it suggests that the growing number of people able to read and understand the language (Gorter, Aiestaran & Cenoz, 2012). The results of the study indicate the effect a strong language policy can have on the presence of a minority language in a region but also show that this might not tip the scale of the prominence of a minority language in oral communication (Cenoz and Gorter, 2006).

6 The linguistic landscape of a given territory, region, or urban agglomeration is defined as "the language of public road signs, advertising billboards, street names, place names, commercial shop signs, and public signs on government buildings" (Landry and Bourhis, 1997, p. 25).

The Case of Võro in Estonia

The Võro language, a formerly endangered Finnic Uralic language, is mostly spoken in south-eastern Estonia by approximately 57.000 speakers. It has undergone processes of revitalisation, standardisation and institutionalisation following the rise of the Võro movement consisting of activist speakers and intellectuals (Brown, 2019). At the same time, the Võro Society VKKF, village groups, and local organisations work on the documentation of the language and foster the use of the language in all domains (Brown, 2019). More particularly, Võro has been included in education programmes, from pre-schools (1-2 days per week where Võro is a medium of instruction) to primary education (a number of schools in South Estonia teach Võro-related subjects), while Võro literature is being taught at a secondary level. Furthermore, the language is used in the instruction of all university Võro-language courses (Brown, 2019). Võro language instruction is a project undertaken by Võro Institute and the municipalities of the area. Võro Institute has a key role in the preservation and revitalisation of the language by engaging in policy development, sociolinguistic research, development of educational materials and fostering cultural heritage (Brown, 2019). Since the 1960s, the language has been featured in some local papers, mostly in pejorative jokes, while later on, media content websites being funded by the Ministry of Culture featured opinion articles published in Võro (Brown, 2019).

The first newspaper written entirely in Võro, Uma Leht, was launched in 2000. Since 2005, the Estonian Public Broadcasting (ERR) transmits 5-minute news reports weekly, besides some television series and documentaries in Võro (Brown, 2019). The good language policy along with individual efforts from scholars, speakers and volunteers have proved to be effective in the preservation and revitalisation of the Võro language and culture as well as in the progressive engagement of the Võro community. However, it seems that further steps should be taken in the future especially towards the intergenerational transmission of the language as well as the inclusion of it in the national educational curriculum (Brown, 2019).

Policy Implications

In the international and European contexts certain bodies such as the UN, CoE and OSCE have indeed taken important steps towards the protection of the rights of minorities. However, the implementation of the ECRML is decided individually by the member-states, leaving the adoption of such policies to the discretion of each state. For this reason, although there are countries adopting strong language policies there are still others which do not take any action to protect their linguistic minorities and their languages. Hence, a common policy crafting should be considered in the future in order to protect linguistic minorities even within states that–for instance-have not yet signed or ratified the Charter.

Under the umbrella of a common strategy, all states could apply strong language policies, as mentioned above, in order to enable the preservation and revitalisation of their EML and, consequently, respect linguistic human rights, achieve equality among the different cultural and linguistic groups of their population, and ensure their preservation and protection. A common strategy towards linguistic minorities would primarily protect the speakers and their languages in countries where there has not been any initiative towards this direction. Thus, certain countries implementing a good language policy could lead the way towards preserving and revitalising the cultural and linguistic heritage in more countries. In the same vein, relevant international organisations should give serious consideration to drafting this common strategy for the preservation and revitalisation of endangered languages, based on the examples of good practices outlined in this brief.

What is more, what seems to be critical is the inclusion of the linguistic minority in the process of revitalisation. Also critical in the revitalisation process are the linguistic attitudes of the speakers towards their language. In this regard, it is crucial either to reverse negative attitudes or enhance positive ones. Hence, it can be seen that it is vital to include the speakers in the revitalisation process in order to support them to adopt more positive attitudes. Moreover, in cases where the speakers already hold positive attitudes towards their language, they could themselves become agents of the revitalisation process along with experts and the support of the state.

Successful implementation of good language policies has shown the importance of several essential factors towards the protection of EML. Namely, very important is the insertion of the EML in the broader media spectrum, both printed and digital, including online social media platforms. Additionally, as mentioned in the aforementioned cases, organised efforts should be made by the states through changes in the educational legislation in order to insert the EML into the various domains. For instance, minority languages could be taught at schools and universities either as a medium of instruction or as a second language for young or adult learners. Furthermore, the incorporation of the minority languages into cultural events and actions related to the protection of cultural heritage as well as their adoption for use by official state actors where the minority communities are located seem to be crucial.

The aforementioned significant efforts of language preservation and revitalization also suggest other measures to be taken, including funding, the documentation of EML, the minority community's engagement and collaboration with language experts for these processes. Last but not least, having cultural and research institutes and other associations participate are all supporting factors that could restore the language to living status and contribute to its revitalisation.

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ENTAN
policy paper
October 2021

“One Size Fits All”? Challenges of Ethnic Categorisation When Implementing Non-Territorial Autonomy

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Summary

In recent decades a number of states, especially in Central and Eastern Europe, have established systems of non-territorial autonomy (NTA) for ethnic minority populations living within their borders. According to the original understanding of NTA propounded by the Austrian politicians Karl Renner and Otto Bauer at the start of the 20th century, a community of persons professing a shared ethnicity sets up institutions with the power to decide upon matters relating to the preservation of their particular identity. The NTA approach has been criticised for presuming the existence of stable and clearly-defined ethnic categories within a society, since contemporary theoretical approaches usually regard ethnicity as something that is diffuse, contingent and shifting. At the same time, few could deny that rights claims based on ethnicity (including claims for autonomy) remain highly salient in many contexts. If these claims are to be addressed in practical terms, some form of ethnic categorisation is required. The question remains, however, of how to define the boundaries of an ethnic minority community. One issue particular to NTA has been its use of ethnic registration as a basis for electing institutions of minority self-government and defining entitlements under NTA. This Policy Brief considers how this system has been applied in a number of contexts both historically and in the contemporary era, analysing some of the common issues and challenges that have arisen and advancing recommendations on how they might be addressed.

Recommendations

- NTA should not be considered as a "one size fits all" approach for accommodating the diverse claims of minorities within multi-ethnic states. The implications of NTA can vary widely depending on the ethnic group and the societal context in question.
- It is therefore important to reflect on the pros and cons of NTA in particular cases by identifying the nature of the minority claims, the entitlements autonomy offers to individuals and the potential risks associated with the use of those entitlements.
- The particularities of different ethnic groups should also be taken into account when establishing principles for categorisation and drawing up ethnic registers; open and flexible arrangements may be appropriate in some cases, but other cases may call for more tightly-defined criteria.
- NTA appears to be a workable approach in the case of minority communities whose main aim is to promote their particular ethno-cultural or linguistic identity; where other issues (e.g. socio-economic exclusion) are the main concern, NTA appears less appropriate.

Introduction

Non-territorial autonomy (NTA) is a form of self-government established in the name of a group of individuals, which is mainly implemented to address the needs of different ethnic groups within multi-ethnic states. Whereas territorially-based arrangements grant autonomy to a particular sub-region of a state, in the case of NTA the carrier of autonomy is a group of people constituted irrespective of where the individuals in question reside within the state.

Two of the most influential theoreticians of NTA were Karl Renner and Otto Bauer, who proposed this model to resolve growing tensions within the multi-ethnic Habsburg Empire at the end of the 19th and the beginning of the 20th century. Under Renner and Bauer's approach, a group of individuals defined on the basis of language or ethnic belonging forms an autonomous body to administer a limited set of affairs, mostly confined to cultural issues relevant for the particular ethnic group, such as schooling and cultural organisations. NTA has been used widely in Central and Eastern Europe both historically and since 1991.[1] It has also been used in a range of other contexts worldwide.[2] The practice of NTA has varied widely, both in terms of the powers of these institutions and the benefits they offer. This ranges from symbolic (e.g. today's Estonia, today's Latvia, today's Russia) to more substantive (inter-war Estonia, today's Serbia) forms of autonomy.

One of the main criticisms of NTA is that it reifies and essentializes ethnicity (i.e. it implies that ethnic groups are somehow concrete, internally homogeneous entities and that people can belong only to one ethnic group). Both the state of the art in scholarship and everyday experience show that ethnicity is not purely primordial or determinant but is often fluid and contextual and is about constructed group boundaries that can shift to greater or lesser degrees depending on the setting (e.g. Tajfel 1974, Okamura 1981, Roccas and Brewer 2002, Jung and Hecht 2004, Brubaker 2004). Practical experience suggests, however, that essentialist or "groupist" understandings of ethnicity may still have an important role in shaping identities in particular contexts, underpinning strong minority claims to preserve a particular identity through autonomy arrangements. In this sense, one can argue that while ethnicity is a "category of political practice" (Brubaker 2004), its existence cannot simply be wished away. Rather, ethnicity remains highly salient and something that must be accommodated within the political system of different states.

Since NTA encompasses a community consisting of individuals, the necessary first step in its implementation is to establish the boundaries of that community. This raises the problem of how to define belonging. The solution has been to categorise people according to ethnicity and draw up registers for purposes of elections, taxation and access to benefits (for instance, eligibility to attend minority schools). Keeping such registries requires an understanding of who are the individuals who form the autonomous group. However, ethnic identity can be defined and interpreted in numerous different ways and these different approaches can cause

1 Since 1991, institutional arrangements described as NTA (or national cultural autonomy) have been adopted in Hungary, Estonia, the Russian Federation, Serbia, Croatia, Slovenia and Montenegro. Reference to cultural autonomy can also be found in minority laws in Latvia and Ukraine.

2 Commonly cited examples include the historic Millet system in the Ottoman Empire, Jewish autonomy in the Polish-Lithuanian Commonwealth, arrangements in Brussels Capital Region in Belgium and for Sámi minorities in Norway and Sweden, the Maori people in New Zealand.

misunderstandings and conflicts. The actual practice of NTA shows that registration has given rise to a whole range of questions and issues depending on the ethnic group and the society in question.

This Brief sets out some of the policy implications that arise from historical and contemporary experiences of implementing NTA. The main issues it addresses are related to defining ethnic belonging and the registry which is one of the core questions of implementing this autonomy model.

The three narrower questions we analyse in this brief are the following:

- How willing are individual members of a minority to register themselves on the basis of ethnicity?
- How to define the boundaries of ethnic belonging and NTA membership? For instance, what are the implications of NTA organisations including people who may only have a loose connection to the minority communities?
- (Closely bound up with the previous questions) What is at stake? What are the benefits that NTA provides to individuals, how might these affect people's desire for membership, and what implications might this carry for inter-ethnic relations within the wider society?

In the next section we analyse these intertwined questions on the basis of how they have been dealt with in several countries.

Willingness to register

As a model devised in line with democratic principles, NTA operates on free definition of ethnicity by individual citizens and voluntary enrolment on a national register. In some cases (e.g. interwar Estonia, today's Croatia), citizens have been given the option of indicating their ethnicity on an official register administered by the state. These state records then serve as the initial basis for compiling NTA registers. In most cases, however, there are no such official statistics and registers are drawn up on the basis of individual enrolment ahead of elections to NTA bodies.

In some contexts, the readiness of individuals to register in this way has not been an issue. For example, the Sámi parliaments in today's Norway and Sweden are elected by means of electoral rolls which are compiled according to the following criteria: the voters' identity is self-reported and they must confirm that they, their parents or grandparents have used Sámi as a home language.

(Josefsen et al., 2015: 40) Similarly, the Swedish and Finnish cultural self-governments in Estonia are elected on the basis of national registers to which people are added according to their own will and self-reported identity. In either case, significant opposition to such lists or registries has not emerged and the registry-based NTA seems to work well in identifying community members.

In other contexts, however, individuals have been reluctant to register due to a collective memory of past persecution on grounds of ethnicity, or also because of present-day discrimination. It is for this reason that, when the introduction of NTA was first discussed in Hungary at the start of the 1990s, many minority activists (e.g. Roma, but also German) opposed the use of registers. During and after World War II numerous ethnic groups were repressed or deported based on individuals' ethnic affiliation which often even had nothing to do with their personal identity. In some cases for example, entries in church books or membership in organisations became the basis for repressions. With such a historical legacy, the mistrust of ethnicity-based registries is fully understandable.

Membership criteria

Hungary's response to the opposition of minority activists during the early 1990s, was not to use registers at all under its initial NTA law introduced in 1993 (Dobos 2007: 457). Instead, local minority self-governments were elected without ethnicity-based electoral rolls, meaning that anyone who lived within a given municipality was able to vote and stand as a candidate. In the absence of any legal means to control participation, people who lacked any obvious links to the minority community were able to stand in the elections to the minority self-government and gain seats. This meant that the initial form of local-level autonomy for ethnic minorities implemented in Hungary had a hybrid character incorporating elements of both NTA and territorial arrangements. It also left wide scope for the phenomenon that has come to be known as "ethno-business". In the context of Hungary, this term came into use in the late 1990s to refer "to candidates who were elected mostly in the capital and bigger cities, did not know the minority language, culture and traditions, were unknown to the specific community and probably came either from the Hungarian majority or from other minorities" (Dobos 2007: 459). One very obvious further example of this phenomenon was the fact that, in some cases, minority-self-governments were established in areas where, according to census data, no members of the minority community in question actually lived (Vizi 2015: 42, 49).

The initial approach adopted in Hungary raises interesting questions around how to define notions of "belonging" to a group. For instance, who is to say that particular individuals living in an area may not have developed a hybrid identity grounded in affinity with an ethnic minority culture alongside their primary Hungarian

identification, regardless of what they may have stated in a previous census? Furthermore, if enough members of a given community are ready to vote for a particular candidate, who is to say that the integrity of the process was undermined by "ethno-business"? Nevertheless, the practical operation of this system brought into focus a number of deficiencies and led to calls for clearer criteria defining who could legitimately claim to be a member of a minority community and who could not.

Although some candidates and voters without obvious prior links to minority communities may well have acted in good faith and out of sympathy for the particular minority, in other cases their actions were determined by other motives that did not work for the benefit of those communities and sometimes worked to their actual disadvantage. For example, in one district in Hungary in 2002, the local Hungarian majority elected mainly non-Roma representatives into the Roma self-government, to block Roma candidates who had been in dispute with the local authority (Dobos 2007: 460). This was only one of numerous scandals that carried potentially deleterious effects for inter-ethnic relations and undermined the credibility and legitimacy of Hungary's minority protection system (Dobos 2007: 459-460; Vizi 2015: 42, 49). Consequently, Hungary's original NTA law was amended in 2005 and a registration system introduced.

While the Hungarian case supports arguments in favour of implementing some form of registration as a basis for NTA, many different methods for compiling registers have been used in different contexts and each of these has raised its own issues and challenges. In today's Serbia, the two largest parties of the Hungarian minority argued that the state should compile an initial electoral roll based on the population registry and allow individuals to opt out if they did not wish to be included.[3] This approach was, however, rejected by the Serbian authorities, which claimed that the population registry does not include enough information about individuals' ethnic belonging and also that the OSCE does not recommend the use of such methods. A system of personal, voluntary registration was therefore implemented in this case (Székely 2020: 53).

Voluntary registration has, however, brought its own issues: the official procedure is for an individual to visit the local town hall in person and fill in the appropriate form. Since, in practice, many people do not do this, representatives of minority political parties and NGOs go door-to-door getting people to fill in forms before taking them to the local authority. Since the political activity of the Hungarian minority in Serbia is extensive, this has given individual parties the possibility to influence individuals by means of electoral propaganda and direct pressure to register as voters. (Székely 2020) In this way, NTA may become a vehicle through which parties advance their own particular narrow political agenda rather than a framework representing the full spectrum of views and claims found within the minority population. Indeed, in what can be seen as a further example of "ethno-business", majority Serbian parties have co-opted people from among minorities who set up NGOs as front organisations in order to gain election to minority national councils and direct them according to the interests of the party.

3 This approach was used by interwar Estonia in its 1925 NTA law: initial electoral lists for national minority councils were drawn up on the basis of the official state registry of population and made available for public scrutiny, at which point individuals could either opt out by asking to have their names removed, or opt in by applying to change their ethnicity in the official state registry (Smith & Hiden 2012).

What is at stake? Benefits of registration for individuals

A system of voluntary registration, then, still leaves open the questions of how to define the boundaries of ethnic group belonging and the extent to which these should be regulated in order to ensure that individuals are not registering for personal reasons that have nothing to do with the official purpose of NTA, which is to support and to nurture the particular minority identity. In this respect, much depends upon the particular societal context, the nature of the minority identity and the claims advanced on its behalf, but also on the actual powers and competences of NTA bodies and the potential benefits that membership can therefore confer to individuals as well as political parties and other organisations.

In interwar Estonia, for instance, ethnicity was a highly formalised category that significantly influenced people's life choices, especially in connection with an ethnicity-based school system. Ethnicity was indicated on identity certificates and, as such, had official meaning. Although according to the constitution, everyone was free to choose their ethnicity, making changes to identity certificates turned out to be a controversial and conflictual process. The escalation of tensions was exacerbated by the popularity of German-language schools. Consequently, numerous individuals hitherto officially registered as ethnic Estonians desired to be included in the national registry of the German Cultural Self-Government in order to send their children to German-language schools where they could benefit from smaller class sizes, better resources etc. The situation did not find any other solution than the abolition of the freedom to choose one's ethnicity in 1934 under authoritarian power.

The powers that an autonomy body has and the resources it has to advance its goals defines if it is mainly symbolic (or cultural) or more substantive (political). This in turn is related to the question of the implications that registration holds for relations between different ethnic groups (majority and minority) in particular contexts. In both the historical Estonian and today's Hungarian case, minorities advocating NTA have typically had a strong identity and/or active elite who have political ambitions. In such cases, the absence of clear regulations defining ethnic belonging can be a source of political contention.

The stakes are, however, different where cultural autonomy has only symbolic value. This can be seen in the case of Estonia's 1993 re-established cultural autonomy law, which, compared to its interwar predecessor, provides for a far more symbolic variant of NTA. Although today's law has broad aims (for instance, allowing the establishment of schools to cater for the respective minority), in reality it is used to protect the cultural heritage of small minorities that have almost completely vanished due to assimilation and/or emigration. Thus far, only Estonia's Swedish and Finnish minorities have established cultural self-governments under this law. There are no legal restrictions to being included in the national registries of these self-governments, but the communities themselves can set their own criteria. Thus, the Finnish Self-Government uses more essentialist criteria by inviting applications from the people who could claim ethnic Finnish ancestry. The Swedish Self-Government, however, welcomes people who wish to support the efforts of the Swedish minority to preserve their language, culture and national self-awareness. This model of cultural autonomy works well for small ethnic groups in Estonia with weak and multiple identities. However,

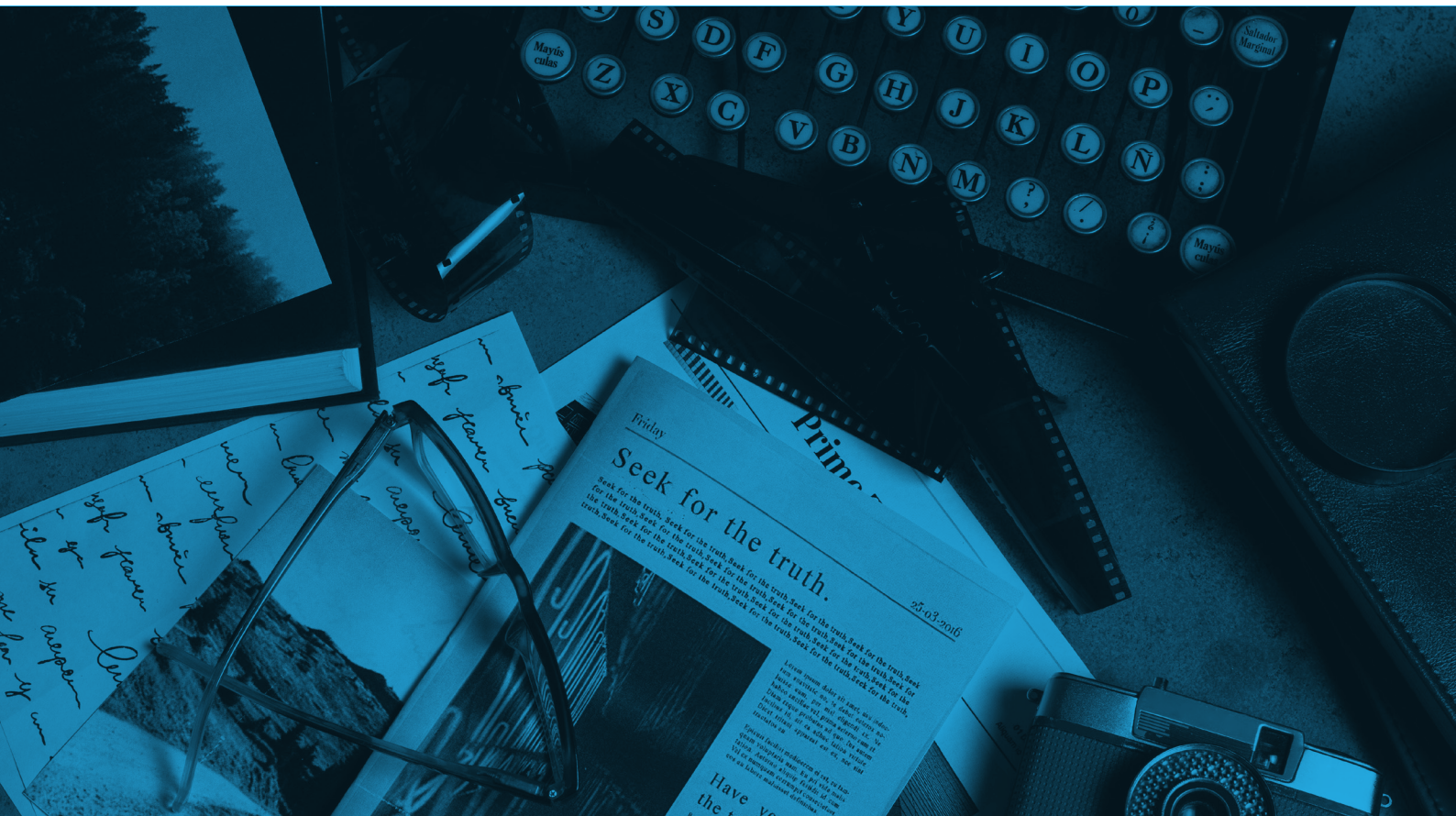
it was never intended to cater to the needs of the country's much larger and more politically mobilised Russian-speaking minority, whose leaders have indeed mostly rejected the NTA model (Smith 2020).

Based on the examples above, it can be said that when implementing NTA, there can hardly be universal methods of ethnic categorisation and setting boundaries that would work in any conditions. As the Hungarian case also shows among other things, if the aim of NTA is to protect minority languages and cultures then such autonomy is not beneficial for those minorities such as the Roma whose major problems relate instead to social and economic marginalisation. (Molnar Sansum, Dobos 2020: 252) The same is true for other cases as well. It turns out that in practice it is not always completely avoidable to use essentialist criteria when setting the boundaries.

Policy implications

Both the original concept and the practical experience of NTA illustrate an enduring tension that exists between collective ("groupist") identity and rights claims on the one hand, and the more complex and multifaceted nature of individual identity on the other. There is no obvious way of resolving this tension, and experience of NTA shows that *all* forms of ethnic-based politics entail some degree of what is generally called "ethnobusiness".

Against this background, some scholars and policymakers claim that it is misguided to talk about the rights of (allegedly) coherent "ethnic groups" with clear boundaries between them.



Instead, they argue, it would be better to devise more flexible arrangements for the accommodation of diversity, by focusing not on ethnicity, but rather (for instance) on everyday use of language within complex multiethnic societies. In the interwar period, for instance, the Minorities Section of the League of Nations cited arrangements in 1920s Latvia as an example of good practice. At that time, Latvia did operate a system of autonomous minority schooling. However, there was no official state registry of ethnicity and schooling arrangements were determined on the basis of parents declaring which language was most usually spoken at home. According to the Minorities Section, this system was preferable to the Estonian NTA system based on registers, which was more likely to entrench ethnic group boundaries within society. This is indeed one of a number of possible alternatives to NTA that have been applied in Central and Eastern Europe. From 2012-2018, for instance, Ukraine adopted a model of administrative decentralisation which allowed local municipalities to give an ethnic minority language official status alongside Ukrainian if census figures showed that the relevant minority exceeded 10 percent of the local population. In interwar Estonia and today's Serbia, this "threshold principle" was applied alongside a system of NTA as part of a hybrid model intended to cater for both territorially concentrated and territorially dispersed minority groups.

Yet, while more flexible arrangements may work in some contexts, claims for ethnically-based autonomy (self-government) remain highly salient to politics in regions like Central and Eastern Europe where (for historical reasons) ethnic identities and boundaries have been strongly institutionalised. Indeed, NTA was originally devised by Renner and Bauer precisely in response to the heightened nationalist disputes that arose within the context of the late Habsburg Empire. In this context, they argued that granting autonomy to "communities of persons" was a far better option than territorial autonomy, since the latter was likely to reinforce claims to exclusive "ownership" of territories by particular ethnic groups as well as generating movements for secession from a Habsburg state that Renner and Bauer wished to preserve and reform along democratic, federalist lines. A similar understanding of NTA as a "less destabilizing" generalised alternative to territorial autonomy can be found in discussions of post-Cold War Central and Eastern Europe, especially in the immediate aftermath of the violent secessionist conflicts in former Yugoslavia (Roshwald 2007; Coakley 2016). This juxtaposition of NTA and TA has, however, been criticised by other authors (see especially Kymlicka 2007), who warn against "prescribing uniform solutions for diverse needs" (Purger 2012, 2).

By the same token, scholars and practitioners should be wary of adopting a similar "one-size-fits-all" approach in the analysis of NTA (Pap 2015). This Policy Brief has shown that even in cases like today's Hungary, where minority populations are generally small in size and territorially dispersed by settlement, different approaches may be required depending on the minority. The cases analysed have demonstrated that implementing NTA depends largely on the societal and cultural context where it is being implemented. In implementing NTA, different forms of registration can be suitable in different contexts. It largely depends on whether the ethnic minority in question is numerically small and weak or a viable community whose interests are not only limited to cultural affairs but also include political questions. In the latter case, a different approach may be needed, as a system of registration that is too "open" can cause more problems than it solves. Authorities should therefore give careful attention to these issues when considering whether and how to introduce NTA.

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ENTAN
policy paper
April 2022

Non-territorial Autonomy **of Whom, by Whom and for Whom?**

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Summary

Non-territorial autonomy's (NTA) central purpose is to bring together the people of a minority community, regardless of their population numbers or where they live within a country. It aims to preserve the distinct ethnocultural identities of individuals and the objective characteristics of their community. The NTA model inevitably raises crucial questions and dilemmas, both theoretical and practical, about community boundaries. Who belongs to a given minority (Bauböck, 2001)? Who can represent whom? How should the answers to these questions be weighed up in diverse institutional and social contexts? Existing practices vary in the extent to which they rely on different factors to answer these questions. These factors include potential objective elements as well as subjective elements such as individuals' self-identification and personal choices. Existing practices also vary in the criteria they use to decide recognition of a community, eligibility for membership, rules for access to NTA institutions and whether any of these should be determined by the competent public authorities or the groups themselves.

The act of defining group membership needs to be carefully addressed by stakeholders and requires a delicately balanced approach. A generous and overly inclusive mechanism that relies entirely on individual self-identification and other subjective criteria, with no objective elements, undoubtedly carries risks. In these circumstances, group membership could be inflated by fraud and by people who presumably or obviously do not belong to the community. This latter phenomenon has already been widely observed and is commonly referred to as ethnobusiness or ethnocorruption. It has led to a number of scandals, particularly in some countries of central and eastern Europe. In contrast, a more exclusionary approach to NTA access, one that relies heavily on potential objective criteria, may prevent the participation of people with weaker ties to the community. This approach risks undermining the group's ability to effectively represent itself and influence key decisions affecting the lives of its members (Suksi, 2015, p. 109).

Recommendations

NTA regimes that place a strong emphasis on individual self-identification and voluntary public participation comply with Article 3 of the Framework Convention for the Protection of National Minorities of the Council of Europe. The article stipulates that "every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice". However, these inclusive NTA regimes should not fail to comply with paragraph 35 of the Explanatory Report of the Framework Convention. It states that the article "does not imply a right for an individual to choose arbitrarily to belong to any national minority. The individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity" (Council of Europe, 1995, p. 5).

To solve the dilemma outlined above, the recommendations below apply a twofold and closely intertwined logic. They advocate the greater involvement of minority organisations in determining the conditions of their group membership and the need for objective features to have an important role too.

- Further sources, including census data and independent expert opinions, could be also considered in addition to individuals' self-identification when establishing NTA for certain domestic minorities, taking into account the peculiar features of the given contexts.
- The conditions as well as the mechanism of group membership should be clearly formulated and transparent, with detailed provisions set out in the relevant legislation. Minority organisations should be actively involved.
- When an application is made for group membership, in addition to self-identification, objective criteria could be also considered. Has the applicant been on a previous list? Have they had long-term relations with the community? Do they have a family relationship with a group member? Is preserving minority characteristics their goal? In general, the applicant should be required to explain their interests in minority affairs and their ties with the community in question.
- Minority organisations should prepare and administer the minority (electoral) registers of group members. If possible, they should have the right to select, favour or reject individual applications. Provisions should be made for an appeals procedure.
- If minority registers continue to be administered by public authorities (non-minority actors), greater involvement in those procedures should be secured for minority organisations. They should have the right to express their opinion on applications or even to veto them. In this case, too, provisions should be made for an appeals procedure.

Introduction

NTAs gained popularity since the early 1990s and onwards. During this period, various countries have aimed to preserve the identities of domestic minority communities by referring to the notion of NTA in legislation and policies made about them. This has particularly occurred in eastern, central and south eastern Europe. To fulfil its purpose, an NTA requires an institutional framework established at national and/or sub-national level (Heintze, 1998, p. 22). The framework should seek to unite, organise and represent potential group members and may be established in public or private law. In practical terms, it entails one of two options. The first option is to give key minority rights to minority NGOs managed by volunteers, such as the right to run educational and cultural institutions. The second is for voluntarily registered group members to gain the right to establish, at varying levels, directly or indirectly elected minority self-governments or councils to administer certain issues in the community (Brunner & Küpper, 2002). There is significant variation in existing practices, both with regards to the criteria for group membership as well as the rules for access to NTA institutions. At present, some are administered by the competent public authorities and others by the minorities themselves. Furthermore, there are also differences in whether and how they approach the issues of individual choice and the abuse commonly known as ethnobusiness (Pap, 2017). Therefore, it is vitally important to define the conditions and procedures of group membership and access to minority rights, NTA institutions and resources. Such considerations also need to take into account the complexity of identities, the sensitive nature of ethnic data, the often dispersed territorial configuration of minority groups and, not least, the democratic legitimacy and social embeddedness of NTA bodies.

Group membership and NTA

As pointed out by Fredrik Barth, ethnicity and the demarcation of community boundaries are the result of social marking-labelling processes in which the individual and other actors also play an integral role in a dialectical way (1969). Ethnicity can vary enormously in different settings, especially in terms of its political presence, role in social interactions, cultural diversity, temporal-historical stability and durability (Wimmer, 2008). According to the institutionalist tradition, the construction and formation of ethnic boundaries are shaped by individuals and by groups. The process is accompanied by debates about externally applied classifications, the role of outside actors and matters of individual perception and internal self-identification. External factors not only influence the strength of boundaries but even their existence.

The process outcome depends on the given institutional context, including what type of boundary can be drawn meaningfully and acceptably, on the distribution of power between actors, on their interest in differentiation and on existing social networks (Wimmer, 2008).

Another issue is that the nature and main components of belonging to formal communities must be defined in some way. The Ljubljana Guidelines on the Integration of Diverse Societies, published by the OSCE High Commissioner on National Minorities in 2012 and a series of other studies have emphasised that in everyday practices individual identities can be multiple, multi-layered, contextual and dynamically changing at the same time. In NTA regimes, the precise group of individuals who, as members of the community, have the right to access NTA needs to be carefully clarified.

International law has not been able to offer a universal or even legally binding definition on how to define group membership of certain ethnocultural groups.

Neither is there guidance on how to define membership through the interpretation of any distinct objective and subjective criteria. Yet, it is evident that without members one could hardly speak of a community. Following the various attempts to elaborate a definition (F. Capotorti, Council of Europe), in close connection with prominent debates about nationalism theories and identity research, two possible paths towards a solution have emerged. They are divided on whether identity is to be understood as given, natural, permanent and predetermined or, conversely, as a mere selected and constructed social category. Within both approaches, the role of the group itself in determining ethnic affiliation is also an issue. The first approach focuses on potential objective distinguishing features when examining minority affiliation. The key element of the second is individuals' self-determination and free choice. The relevant instruments of international law and country-level legislations usually seek to find some balance between the two paths: the choice of the individual and the social reality of the group. They generally consider the subjective aspect of membership, but complement it with possible objective elements, such as evidence of individual identities. As a result, individuals' free choice and the various objective aspects of belonging to that community constitute the criteria for group membership.

A common problem facing current NTA regimes is the classic paradox of democratic representation: in order to meet minority protection standards, they must ensure that minority rights can only be exercised by members belonging to minorities, meaning that group members must be registered on a voluntary basis. However, this should be done in such a way that NTA bodies have sufficient social credibility and democratic legitimacy to be able to effectively represent the whole group in order to make decisions and express opinions on issues of concern to

the community. Even the existing European NTAs have different competencies, functions and institutional structures in many respects. They also face different challenges due to their broader legal-political contexts and the specificities of their communities, to which they may also respond differently.

Access to minority institutions has traditionally been reserved for people who are nationals of the countries concerned and who also belong to an officially recognised minority. Where special minority elections are held, individuals are also expected to express their affiliation by subscribing to minority electoral rolls. The latter procedure necessarily leads to a politicisation of ethnicity. As a result of this, identity becomes a mandatory, divisive and prescriptive category, rather than an ordinary practice. No room is left to experience the multiple, contextual, situational or dynamic nature of ethnicity. One must also consider the fact that the minorities in question are relatively small in numbers and usually at an advanced stage of cultural-linguistic assimilation. They mostly live territorially scattered throughout the countries and often possess multiple, porous, blurred and in some cases even contested identities. Therefore, it is impossible to draw clear-cut boundaries between communities. The need to declare individual identities by registering on minority electoral rolls often involves extra efforts and costs for group members. This can cause an additional burden in some communities, most prominently Roma, where members still face various forms of prejudice and discrimination. Given the above factors, therefore, it is often quite challenging for minority communities to know how to reach, mobilise and unite potential group members, especially the less committed and assimilated segments.

At national level, when determining group membership, individuals' self-identification proves to be the decisive criterion as a general rule, following the international documents such as the Framework Convention and the Ljubljana Guidelines. However, in addition to the subjective element, it is quite rare for legislation on group membership to follow the example of Slovenia by including detailed objective components. It is extremely remarkable that in those instances where minority registers are administered by the groups themselves (Estonia, Slovenia), no electoral abuse has been reported so far. Reasons for this may include the relatively small number of the affected communities in the two countries, the small number of NTA bodies, or that they possibly have a lower profile in society. Additional causes could be the requirement for stricter, objective elements in the Slovenian system, or the rather symbolic, consultative role of minority councils in Estonia. But the high degree of socio-economic integration of the communities in question, their advanced assimilation and the fact that, due to their demographic composition, they mostly seek to expand the boundaries of their communities, so these cases leave little space for potential abuses to be identified.

In other places, including Croatia, Hungary and Serbia, where there are many more and generally larger minorities than in Estonia or Slovenia, minority electoral rolls are compiled and maintained by the competent state or municipal authorities. Unlike in the previous examples, abuses, various forms of ethnobusiness, accusations and questionable identities have been constantly observed and reported from these places, often leading to public scandals. These incidents highlight the diverse strategies and interests of minority communities in the countries concerned and how they tackle and draw community boundaries during their efforts to preserve their distinct identities.

Policy implications

- In both existing and newly developed models of NTA, stakeholders must start the process of and be actively involved in defining or redefining the specific details and scope of changes reinforcing the role of potential, country- or minority-specific objective criteria in determining the conditions and mechanisms of group membership, especially with an emphasis on access to the NTA. Key minority organisations must be actively engaged in meaningful consultation in these processes.
- Existing channels of consultation must be used or created to give minorities a crucial voice in officially defining who belongs to the communities and who does not. Minorities should also have a say on how the criteria for membership eligibility should be evaluated, while fully respecting individuals' right to their own and free self-identification. These methods should be prioritised when determining the official mechanism of becoming a group member with access to NTA institutions, rights and resources. Minorities themselves should have the right to administer their own lists of community members. There should also be an official appeals procedure and the involvement of independent monitoring and supervisory bodies.

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ENTAN
policy paper
May 2022

Can Non-territorial Autonomy Enhance **Indigenous Peoples' Right to Self-Determination?**

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Summary

- This policy brief investigates whether non-territorial autonomy (NTA) can secure indigenous self-governance.
- NTA incorporates multiple arrangements such as consociationalism and national-cultural autonomy (NCA), as well as forms of representation that de-territorialise self-determination.
- NTA is an institutional system that endorses representative or symbolic power rather than decision-making power.
- Theoretically and in practice, NTA does not address indigenous peoples' internationally granted rights, such as the "right to land, territories and traditionally owned resources", upon which their right to self-determination is based.
- NTA can help to secure indigenous peoples' right to self-determination, but only as a supplementary, rather than a primary, policy tool.
- In situations where indigenous peoples are dispersed within a territory for various reasons, NTA can be a valuable tool and must be combined with territorial autonomy where possible.
- Any solutions that are developed must reflect indigenous peoples' needs and they themselves must be involved in the process.

Recommendations

- Do not subjugate indigenous peoples' rights to minority rights. International law recognises indigenous peoples as a distinct legal category with a right to self-determination. Indigenous peoples are not minorities to whom minority rights should be granted.
- Set realistic expectations about the capacities and limitations of NTA. In most cases, NTA institutions only provide symbolic representation and do not have decision-making powers. NTA institutions cannot enforce indigenous peoples' right to self-determination.
- NTA should only be used if indigenous peoples' territorial autonomy is not attainable (for example, if the indigenous peoples are dispersed throughout the territory or share it with other groups). NTA can be an effective additional policy tool to help indigenous peoples to achieve self-determination, but it should not be the only policy tool.
- In situations where indigenous peoples are dispersed throughout a territory for various reasons, NTA can be an important tool to support their aspirations and efforts. However, the developed solutions need to reflect indigenous peoples' needs.
- Indigenous peoples need to participate in the design process and decide which solution is best for them.

Introduction

Indigenous peoples are the third and most recent category to have a recognised right to self-determination. Indigenous peoples are a separate legal category and thus should not be conflated with minorities to whom minority rights are granted. Indigenous peoples' right to self-determination is defined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) as internal self-determination. Internal self-determination grants indigenous peoples the right to establish and control educational institutions in their mother tongue; territorial autonomy; control over natural resources; and the right to promote and maintain their institutional structures, customs, procedures and practices within internationally recognised human rights standards, etc.

Within this set of rights, the most important aspect of self-determination (alongside non-discrimination, respect for cultural integrity, social justice, development and self-government) is the right of control over traditional lands and resources (Martínez Cobo, 1983). Indigenous peoples' identities are closely linked to the territory they inhabit, of which they are a part.

Internal self-determination can be achieved through autonomy in a federal or confederate state structure or via more radical arrangements such as secession and independence. Intra-state autonomy is the most feasible option for indigenous peoples living in a geographically concentrated area.

However, in most instances, indigenous peoples are a minority in their traditional lands. In these situations, non-territorial autonomy (NTA) can be a solution. NTA can be implemented within or outside a state's borders without undermining the state's vital principle of territoriality. Previous research assumes that NTA guarantees representation for indigenous peoples through seat allocations in national parliaments or through the establishment of separate institutions (Robbins, 2015). In reality, NTA arrangements and indigenous peoples' institutions do not guarantee the necessary decision-making power to exercise the "right to land, territories and traditionally owned resources", which is the very basis of self-determination.

Although NTA can be an innovative tool to support self-determination, it cannot be used to grant all indigenous peoples' declared rights. Misconceptions about what NTA can achieve can lead to further deprivation of rights. Consequently, it is necessary to fully understand the limitations and possibilities of NTA as it relates to the internationally enshrined right to self-determination of indigenous peoples.

Indigenous peoples

Indigenous peoples are distinct communities that have historically rooted social-cultural and political attributes (Anaya, 1996). Indigenous people show historical continuity with the pre-colonial and pre-invasion societies that were present in their territories. They consider themselves to be distinct from other sectors of society that currently dominate their territories or parts of them. They are non-dominant sectors of society but are determined to preserve, develop and transmit to future generations their ancestral territories and their ethnic identity. Indigenous peoples were the first or original inhabitants, or descendants of the peoples that occupied a given territory when it was invaded, conquered or colonised. Their culture is different to that of the majority and their cultural patterns are the basis for their continued existence as peoples.

"Self-identification" is an important concept in the understanding of indigenousness and to peoples' perceptions of it (Burger, 1990). Additional indicators of indigenousness include a special attachment to the land; sense of shared ancestry; distinct language, culture, spirituality and forms of knowledge; separate political institutions; and marginalisation and colonisation not only by European colonial states but also by the later independent states (IWGIA, 1995). Nevertheless, the recognition of an indigenous community can only be granted by the state itself, as the abovementioned UNDRIP declaration is a legally non-binding instrument.

The right to self-determination

Throughout history, the struggle for self-determination, whereby governance is decided by the will of the governed, has caused major upheavals. The concept of self-determination has numerous meanings and has been applied differently depending on the political context.

Within contemporary international law, the principle of self-determination is fully integrated into the UN system, and several legal instruments recognise and guarantee it as a collective right of all peoples. As such, the right to self-determination encompasses several components including the right of peoples to freely define their political status; civil and political rights; the right of peoples to freely exercise their economic development; permanent sovereignty over natural resources; the right of peoples to freely practice their social development; and the right of peoples to freely determine their cultural development.

The exercise of self-determination has both internal and external aspects. Self-determination can be realised externally through independent statehood or internally within state borders through the granting of political and cultural rights, power-sharing mechanisms, etc. Recognition of who is entitled to self-determination has changed over time. The latest category of "peoples" with a right to self-determination is indigenous peoples.

The form and content of indigenous self-determination

Indigenous peoples have a right to self-determination as a separate, recently recognised legal category. They have this right for several reasons including the systematic repression and marginalisation they have been subjected to, which has contributed to their inferior position within the societies they are part of (Castelino, 2014; Moore, 2003).

As state sovereignty is a predominant norm of international law, the recognition of indigenous peoples' rights lies in mechanisms related to internal self-determination (article 4 of the UNDRIP). Indigenous peoples' right to self-determination includes non-discrimination, cultural integrity, land rights, social welfare and development and self-government.

Self-government is a political arrangement that enables groups to govern themselves according to their own will and through their institutions, or to exercise autonomous decision-making over their collective affairs. Self-government is a *modus operandi* of the principle of self-determination and puts the right into practice. Self-governance grants autonomy and participatory engagement to indigenous peoples. The international instruments do not recommend any particular arrangement, but they do point towards meaningful self-government, realised through political institutions that mirror indigenous peoples' life patterns and should not be imposed upon them.

The right to self-determination should enable them to remain a distinct people and should grant necessary control over their own affairs, laws, customs and land tenure systems (Kuokkanen, 2019). The right to self-determination supposes the right to dignity and diversity, which is directly linked to indigenous peoples' right to land and natural resources. Thus, when states are carrying out measures within an indigenous territory, it is necessary to obtain their free, prior and informed consent (UNDRIP).

NTA as a policy instrument

NTA is a tool of statecraft or policy instrument applied in ethnoculturally diverse states. NTA enhances a group's self-governance over issues relevant to its members. Traditionally, NTA includes a variety of different arrangements such as consociationalism and national-cultural autonomy (NCA), but also forms of representation that de-territorialise self-determination (Nimni, 2015).

NTA enforces the principle of personality and bases rights upon that rather than the principle of territory as territorial autonomy does (Lapidoth, 1997). In this sense, NCA is a form of autonomy whereby a non-majority population can establish a representative body without a territorial limitation and can carry out cultural or other activities relevant for minority groups at the local or national level (Vizi, 2015).

NTA arrangements are most suitable in situations where the beneficiaries are dispersed throughout the majority population and there is no possibility to grant them territorial autonomy. Self-regulating institutions are at the essence of NTA arrangements. However, in many cases, NTA institutions lack competencies, capacity and financial stability. Typically, they provide symbolic representation and only secure participation in decision-making related to organisational or administrative issues. NTA institutions have consultative functions rather than the power for independent decision-making. At most, they secure co-decision powers. From a public law perspective, NTA has a limited range of functions and grants fewer powers than territorial autonomy.

NTA and the right to self-determination of indigenous peoples

Previous research related to indigenous self-determination is sceptical of NTA's ability to safeguard indigenous peoples' rights and to secure self-governance (Josefsen, 2011). NTA is unclear about sovereignty over material assets and resources and may not be effective in securing indigenous peoples' rights. Indigenous groups have a special relationship with their land, meaning the territory that shapes their spiritual, social and cultural lives.

NTA is best suited to the needs of dispersed minorities, but it tends to subjugate indigenous rights to minority rights. Even in situations where the most advanced NTA institutions exist (such as the Sámi Parliaments), they are not legally or institutionally equipped to grant self-determination to indigenous groups. Existing NTA institutions have limited capacities, are not real self-determination bodies and, despite being called "parliaments", they do not have decision-making powers or have very limited powers that cannot grant indigenous peoples the right to land and traditional territories (United Nations Special Rapporteur on the rights of indigenous peoples, 2016). However, where indigenous peoples are dispersed throughout a territory, whether due to being expelled, displaced or relocated, NTA can be a valuable tool to support them. If possible, NTA may be combined with territorial autonomy.

A possible solution is to create institutions that are not territory-based and provide important services to the community such as education, land management, protection of their culture, etc. These solutions need to reflect indigenous peoples' needs, and their beneficiaries must participate in the creation and selection of options that best suit their needs.

Policy implications

Historically, indigenous peoples have been the most disadvantaged people in international law. Their self-determination needs to be based on the principle of territoriality. This approach ensures that they have control over their territories though a genuine decision-making process, crafted based on their preferences and tailor-made modalities that they can choose and enforce independently (Preparatory Report from the Sami Parliament in Sweden/Sámediggi/Sámedigge/Saemiedigkie/Sametinge, 2015).

Recent international practice is to treat indigenous peoples differently to minorities and to consider them as distinct cultural communities with specific relations and patterns of land use (Anaya, 1996) that should be granted their rights.

Indigenous peoples' self-governance needs to be based on their interests, forms of organisation and use and distribution of their resources, even if this necessitates a reformulation of a state's social contracts. Autonomy based on a new legal, institutional and territorial relationship is best suited to indigenous peoples' needs. Only this model can fulfil their right to internal self-determination.

However, NTA should not be excluded from the outset. Both territorial and non-territorial arrangements may coexist, especially when both indigenous and non-indigenous people share a territory, or when the indigenous peoples are dispersed among the population (Tomaselli, 2012). Some constitutional mechanisms fail to fully protect the rights of indigenous peoples, especially when it comes to safeguarding the culture, language and traditions of dispersed groups. The principle of NTA autonomy can give indigenous peoples greater control of decision-making and the administration of policies and laws that impact their language, culture, customs and identity.

If a non-territorial institution is established within the realm of public law, it should have the same legality, credibility and legitimacy for the indigenous peoples as the local and state governments. However, it may be challenging to define indigenous peoples for the purposes of cultural autonomy, since they may not be a homogenous entity. Membership of a cultural community is based on an individual's right to freedom of association. Membership cannot be forced and no person should suffer from discrimination due to their choice to associate, or not to associate, with a group (De Villiers, 2014).

Consequently, NTA arrangements can be a complementary tool to help indigenous peoples to realise their right to self-determination, especially when other policy options are unavailable (Shikova, 2020). NTA can protect their specific way of life if they are dispersed throughout a territory and territorial autonomy is not suitable for the realisation of their cultural and economic rights (Klimova Alexander, 2007).

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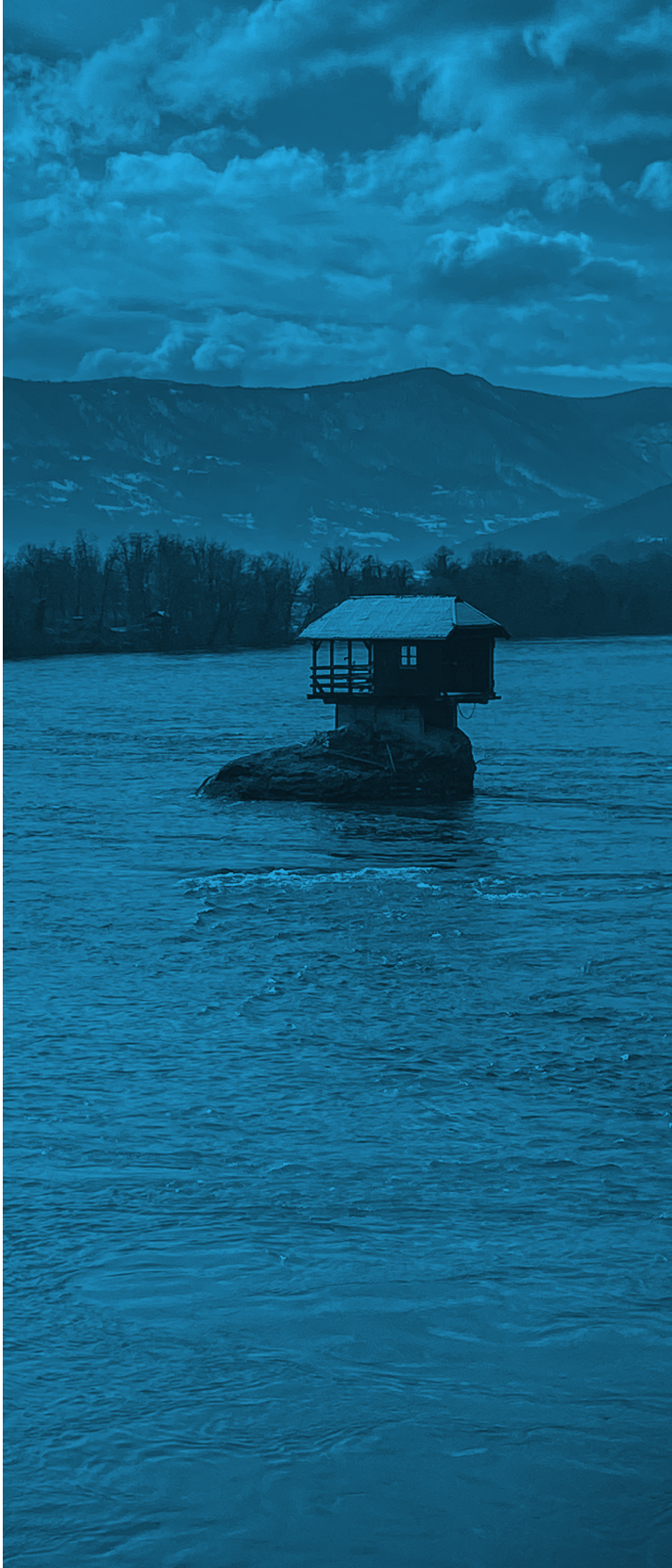

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ENTAN
policy paper
August 2022

Cultural Autonomy, Islamic Minority Schools and Their Prospects as Forms of Non-territorial Autonomy in Western Europe

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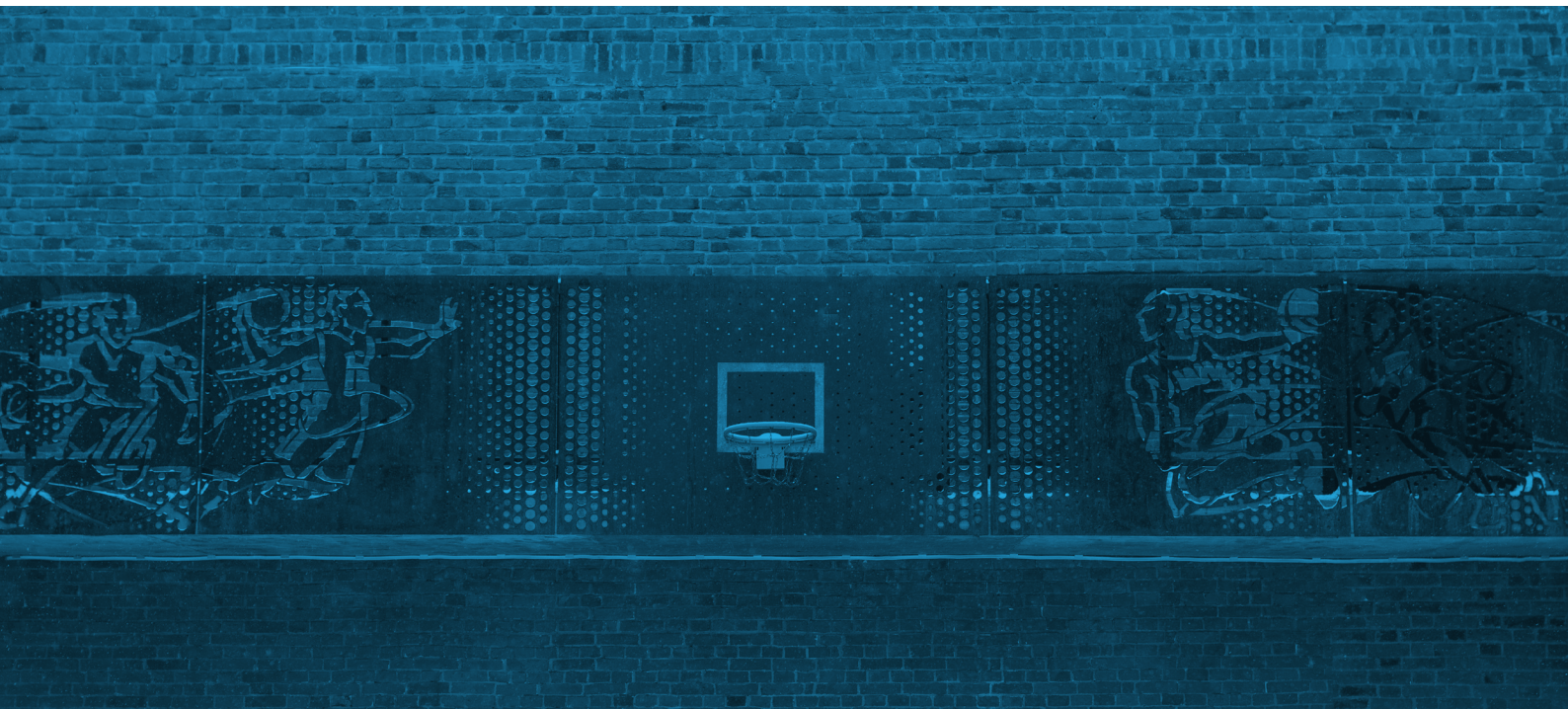
Summary

Within the frame of the management of increasing cultural and religious diversity in Europe, concerns around minority religious schools are commonly identified within policies related to integration, social cohesion, citizenship and rights to religious freedom and education. In the present policy paper, the main question is whether the creation (and proliferation) of such minority religious schools and religious education related to the Muslim faith represents an effort of socio-cultural preservation and reproduction of religious values that can be classified as a form of non-territorial autonomy (NTA), conducive to the integration of the minority group and the development of societal group coexistence within diversity. To illustrate the issue, the brief examples of Belgium, Germany and the UK offer a short and concise overview of how the question of Islamic schools is treated in each context.

Recommendations

- Differentiate within state policies and political discourse between the cultural and religious needs of Muslims in education.
- Enhance research towards a more nuanced understanding of whether Islamic schools meet their academic, social and economic goals and foster integration compared to “mainstream” non-religious public schools.
- Test from a diversity management perspective the degree to which marginalisation of Muslim minorities in western European societies is at the root of the corporatisation of religious minority organisations in the field of religious education.
- Refine and redirect the role of the state in managing religious pluralities and responding to the needs of its communities on the basis of critical partnerships with non-state actors, not resistance or abstention from them.



Introduction

Within the frame of the management of increasing cultural and religious diversity in Europe, concerns around minority religious schools[1] are commonly identified within policies related to integration, social cohesion, citizenship and the rights to religious freedom and education. Less often, accounts of such schools (in particular those related to minority faiths such as Islam) are considered from the perspective of cultural autonomy and agency or even as mobilisation efforts of the groups concerned with their establishment.

At the outset, such schools are products of political struggles and trajectories that, in the European context, have historically concerned mostly majority faith groups (Maussen & Bader, 2014, p. 12). Today, the emergence of new patterns of social inequality, linked to cultural, religious and ethnic identities entering Europe through immigration, together with the politicisation of religion, seem to affect the pace of creation and development of such schools though from a minority perspective. Yet, despite growing social and political resistance, religious schools connected to immigrant populations, such as Islamic schools that are the focus of the present analysis, continue to grow across Europe under strict state supervision within a number of countries.

Seen through the lens of non-territorial autonomy (NTA), however, the picture of this trend begs for more nua-nce. The growth of the "market share" of such schools needs to be approached by considering of several factors: that of the higher demand for them, the creation of institutional opportunities for their establishment and the observation of attempts to balance power within these schools per se, around them (e.g. with national authorities, parents, teachers) and in connection with wider society (e.g. due to their minority religious status) (Maussen & Bader, 2014, p. 4). The role of the state in each case remains crucial and often determines the pace of their development.

As the number of Islamic schools grows, the number of Muslims learners who attend them in western European (and other) countries is predictably increasing as well (Shakeel, 2018, p. 392).[2] The increase is due to the cultural and religious demands of Muslim communities and parental dissatisfaction with secular public school systems that are perceived as an "alien social environment" for Muslim learners. School choice, in this respect, is *prima facie* influenced by three main sets of factors, namely the purpose of Islamic schooling, parental wishes and the academic value and quality of these schools (Shakeel, 2018, p. 3).

In this light, the main question in the present policy paper is the extent to which the creation (and proliferation) of such minority religious schools and the religious education related to the Muslim faith more broadly represents an effort of socio-cultural preservation and reproduction of religious values that can be classified as a form of NTA, conducive to the integration of the minority group and the development of societal group coexistence within diversity.

1 Religious or faith schools encompass all schools that adopt a distinctive religious character in their operation (e.g. curriculum, admission policies, appointment of teaching staff, internal regulations, etc.) (Maussen & Bader, 2014, p. 3).

2 The distinction in terminology between "Islamic" and "Muslim" schools is often made in order to show how the former has a strong religious connotation while the latter as more cultural one (Shakeel, 2018).

The context of Islamic schools in the West

Islamic schools in western Europe are not uniform: some adopt conservative religious approaches to education while others embrace a more liberal stance. This is largely because, for a considerable proportion of Muslims in the West, a strong religious identity (e.g. through regular mosque attendance) is not a given (Smith, 2000) although their Islamic identity is rarely rejected altogether (Merry & Driessen, 2005, p. 412). Due to their diasporic positionality, individual Muslim learners in classrooms are interdependent and rely on various networks of social solidarity when it comes to their religious identity within a multicultural social setting (Martin, 2014, p. 3). For these new nomads, religion is of social, political and legal significance. Minority status of a religious and ethnic group in diaspora, such as for the ones of interest in this analysis, tends often to reinforce cultural identification.[3] Diasporic religion breaks the limits of territoriality while creating new types of transnational religious communities, thus developing the tendency to strengthen the link between religion and ethnicity (Martin, 2014, p. 92). This process is precisely at the source of the creation of religious schools in many cases in western states.

Due to the decentralised nature of the Islamic faith in Europe, religious schools are also not homogenous with respect to their educational purpose(s). The social and economic needs of their learners, the quest for academic excellence as well as the protection of learners against discrimination shape their curricula and overall operation (Shah, 2012). Just as crucially, the politicisation of minority religion in public education follows the tradition of the (not so) new type of agency that religious organisations have been embracing in education across time and space: religious bodies act as agents of change and modification through education by way of competition and/or cooperation with the state as the "legitimate" provider of education or, at best, in cooperation with it.[4] These actors play a powerful social and economic role, particularly for minorities whose interests and rights may not be well protected and/or understood by the mainstream society and the state, through the creation of culture, public morality and of economic activity through providing jobs, and, as such, become able to influence the gravitas of non-discrimination laws and equality (Evans & Gaze, 2008, p. 45). In some instances, minority religious actors are even able to build an entire (alternative) social environment that includes not only schools but also banks, hospitals and other services to cater for the needs of their believers/community members. Thus, they become "systems of power" in their own right (Martin, 2014, p. 142).

However, regardless of the specific national or faith context, the diverse types of minority religious schools carry a dual connection: one to the religious community to which they belong and serve and one towards a wider system of (national) education. Depending on their degree and type of affiliation with the community in question, oversight from religious authorities varies. The type of teachers and learners, along with the type of school governance and the values content of education, will be affected by this side of the connection. At the same time, as part of a broader education system, these schools are also expected to subscribe to

3 Martin (2014) at 91 using the examples of Jews, Muslims in Europe and Chinese in South East Asia.

4 This role is parallel to that of churches as NGOs (e.g. in Africa). See Martin (2014) at p. 107 and pp. 112–113.

regulations, principles and values that govern the state system, especially to the extent that they are supported financially by the state. Constraints on staff qualifications, curriculum, educational and professional standards or equal opportunities are linked to this other side of the connection (Sullivan, 2009, pp. 938–939).

Within such dynamic processes, the role and support of the state can vary when responding to Muslim minorities' claims to religious education: in some European countries, religious education can be funded either through grants or within the structure of the public education system itself. In other contexts, Islamic schools can be privately funded, publicly funded and privately operated and even publicly funded and publicly operated.[5] Additional methods to obtain such education outside state-support frameworks include privately run extra-curricular Islamic classes and/or homeschooling.

Depending on a country's approach to publicly funded religious education, as well as its political approach to inclusion and social cohesion issues, several models are practised in the European context. According to Berglund (2015, p. 8), the following four main approaches to the organisation of Islamic religious minority education can be broadly conceived:

- A framework of cooperation between the state and religious institutions (e.g. as in Austria, Germany or Spain): religions officially recognised by the state allow recognised Islamic associations to provide religious education within the school system.
- In cases of the presence of "pillarised", parallel dominant religions (e.g. as in the Netherlands or Finland), Muslims can benefit from parallel systems of institutionalisation to create a parallel path for Islamic religious education.
- In contexts of one dominant state religion, some states (e.g. the UK or Sweden) provide state funding for minority religious schools (including Islamic ones) subject to these schools following national curricula. This possibility is normatively premised on the principle of equal rights and opportunities afforded to majority–minority religions.
- Finally, in cases of clear separation between church and state (e.g. as in France) the institutionalisation of Islamic education depends entirely and exclusively on Muslim community initiatives.

In line with this typology, three brief examples are discussed below to illustrate the first three variations in creating Islamic schools in western Europe. They showcase variable degrees of state involvement and models for support for such initiatives, and provide the explicit socio-legal background against which they can be considered as NTA-premised efforts. As the fourth category implies no state support and/or involvement, it is not represented among the examples discussed. The examples chosen are those of Germany, Belgium and the UK respectively.

5 Teacher training programs at university level for Islamic religious instruction exist in some instances as well (e.g. in Germany such programmes can be found in Muenster-Osnabruck, Frankfurt, Tuebingen and Nuremberg- Erlangen (Berglund, 2015)). The cases of the US and France are explicit insofar as religious and more particularly Muslim schooling is exclusively private-initiative based.

Cooperation between state and religious institutions: Germany

Muslim groups migrated to Germany in the 1960s and 1970s for labour-related reasons, as "guest workers". Currently, the Muslim population amounts to over 5 million (approximately 6 per cent of the total population). Two thirds of Muslims in Germany have Turkish origins. In terms of state recognition, there is no nationwide Muslim organisation that has achieved the status of an official religious community, in part due to the self-conception of the groups concerned as "guest workers" who would return to their home country at some future point (Berglund, 2015, p. 16). Such a perspective is, however, currently in decline.

In relation to Islamic religious education, the underlying rationale among parents is on one hand satisfaction about the opportunity to learn about Islam in the public school system but on the other hand concern about the extent to which the German state is promoting a "German" type of Islam through these programmes (Yasar, 2013, p. 137). In general, private Islamic schools can be opened in Germany, in accordance with the Constitution, but the majority of children attend public schools. [6]

Private schools are acknowledged by state authorities and in most cases can receive state funding. Many such schools are run by (majority) religious organisations and have been growing in numbers in the last few decades (Miera, 2008, pp. 3–4).[7]

Overall, however, very few private Islamic schools exist in Germany due in part to the comparatively weaker presence of private schooling in general (Fuess, 2007) but also due to societal and political resistance. Some private schools for students of Turkish background are nevertheless available (e.g. in Berlin, Cologne, Hannover or Stuttgart), established by educational associations of Turkish migrants and their descendants. While officially not offering Islamic religious instruction, these schools are occasionally framed as pursuing Islamic fundamentalist approaches (Miera, 2008, p. 11). Even within the public education system, the lack of existence of an overarching national Islamic organisation recognised by the state is invoked to justify the limited support toward Islamic education.

6 The exception of Berlin where a kind of free and private Islamic education is available confirms the general rule. Similarly, in Hamburg, a religious education model for all, with the participation of 80 per cent of Islamic association bodies, is available in public schools.

7 According to DeStatis (2018), 9 per cent of all German students attended private schools in 2016, a large proportion of which are run by the Protestant Church.

Historical parallel presence of religions: Belgium

Muslim communities are treated by the Belgian state as one single community despite their diverse origins, religious practices and cultural backgrounds.[8] Largely the result of labour migration from Turkey and Morocco in the 1960s–1970s and ensuing family reunification processes in the 1980s–1990s, the Muslim minority has been confronted for many years with the lack of a "representative" body, which is required in order to benefit from state recognition.

In accordance with Article 24, para. 1 of the Belgian Constitution, the state funds both governmental schools as well as schools established by "private" groups or organisations. At present, there are four recognised and state-supported Islamic schools in the region of Brussels, supported by the French community, with a fifth under preparation and a further one planned in Wallonia (Charleroi). The first such school opened in 1989, but the process of creating additional Islamic schools was reinvigorated only recently, in 2016, with the opening of a second school. The regular curriculum is taught in these schools. In the Flemish part of Belgium, similar attempts to establish Islamic schools have so far been largely unsuccessful with the exception of the "Lucerna colleges", managed by the Turkish Gulen movement, which do not have the official status of Islamic schools but instead are considered non-denominational public schools (Franken & Sägesser, 2021). Interestingly, around 50 per cent of Muslim students attend private Catholic schools where they have to take part in Catholic Religious Education classes.

The Belgian case is unique insofar as it is an isolated case within Europe with regards to provision of Islamic instruction in mainstream state schools, which a priori would suggest no further need for separate Islamic schools. In fact, 40 per cent of Muslim learners attend Islamic instruction in state schools (Shakeel, 2018, p. 11). However, Muslim parents feel that public school curricula on Islam lack substantive content, promote moral permissiveness and are characterised by lower academic achievements. These concerns have been transformed into calls for more Islamic schools (e.g. see the work of the Arab European League) (Merry & Driessen, 2005, p. 415). These calls have had limited success because of strong political opposition to the idea and due to limited agency of parents in setting up new schools.

8 In Belgium, their number is estimated at 7.6 per cent of the total population or 782,000 (Pew Research Center, 2017).

One dominant religion but equal opportunities: UK

Within the last 25 years, the face of religion and religiosity in the UK has changed considerably: traditional forms of religious authority and practice have given way to less uniformity and an increasingly diverse span of religious and non-religious commitments (Clarke & Woodhead, 2015, p. 6). At the same time, religion- and belief-based organisations have been called upon to develop a network of social services, in response to austerity and cuts in public services (Commission on Religion and Belief in British Public Life, 2015, p. 64). Their sustained social action, often through innovative models, indicates their growing role within the public space. This role is conditioned by a complicated relationship of mutual criticism between the state and its agencies. As has been the case historically in education, religious and faith communities in the UK are now claiming a partnership with the state in the provision of educational services.

Independent Muslim schools emerged from the 1950s onwards, and their growth has accelerated since the 1990s. Since 2001, their growth has been supported further through the government's support of the Association of Muslim Schools. For Muslim Independent Schools, educating an estimated 5 per cent of the 500,000 Muslim children in UK schools, there is a choice to be made in terms of the content of education: they either follow the national curriculum, using the existing textbooks, or, if more conservative, eliminate aspects of the curriculum considered un-Islamic, such as music, dance or arts. What these schools share is an educational approach relying on Islamic instruction, dress codes and communal prayers as well as observance of the Islamic calendar.

The academic value of faith schools is another issue for disagreement: "faith schools" are consistently favoured by UK governments as symbols of choice and diversity in the education system. From the perspective of the state, their high academic and market demand among parents is justified more because they are attended by pupils from families that have different preferences and attitudes towards education rather than because of their educational programme and methods.

From the perspective of religious minority communities, the main motivating factors to establish "faith schools" are the desire to introduce faith-based principles within minority learners' education in order to support their intellectual and moral development in harmony with their faith (Douglass & Shaikh, 2004, p. 8).[9]

9 The aims of Muslim "faith schools" in Britain have been for example described as serving "the goal of living up to standards of Islam, rather than implying its achievement."

Preferences for single-sex schooling, the lack of specialist training in religious sciences (Meer & Breen, 2018, p. 89) (e.g. non-British imams are not always in tune with life in the UK) and teaching materials that rely on ethnocentric principles for religious education are common in "faith schools", and, because of this, they are perceived as institutions antithetical to "common" values.

"For religious minority learners, their families and communities, the function of "faith schools" responds to other parallel societal processes: as spaces sheltering students from religious discrimination, as institutions "supplying" these communities with role models, as opportunities to reverse the climate of low expectations from teachers and, ultimately, as places where hyphenated identities take concrete shape and evolve (Meer & Breen, 2018, p. 91). These "community-based" schools (Meer & Breen, 2018, p. 92) are nevertheless struggling to address in consistent terms the question of how to strike a balance between producing active citizens and producing active members of their respective cultural communities.

Policy implications: autonomous religious education as a public good?

The brief foregoing account of the cases in Germany, Belgium and the UK highlights three common trajectories. Firstly, the crucial role of state support in establishing and developing Islamic schools in Europe (whether or not through public recognition schemes); without state support, these schools struggle to develop and achieve the standards required by national curricula. Secondly, attempts to establish Islamic education within or alongside public education systems are highly correlated to political climate and public opinion. Prevailing resistance against them may lead to irreversible condemnation of any such effort (with implications for social cohesion). Thirdly, despite considerable inhibiting factors, the demand for Islamic education continues to grow. In fact, there is a noticeable paradox when it comes to minority religious schools in Europe: the demand for such schools seems to increase, with few exceptions (e.g. France), despite a broad secularising trend dominating the continent during the last decades (Merry, 2014, p. 1).

Empirical literature emphasises parental motives or the institutional features of such schools as explanation for their growth but has neglected the justification of institutionalised racism as a core mechanism conducive to the continuous creation of minority religious schools (Merry, 2014, p. 2). These schools, when serving vulnerable minorities in particular, embrace indirectly the purpose of creating culturally autonomous "safe spaces" and facilitating the exercise of group self-determination. At the same time, it should not be forgotten that education corre-

sponds to a policy area that has been "devolved" closer to the local level. This means that there is greater space available for school autonomy and parental choice to increase in parallel.

Criticism levelled against minority religious schools tends to focus on their public financing, their educational practices and/or their pedagogical autonomy, but mostly highlight their nature as institutions likely to undermine the capacity for autonomous decision-making of their learners due to indoctrination and extremist tendencies (Merry, 2014, p. 4). Minority religious schools are, however, places where social networks and membership acquire meaning, often to the point of "turning segregation to [an] advantage" (Merry, 2014, p. 15) especially when minority religious groups experience greater equality of recognition and self-respect, compared to mixed environments. In such case, minority religious schools can indeed become spaces where members "resist, rearrange and reclaim" and operate within a pragmatic strategy towards voluntary association.

The challenge of providing quality Islamic education for Muslim children as minorities is considerable. Outcomes are diverse, as mentioned, and largely depend on endogenous factors (e.g. educational policies in specific countries, legislation, political considerations, integration policies and state–religion arrangements) as well as exogenous ones (e.g. mobilisation and self-organisation of minorities). The question then becomes how the law, the school system and the religious organisations involved take this kind of diversity into account. As importantly, it becomes an issue of devising policy and law that understand the pluralising effects of globalisation and multiple/plural identities.

Moving forward, in diversity governance terms, minority Islamic schools in western Europe will remain relevant due to the constant growth of the Muslim population,[10] when compared to the overall world population, with projections expecting Islam to become the largest religious group by 2050 (Lipka & Hackett, 2017). In addition, it is expected that Muslim parents and their communities will maintain the wish to educate their children in accordance with Islamic values and practices, as well as the desire for them to obtain high academic achievements in some cases. In a noticeable way, Muslim parents and their communities create and opt for Islamic schools in order to shield their children from Islamophobia and discrimination that may be encountered within public schools.

Against the growing unease surrounding political Islam, the need for Islamic schools promoting positive Islamic identities can be expected to continue to rise. To respond to the integration concerns, there is evidence from the US context that Islamic schools are able to produce social networks that support integration into the broader civil society (Cristillo, 2009). Returning to Europe, resistance to their creation often implies the further spreading of systemic discrimination against Muslim minority groups. As such, the establishment of such schools can be perceived as an effort of Muslim diasporic communities to become culturally autonomous, especially when a right to denominational education is constitutionally guaranteed.

To summarise, according to Ozgur (2005), the main challenges for Islamic minority schools in western Europe going forward are:

10 See for example the registered growth of Islamic education in the UK, with a growth rate of up to 75 per cent in 10 years (Abrams, 2011).

- Enhancing the public perception about the need for Islamic schools.
- Keeping the mission of such schools alive in material- and content-related terms.
- Addressing recurring leadership issues within those institutions.
- Attracting, training and retaining qualified staff.
- Responding to diverse parent/learner bodies that have different priorities and expectations from such schools.
- Building bridges, partnerships and networking between minority religious schools and majority communities, the state and other minority communities.

It should nevertheless be stressed that, in the context of bottom-up movements towards the creation of Islamic schools in western Europe, the state continues to play an important role, especially when regulating the activities of public religions. The level of competition and conflict among such public religions precisely pushes the state to forge partnerships and co-operate with them.[11] For education, this means that faith organisations are encouraged to position themselves as "agents or mediators of government policies" (Beckford, 2010, p. 129). In these scenarios, the state can opt for selective and strategic partnerships that are usually labelled as community cohesion initiatives. This explains legal and policy choices within public education in many instances, as well as the strictly regulated legal framework of such schools.

The risks with this approach to religious diversity management remain that competition among religious groups for resources may become fierce and produce additional conflicts among them (Beckford, 2010, p. 131), in addition to the fact that faith groups may, in some cases, maintain ethnic and religious divisions against the more vulnerable segments within them (Beckford, 2010, p. 131). In that sense, the path of the clear separation of states from religion remains questionable. Modernity, therefore, perhaps lies in accepting that states have a role to play in shaping public religions, not abstaining from them (Beckford, 2010, p. 133).

In conclusion, the marginalisation of Muslim minorities across Europe has indirectly reinforced the processes of the corporatisation of religious organisations (Anwaruddin & Gaztambide-Fernandez, 2015, p. 150). This is mostly visible in the gradual growth of Muslim "faith schools" across the continent as an indication of how religious actors are striving towards autonomy in the provision of services towards their members. It remains to be seen whether the exercise of such autonomy is in tune with the state's understanding of social cohesion.

11 The trend is particularly obvious in public education in the UK, with a long-standing cooperation of the state with faith organizations (e.g. New Labour's "faith sector" policy).

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7.

ENTAN
policy paper
September 2022

Can National Councils of National Minorities Be Effective Channels for **Greater Political Participation of Women from National Minority Communities in Serbia?**

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Summary

- Women's active participation in decision-making processes in Serbia is lacking at both the local and state levels, especially political participation of women from national minority communities.
- Given an environment of decreasing social and political trust, restrictions imposed on political actors by Serbia's illiberal democratic regime and the exclusiveness of institutions for different minority issues, National Councils of National Minorities (NMCs) could be effective channels for women's political participation on a state level, making intersectional national minority issues more prominent. However, weak public institutions, a deficit of democratic political traditions and, in general, the centralisation of power within political parties threaten the principles of the democratic functioning of NMCs.
- Analysis of the normative framework relevant for the work of NMCs in Serbia shows that the question of women's participation in political life is addressed through quotas – i.e. numerical representation of women solely through the process of electing NMC members.
- Even when there are activities aimed at women within NMCs, or affirmative measures in the wider national community, they tend to be ad hoc rather than a planned approach aimed at gender equality.
- The purpose of this document is to make recommendations that will support greater political participation of women from national minorities, emphasising result-oriented actions that will directly affect women from national minority communities, especially those affected by multiple marginalisation.

Recommendations for the Organization for Security and Cooperation in Europe (OSCE), Mission in Serbia, the Ombudsman of the Autonomous Province of Vojvodina and the Ministry of Human and Minority Rights and Social Dialogue of the Republic of Serbia

- Conduct regular research into national minority communities on topics that are within the scope of the council's public powers, design further steps and activities based on the results and propose recommendations for the improvement of observed shortcomings to relevant stakeholders at local and state levels, including NMCs. Continuous research could be carried out by the NMCs in cooperation with expert researchers selected through a public call.
- Organise continuous training for both male and female NMC leaders, with a focus on four key areas of the NMCs' work and how to make them gender sensitive and in line with the Law on Gender Equality. Some of the regular gatherings of NMC leaders can be used for such educational purposes.

- Organise continuous training to empower young women from national minorities to advocate for smoother and more comprehensive mainstreaming of gender perspectives in the work of NMCs.
- Improve the leadership skills of women elected to NMCs (e.g. public speaking, debating, lobbying) and also improve their knowledge of gender-inclusive budgeting.
- If feasible, organise visits to or presentations of successful models of gender mainstreaming in the work of national minorities in other countries within the region or from the EU, and also systematise affirmative actions implemented by some NMCs and improve their exchange and implementation within others.
- Monitor the introduction of gender-inclusive practices in the regular scope of NMCs' work via gender-equality indicators in their action plans and strategies in four main areas of their work.
- Support NMCs to establish a body to address gender equality in their work and make all policies and strategic documents gender inclusive.
- Increase the visibility of women in NMCs and their achievements and contributions to NMCs' work.

Recommendations for NMCs

- Conduct regular research into national minority communities on topics that are within the scope of the council's public powers, design further steps and activities based on the results and propose recommendations for the improvement of observed shortcomings to relevant stakeholders at local and state levels, including NMCs. Carry out continuous research in cooperation with expert researchers selected through a public call.
- Within NMCs, support and organise regular monthly meetings for women in decision-making positions to secure safe spaces for discussion and to create initiatives related to the improvement of the position of women from national minorities.
- Organise continuous training to empower women from national minorities to advocate for smoother and more comprehensive mainstreaming of gender perspectives in the work of NMCs, and encourage male leaders to understand the value of women's participation in NMCs and to support their ideas.
- Create working strategies and action plans to include the opinions of girls and women from different socio-economic groups within minorities, and also formulate gender-equality indicators to monitor the introduction of gender-inclusive practices in the regular scope of work of NMCs.

- Establish a strong communication platform for women from NMCs and representatives of gender-equality mechanisms at all levels in order to improve cooperation between NMCs and the Coordination Body for Gender Equality of the Government of Serbia, the Commissioner for the Protection of Equality in Serbia and the Provincial Secretariat for Social Policy, Demography and Gender Equality.
- Increase the visibility of women in NMCs and their achievements and contribution to NMCs' work.

Introduction

There are no reliable data on the political participation of women from minority groups in Serbia, since available research databases do not record the political participation of women living in Serbia in intersection with their ethnicities. However, generally, "ethnic minorities have a muted voice in Serbian politics" (Freedom House, 2022) and women are more exposed to violence in politics then men (National Democratic Institute, 2021). Furthermore, politics at the municipal level is the biggest battlefield for female candidates seeking decision-making positions: a small number of women, and almost none under the age of 31, are in politics at the local level, which is not the case for men (Gačanica et al, 2020). The reason for this is discriminatory practices towards women in politics, due to a political climate that defends positions of power for men and as a rule assigns them to men. Women from national minorities face even greater invisibility than women from the general population. Addressing their lack of access to the real positions of power is not a priority in Serbia, and even when there is political participation of minorities at the local level, a gender-sensitised understanding of it is lacking (Kvinna till Kvina, 2020).

Bearing in mind all these barriers for women from national minorities in Serbia, National Councils of National Minorities (NMCs) might serve as effective channels for women's political participation and for making intersectional national minority issues more prominent. However, although all NMCs in Serbia function within the same legislative context, the actual circumstances in which they function depend on the number of members of a specific national minority and their territorial concentration, as well as their political organisation and networks

(institutional and individual). These differences influence not just the available budgetary resources for their activities but also the political influence of a particular NMC.

The relevant legal framework of the Republic of Serbia for NMCs lays out a series of rights specifically aimed at national minorities, but only Article 72 of the Law on NMCs stipulates one aspect of gender equality in the political arena: "On the list for the election of NMC's members, among every three candidates (first three places, second three places, and so on until the end of the list), there must be at least one candidate – a member of the less represented gender on the list" (Law on the National Councils of National Minorities, 2018). However, this legislative framework does not recognise any other specific gender elements in the selection of NMC staff from electoral lists. Next to this, since NMCs exercise public powers, they propose members of the administrative and supervisory boards in educational and cultural institutions. Article 47 of the Law on Gender Equality stipulates that an authorised proposer, while exercising the right to propose candidates for election, should "take general and special measures to ensure a balanced representation of the sexes during the formation of permanent and temporary work bodies" (Law on Gender Equality, 2021). It follows from this that NMCs can manage male and female representation in bodies (and institutions) under their jurisdiction.

In conclusion, there are neither specific gender elements in the legislative framework of Serbia pertaining to NMCs' functioning, nor are there visible barriers to gender inclusivity in the scope of NMCs' work. There is certainly a space for gender-inclusive practices, but only if the topic is recognised by the national minority communities themselves, or their political representatives.

Challenges for active political participation of women from NMCs in Serbia

Firstly, data obtained from this research, which was conducted in 2022 with experts working in the field of national minorities in Serbia, indicate that although the legal framework stipulates that every third person on the list for membership in NMCs should be a woman, during the selection process *female candidates often decide or are pushed towards deciding not to get involved in the work of NMCs*. They are then replaced by the next person on the list, who is often a man. Korhecz (2019) says that intra-ethnic competition for seats in NMCs is not a matter of competing programmes but rather of the representation of minorities and the controlling of the budget and institutions of NMCs, which are again related to male power: "In this way, NMCs risk becoming, instead of institutions which enable minorities to decide on cultural politics independently from central state authorities, tools of ruling minority elites continually barring those minority members who do not affiliate with the dominant minority organization from representation" (Korhecz, 2019, p. 129).

The exceptions are Hungarian and Slovak NMCs where women are in leadership positions. The Hungarian NMC has an almost equal number of male and female members, with women occupying many leadership positions, such as vice-president, and heading different boards such as the Board for Information/Media. This is similar to the Slovak NMC, which is led by a woman.

Secondly, although there are women in leadership positions, it seems that female NMC members do not have sufficient knowledge about gender equality, gender analysis or how to make existing activity plans gender sensitive.

Even when there are activities aimed at women within NMCs, or affirmative measures in the wider national community, they tend to be ad hoc rather than a planned approach aimed at gender equality. This competence in and knowledge about gender equality also determines how well female leaders will advocate for the interests of national minorities. For example, the aforementioned Hungarian NMC, as well as the Slovak and the Bulgarian NMCs, have prepared mid-term development strategies and action plans in four main areas (education, culture, information and official language use); however, their strategies do not directly address the issue of gender equality, nor did the creation of these documents include girls and women from rural areas affected by multiple marginalisation.

Thirdly, *gender equality seems to be less important for ethnic minority groups in general, as they feel that the "national minority issue" is predominant and should be addressed first*, and thus they lack sensitivity around mainstream trends and requirements when it comes to gender equality. A good example may be the NMC of the Roma national minority, which contains a network of women working on gender equality, but data on the results and effectiveness of their work are lacking.

Fourth, *internal pluralism seems to be an ever-present problem* when it comes to the representation of different interests of national minority groups, such as Romani girls from remote and rural areas or Slovak women with disabilities. Addressing this would require not only NMC leaders to visit regions where members of a certain minority live in order to familiarise themselves with their problems, concerns, ideas and needs, but also the implementation of continuous research that would include members of national minorities who are multiply marginalised and underrepresented, which is not a common practice of NMCs in Serbia. An example of this practice is research conducted by the Hungarian NMC aimed at more effective youth work.

Conclusion

Weak public institutions, a deficit of democratic political traditions and the undermining of minority issues (due to a well-developed but poorly implemented legal framework) are all obstacles to the functioning of NMCs and their effectiveness as channels for greater political participation of women from national minority communities in Serbia.

When it comes to the effective participation of women in NMCs, most male leaders are not ready to hand power over to women, and both men and women do not sufficiently realise the gender dimension beyond the numerical representation of women within NMCs. Increasing the motivation of (young) women to get involved in politics might affect the overall quality of NMC work, but a change also needs to be made to the political climate, which is still masculine in nature. The solidarity of (young) women from national minority groups should be strengthened, regardless of political party affiliation, and they should be encouraged to be louder and braver in expressing their views in public debates, so that they can fight for their interests.

The mainstreaming of minority issues thus faces both external and internal political obstacles. The most important external barriers are impassable or selective channels of communication between the government and national minority representatives, party influence and inert coordination between institutions at different levels of government to iterate the needs of national minorities and mainstream minority issues. Internal barriers are primarily based on NMC members' and leaders' poor knowledge of gender issues, and the absence of a clear policy on gender equality supported by an imprecise legal framework related to NMCs' actions in this

area. Even when there are activities aimed at women within NMCs, or affirmative measures in the wider national community, they tend to be ad hoc rather than a planned approach aimed at gender equality. Therefore, it is necessary to strengthen the monitoring of NMCs' activities according to gender-sensitive indicators, and to regularly evaluate the effectiveness of NMCs' work in all four mandated areas.

The planning of effective gender-inclusive budgeting is also important for the implementation of all activities, which includes the necessity of awareness and competences for that area, as well as public powers over the allocation of public funding. One of the best practices in this regard can be seen in Hungary, where minority self-governments are able to manage their own budgets through a government decree that specifies regulations for the planning and appropriation of funds (Dobos, 2021).

Note:

This policy paper is a result of Jelena Ćeriman's short-term scientific mission at the Institute for Minority Studies of the Hungarian Academy of Sciences in Budapest during June 2022. The visit was supported by COST as part of the Action 18114 ENTAN – European Non-Territorial Autonomy Network.

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8.

ENTAN
policy paper
November 2022

Minority Media

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Summary

Media in a minority language is an essential tool for intra-minority communication in non-territorial autonomy settings, yet minority language media outlets face several challenges. Usually, their potential audience (viewers, subscribers) is too small to operate in a financially sustainable way. Moreover, the challenges for print media are more severe, as minority print media cannot rationalise through economies of scale, i.e., a merger with other newspapers. On the other hand, digitisation and the development of niche functions can provide opportunities for minority language media to survive and strengthen the institutions of non-territorial autonomy settings.

Recommendations

- Minority language media has an important and stabilising function for a national minority and is a key element of non-territorial autonomy (NTA). It is therefore desirable to ensure the existence of minority language media through specific funding schemes.
- Minority language media should be by, and not just for, the minority. Minority members and minority language speakers should be involved in public service media. Indeed, public service media bears a special responsibility towards minorities and must be aware of its role in NTA settings. That role can be fulfilled through specific broadcasting programmes in the minority language and on minority issues, as well as minority language versions of regular programmes.
- Some media outlets for minorities rely on funds available in the country of residence. In principle, that is recommendable if no political strings are attached. However, recent developments in the media landscape of some European countries have meant minority language media outlets have restricted the scope of their reporting to meet the expectations of political forces. Minority language media should be independent from direct and indirect government interference, as a free media is a constituent element of democratic societies.
- Digitisation offers opportunities for small scale broadcastings programmes. Minorities should be encouraged to use such opportunities to create innovative formats for reporting, communicating and promoting minority issues and culture.

- The media is an attractive area for involving the younger members of a minority. Minorities that witness a decline in young people's interest in engaging with the community's affairs should attract them with, among other things, the possibility of developing traditional and social media and co-creating youth-oriented events and socio-economic activities.
- In border regions, minority language media should cooperate with other regional media to provide better synergy in cross-border communication, information and awareness of barriers and opportunities for regional development.
- Delicate majority-minority dynamics risk becoming ever more fragile in an age of nationalism, culture wars and increasing affective and antagonistic demarcations between group identities. Minority language media outlets may therefore provide the perfect platform for public journalism, thus fostering intercultural dialogue between citizens.

Introduction

The media ensures communication to and within a community of users. The mass media has played a key role in mobilising societies and that applies to creating and democratising nations as imagined communities (Anderson, 1983). Media outlets have been shown to play a key role in nationalisation processes, as well as providing a channel for mass propaganda to inform, mobilise and subjugate citizens in totalitarian societies. They create public awareness and influence public opinion. They inform about what is happening in a community beyond everyday communication between individuals. They also filter information and thus function as gatekeepers on what is and is not reported.

The importance of minority language media

Democratic societies need multiple channels of information within a pluralist system based on freedom of expression. In 20th-century Europe, the printed press operated within a pluralist system, while radio and TV were mostly introduced as public service channels, with national monopolies or duopolies financed by compulsory licence fees. Private channels, funded by advertisement, were only introduced in the 1980s. Then, digitalisation via the internet greatly increased opportunities for communication, leading to the changing global media landscape of today.

Minorities in NTA settings face a special challenge, because they do not automatically have access to public service media and usually do not have enough critical mass to establish commercial media outlets. Indeed, NTA is usually applied to organise minorities that are dispersed across a state or a sub-region of a state, and they are often numerically inferior at the sub-regional level too. Additionally, minority members in such constellations are almost exclusively bilingual, with command of both the minority language and the official language of the state of residence. That poses an extra challenge to the minority media, as it must compete with both regional and national media outputs operating with considerably superior financial and editorial resources.

Minority media research focuses on several different issues. First, the key role of minority media in minority language media policy in theory and practice (Pietikäinen & Kelly-Holmes, 2011); second, the necessary critical mass, especially taking into account Cormack's seven factors (Cormack, 1998; Uribe-Jongbloed, 2014); third, the patronising effect of failing to differentiate between media *for* and media *by* minorities (Caspi & Elias, 2011); and fourth, resources and funding for minority language media in economic crises and the challenges of digitalisation (Zabaleta et al., 2014; Zabaleta & Xamardo, 2022).

Pietikäinen and Kelly-Holmes (2011) recognise three different eras for minority language media:

1	**The gifting era**
	Associated with decolonisation and modernisation, involving management and deployment of minority language resources to achieve presence and visibility within the nation-state media system.
2	**The service era**
	A move away from the provision of media space to the provision of a service for minority language speakers, shifting from media as a means of being part of the picture of the modern nation state to media as a means of developing the minority community and making it fit for the modern world.
3	**The performance era**
	Resulting in a less top-down and more bottom-up and fragmented media landscape covering different channels of communication.

The critical mass for minority media is illustrated by Cormack's seven-factor model (Cormack, 1998; Uribe-Jongbloed, 2014). In 1988, Cormack considered 1 million users to be the minimum population size for justifying the full range of modern media (Cormack, 1998, cit. after Uribe-Jongbloed, 2014, p. 38). That critical mass can be reached by minorities in a territorial autonomy (TA), but not within contemporary European NTA settings, thus demonstrating that minority media outlets usually need access to special funding. Here, Zabaleta and Xamardo (2022) argue that public funding for minority media should not be framed as aid but as a social, cultural and economic investment.

In border regions, kin-state media may also serve minorities. However, that may not be desirable for the state of residence for geopolitical reasons (e.g. Russian-speakers in Estonia and Latvia). Socio-cultural and political reasons specific to the minority may also apply, as kin-state media does not usually place a special focus on socio-cultural and political issues in the minority's state of residence.

Despite the economic, structural and competitiveness challenges for minority language media outlets, research on the subject observes the potential of their strength as active players embedded in their minority community, focusing on active community management and involvement (Zabaleta et al., 2014).

Empirical foundation: a case study of minority newspapers

This section is based on a case study of minority newspapers carried out by the authors in 2021-22. A survey was distributed to 30 minority language newspapers that are part of the European Association of Daily Newspapers in Minority and Regional Languages (MIDAS), which also promoted the survey. Survey results were complemented with interviews on site at German minority media offices in Poland and Polish minority media offices in the Czech Republic, as well as a pilot study on the Lithuanian minority media in Poland.

The empirical data gathered in eight surveys and four interviews suggest that the main task of minority media outlets is perceived as catering for the minority and its members. Minority media outlets provide a communication channel to and from minority members by reporting on activities, political discussions and challenges within the minority. They also support the minorities' political efforts and monopolistic minority parties in election campaigns, especially by mobilising minority membership to vote for the minority party. While minority language media outlets in TA settings are economically sustainable and usually operate on a full scale as regional media, that is not the case with minority media in NTA settings. Some newspapers have a relatively permanent framework of subsidies that ensure operation, while others' economic frameworks are less stable. Subsidies can come from the kin-state or from frameworks in the state of residence for financing local and minority media.

Providing media outlets with professional staff who report the news and develop messages is

another issue and we observed a highly diversified approach in that regard. Media outlets with access to stable funding and subsidies employ regular staff and supply professional infrastructure, software and hardware. They also develop marketing and sales, as well as public relations activities, to increase their audience. They promote themselves, events and other issues related to minorities and can therefore develop their activities dynamically. Media outlets that rely on volunteers, on the other hand, do not have that potential and are generally less well equipped. We also observed examples of a combined model, in which minority media outlets work with a few professional journalists, along with a larger team of part-time and/or voluntary journalists who contribute to the newspapers and other media.

Special cross-border activities by minority media were also noted and outlets often become a bridge between the country of origin and the host country, helping build or shape cross-border relations. For instance, such actions have been conducted by the Lithuanian minority media in Poland and the Polish minority media in the Czech Republic.

Minority language media outlets in TA settings usually operate as full-scale regional media, covering all important aspects of daily life. In NTA settings, minority language media outlets focus on minority life and issues relevant to the minority. That function is essential for the minority's survival as an organised group, as other media outlets do not normally cater for specific minority issues. Some media outlets have found a niche as cross-border outlets. Examples include the newspaper of the Danish minority in Germany, *Flensborg Avis*, and that of the German minority in Denmark, *Der Nordschleswiger*. They also cooperate with the newspapers read by the regional majority in a joint editorial office, where texts and pictures are shared.

Policy implications

- Minority language media is a necessary channel for intra-minority communication in NTA settings. Contrary to nationwide or regional media in the majority language, minority language media outlets are not usually economically sustainable. Therefore, special solutions to provide funding for minority language media are needed.
- As with print media in general, minority language print media faces special challenges from ongoing digitisation and multiplication of media and other communication channels. Here, minority language media outlets can specialise by developing niche functions, such as a special focus on cross-border issues in a border region, or reporting on cultural events in minority language, which may attract spectators beyond the minority population. Furthermore, digitisation and new digital communication channels also open up new opportunities for organising intra-minority communication in NTA settings.
- The language and communication styles of social media can encourage or discourage minority youth from becoming actively involved in minority activities. Thus, the strategy of developing and promoting social media in minority languages should comprise an innovative message, providing an attractive and understandable language style for the younger generation.
- In border regions, media in minority languages can also be useful as a specific communication tool among societies and local actors in the kin-state as well as the state of residence. Minority language media should be included in the policies and strategies of cross-border regional development.

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9.

ENTAN
policy paper
December 2022

Reviving Minority Identities through Cultural Autonomy: **Evidence from Estonia**

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Summary

Awareness of the importance of preserving the identity, language and culture of small ethnic groups has significantly increased in recent years. Among various political measures to achieve this goal, cultural autonomy for ethnic minorities could be a suitable approach. This policy paper analyses the legislation and functioning of cultural autonomy in Estonia. It demonstrates that the institutional structure and flexible operational framework of this autonomy model can contribute to achieving the goal of preserving and reviving endangered minority identities. However, the way the autonomy law defines ethnic minorities, as well as the requirement of a minimum population threshold, reduces its functionality regarding this purpose. Improving the model by considering these shortcomings would allow it to be used for the interests of small and endangered minorities.

Recommendations

- Consider the use of institutional structures of Estonian cultural autonomy as a role model for the preservation and revival of endangered minority identities.
- Use national registries as a tool to increase inner cohesion and sense of community for dispersed minorities.
- Design a flexible operational framework to give minorities the opportunity to use the provided autonomy arrangement.
- Address potential capacity issues of minority groups directly and avoid introducing arbitrary minimum thresholds of population.
- Consider whether, and to what extent, it is necessary to apply the requirement of long-term permanent ties with the state, and, depending on the circumstances, consider waiving it.
- Consider extending cultural autonomy to those minority groups whose difference from the dominant nation may not be obvious, or is debatable, but whose distinctive culture or language still could benefit from it.

Introduction

The extinction of small lingual and cultural communities has accelerated significantly in recent decades (Zhang & Mace, 2021), and, consequently, it has become increasingly recognised as a problem (Appell, 2018). However, when creating a solution, much depends on the existing internal coherence, initiative and proactivity of the minorities themselves — which does not favour weak and endangered communities. Against this background, states have the potential to contribute more to increase the internal unity of endangered minority groups by creating appropriate legal frameworks that these communities would be able to use for their benefit.

Cultural autonomy is a potential tool for the "preservation and development of minority cultures" as suggested by the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities (2008, p. 33). However, to assess the suitability of this autonomy arrangement for weak and endangered minority communities it is important to better understand how existing models of cultural autonomy are currently functioning.

Estonian cultural autonomy has been used as a model for other countries' autonomy arrangements (Decker, 2007), but several authors have criticised it for being non-functioning and providing only symbolic additional tools for minorities to protect their interests (e.g., Kössler & Zabielska, 2009; Lagerspetz, 2014; Smith, 2014). However, since cultural autonomy in Estonia has been used by the almost extinct Swedish and small (Ingrian) Finnish minorities for years (and these communities have deemed cultural autonomy necessary and useful for their interests), it is sensible to ask if, and to what extent, this model is suitable for reviving and preserving the identity of such small communities like Swedes and (Ingrian) Finns in Estonia?

This paper reviews strengths and weaknesses of the Estonian cultural autonomy model in regard to its suitability for revival, preservation and protection of endangered minority identities. Recommendations are proposed as to how it would be possible to improve the model to achieve the goal of preserving the identity, language and culture of small ethnic groups.

Swedish and Finnish minorities in Estonia

Historically, Estonian Swedes lived compactly in the western part of Estonia from at least the 13th century. Now, in the 21st century, their ethnic group has almost completely vanished partially due to the evacuations to Sweden during the Second World War (Katus et al., 1997), where only a few of those who self-identified themselves as Swedes remained in Estonia at that time. The other core reason for the decline in numbers is the assimilation of the Swedes into Estonian culture, resulting in a number of their descendants living in Estonia today. These are the people who laid the foundation for the Swedish Cultural Self-Administration trying to revive the identity and intangible cultural heritage i.e., historical practices, knowledge and skills of Estonian Swedes that have become almost lost. As one of the provisions of the autonomy law requiring permanent residence in Estonia has been interpreted flexibly by the Ministry of Culture, the self-administration also includes descendants of Estonian Swedes living permanently outside Estonia but have regained the Estonian citizenship. This has increased the role of cross-border cooperation in shaping the modern identity of Estonian Swedes.

The Ingrian Finnish minority lived as a small ethnic group in eastern Estonia around River Narva. However, the main area of Ingrian Finns – Ingria – located between River Narva and Lake Ladoga, was, and remains, outside Estonian territory in the current territory of Russia (Matley, 1979). Due to the population resettlements during and after the Second World War, Ingrian Finns now live scattered in various parts of Estonia and have created several local ethno-cultural organisations. However, the number of Ingrian Finns is not sufficient to establish a sustainable Ingrian Finnish Cultural Self-Administration. An attempt at self-administration was first tried in 2004, but was disrupted between 2007 and 2017. Since then, the self-administration includes the so-called Finland Finns who do not have personal ancestral ties with Ingria but who have permanently moved from Finland to Estonia in recent decades, subsequently acquiring Estonian citizenship. Although taking advantage of the knowledge and activity of these people, Ingrian Finnish culture is still the priority of the self-administration.

In summary, Swedish and (Ingrian) Finnish minorities in Estonia have different historical backgrounds, geographical structure and population dynamics. However, both groups have weak group identities, as numerous members do not speak their ethnic language as a native language, and both groups have historically shown strong tendency to assimilation – Swedes mostly to Estonian culture and Ingrian Finns to Estonian or Russian culture. Connections and cooperation with Sweden and Finland respectively also influence the identity and capacity of both groups. Therefore, against this background, both communities appear to be clear targets for autonomy models aimed at supporting the revival and preservation of endangered minority identities.

Institutional framework of autonomy

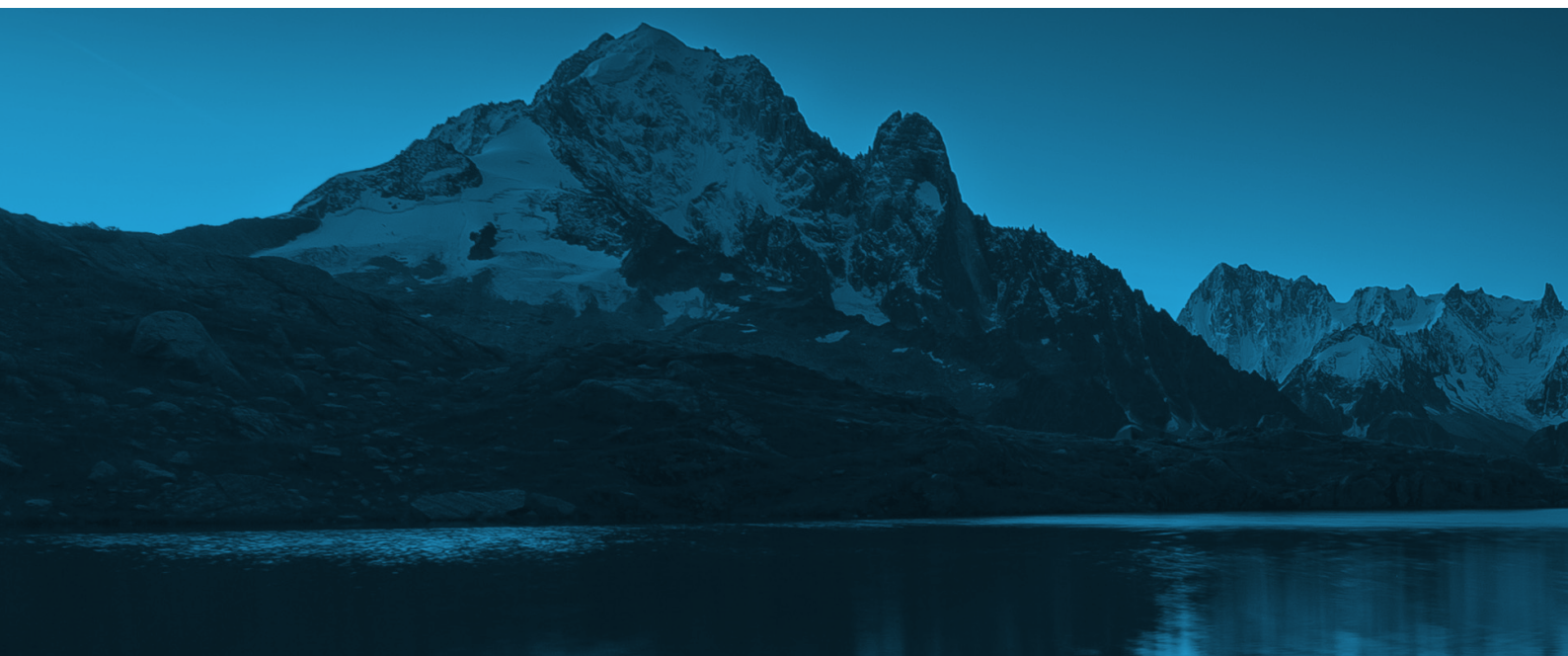
According to the Estonian National Minorities Cultural Autonomy Act (1993), cultural self-administrations – the institutional bodies of autonomy – are based on national registries. Relying on the latter, cultural self-administrations must hold elections to cultural councils every three years. In addition to the cultural council, cultural boards are required by the law, with the responsibility of organising the activity of the institutions of cultural self-administration. The self-administration has the right to create local cultural councils or appoint local cultural councillors. This structure means that self-administrations function like an umbrella organisation to various ethno-cultural organisations, managing and coordinating the activity of these institutions. National registries and the multi-level structure make a cultural self-administration different from typical non-governmental organisations (NGO), which otherwise may have similar goals. Maintaining such a structure requires minorities to be initiative-taking and have sufficient capacities inside the community in pursuing their goals. At the same time, cultural self-administrations do not expect individuals to do more than just have their name listed in the national registry compared to the NGOs who may require more active membership.

Although Swedish and Finnish minorities in Estonia are small and economically weak, they are motivated to engage with the concept of autonomy. They have established their cultural self-administrations, have created and manage their national registries, and, despite some difficulties, are holding regular elections to the institutional bodies. Having established and used the institutional framework provided for by the law, they are able to use their own inner resources and state funding to make their ethno-cultural activity more efficient. Consequently, the cohesion of their communities is increased and the group identity of dispersed individuals strengthened. Furthermore, the self-administrations use national registries not only for elections, but also to gather individuals in a single information field where every member of the self-administration can be informed about what is happening in their ethno-cultural community without being a member of any specific organisation.

Flexible operational framework

The autonomy law formulates multiple broad fields of activity for cultural self-administrations. While the structure of autonomous institutions is strictly regulated by the law, activities the self-administrations can make use of are much more flexible. They have the right to create and manage specific institutions if they have the motivation and capacity to do so, including institutions for native-language education, institutions of national culture , enterprises and publishing houses as well as social welfare institutions (§ 24). They also may organise the study of native language and create foundations, stipends and awards to improve their cultural and educational position (§ 5). To finance this, self-administrations may have funds allocated from several sources including funding from the state budget and from the local municipalities for eligible activities.

The activity of the Swedish and Finnish Cultural Self-Administrations are project-based, aimed at organising single events and generating outputs such as publications, restored material heritage, memorials etc. For these purposes, the self-administrations redistribute financial resources, including state funding to various projects within its organisations. In addition, creation of the ethno-cultural information field appears to have increased the activity and interest of individuals regarding material and intangible heritage and raised awareness of the history of both minorities in and outside the community. Consequently, a strengthening of the group identity is already noticeable. Considering that the development of collective identity is a lengthy process affected by multiple factors and has unknown results, it is normal that neither of the self-administrations has extensively used the opportunity to establish their native language educational or social welfare institutions. While at present there is neither enough demand nor capacity inside both ethnic groups to use all opportunities, it is not impossible that it could happen in the future.



Minimum population threshold

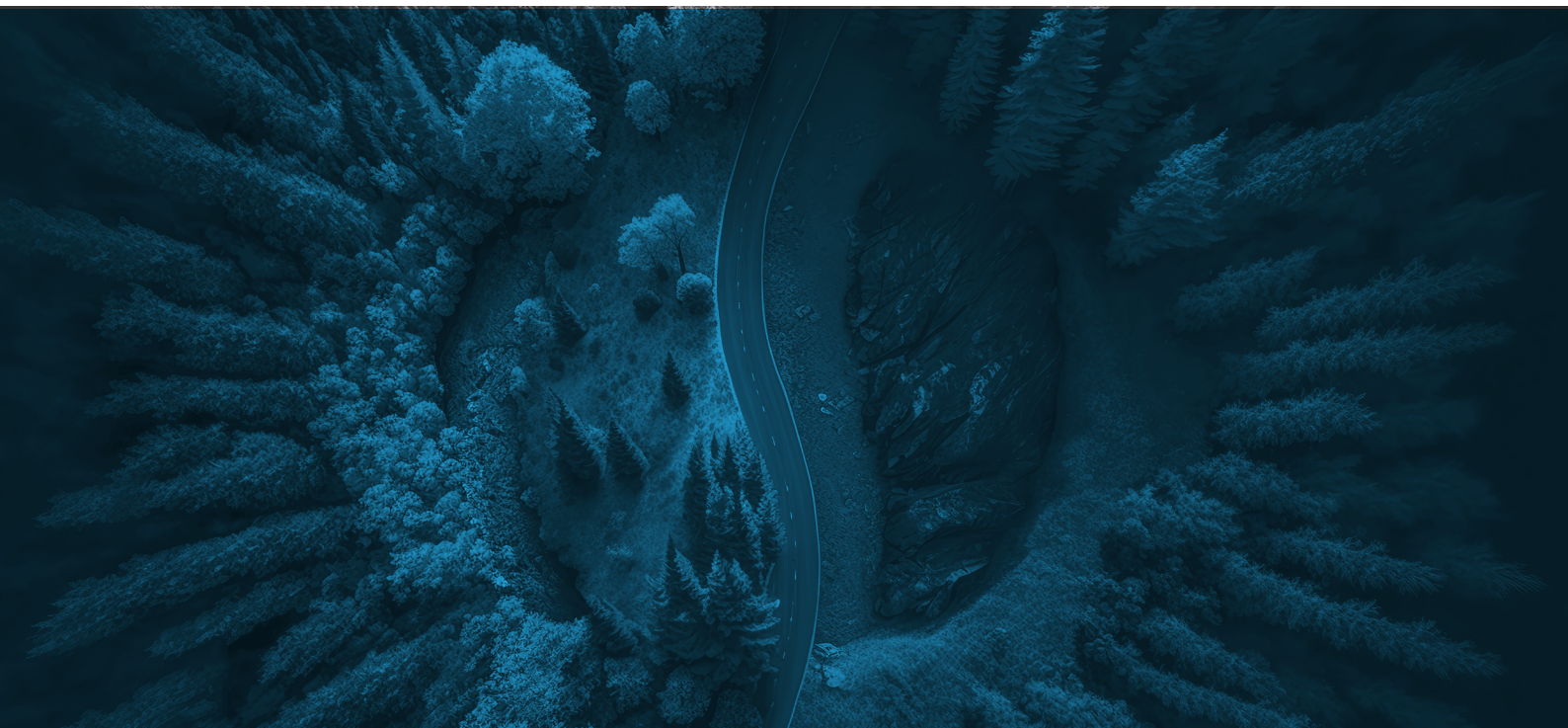
While the autonomy law emphasises the right of individuals of ethnic minorities to maintain their "ethnic belonging, cultural customs, mother tongue and religion" (§ 3), implicitly presenting this as one of the aims of cultural autonomy, it also has a peculiar requirement that most ethnic minorities living in Estonia must have a population of over three thousand individuals to get the right to establish a cultural self-administration. Since the population of most ethnic minorities in Estonia is under three thousand, they are automatically deprived of the autonomy regardless of whether they have sufficient inner capacities and willingness to use it. Furthermore, according to the law, three thousand individuals must be included in the national registry which means that the minorities cannot rely merely on census data but must consolidate the number of individuals registered.

Exclusive right, however, is granted for German, Russian, Swedish and Jewish minorities since the current law is based on the pre-war cultural autonomy and these minorities were eligible for and/or exercised the right to autonomy at that time. The almost extinct Swedish minority has been able to use the autonomy due to the exclusive right provided for by the law. However, the population of the community remains below one thousand and even among these people not all self-identify unequivocally as Swedes. Whereas the Finnish Cultural Self-Administration must comply with the requirement, and it has struggled over the years. The former chairperson of the Finnish Cultural Self-Administration has therefore considered the law discriminatory and threatening for the sustainability of their self-administration (Kabanen, 2017). While the Finnish Cultural Self-Administration has survived, despite the difficulties, the requirement is a clear obstacle to further expansion of cultural autonomy in Estonia. This is especially the case with these small ethnic groups who have been settled in Estonia during the Soviet occupation and have been struggling to preserve their identity in a Russian-speaking environment (Aidarov & Drechsler, 2013).

Definition of ethnic minority

According to the autonomy law, members of ethnic minorities should be considered Estonian citizens who live in the territory of Estonia, have "long-term, sound and permanent ties" with Estonia, are distinctive "by their ethnic belonging, cultural characteristics, religion or language" and wish to maintain their "cultural customs, religion or language" that are the basis of their identity (§ 1). As such, the definition is heavily correlated to the idea of identity preservation. However, the minimum population threshold deprives most minorities of autonomy, particularly some endangered ethnic groups, and as such this definition of minority can be considered to be poorly aligned to the reality of cultural and lingual diversity in Estonia.

To clarify, historical minorities designated by a certain ethnonym may have largely disappeared by now, and individuals currently designated by the same ethnonym no longer have ancestral or cultural ties with these historical communities. This applies, for example, to Germans, Jews and Russians who have the exclusive right for autonomy but mostly are neither descendants of respective minorities who lived in Estonia before the Second World War nor have strong cultural connection with them. Furthermore, the requirement of strong historical ties can be a potential obstacle for these small minorities settled in Estonia during Soviet times and meeting the numerical threshold required should they wish to establish a self-administration. Finally, while according to the definition lingual minorities may have the right to use the autonomy, there have been no discussions in the society of whether these groups who are usually perceived as Estonians but differ linguistically such as Võros and Setos (the latter are to some extent culturally distinctive but are nevertheless not considered a separate ethnic group compared to Estonians) could use cultural autonomy.



Policy implications

The analysis of Estonian cultural autonomy demonstrates that its institutional framework, in particular national registries, and the common information field emerging from the autonomy, helps to consolidate a dispersed group of people and increase the sense of community. However, it seems that both Swedish and Finnish Cultural Self-Administrations can take advantage of the overall positive image of Sweden and Finland in Estonian society which makes them attractive among those individuals who otherwise would self-identify rather as Estonians. Thus, while institutional structures of cultural autonomy may improve the situation of small minorities it must also be considered that the extent to which it increases group cohesion also depends on the position of specific ethnic minority in the society.

The Estonian autonomy law provides for a flexible variety of activities and tools inside a fixed institutional framework. Cultural self-administrations can use different tools to achieve their goals and strengthen group identity. The fact that neither of the self-administrations has made use of all opportunities provided for by the autonomy law only reflects their current conditions and does not rule out that they will use additional means in the future. A sufficiently broad operational framework is therefore at first, useful to enable adaptation to changes taking place over time but second, it is adaptable to minorities with diverse needs and backgrounds.

On the downside, the minimum population threshold contradicts the aim of accommodating the needs of small and endangered minorities. Researchers have already pointed out that this requirement deprives most minorities of autonomy (Prina et al., 2019). Furthermore, while during the reading of the draft law in the Estonian Parliament, it was also stated that the law should be aimed at small minorities rather than the large Russian-speaking minority perceived as a security threat, the need for a minimum threshold was justified with the argument that smaller minorities would not have sufficient economic capacity to maintain their autonomous institutions. This justification contradicts the provision which allows certain ethnic groups to establish a self-administration without meeting the minimum threshold as it is not automatically granted that these minorities have more capacities for success compared to other minority groups. However, thanks to this exception, Swedish Cultural Self-Administration has been able to prove that small minorities can be successful in maintaining such a resource-intensive organisational structure. Thus, it would be more reasonable to address potential capacity issues directly without arbitrary generic minimum thresholds.

Both the minimum threshold and the requirement of strong historical ties with Estonia make cultural autonomy unsuitable for those small minorities who have been settled in Estonia during the Soviet occupation and who have steadily assimilated into Russian culture in recent decades. Although at the time of the adoption of the law, one of the goals of establishing the requirement of long-term permanent ties with Estonia was indeed to deprive the Soviet-era migrants of the right to autonomy, researchers have pointed out that cultural and lingual diversification of this group would also be in the interest of the state (Aidarov & Drechsler, 2013). As long-term permanent ties are also difficult to define and the law remains vague in this regard, it would be useful to avoid such categorical wording in the development of autonomy and to consider whether and what practical purpose such a requirement would serve.

Finally, the requirement of distinction from Estonians also makes cultural autonomy to some extent exclusive. It de facto deprives several linguistically distinctive groups of autonomy as they are not perceived as *ethnic* but merely *lingual* minorities in the society. Thus, today these groups use other tools to preserve their linguistic difference. However, making sense of cultural autonomy more broadly than of something aimed at groups clearly distinguishable from the dominant nation could help add value to the autonomy model and find new perspectives for it.

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10.

ENTAN
policy paper
January 2023

Land Rights as Cultural Rights: **The Case of the Sámi People**

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Summary

The distinctiveness of indigenous peoples comes not only from their being collectivities but also from their culture of sharing all aspects of life in accordance with the special relationship that they have historically maintained with their lands and natural resources. They therefore need not only a special legal regime that transcends the universal human rights regime but also a broad interpretation of cultural rights.

Although no disaggregated data are available that can give a clear and accurate description of indigenous peoples' situation (United Nations, 2008), a report by the Special Rapporteur on the rights of Indigenous Peoples, Victoria Tauli-Corpuz (2016), concluded that Sweden, Norway and Finland are not fulfilling their stated objectives of guaranteeing the Sámi people's rights. The report highlighted the negative impacts of extractive industry operations on Sámi livelihoods and culture and raised concerns regarding their land rights.

Recommendations

- Indigenous peoples need mechanisms that address their specific situation. There is therefore a need to establish well-designed systems that recognise their cultural rights in line with the following goals:
  - drawing on their own knowledge, experience and environmental demands as the driving forces for improvement;
  - respecting their traditional knowledge, practices and skills, which value the integrity of the ecosystem itself, not merely human needs;
  - promoting innovative, nature-based solutions that can underpin the growth of local nature-based industries;
  - involving relevant self-governing bodies in exploring and allocating natural resources.
- This possibly requires legal and administrative amendments to the current provisions, or new provisions to allow indigenous peoples' cultural recognition and survival.
- Such a broad normative and operational framework should also be set up using an environmental autonomy approach – including a collectivity-based rights approach and a decolonised perspective – and through a debate on the right to environment with an ecosystem-based approach.

Introduction

In recent times, the legal status of indigenous peoples around the world has noticeably improved through the United Nations (UN) Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly on 13 September 2007. Similarly, for Sámi people specifically,[1] the draft Nordic Sámi Convention was proposed in 2005 by an expert group representing the governments of Norway, Sweden and Finland, and by the Sámi parliaments of these countries. However, even though the negotiations ended in 2017, this has still not entered into force because it is contingent upon the consent of all three countries' Sámi parliaments and the national parliaments.

To result in tangible and appropriate outcomes, these documents need to be implemented in good faith in practice. Many challenges still remain. One of the fields presenting substantial challenges to these documents' enforcement and implementation, among many others, is the cultural rights of indigenous peoples.

To arrive at a more comprehensive understanding of the preservation and flourishing of indigenous peoples' cultural rights, this brief firstly evaluates cultural rights as linked to indigenous peoples' dependence on the environment and natural resources for protecting their culture. Secondly, it presents a case study based on the Sámi people and offers a comparative analysis of the relevant regulations and their implementation in Norway, Finland and Sweden. It concludes with policy implications for promoting indigenous peoples' cultural rights.

1 The Sámi people, the EU's indigenous people, inhabit not only the area claimed by Norway, Sweden, Finland but also Russia's Kola Peninsula. However, this paper focuses specifically on the Sámi people in three Nordic countries.

Indigenous peoples' cultural rights: the question of land rights

The term "culture" in itself is both relative and diverse (including all aspects of life, intellectual and material knowledge and practices, diverse forms of livelihoods and so forth). It is not easy to arrive at a specific categorisation or minimum standard to define "culture", or to determine a specific context in which it applies (for example, to individuals or communities). This uncertainty is one possible reason why the right to culture may not appear to be as strongly expressed as political, civil, social and economic rights. And yet, cultural rights have been part of the international human rights regime since the Universal Declaration of Human Rights (1948), which affirmed that everyone has the cultural rights "indispensable for his dignity and the free development of his personality" (art. 22) and can freely participate "in the cultural life of the community" (art. 27(1)). Rights such as the right to education, using one's mother tongue, and freedom of religious belief and of artistic creation can therefore be exercised by individuals in line with these provisions; however, many of these cultural rights can only be exercised by specific groups or collectivities, such as indigenous peoples. As such, the traditional human rights regime gives rise to tension between universality and cultural relativism, making it appear inadequate for resolving the struggles over these problems (American Anthropological Association, 1947; Brauch, 2013, pp. 89, 149; Gitiri, 2015, p. 6).

The collective nature of indigenous peoples separates them from others (the majority or dominant group), sustains them as peoples and creates the need for rights of collectivities not just

individuals – hence the need for a special legal regime that transcends the universal human rights regime. The distinctiveness of indigenous peoples also comes from their culture of sharing all aspects of life in accordance with the special relationship that they have traditionally maintained with their lands and natural resources (see Convention on Biological Diversity art. 8, 10, 15, 17; ILO Convention on Indigenous and Tribal Peoples art. 6, 13–14; UNDRIP art. 18–19, 25–26, 32).

The case of the Sámi people: Finland, Norway, and Sweden

We examined three Nordic countries' national regulations and actions in relation to protecting the Sámi people's cultural rights (most relevant to land and natural resources rights and environment autonomy). The results are summarised in the following comparative table.

COMPARATIVE TABLE

	FINLAND	NORWAY	SWEDEN
	GENERAL FEATURES		
Regional Basis	Northern part of Finland	Norway (Finnmark)	North-western part of Sweden (Lapland)
	Northern part of the Scandinavian Peninsula and large parts of the Kola Peninsula		
Population	8,000 0.16% of the total population (at around 5 million)	50,000 – 65,000 between 1.06% and 1.38% of the total population (at around 5 million)	20,000 0.22% of the total population (at around 9 million)
	Estimated total number: at around 100,000		
Political Representation	Sámi Parliament	Sámi Parliament	Sámi Parliament
	Sámi Parliamentary Council		

LEGAL BASIS

INTERNATIONAL

Human Rights Covenants **(1966) (ICCPR-ICESCR)**	Party to two covenants Have incorporated the covenants as part of their national legal system	Party to two covenants Have incorporated the covenants as part of their national legal system	Party to two covenants
ILO Convention No. 169	No progress so far	Ratified (1990)	No progress so far
UNDRIP	Voted in favour	Voted in favour	Voted in favour
Nordic Sámi Convention	In progress	In progress	In progress

NATIONAL

Constitutional Basis	Para. 14, 51(a), 121, Constitution (731/1999)	Article 110a, Constitution	Simply a reference to "ethnic, linguistic and religious minorities" (Article 2(4), Chapter 4) No clear provision on Sámi people, simply a reference to Sámi reindeer breeding in conjunction with the right to property (Article 20(2))

SÁMI PARLIAMENTS			
Sámi Parliament Acts	Duty to negotiate with the Sámi	No provision regarding the duty to negotiate with the Sámi	No provision regarding the duty to negotiate with the Sámi
Definition of a Sámi Person	A person must know the Sámi language.	A person must know the Sámi language.	It is not required that a person know the Sámi language. Having Sámi as a home language is a fundamental feature of defining a Sámi person.
Impact of Sámi Parliament	The State is obliged to consult the Sámi Parliament in every case where the Sámi lifestyle can be affected	The State is not obliged to consult the Sámi Parliament in every case where the Sámi lifestyle may be affected Governmental legislative proposal for provisions of consultations in the Sámi Act (no progress so far)	The state is not obliged to consult the Sámi Parliament, even in cases that might directly affect the Sámi people No real functioning arrangement for consultation
Institutional Autonomy of Sámi Parliament	Independent of the governmental bodies	Institutional autonomy co-exists with decision-making in some areas and with consultations on legislation and administrative measures	Independent of the governmental bodies

LAND RIGHTS			
Usage-ownership	Right of usage (hunting and fishing freely), but not full ownership of their land	Finnmark Estate No measures to identify areas that had traditionally been occupied in order to prevent exploitation and destruction of natural resources and lands The only Sámi group that has a collective ownership of a specific area (Troms County)	Girjas Case (2020) In the Girjas District, a Sámi reindeer-herding community won their case against the Swedish state on their rights to manage hunting and fishing within traditionally used and occupied lands without the consent of the state
Reindeer Husbandry	Anyone can pursue reindeer husbandry Sámi do not have exclusive fishing and hunting rights	Sámi have exclusive rights to reindeer husbandry	Sámi have exclusive rights to reindeer husbandry

SÁMI'S OWN RULES			
Customary Sámi Law	Largely ignored	Largely ignored	Largely ignored
Traditional Sámi Social Structures	Largely ignored	Largely ignored	Largely ignored

Source: Created by the author based on relevant sources.[2]

2 IWGIA (2021); Vars (n.d); Kaukkonen (2017); Constitutions and Parliament Acts of three countries: Finnish SPA Chapter 3; Norwegian SPA Chapter 2.6; Swedish SPA Chapter 1.2; Finnish Sámi Parliament Act (974/1995); Norwegian Sámi Parliament Act (56/1987); Swedish Sámi Parliament Act (1433/1992); Finland Reindeer Husbandry Act (848/1990); Norway Reindeer Husbandry Act (40/2007); Sweden Reindeer Husbandry Act (437/1971); Finnmark Act (85/2005); Girjas Case (2020), Case No. T 853-18.

Policy implications

To effectively protect the culture of indigenous peoples, it is essential to understand and recognise their deep connection to their ancestral lands, territories and resources, from which they get their identity and knowledge system and which they transfer to future generations – thus providing for their survival as distinct communities (United Nations Development Group, 2009).

The negative dimension of the right to participate in culture includes non-interference by the state in "the exercise of cultural practices and access to cultural goods and services", while the positive obligation ensures "preconditions for participation, facilitation and promotion of cultural life, and access to and preservation of cultural goods".

As the "land rights issue" results in different strategies and legal processes in practice, due to the existence of different categories of land and various types of relevant rights (Shah, 2010), indigenous peoples' meaningful participation and free, prior and informed consent also become crucial to safeguarding their rights effectively (Claridge and Xanthaki, 2016).

Land should also be treated as cultural property and not just property under the terms of Indigenous Cultural and Intellectual Property (see UNDRIP art. 12, 31) (Brauch, 2013), since land has a key role in shaping the group itself from past to future (Wiersma, 2005).

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11.

ENTAN
policy paper
February 2023

Strategy-Making of National Councils of National Minorities in Serbia as a Tool of Community Building

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Summary

National minority councils in Serbia are organisations which are created and function according to the Law on National Councils of National Minorities ("the Law"). The councils possess certain public powers to participate in decision-making or to make some independent decisions in the fields of culture, education and media, as well as the official use of languages and scripts (art. 1a, para. 1). The Law outlines the general rules for the election, functioning and financing of councils that should be applied equally to all national minority councils. However, the way and the extent to which these councils deploy the possibilities offered under the Law depends on individual councils, their leadership and the political, human resources, infrastructural and financial capacities of the national minorities themselves.

National minority councils may be understood as representative political bodies elected by those belonging to a national minority; but unlike traditional political bodies, these councils are required to provide a long-term perspective for the communities they represent instead of simply seeking to "survive" from one election to another. While the state provides the legal basis for establishing minority self-governments, the minority community through its council must fill the legal provisions guaranteeing non-territorial autonomy ("NTA") with substance (sometimes with state assistance). One of the tools for this "content production" is strategic planning.

Due to the differences between national councils themselves, as well as between minority populations recognized as national minorities in Serbia, various strategy-making methods would be used by councils in order for the completed strategy to result in considerable improvement in the life of the communities they represent (at least in the areas covered by NTA). However, given that national minorities share several common problems, the strategies of more organised national councils might serve as exemplars for others. Certain strategic goals and programmes that have already been implemented or are currently being rolled out can be reproduced by other councils. Some of these goals and programmes can be implemented regardless of the size and institutional infrastructure of these minority communities and the political support they may receive from the state and/or kinstates.

The recommendations outlined below are formulated in such a way as to encourage especially the enhancement of those national minority councils that do not yet have a strategy. This is without neglecting the importance of the intermediary and advisory role of the state and NGOs in this community-building process.

Recommendations

- The state must take an active role in training national minority councils to establish strategies, identify and obtain necessary resources, implement programmes and evaluate the success of their strategies. Given that the Serbian state has previously adopted several national strategies in the areas covered by the NTA, relevant state ministries can present the key steps and possible hazards involved in the strategy-making process to council representatives at roundtables and meetings.
- Larger, more organised national minority councils that are already well versed in strategy-making may introduce their successful programmes to the other councils. These more organised councils may offer other councils the opportunity to adopt and adapt their existing projects according to their respective community's needs. The Coordination of the National Councils of National Minorities operating as a standing conference of the national minority councils in Serbia may be a good podium for these discussions.
- The state must provide access to necessary data, reports and analyses to ensure the most authentic assessment of the situation in the fields of minority culture, education and media, as well as the official use of minority languages and scripts can be made to support councils' strategies. In addition, national minority councils should be encouraged to set up and maintain their own databases in the mentioned fields, in parallel with the official ones.
- The national minority councils must strive to make their strategies implementable from a financial, human resource and community perspective and, in turn, realise them. Therefore, the strategies must primarily be pragmatic and practical, characterised by and conformed to professional standards, rather than based on the idealistic programmes of political parties participating directly or indirectly in the management of the respective council.
- The strategic programmes must be provided with specific implementation dates (as much as this is possible). Annual reports on the pace of implementation of the strategic programmes should be prepared and sent to the relevant ministry. This can significantly contribute to the efficient planning of costs from both sides (councils and the state).
- The strategic goals will be used to define the future direction of travel. As such, councils must solicit the broadest possible consensus from the community with regards to the emphases and objectives of the strategy. Public authorities should also be active participants in the strategy-defining process. National minorities are integral to the state, and their long-/medium-term plans can affect the state's domestic and foreign policy.
- The NGO sector should assist national minority councils in raising awareness of the importance of strategic approaches among the community. A national community can only be maintained with people who, like the decision-makers, feel responsible for realising strategic goals that serve the community as a whole.
- The completed strategies must be made visible both to the community (published on platforms known to and visited by the community) and to the state bodies connected to the realisation of the programmes. For this purpose, the strategic plans must be translated into Serbian and made available online. International visibility, e.g., through the strategy's translation into English, would create an opportunity for further examination and analysis from multiple perspectives. However, this is not a priority.

Introduction

The paper will answer the following questions: do national minority councils in Serbia need their own strategies beyond the cases required by the Law? If so, are they ready to draft and implement their own strategies? What are the preconditions of a successful strategy-making as far as national minority councils are concerned? How might the state and the NGOs assist the councils in this process?

According to the Serbian National Ombudsman: "Council strategies are of great importance, and they indicate that these bodies design their activities for the preservation and nurturing both traditional and contemporary cultural creation in a planned and systematic way" (Protector of Citizens, 2019, p. 20). However, to live up to the Ombudsman's claims, the possibilities inherent in strategic planning should be employed to a far greater extent. This paper examines various strategy-making techniques that have primarily emerged from the business sector, considering the apparent differences between national minorities and their councils in Serbia.

Strategy-making in the Law on National Councils of National Minorities

National minority councils must produce an annual financial plan and provide an end of year spending report, containing the annual performance report with an explanation (art. 112). This presupposes that the councils are obliged to produce yearly planning documentation. However, this cannot be understood as a strategy in the classical sense, which in the case of a national community must be at least medium-term, covering a period of 5–7 years, and which should have a more comprehensive content than an operational plan. This does not mean there is no need for annual planning of the everyday operation of the national minority councils. However, to ensure the given minority population's long-term survival and development at the community level, it is necessary to strategically plan several years in advance in a broader context. "[P]rofessional strategic planning is one of the fundamentals of effective and successful policy making and good governance generally. It is a tool by which problems might be systematically resolved and public interest protected" (Korhecz, 2014, p. 157).

National minority councils are bound by the Law to create strategies to develop the culture of the given ethnic group (art. 18, para. 2) and, in accordance with the media strategy of the Republic of Serbia, to adopt strategies for improving information broadcast in the language of the given national minority (art. 21, para. 1). However, the Law does not contain any sanctions in the case of non-implementation of these provisions by the councils; there is no monitoring mechanism to verify the completion of strategic programmes or to check the

consistency between the national/state and council strategies in the field of media. Moreover, there is no legal requirement for councils to produce separate strategies in the councils' two other areas of activity: education and the official use of minority languages. Indeed, the reach of national minority councils in these two areas varies greatly: for example, some minorities do not have any form of education in their mother tongue, while others have primary and secondary schools providing education exclusively in the given minority language. Additionally, the languages of some national minorities are not even standardised, while language of others is recognized as official language in which entire court proceedings might be conducted. However, this does not mean that steps should not be taken in the process of community-building to develop educational provisions in the mother tongue and advance the use of the mother tongue as an official language. Both the legal provisions and legal gaps support the fact that community-building followed by strategy-making should be primarily a bottom-up process (starting from the council and not the state), even if the law stipulates the councils' obligation of strategy-making on certain issues.

During the review of the constitutionality of the Law, the Serbian Constitutional Court found that the Serbian Constitution identifies four main areas that are important for the preservation of the identity of every national minority. In turn, the Constitutional Court determined that the remit of national minority councils cannot extend beyond these areas.

The Law says that the councils may "take positions, start initiatives and take measures in all issues which are directly related to a national minority's status, identity and rights" (art. 10, para. 14). However, due to the Constitutional Court's restrictive interpretation, emerging issues within the minority population such as emigration, depopulation and worrying demographic data in general, the cultivation of science in the mother tongue, the economic growth of the community, overcoming the disadvantages resulting from the differences between urban and rural environments etc. should remain outside the councils' remit. One might conclude that the councils cannot develop strategies in these areas, despite the non-binding nature of these documents. Yet, because of the *sui generis* legal status of the strategies (they are not considered legal acts the constitutionality/legality of which can be examined by the Constitutional Court, but they must be based in the law and cannot conflict with valid legal sources) and given the powers of the Serbian Constitutional Court, the question arises as to whether a strategy dealing with the above-mentioned issues (outside the four main areas of NTA in Serbia) could be annulled.

Different types of strategy-making "capability"

A strategy consists of three essential parts: assessment of the current situation (first part) is usually followed by the establishment of the strategic goals (second part) and programmes, together with an implementation timetable (third part). Details regarding sources of financing, responsible agents, methods of supervision and indicators of success may be included in the strategy itself or in separate documents.

National minority councils represent different national minorities in Serbia. The differences between national minorities are not necessarily cultural. The minority population's size, demographic patterns, history and ties with the state and the national majority, their territorial dispersion, the existence of a kinstate and its political/financial support, the presence of political fragmentation or unity within the community, the community's relationship with the governing political powers at various levels of governance, its educational possibilities and information broadcast in the mother tongue as well as other infrastructural capacities determine the strategy-making capability of a community and through them the national minority council itself. These factors may also determine whether councils can rely on the already existing capabilities of their own communities or whether they may need external support from NGOs, public bodies and kinstates (if they exist) when drafting, executing or monitoring their strategies. For this reason, one cannot adopt a "one-size-fits-all" approach. Strategies must be tailored to the unique characteristics of each community. A well-prepared situation analysis, which, in addition to the presentation of relevant legal provisions applicable uniformly to all populations in the country, also includes the practical experiences and data referred exclusively to the given community, helps with the individualisation of the strategic documents. In this regard, official and shadow reports are equally important, indicating that undertaking fieldwork by the councils themselves and affiliated organisations (e.g. educational, cultural institutions co-founded or NGOs supported by the councils) or persons (e.g. external consultants, individual community organisers) is necessary.

The administrative element of strategy-making is undoubtedly the council's job. This element also includes certain organisational, technical and financial responsibilities. However, the question arises: how should the community participate in the process? For, as Hart reminds us in his study of the framework on strategy-making process, "[w]ithout the commitment and involvement of organisational members, there can be no strategic vision" (Hart, 1992, p. 329). Although Hart primarily refers to the business sector here, his sentiments regarding the relationship between a company's top managers and organisational members may also apply to the relationship between national minority councils and their respective communities. Of course, the logic of company management is only applicable to the representation of national minorities by national minority councils in a very narrow way because of the contrasting roles and goals of business and public bodies to which group national minority councils supposedly belong. In the case of a national minority, for instance, the objectives of community members and the council representing them are more or less the same – or should be the same to ensure the community's long-term survival and development. On the other hand, in a company, the organisational members' goals are far more subjective.

However, some strategy-making methods, specifically Hart's that have emerged in the business sector may nevertheless prove useful to national minority councils. According to Hart's classification elaborated in his above mentioned study, there are five strategy-making modes. In the *command* mode, the council formulates the strategy and hands it down to the community for its execution. This mode should function well in relatively simple situations and for small and less organised communities because the council retains complete control of the strategy. On the other hand, in larger, more differentiated communities, the strategy-making mode should be *symbolic*, according to which the leaders primarily articulate a mission and common perspective, and community members adapt the actions to the field conditions, respecting the collective goals that have been set down. In relatively stable communities with the capacity to fully realise the formulated plans, the *rational* mode would be a good solution. A formal planning system and hierarchical relations within the community and during the execution are at the fore of the *rational* mode.

In these three modes, national minority councils initiate the strategy-making process in their role as leaders. However, in the case of dysfunctional or incompetent leadership, the community may need to make the first move. In this regard, the civil sector's professional assistance and the state's intermediary role can be crucial. According to the *generative* mode, the council's task is only to select and support high-potential strategy proposals from below. However, in the *transactive* mode, the council facilitates an interactive strategy formation process through interactions with community members (Hart, 1992).

These modes are not, however, mutually exclusive. For example, councils with functional and competent leadership may also encourage the community to develop their own strategic programs and plans. Equally, the community may also participate in strategy-making according to the command mode through public debate of non-binding character. Moreover, although this paper primarily deals with the possibilities of strategy-making in the context of the national minority councils in Serbia, modified versions of some above-noted methods can be successfully applied in the case of functional autonomy, as well (i.e. when the national minority has institutional background neither in public nor in private law).

Conclusions and policy implications

Until the adoption of the Action Plan for the Realisation of the Rights of National Minorities (2016), Serbia was criticised for its lack of a systemic approach towards national minorities, as "reflected primarily in the absence of a strategic document that would determine the basic principles and principles of minority policy and defined the roles of many actors at all levels of government who deal with this topic within their own competencies" (Marković & Pavlović, 2019, p. 91). Although there is now a national minority strategy in the form of the Action Plan, it prescribes all-inclusive measures equally applicable to all national minorities. On the other hand, separate strategies tailored to separate minority groups should individualise these general programmes and objectives. These documents are inevitable tools of community-building; their implementation is primarily an internal matter for the national minority councils; they serve as a guide to their work and for their "target audience".

With due consideration of the characteristics of the given minority group, it is necessary to find the most appropriate channels for communities to actively cooperate in the strategy-making process. Communities cannot be expected to participate in the implementation of strategies in any way if they do not have a say in their creation. On the other hand, if there are no people on the council or in the community who feel responsible for strategic thinking and systematic planning, it raises the question of how much the given ethnic group can be considered an independent national minority and not just a tool of ethno-business.

Neither the state nor the civil sector can take over the task of strategy-making from the councils, nor can they formulate the goals and programmes for the development of the community in their stead. Public authorities and NGOs may help in the elaboration of formal analysis, instruct on strategy-making in a formal sense, promote and provide funding for the strategic programmes, as well as monitor and evaluate their execution. Thus, strategy-making is a multi-sided process: the national minority council is primarily in charge of building its own community, but the state and sometimes NGOs must help it in this, both materially and formally.

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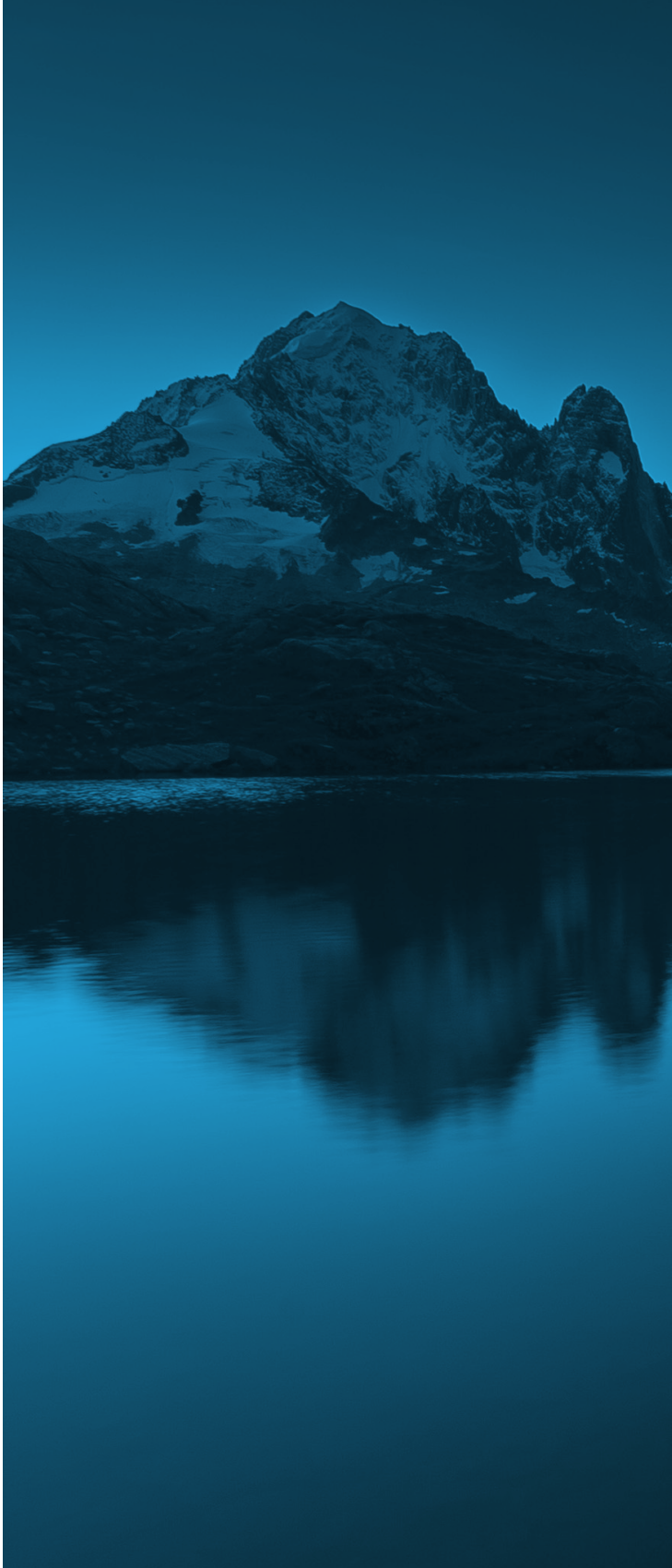

12.

ENTAN
policy paper
March 2023

On the Muslim Turkish Minority of Thrace, Greece: **Long-lasting Problems that Require Immediate Solutions**

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Summary

The 1923 Treaty of Lausanne granted special minority rights to the predominantly Turkish speaking Muslim minority of Thrace (Greece). These minority rights were only granted on the basis of the minority's religious affiliation as Muslims. This legal logic stems from the Ottoman millet system, in which ethno-religious communities enjoyed institutional autonomy. Moreover, the Greek government, lawmakers and the judiciary only granted Muslims of Greek citizenship specific minority rights if they lived in their ancestral region (Thrace). Legal norms governing the position of the Muslims in Greece have attempted to balance personal autonomy and territoriality based on asymmetric schemes. Aspects of non-territorial autonomy (educational rights) and territoriality (minority rights granted only at the region of Thrace) coexist. The ideological antagonism that exists between the *community of citizens* and the *community of the nation* impacts the position of Greek Muslims in a fragmented and incoherent way. The challenge for law and policy is to consolidate an holistic approach to treating a multifaceted minority group in a manner grounded in the principles of justice and human rights.

Recommendations

- The harmonisation of laws and policies dealing with the Turkish–Muslim minority of Thrace with the fundamentals of human rights law. For instance, administration of schools, community properties, the selection and appointment of teachers, imams and muftis, as well as the establishment of associations, should not fall under a "status of exception" that derogates from rule of law. Rather, they should be governed by the fundamental principles and norms that stem from the European and Greek legal order.
- To disentangle minority issues from historic Greek–Turkish antagonisms and grant minority protections via multilateral legal guarantees such as those provided by the Framework Convention on National Minorities of the Council of Europe.

Introduction: A theoretical approach as a precondition of any legislative amendment

The end of the Greco-Turkish War of 1919–1922 witnessed the fall of the Ottoman Empire and the establishment of the Turkish Republic. Following the fall of the Ottoman Empire, the Lausanne Conference adopted measures sanctioned by international law, which effectively involved ethnic cleansing in order to establish homogeneous nation-states in Greece and Turkey. The mandatory population exchange between the two countries, under the Convention of Lausanne (January 1923), affected 1.2 million Greek Orthodox Ottoman subjects from Asia Minor and over 400,000 Muslims Greek citizens from Greece. All were forced to lose their homeland and acquire a new one. However, the Muslims of Western Thrace were exempted from the population exchange, as were Istanbul's Greek Orthodox community and the Greeks of the islands of Imbros and Tenedos. The subsequent Treaty of Lausanne (July 1923) granted special minority rights to non-Muslim Turkish citizens in Turkey and to Muslim Greek citizens in Greece who were exempt from the population exchange.

The policies and laws concerning Thrace's Muslim minority have been developed and often justified by claiming that predominant "national interests" are at stake. During the century-long history of Greek–Turkish reciprocal policy on minorities under the Treaty of Lausanne, the principle of reciprocity was applied in a negative way. Moreover, minority policies favoured and still favour certain groups, inside and outside the minority. Fear of excessive interventionism from Turkey is often used as a tool to justify special minority policies. The conditions of coexistence between Christians and Muslims have been shaped through the visibility of the minority, mainly through a religious lense (Islam). This has constructed an implicit and stigmatised national identity for the Muslims of Thrace that implies an affiliation to Turkish, rather than a religious a-national identity. Nonetheless, no collective identity is one-dimensional or static.

On top of the identity issues, Thrace's Muslim minority is located in a region that offers limited opportunities for economic development and socio-economic progress. The low socio-economic status of Thrace's Muslims among the local population also creates limitations for the equal enjoyment of minority rights. After all, the problems and demands of the entire region should be given equal weight in the internal hierarchies of needs.

The minority policies implemented in Thrace have and continue to be based on a series of minority institutions such as schools, community properties and the mufti offices which the Greek governments are able to control. What is at stake is the enjoyment of minority rights and the operation of minority institutions within a framework of autonomy. The state sees the ideological mission of minority institutions as one that mobilises a solid and unchanging image of a "community of believers", so the state ideology ignores the national (Turkish) identity that predominantly underlies within this community.

To achieve the "modernisation-rationalisation" of the Thrace minority's legal status, the employment of interpretive schemes based on the millet-like differentiation between Christians and Muslims should be abandoned. Moreover, segregation on the basis of religion should also be abolished. An inclusive civic citizenship must be established and minority rights should be offered and enjoyed by the members of the minority who would freely chose to use them.

The maintenance of pre-ethnic categories of religious institutions cannot underpin sustainable minority protection norms and policies. The same is true of both state authorities and a significant part of the minority political and social elite. These often myopically insist on demands for "institutional autonomy", but without referring to qualitative criteria and socio-economic realities. While demanding institutional autonomy and sustainable rights, discussion regarding strategies for the emancipation of the members of the minority or the reduction of intra-minority inequalities by these factions is carefully avoided.

A necessary condition for overcoming age-old deadlocks and achieving the rationalisation of the legal regulations related to minorities is the recognition of the realities and the abandonment of irreconcilable positions. The quest to balance communitarianism (mufti jurisdiction, community properties, and minority schools) with universal equality (public school for all, and universal jurisdiction) should aim at securing fundamental human rights and minority rights on the basis of free choice. Indeed, in the judgment *Molla Sali v Greece*, at the European Court of Human Rights, referring to the Framework Convention for the Protection of National Minorities, says that: "no disadvantage shall arise from the free choice it guarantees, or from the exercise of the rights which are connected to that choice" (*Molla Sali v Greece*, 2018, paras. 67–68, 157).

Six positions for the reorganisation of minority institutions

The following positions constitute a starting point for identifying individual legal deficits and establishing concrete proposals. These will allow for a consistent and coherent legal regime that will govern the status of minority institutions in line with the fundamental parameters of the European and Greek legal order.

1 The legal status of minority schools, muftis and community properties (vakoufia/vakiflar) is characterised by a chronic ideological instrumentation of the law. The special status of minority schools' special status has survived since 1923 and often rubs up against the basic principles of European legal culture. The conflicting relationship with European legal institutions hinges on the question of whether Greek citizenship can incorporate other national identities (besides Greek). According to the European Court of Human Rights, the role of the state authorities is not to abolish the reason for these tensions through the abolition of pluralism, but rather to secure mutual tolerance between groups (Serif v Greece, 1999, para. 53).

2 The segregation of a population based on religion, often on a mandatory basis (see the appointment of teachers and the definition of jurisdiction), is an institutional entrenchment of the minority as an unchanging and given religious identity of its members based on the millet-like logic, according to which minority rights are granted to the sole ground of religious affiliation.

At present, the administration considers, through a self-evident precondition, that the minority of Thrace constitute a "special category of citizens" who "are those who must remain Muslims" without, therefore, being able to alter their (religious) identity. However, the public declaration of religious faith cannot be a *sine qua non condition for the enjoyment of rights and enacting of obligations*.

3 The confusion between public and private entities is one among many problems that impact the legal position of the minority within the Greek legal order. The state has taken on the role of guarantor in the exercise and enforcement of general human and minority rights, but often intervenes decisively in the internal affairs of minorities, trespassing the fine line between the public and private spheres (the latter includes the Muslim community and their institutions). State interventions should function in favour of human rights rather than being a controlling mechanism curtailing minorities' rights.

4 The current legal framework governing minority rights has been subject to the principle of reciprocity between Greece and Turkey. As such, the exercise of policies and law enforcement is not about managing relations regarding minority affairs, but rather as a negotiating tool within Greek–Turkish relations. Consequently, in many cases, the rights of Thrace's Muslim minority have become a battleground in which retaliatory measures have been considered a necessary means to confront the competitive influence of the "kin-state".

As such, Greek–Turkish bilateral cooperation on issues of minority rights should shift from undermining each other to a positive cooperation enhancing minority rights.

5 The Greek legislature is particularly reluctant to introduce international minority protection norms into the Greek legal order. Both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages have been ignored and the opportunities they offer unexploited. Both legal instruments could give impetus to a review of the relevant legal framework governing the status of minority institutions. The entire European legal acquis, which is evolving through the work of the control mechanisms of the two conventions, could offer important solutions to the stalemate with regard to the Muslim minority in Thrace.

6 The outdated Treaty of Lausanne has been implemented in an extremely formalistic manner according to which a series of minority rights are granted through religious affiliation. The Treaty's executive legal framework (i.e. Act 964/1977 on Minority Education and the numerous relevant rules, Act 3647/2008 on Community Properties and Act 4964/2022 on the mufti) often does not comply with the hierarchies that structure the Greek legal order. The Treaty is implemented with unequivocal exceptions and priorities that contradict the rule of law.

A road map for dealing with long lasting problems and specific recommendation

The following ten points summarise the main issues that are preventing the economic, social and institutional development of the Thracian minority, which is hindered by sterile political and ideological battles. These issues can be resolved by enforcing regularity and minimising the minority's status as exceptional – a status that has historically had negative outcomes for the minority – except for issues that require positive action.

1 Minority education

Minority education suffers from a number of legal and educational entanglements, resulting in the provision of low-quality education and the development of a climate of distrust towards the state.

Recommendation

Upgrade the education provided and the Turkish language programme. Abolish unconstitutional exceptions to the norm (such as recruitment based on religion.) and adopt a codified law for minority schools. Consolidate multilingual kindergartens.

2 Community foundations

Community foundations (community properties or vakoufia/vakiflar) are governed by an institutional disorder that keeps community affairs under the close control of the government. The key issue is the selection of the members of the management committees. Since 1964 no elections have been held, as the law provides, but the members of the committees are appointed by the government.

Recommendation

Re-formulate Act 3647/2008, consult with the minority, register and recognise the titles of foundations and hold elections for the management committees. Substantial management control is necessary in the interest of the foundations and local society.

3 Three muftis

Three muftis (Muslim religious leaders) are appointed by the Minister of Education and Religious Affairs. In this sense, the minority's right to autonomy in managing internal affairs has been curtailed. The newly established Consultative Committee (Act 4964/2022) with a membership made up of notable Muslims does not have a decisive role in the selection procedure.

The issue of religious freedom must be resolved in a manner that takes into account the political involvement of the elected muftis who act in parallel to the appointed ones as proponents of intense Turkish nationalist discourse.

Recommendation

Institutionalise the selection of muftis after elections and minimise the involvement of both the Greek and Turkish governments. Reconsider the jurisdiction of the mufti (see hereinafter).

4 The mufti-judge

The mufti-judge adjudicates family and inheritance cases in accordance with the provisions of Islamic law, often to the detriment of the rights of women and children.

Recommendation

The recent reforms triggered by the Molla Sali case and the amendments to the procedural law of the sharia courts was a step in the right direction (Act 4964/2022), although the institutional autonomy of the Mufti Offices is considerably limited. What is pending is the reform of the content of sharia law which eventually contradicts constitutional law.

A dialogue with the minority is needed in order to shape social claims and positions in the manner to sustain sufficient standards of equality within the mufti courts. Abrogation of the Muslim court would probably lead to unofficial community arbitration courts, resulting in parallel jurisdictions escaping institutional control of the rule of law.

5 Property deeds

Many Muslims in the region of Thrace do not possess property titles or deeds. This has led to major economic and social insecurity, which has continually hampered efforts to develop the wider region. The security of ownership was recently brought to the fore by a series of court decisions which said that land ownership in Thrace and elsewhere in North Greece, has to be proved through titles issued before the date of annexation of the relevant region by Greece. Otherwise, land would belong to the state.

Recommendation

Settle titles with special procedures when registering properties with the Land Registry or with mass “settlements”.

6 Associations

Thrace's courts do not grant legal status to a series of associations established by members of the minority, when a reference to the Turkish character of the association in their title is made. The European Court of Human Rights has determined the denial of registration as a violation of the right to establish associations. In turn, the Committee of Ministers has declared the non-execution of these judgments as under "enhanced supervision" (*Bekir Ousta group of cases*).

Recommendation

Immediate execution of the ECtHR's judgments on minority associations.

7 Teachers of religion

Act 4115/2013 (amending Act 3536/2007) created 240 posts for religious teachers (imams) in mosques and public schools. Without having the qualifications of a secondary school teacher, they teach Islam to Muslim students in schools (in Greek). They are hired on a nine-month contract every year.

Recommendation

Review the status of religious teachers. Standardise the necessary teaching qualifications by a permanent qualified committee, and hire teachers on full time contract).

8 Stateless Muslims

Between 2004 and 2005, citizenship was granted to 115 stateless Muslims of Thrace. However, citizenship was granted ad hoc and not through a citizenship restoration process. A small number of Muslims from Thrace still remain stateless.

Recommendation

Grant Greek citizenship to the last members of the Turkish–Muslim minority living in Greece in absolute institutional exclusion due to statelessness, thereby implementing the agreements of the New York Convention on Statelessness (1954). Examine the possibility of granting citizenship to those living abroad on the condition that they maintain strong ties with Greece.

9 Positive measures

Since 1997 positive measures are applicable in favour of Muslim minority students to enter university education.

Recommendation

A thorough study and appraisal of the measure's effects and impact is needed in order to review, amend or abrogate the measure. Implement the special quota providing for civil service appointments through the national qualification system (ASEP).

10 Overall legal status

The legal framework governing the institutions of Thrace's Muslim minority and the attribution of minority rights on an individual basis needs to be reformed and aligned with fundamental standards of inclusive human rights and optional minority protection.

Recommendation

Avoid bilateral antagonisms with Turkey over the minority through the instrumentation of the Lausanne Treaty. Liberalise the legal regime beyond the Treaty of Lausanne in accordance with human rights and constitutional standards, and free the minority affairs from Greek–Turkish entanglements. Ratify the Framework Convention for National Minorities, which was already signed in September 1997.

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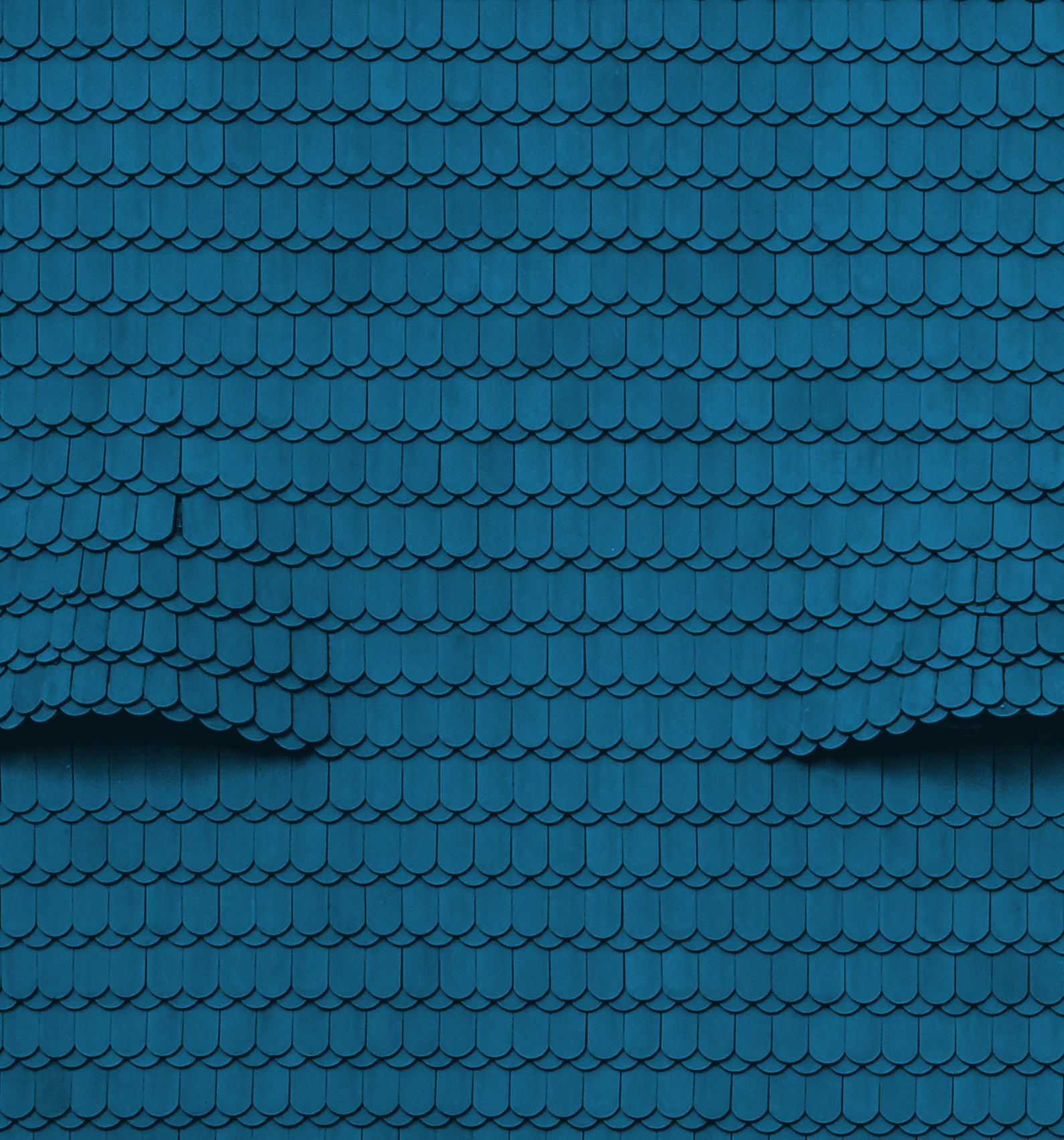

Minorities and Non-Territorial Autonomy: Policy Papers

Edited by: Ivan Dodovski

Published by: University American College Skopje (UACS)

Design and print by: Koma, Skopje

Print run: 100 copies

(Skopje, 2023)

CIP - Каталогизација во публикација
Национална и универзитетска библиотека
„Св. Климент Охридски“, Скопје

342.724:35.077(082)

MINORITIES and non-territorial autonomy : policy papers / edited by Ivan Dodovski. - Skopje : University American College, 2023. - 142 стр. : илустр. ; 23 см

Фусноти кон текстот. - Библиографија: стр. 142

ISBN 978-608-4607-61-8

а) Малцински права -- Јавни политики -- Зборници

COBISS.MK-ID 60316421

ISBN: 978-608-4607-61-8