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## Status of Bosniaks in Sanjak

### 1. Introduction

Sanjak is the name of the area which is spreading over the parts of the territories of present countries Serbia and Montenegro. That area makes geo-political and cultural-historic integer. Territory of Sanjak borders with Serbia and Bosnia and Herzegovina on the north-west, with Montenegro on south-west, with Albania on the south and Kosovo on south-east. Today Sanjak comprises following municipalities and towns: Novi Pazar, Tutin, Sjenica, Prijepolje, Nova Varos, Priboj (portion of Sandzak inside Serbia) and Rozaje, Berane and Andrejevica, Plav and Gusinje, Bijelo Polje and Pljevlja (these portion of Sanjak inside Montenegro).

Novi Pazar's Sanjak (Novopazarski Sandzak), as a separate administrative territory, was mentioned, for the first time, in 1578 as the one out of the seven parts which comprised Bosnian Sanjak (Bosanski Sandzak).<sup>1</sup>

Up to Balkans' wars in 1912, Sanjak was separate administrative-territory unit with the administrative and cultural seat in Novi Pazar.

Sanjak has its own encircled historic and international recognized borders; they were affirmed by Berlin's congress (1878) resolutions and Carigrad's convention (1879). Cultural-historic whole of Sanjak, today, is fulfilled by numerous symbioses of Islamic and Orthodox tradition. Ethnic formation of Novopazarski Sanjak most population is conditioned by mass accepting of Islam and Islamic culture. That formation is penetrating with ethno geneses of Bosniaks in Bosnia and Herzegovina with whom Bosniaks in Sanjak make inseparable ethnogenetic and national whole.<sup>2</sup> Historic circumstances Bosniaks in Sanjak, as an inseparable

<sup>1</sup> E. Pelidija, M. Maglajlić, R. Mahmutćehajić: Bosnia and Bosnian Muslims – Muslims in Sandzak (Bosna i Bosanski Muslimani – Muslimani u Sandžaku), volume II. Sarajevo, 1992.

<sup>2</sup> Ibidem.

part of Bosnian Bosniaks which were called Muslims (in national sense), in certain period of time, who, after fall of communism system in last decade of 20<sup>th</sup> century, again recover their historic national name –Bosniaks, remained administratively separated from their mother people in the state of Bosnia and Herzegovina. After independence of Montenegro in May 2006, when state of SFRJ stopped to exist, apropos SCG, composed out of Serbia and Montenegro, Sandzak has been divided between Serbia and Montenegro by, as many estimated, irregular referendum with interstate internationally recognized borders.

Nevertheless, in spite of the fact that historic injustice imposed undesirable division in several former Yugoslavian republic, cultural, religious and political development of Bosniaks in both parts of Sanjak remained conditioned and inseparable from the development and life of their mother land B&H,

Sanjak is spread out on the area of 8 687 square kilometers, with the population between 450 and 500 thousand. Percentage of Bosniak in Sandzak varied through history, but, it was always double in number in comparison with Orthodox population, same is today. Bosniaks believe that government of former Yugoslavia, apropos Serbia and Montenegro never reported true data from the census – data reported were always incorrect when the number of Bosniaks is in the question.

Through their history Sanjak Bosniaks were exposed to the most rigorous pressures and their rights were not granted. Many Bosniaks fled to Turkey or Bosnia and Herzegovina because of such treatment. According to the recent estimation, today out of Sanjak live two thirds while in Sanjak live only one third of the Sanjak Bosniaks.

To the Bosniaks of Sanjak, government of Serbia and Montenegro derogated, sometimes with hidden methods sometimes openly, everything – identity, culture, history, name, language.

Since the fall of former Yugoslavia in 1992, Bosniaks in Sanjak have activated themselves politically with the intention to recover their national dignity, their historic and national name, revive their culture and to solve their constitutional, legal and political status. If we observe this from nowadays time distance, on the contrary of all constitutive peoples of former SFRJ, Sanjak Bosniaks were the only one left without resolution of their national status on adequate way. Yet, they are degraded so according to the newest regulations of Serbia and Montenegro, Bosniaks have the status of minority, ethnic group or some other indistinct national category. Ordinarily, Sanjak Bosniaks have given important contribution to the science, culture, art, literature, sport, film and economy. They are somewhat included in

political happenings in Serbia and Montenegro; also participate in republic organs and on local level in almost all Sanjak's municipalities. They maintain, although on unofficial way, connection and cooperation with Bosniaks in B&H. It can be said that the only institutional connection exists between Islamic community in Serbia with the seat in Novi Pazar and Islamic community in B&H. Islamic community in Serbia is organizational part of Islamic community in B&H and acknowledges spiritual leadership of Reis of Islamic community in Sarajevo.

## 2. The rights of Bosniaks

The question about human rights of Bosniaks and minorities (national minorities or national and ethnic groups and communities) in Sanjak, apropos Serbia and Montenegro, today, is one of the basic parameters for testing out possibilities for presence of this two states in Euro-Atlantic integrations.

During the war in Croatia and B&H (1991-1995) political and state governments of Serbia and Montenegro as aggressors participated in war through JNA (Yugoslav National Army) and did not even think on real and normative institutionalization of rights of non-Serbian nationalities who lived on their area. Those governments demanded in Bosnia and Hercegovina and Croatia national referendums for their people – Serbs, for separation and adjoin to their mother land – Serbia. That politics resulted in aggressive war and bloody disintegration of SFRJ (Socialist Federal Republic of Yugoslavia), with catastrophic consequences, even with genocidal outcome against Bosniak people.

“Newly emerged minorities” in Serbia and Montenegro opposed to that kind of politics, especially Bosniaks in Sanjak (in SFRJ they were constitutive nation and they did not accept to be minority). Because of that international community (though dishonestly and inadequately) imposed pressure on Serbia and Montenegro, which did not protect, but, on the contrary, violently derogated Bosniaks' minority rights performing crimes against humanity and mankind, apropos war crime and crime of genocide (arresting of Bosniaks' political representatives, killing, ethnic cleansing from the 28 villages from MZ Bukovica near Pljevlja, abduction and execution of Bosniaks from the train in the village of Strpce near Uzice, abduction and execution of Bosniaks in Kukurovice and Sjeverin near Priboj, arresting over 100 Bosniaks' refugees in Montenegro and extradition to Bosnian Serbs – all are executed, arms investigation and, according to Sanjak Committee for Protection of Human

Rights and Freedoms records police raids caused beating of 17 thousand of Bosniaks under accusation of preparing secession of Sanjak, etc).

Yet, if there was not OSCE monitoring missions, Commissionar for refugees, UN human rights reporters and other non-governmental organizations, sufferings, pursuit, killing, ethnic cleansing and all sorts of violation of human and minority rights of Bosniaks in Sanjak, would be even more difficult and destructive.

Nevertheless, international community pressure, when solving of minority status is in the question, has one dimension – temporary character, but when states alone feel the need, as their internal obligation, to solve those question than things are differently looked upon. In Serbia and Montenegro this process did not happen in the right sense even nowadays.

### 3. Bosniaks Attitude

After the fall of SFRJ and breaking down of wholeness of bosniac people, parts of Bosniaks who stayed out of B&H (especially in Sanjak, Serbia and Montenegro), under regulations of these states “became minorities”, i.e. they lost, once gained, status of “nation”. Thus, according to constitution of SR Yugoslavia, passed on April 27, 1992, term “national minority” has been backed in usage on the level of new-formed federation – so called chipped Yugoslavia, composed out of Serbia and Montenegro. According to the constitution of the Republic of Montenegro, passed on October 12, 1992, even worse degradation of Bosniaks as the one out of the six Yugoslavian constitutive nations has been made, term “national and ethnic group” started to be in usage, what supposed to mean that Bosniaks are nationally immature and formless nation. Nevertheless, Bosniaks, as a numerically minority nation, did not agree upon the term and status of a “group” and “minority”. Thus, according to political co-census signed on September 1, 1997, by Montenegrin parties DPS, SDP, SDA of Montenegro, Folk party and Liberal alliance of Montenegro, for minority groups in Montenegro, the term “minority nation” has been accepted for Bosniaks, Croatians and Albanians. Considering the fact that they, once, already had status of nation in former state, and according to International-Law practice once gained right can not be lost so this term definition was acceptable because all these national groups could avoid be degrading and calling “minority”. Namely, usage of the term “minority nation” considered to be adequate because that meant rupture with the terms which were relics of the past, apropos remains of categorical apparatus of self-destructive static social system – real socialism. Term “minority

nation” is solution that, to these “former nation”, erased, in certain extent, negative connotation which they gain without their fault since they had become “minorities”. The term “minority nation” came into usage especially in Montenegro where Bosniaks were one fifth out of total population, and where neither one constitutive nations of this Republic had passed forty percent out of total number of population. On September 11, 2002, Assembly of Montenegro made “Conclusion about authentic representation of minority nation in the Republic of Montenegro Assembly”, where is stated that:

“Assembly of Montenegro [...] in accordance with European standards will define model which will provide authentic representation, in the Assembly of Montenegro, to the Albanians and other minority nations in Montenegro.”<sup>3</sup>

It is noticeable that Bosniaks as a nation are not directly mentioned in this conclusion, but Albanians, what is a sign of insincere attitude of actual Government toward Bosniaks.

Research, done in that period, clearly showed that minority nationalities in Montenegro believe that the term “minority nation” is more adequate and acceptable than a term "national minorities" or "national and ethnic groups".

“In most of the cases (76.4%) Croatians believe that the term "minority nation" is adequate term for usage in Montenegrin society when the question is about minority groups. Muslims/Bosniaks (69.3%) and Albanians (68.2%) believe the same.”<sup>4</sup>

State of Montenegro has never fulfilled mentioned conclusion, neither many other obligations and given promises, so, members of minority groups in Montenegro, in cited conclusion of signed agreement between government and opposition, mentioned before, determined with the term “minority nation”, did not have any conveniences neither those which they had in 20<sup>th</sup> century during sixties and seventies in communism period when they were ”nation” and when government used national key when question was about engaging in politics or employment of work power.

Different terms for minority groups in Serbian and Montenegrin society created certain “handicaps” for Bosnikas to be less important because of their belonging to the

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<sup>3</sup> “Skupština Crne Gore...u skladu sa evropskim standardima u ovoj oblasti definisati model koji će Albancima i drugim **manjinskim narodima** u Crnoj Gori obezbijediti autentičnu zastupljenost u Skupštini Republike Crne Gore.”, *Službeni list RCG*, No. 48, September 2002.

<sup>4</sup> "Hrvati u najvećem broju slučajeva (76,4%) smatraju da je termin "manjinski narodi" adekvatan termin koji bi se primjenjivao u crnogorskom društvu kada su u pitanju manjinske grupacije. Za upotrebu ovog termina u nešto manjem broju su Muslimani/Bošnjaci (69,3%) i Albanci (68,2%)"., Taken from the research "Prava i položaj manjinskih naroda u crnogorskom društvu" done in januray 2000. godine according to the statements of 695 examinees. Manager of the research team was Doc. dr Srđan Vukadinović.

“group” or “minority”, what was comprehended as – immature national entity. If government used term “minority nation” that kind of state would be surpassed.

Nevertheless, after census in Montenegro, 2003, it became obvious that Montenegro is a state where neither one nationality has percentage over 40%, not to mention 51%, what meant that Montenegrins at that time the only “constitutive nation”, no longer possessed critical mass to say that Montenegro is their national state. In this situation Bosniaks, and some other nations in Montenegro, no longer wanted to be “minority people”, but asked for the status of autochthonous and constitutive nation of Montenegro state, as was expected to be determined in new constitution passed in 2007. The reason was referendum on May 21, 2006, when Montenegro claimed autonomy and independence with decisive help of manipulated Bosniaks voters.

According to census from 2003, it was clear that Montenegro is a state constituted out of Montenegrins (40%), Bosniaks/Muslims (15%), Serbs (30%), Albanians (7%), Roma (5.42), and Croats (1%). Also, according to census, besides members of this nation in Montenegro also exists eighteen others national and ethnic groups, what makes rest of the population. If we observe national structure image per regions, according to the census from 1991, we notice that Muslims (Bosniaks) are represented in north part of Montenegro, i.e. in south Sanjak – Rozaje, Berane, Plav, Bijelo Polje, Pljevlja (81.4%).

Empirical research<sup>5</sup> ascertained that, though Montenegro is verbally declared as a democratic state “which wants membership in EU”, neither Bosniaks nor any other national minorities in Montenegro are not proportionally represented in system institutions. Research also showed that disposition of minority groups’ members according to socio-professional groups in Montenegrin society, in last decade of 20<sup>th</sup> century, seemed like this: the highest number of Muslims/Bosniaks (65.4% out of total number of employed B/M) was in the group of manual workers (NK,PK,KV,VKV), and small number in other groups. 15.4% of Bosniaks belong to middle class (administrative stuff and experts), while, 9.6% belong to the regime class (politicians, managers and businessmen).

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<sup>5</sup> Srđan Vukadinović, Ibidem.

#### 4. Constitutive position of minority groups in Montenegro and Serbia

Special minority rights in Montenegrin society till 2007 were regulated by the Constitution of the Republic of Montenegro passed in 1992, where minority were called "national and ethnic groups", what is lower category than minority. This Article was passed after the Constitution of Republic of Serbia in 1990, so certain solutions, which did not exist in Serbian constitution, were installed in its contents, what made it to look somehow more "democratic". It should be mentioned that in the period from 1992 European ethnic and cultural integration, when minorities are in the question, were passed in jurisdiction of regional and local government. Signing of contract in Maastricht 1992, which institutionalized European Union, mechanisms and instruments for preserving and identity improving of national minorities and ethnic groups were advanced.

Nevertheless, the Constitution of the state Montenegro said in general about protection of rights and freedom, which were comprised in the European Convention for Protection of Human Rights and basic Freedom, without apostrophizing special organ at a level of Montenegro state (constitutive court, commissions and committees for protection of human rights, minority national councils) for protection of human rights and freedom of national and ethnic groups, since this Constitution had been passed before the Framework Convention.

National and ethnic groups' special rights were regulated by fifth part of Montenegro Constitution. The Constitution, Article 67, stated that **protection of national, ethnic, cultural, lingual and religious identity**, to the members of national and ethnic groups, is granted and it is realized in accordance with protection of human and civil rights in international documents.

Constitutional clauses from the Article 67 till the Article 76 instructed that members of national and ethnic groups in Montenegro have right to use their language and writing system, the right to education and right to be informed on their language.<sup>6</sup>

The usage and emphasizing national symbols is a right granted to the members of national and ethnic groups in Montenegrin society.<sup>7</sup> The right to establish educational, cultural, religious association members of national and ethnic groups consume thus majority of these groups have their associations, though state material support for their work is on a low level.<sup>8</sup> By noted constitutional regulation it is noticeable that some rights exceed the

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<sup>6</sup> *Ustav Republike Crne Gore*, "Službeni list", Podgorica, 1992, Article 68.

<sup>7</sup> *Ibid.*, Article 69.

<sup>8</sup> *Ibid.*, p. 74.

frame of former Constitution of SR Yugoslavia, which was valid in the time of passing current Montenegrin Constitution. Those rights are applied on syllabus of educational institutions. Syllabus must comprise history and culture of national and ethnic groups.<sup>9</sup> Representation of history and culture of minority groups within the syllabus in educational institutions depends on workbook structure which are in usage and which are not, as research showed (64.7%), on that level to enable right introduction of these topics to the students. Although, **the right to equal representation in public services, organs of state and local government is granted** to the members of national and ethnic groups, things are totally different in real life, that right is not fulfilled completely. Moreover, the right to establish and maintain contacts with citizens out of Montenegro with whom they have common national and ethnic origin, cultural and historic heritage, religious beliefs under condition not to make damage to state of Montenegro is granted to the members of national and ethnic groups,<sup>10</sup> however, this right was disregarded in practice. Bosniaks were dissuade to mention name Sanjak and not to cooperate with Bosniaks from Serbian part of Sandzak or B&H. Serbia and Montenegro have never signed cooperation agreement with B&H concerning establishing of Bosnikas rights, while Serbia signed Agreement for parallel relations and cooperation with Republika Srpska which violates sovereignty and integrity of B&H and at the same time give financial and any kind of support to the Bosnian Serbs.

If the Constitution of the Montenegro is observed in comparison with the Constitution of Serbia from that period, it is noticeable that the list of specific minority groups' rights is comprised within it. Amongst those rights is **the right to proportional representation in public services, organs of state and municipal authorities.**<sup>11</sup> Montenegrin Constitution grants **besides national, protection of ethnic, religious, cultural and lingual identity**, what should fulfill, apropos circle the integer of identity rights. Namely, in the most of different countries constitutional articles is said in general, only about **protection of national and ethnic identity**, while there is nothing about other identity rights. The Constitution of Montenegro from 1992 was the rare one because it included protection of identity integer of the groups. Even though, Serbian jurisprudence was more restrictive, minority rights in this Republic were practiced better than in Montenegro.

For example, opposite of the Constitution of SR Yugoslavia and Constitution of Serbia, right to appeal to the International institutions for protecting its own freedom and right

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<sup>9</sup> Ibid., Article 71.

<sup>10</sup> Ibid., Article 74.

<sup>11</sup> Ibid., Article 73

<sup>12</sup> was granted in the Montenegrin Constitution. Nevertheless, this right was not used in practice till Montenegro independence in 2006.

The Constitution of Montenegro from 1992 (Article 76) predicted constituting of a special body – Republic council for protection national and ethnic groups rights:

**a) Supplementing of relations and emergence** of importance of accomplishing and practicing of national and ethnic groups' rights granted by Constitution;

**b) Introducing officials with** opinions, suggestions, proposals concerning preserving and protection of special minority groups' rights.

**c) Passing of recommendation and declarations**, affirming of proposals which are conveyed to officials and organizations who take part in practicing and protection of national and ethnic groups 'members' rights.

In its composition, besides members of confession, apropos national and ethnic groups, are individuals – experts from political-law sphere, so as social-political and public workers. Function of the Council member is honorary, and all competent work for his need is done by General Secretary of President of a Republic.

Nevertheless, since 1993, when Council was established, only several sessions have been held. Public was informed about those session. Sessions more had character of theoretic discussion about certain minority issues than concrete questions and tasks concerning protection of national and ethnic groups' special rights. That was the period, especially till the end of 1995, when not only special but fundamental human rights of minority groups' were violated. **Different kind of terrors happened in that time: Abductions of Bosniaks/Muslims in Bukovica near Pljevlja, from the train in Strpci, arresting of Bosniaks and political lawsuits, Bosniaks/Muslims fled to another countries because they were under different kind of pressures and their real-estates (either residential or business) in north part of Montenegro – in Sanjak were demolished. It cannot be forgotten when members of Montenegrin police forces handed over about hundred Bosniaks, who fled from Bosnia to Montenegro because they feared of war, to the government of Republika Srpska. Neither one out of hundred handed Bosniaks is registered as live till this day.**

Montenegrin public was informed about these events over so-called independent media, while **Republic council for protection of national and ethnic groups' rights did**

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<sup>12</sup> Ibid., Article 74.

**not find** it important to do so, although Council's obligation was to "inform public about state and events in the field of preserving and protection of national and ethnic groups rights."<sup>13</sup>

It has been shown that constitutional determination of minority groups in Montenegro as national and ethnic groups is "politically explosive" and it is going to be very difficult to find the solution which will satisfy all, or those more numerous, which exist in Montenegrin society. Again, till the regulation from 2003, the term **minority, apropos autochthonous nation** has shown as justified, what was intention more specific political, than legislative ambient in Montenegro.

New Montenegrin Constitution passed 2007, did not go any further in comparison with the one from 1992. In it, nation and minorities, are mentioned but without clear definition. The new Montenegrin Constitution did not comprise either those rights or freedoms which were regulated by so-called Minor charter of State Union Serbia and Montenegro, but it is "more democratic" than the new Constitution of Republic of Serbia passed in 2007. For example, the new Constitution of Montenegro in Preamble mentioned, ambiguously, Montenegrin nation and other "nation" and minorities, but it is unclear it whom is referred – who are the "nation" and who are "minorities". In alinea three of constitutional Preamble is written: "Starting from: ... determination that as a free and equal citizens, members of nations and national minorities which live in Montenegro: Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and others, committed to democratic and citizenly Montenegro ..."<sup>14</sup> For the first time, in this alinea, with legislative Article – Constitution, Bosniaks were separated on Bosniaks and Muslims. This made the great damage to Bosniak national corpus and that happened under the name democracy and respect of human rights.

Moreover to get Bosniaks and Muslims voters to vote for Montenegro independence, just before referendum (May 21, 2006), more precisely on May 10, 2006, Montenegrin Assembly passed the Law on minority rights and freedoms<sup>15</sup>, by which in Article 23 has provided three guaranteed mandates to the Bosniaks and a mandate to the Muslims in the Parliament of Montenegro, what was the part of political agreement between Bosniak party, in return Bosniaks and Muslims would vote for Montenegro independence. Nevertheless, after Bosniaks polling and "successful" referendum for Montenegro independence, Constitutional Court of Montenegro has canceled clause of Article 23 of the Law by whom previous

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<sup>13</sup> Regulation concerning jurisdiction and composition of Republic Council for protection national and ethnic groups' members' rights, "Službeni list RCG", Podgorica, Avgust 2, 1993, No. 32, p. 600, Article 8.

<sup>14</sup> SU-SK No. 01-514/21P, Podgorica, October 19, 2007.

<sup>15</sup> "Službeni list Republike Crne Gore" No. 31. May 12, 2006.

mandates are guaranteed.<sup>16</sup> On that way Bosniak's people and other minority nationalities in Montenegro are positioned in unequal position in ratio with Albanians, who, under "positive discrimination" principle, have had guaranteed mandates in Montenegro Parliament since 1997, and have special polling unit till nowadays. It should be said that this Law, similar to Small chart, in one part compatible with the Framework Convention of European Council for protection of minorities, even though it is not use adequately in practice, what became the manner of Montenegrin government – Government does pass the regulation but does not practice it.

So, though formal regulations of new Montenegrin Constitution are closer to European standards concerning human and minority rights, than regulations of Republic of Serbia Constitution, yet Bosniaks in Republic of Serbia, practically, have many rights which Bosniaks in Montenegro do not have even nowadays, for example:

According to federal Law on protection of national minority rights and freedoms<sup>17</sup>, which Montenegro did not applied even when it was in the State Union with Serbia, Bosniaks in Serbia, at Electorate assembly held on September 6, 2003, elected their own National Council, what was done in Montenegro not until 2008. Also, according to regulation for affirmation of national symbols and holydays of Bosniaks' national minority in Republic of Serbia, Bosniaks' national symbols – emblem and a flag are affirmed. By the same regulation Bosniaks' national holydays are affirmed: May 11 – The Day of Bosniak National Flag, first day of Ramadan Eid, first day of Kurban Eid; and November 20 The Day of ZAVNOS<sup>18</sup>. Moreover, in Serbia, according to federal Law on ratification of European charter concerning regional or minority languages<sup>19</sup> official practice of Bosnian language and letter in municipalities – Novi Pazar, Tutin, Sjenica and Prijepolje has been approved. Unfortunately, it is proved that this regulation, except small part, is dead letter on a paper. Also, Government of Serbia finances certain small projects from the field of Bosniak culture, education and briefings. The textbooks of the Bosnian language with the elements of the national culture of

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<sup>16</sup> Article 23 of this Law stated: "Elective legislature, practice of the principle of affirmative action, additional number of mandates for minority representatives will be provided. According to the results of the latest census, minority with the population from 1% to 5% out of total number of population will be represented in the Assembly of Montenegro with one representative mandate, through the representative elected from the minority list. On the other hand minority population with over 5%, according to the latest census, will have three guaranteed representative mandates in the Assembly of Montenegro, through the representatives elected from the minority list, thus, specific lingual and ethnic specifications should be taken into consideration, so as acquired elective right of Albanians in the Republic.", (ceased to function on the grounds of Montenegrin Constitutional Court order ("Sl. list RCG", No. 51/06)

<sup>17</sup> "Sl. List SRJ" No. 11/02 and 57/02

<sup>18</sup> "Sl. List RS" No. 23. March 17, 2006.

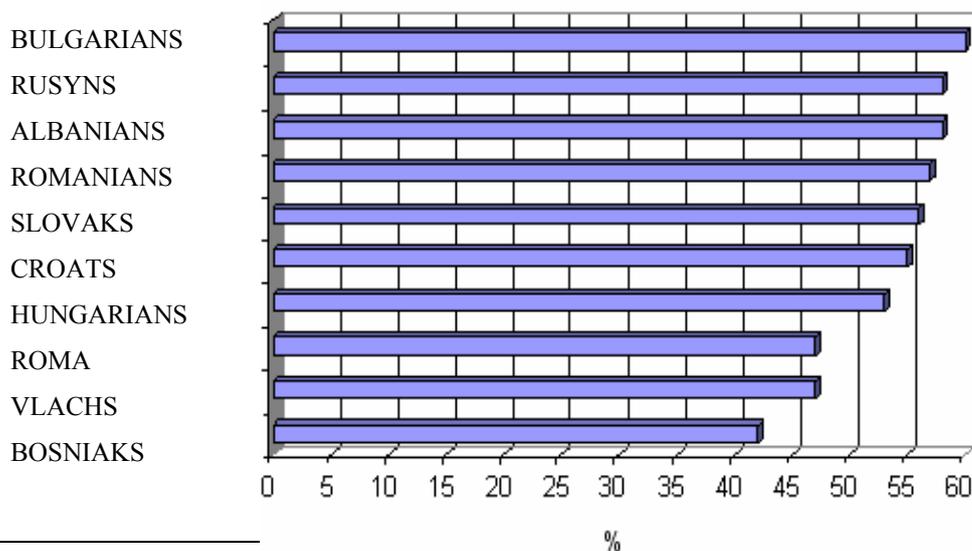
<sup>19</sup> "Sl. List SCG - Međunarodni ugovori" No. 18/2005

Bosniaks, which are not of satisfactory quality, are used in schools. On balance, it is obvious that from a practical point of view, the national identity of Bosniaks in Serbia, is protected practically better than in Montenegro.

When realization of minority rights is under consideration, it can also be instanced pictorially that the rights of minorities are admitted on education about their rights and their national values and possibility to use their minority rights by the Framework Convention for the Protection of Minority Rights, and the other relevant European and International documents. Unfortunately, this article of the Framework Convention is not enforced either in Serbia or in Montenegro.

It is interesting to mention that the research was carried out in Serbia in September 2002, with a sample of 1111 examinees, that comprised 10 minorities: Albanians, Bosniaks/Muslims, Hungarians, Croats, Roma, Romanians, Vlachs, Slovaks, Rusyns and Bulgarians. The executive of this research was Miklos Biro,<sup>20</sup> Ph. D. We can only instance the item referring to knowing the law and knowing the possibility of using their rights by minorities. In the research it has been determined with rights that 'Generally observed, knowing the rights of minorities, ensured by law, is emphatically dissatisfactory', because, 'the members of minority people know only between 40% and 60% of their own rights enabled by the law', that means they do not know which rights are enabled by the law. This ignorance of their own rights is particularly expressed with Bosniaks, Roma and Vlachs. That is why that Bosniaks of eleven minorities in Serbia know their rights least, which is obvious from the following chart, that presents the results of that research:

#### KNOWING THE LAW



<sup>20</sup> Helsinki Committee for Human Rights of Serbia: National minorities and rights, Helsinki volumes, 155, Belgrade, 2002, p. 113.

**When it is about** the human rights in Serbia, it should be mentioned that in this Republic the new Constitution<sup>21</sup> was established at the end of 2006, which did not set up the firm frameworks to the entire democratic juridical system in this state. However, according to some analysis's opinions: 'The new Constitution falls behind at various aspects at what we had in the *Charter of Human and Minority Rights and Civil Freedoms*, or in so-called the *Minor Charter* ... which was valid in the State Union of Serbia and Montenegro. For example, it is very difficult to understand the Constitution which does not have a guarantee of right to privacy, right to private life. How to explain that the Constitution from 1946 guaranteed an inviolability of personality, so the constitutions from 1974, as federal as all the republican ones, had a very specific guarantee of inviolability of private life and privacy. Now for decades, there is no track of that human right.'<sup>22</sup> It is also emphasized that: 'In comparison with the 'Minor Charter' the position of the European Convention on Human Rights and basic Freedom – which is a thorough document of the European Union. According to the Charter this Convention was above the Constitution, and now there is a primacy of the Constitution in relation to the European Convention. Because of such a changed position, we can contend freely that the state of human rights is significantly impaired in Serbia.'<sup>23</sup> This Constitution does not define the state of Serbia as a civil state where all the citizens are equal, as the Montenegrin Constitution does, but as a national state of the Serbian people, and in the Preamble this Constitution does not list either nations or minorities who constitute Serbia and who live in it, it has already been stated in the Article 1: 'Republic of Serbia is a state of Serbian people and all citizens who live in it, based on the rule of law and social justice, principles of civil democracy, human and minority rights and freedoms, and commitment to European principles and values'.

Defining a state in this way is considered less democratic (as a national but not as a civil state) than it is done in the Preamble of the Constitution of Republic of Montenegro, because in this Constitution there is an open discrimination of 'citizens' in relation to 'Serbian people'.

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<sup>21</sup> Constitution of the Republic of Serbia, 'Official Gazette of the Republic of Serbia' no. 85/06.

<sup>22</sup> See more in: Vladimir Vodinelić Ph. D., We are threatened by a Turkish syndrome (Preti nam turski sindrom), 'Official Gazette of the RS' No. 77/07, ZIP, p. V.

<sup>23</sup> Ibidem.

## 5. Minority standard in Serbia and Montenegro

Solving a minority problem presents one of the main preconditions of the political stability of Serbia and Montenegro and it will avail as an indicator of their democracy. The experience has revealed that a priority for the majority-minority relations in countries which are on the way of transition to democratic political structure, is a cooperation of political representatives of – majority and minority, tolerance maintaining, majority and minority dialogue, respecting of human and minority rights and liberties, autonomy of religious communities...and at last is adopting joint documents about an organization of minority relations. A practice has revealed that a minority problem is, first of all, a political problem, and then normative and institutional problem. Both to Serbia and Montenegro it is indispensable a new institutional – legal framework and a new policy toward minorities and (minority) people on their own territory, and then, relations would develop parallel and without delay. According to European standards that would mean the following:

1. Carrying out the policy of tolerance at the government level and active approach to the minority problem.
2. Alliterations in the internal legislation, which would also include passing of a specific law about national minorities and autochthonous people.
3. Maintaining bilateral relations and signing agreements with adjacent states about protection of national minorities and minority people on their territory.

Serbia and Montenegro, as the members of [the Organization for Security and Co-operation and the Council of Europe](#), must respect the documents of these organizations, which obligate all the member states ethically-politically and juridically. So juridical principles of the Framework Convention of the Council of Europe for protection of national minorities set up some recommendations and tasks to the signatories, which they should accomplish. Serbia and Montenegro should hold for this Convention and by this to show a good will for a complete integration into the European family of states and nations.

Minority standard, that Serbia and Montenegro should maintain, will ensure the members of national minorities, in other words autochthonous/constitutional people, briefly: the right to freedom of expression, equality with members of majority people regarding enjoying common rights of a man and prohibition of every form of discrimination; the right to choice their rightful representative, the right to use their mother tongue in private and in

public (business relations, at the courts and other state bodies, in media of public information, public assemblies, cultural manifestation, public labels, rituals...).

Beside these common rights of minority representatives as persons by documents of the Organization for Security and Co-operation, and first of all by the Document of the Copenhagen Meeting from June 29, 1990, as well as by the Framework Convention, national minority members are guaranteed the rights that they can enjoy individually or in association with the other members of their nation – individual and collective rights.

So there can be sorted out the rights of national minorities which enable subsistence and free development, as the distinct groups of rights:

- the right to free expression, preserving and development identity of minorities (ethnic, cultural, linguistic and religious identity),
  - the right to cultivate and development their culture (including the right to establish cultural institutions, association...)
  - the right to establish and preserve in accordance with national legalization of their educational, cultural and religious institutions, organizations or association,
  - the right to consensus, religious schools, institutions and organizations,
  - the right to establish and to maintain free mutual relations and also relations with their compatriots and their mother country,
  - the right to develop, have an access and exchange information in their mother tongue,
  - the right to establish and maintain organization and association in their country and to participate in the international non-governmental organizations.
- Serbia should carry out an active policy to minorities (nations) that is suggested by relevant documents of the Organization for Security and Co-operation and the Council of Europe, as well as the European Union. In practice, that would mean it will: protect identity of national minorities (ethnic, cultural, lingual) and set conditions for improving that identity and take vital actions, consult organizations and associations of minorities,
- endeavor to ensure beside learning the official language, teaching the mother tongue of national minorities or teaching in their mother tongue, as well as where it is possible and indispensable, using their mother tongue before the public services in accordance with adequate national legislation,

- promote atmosphere of mutual respect, understanding, cooperation and solidarity among every person who lives on its territory and promote solving the problems via dialogue on the principles of the law rules,
- respect their obligation from established conventions about human rights and other appropriate international instruments and examine a possibility of accessing appropriate conventions, if it has not done so far, including those whom the right to equality and respect is ensured,
- in relation to the problems of national minorities, cooperate with authoritative international organization,
- respect the right of the national minority members to participate absolutely in public including participating in duties pertaining to protection of national minorities.

Serbia and Montenegro should also respect a prevailing attitude in international relations in Europe – that a protection of national minorities/ people which is a part of protection of human rights, does not fall within a selective state domain but it is a rightful object of interest of the international community.

It sounds paradoxical but it is indisputable that the human and minority rights in Serbia and Montenegro, concerning the normative part at least, were better regulated during the State Union of the Federal Republic of Yugoslavia (FRY) and Serbia and Montenegro (SM) than today when all the states became independent. However, it was done by the federal Law on Protection of the Rights and Liberties of National Minorities<sup>24</sup> and the Charter of Human and Minority Rights and Civil Liberties, that was called popular the 'Minor charter', in relation with the 'Great Charter' that regulated interstate relations of Serbia and Montenegro, and which was estimated by the Venice Commission as the act that almost absolutely was coordinated with the Framework Convention of the European Council for the Minority Rights.

Therefore, more democratic Serbia and Montenegro as independent states, according to their international obligations, should enable conducting of the Framework Convention of the Council of Europe on their territories. In fact, the Framework Convention sublimates standards and political attitudes of [the Organization for Security and Co-operation coordinated from the beginning of the eighth decade of the past century up to adopting the Convention, and it presents obligatory document for the states signatories. We have instanced](#)

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<sup>24</sup> 'Official Gazette of the Federal Republic of Yugoslavia No. 11, February 27, 2002.

[a couple of the most important principles from the Framework Convention](#)<sup>25</sup> which have not been respected in Serbia and Montenegro today in an adequate way:

#### Article 4

The Parties **undertake** to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, **full and effective equality** between persons belonging to a national minority and those belonging to the majority.

#### Article 5

The Parties **undertake** to promote the **conditions** necessary for national minority members to **maintain and develop** their culture, and to preserve the essential elements of their **identity, namely their religion, language, traditions and cultural heritage**.

#### Article 7

The Parties shall ensure, within the framework of their legal systems that national minority members are not discriminated against in their access to the media.

#### Article 8

...the Parties shall endeavor to ensure, as far as possible, the conditions which would make it possible to use the **minority language** in relations between those persons and the administrative authorities.

#### Article 12

The Parties shall, where appropriate, **take measures** in the fields of education and research to foster knowledge of the **culture, history, language and religion** of their national minorities and of the majority.

#### Article 13

Within the framework of their education systems, the Parties shall recognize that national minority members have the right to set up and to manage their own private educational and training establishments.

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<sup>25</sup> The Framework Convention for the Protection of Minority Rights, adopted at the Council of Europe, in Strasbourg on February 1, 1995.

#### Article 14

The Parties **undertake** to recognize that every national minority **member** has the right to learn his or her minority language.

#### Article 15

The Parties shall create the conditions necessary for the **effective participation** of national minority members in cultural, social and economic life and in **public affairs**, in particular those affecting them.

#### Article 18

The Parties **shall endeavor to conclude**, where necessary, bilateral and multilateral agreements with other States, in particular neighboring States, in order to ensure the **protection** of the national minority members concerned.

Where relevant, the Parties shall take measures to **encourage transfrontier co-operation**.

As specific samples of violation of the Framework Convention and other European and international documents about human and minority rights in Serbia and Montenegro, beside emphasized ones, the following cases can be instanced:

- Insufficient and incommensurate presence of Bosniaks in the system institutions: the police, prosecutor's office, jurisdiction, the military, representative and executive authority bodies, diplomacy, and the like.,
- Disrespect and not carrying out such and such own laws in relation to Bosniaks, particularly to the Islamic community in Serbia which does not have either freedom of acting or enjoy protection from the state in carrying out their regulations and religious cannons,
- Not financing programmes and projects, by the state, needed for preserving, development and protection of identity of Bosniaks and their culture, religion, history, education, literature, art, and the like,
- Not carrying out education of the Bosniak people on their rights and liberties in accordance with the European standards,
- Not informing the Bosniaks via media or a different way about the way of implementation their minority rights,

- Autonomy violation of Islamic community, disturbing in performing a prayer and striking of the police into the mosques and other religious objects and physical beating up of believers (a case in Sjenica, Prijepolje, and Tutin), in order to disturb functioning of the legal Islamic community in Serbia,
- Enabling action of a parallel and illegal Islamic community on the territory of Serbia, promotes disunion of the traditional Islamic community, provokes a conflict among believers, disturbs inter-human relations and derogates religious cannons,
- Lacking of programs on media about assertion of culture, art, literature, ethnology and history of Bosniaks,
- In Montenegro, a minister for minority rights has been an Albanian for two mandates yet, whereas a Bosniak has never performed that function although there are double more Bosniaks than Albanians,
- In Montenegro, the state, directly or indirectly, forces classification of Bosnians into two national groups – Bosniaks and Muslims, and doing this it reduces their political power and influence in Montenegro,
- Manipulating of Bosniak voters on elections, what was particularly expressed at a referendum for independence of Montenegro on 21 May, 2006, and according to the report of Commission for carrying out the referendum, almost hundred percentage of Bosniaks gave support to independence of Montenegro and for the first time in history 'with their will' they enabled splitting Sandzak and Bosniaks on two parts, that belong to two particular states,
- In the municipality of Bijelo Polje in Montenegro, the name of the hotel 'Sandzak', that dated from the time of the Socialist Federal Republic of Yugoslavia was removed and replaced with the name 'Bijela Rada', and thereby the Bosniak culture and tradition are obliterated and undervalued in a brutal and humiliating way, and the Serbian-Montenegrin culture and tradition are forced, although the Bosniaks make 45% of total population,
- The names to toponyms and populous places both in Serbia and Montenegro are changed causing damage to the Bosniak culture and tradition, for example: A terrain in the municipality of Rozaje that was always called 'Djurenovica Luke' by tradition of locals, and as the old people say it was

derived from the name of a blade, plant or flower 'djuren', was replaced by the name – Djuranovica Luke, thereby this name is associated with the famous Montenegrin surname Djuranovics who never lived in Rozaje, and in this way they want to eliminate any traces and historical persistence of Bosniaks on this territory,

- Likewise, the name of a village 'Negus' in the municipality of Rozaje, that, most probably, has a source in the Albanian language, was replaced by the new name 'Njeguses', thereby they want to make an association to 'Njeguses' on Lovcen at Cetinje in Montenegro, and that is a hometown of an author of 'Mountainous coronet' and the Montenegrin governor,

- In a similar way, some traditional names of places were replaced in other Sandzak's municipalities, so, for example, instead of Salakovac by Novi Pazar we have Selakovac, instead of Bijele Vode – Bele vode, instead of Dohovici – Dojevici, instead of the Bosniak ijekavian dialect/pronunciation, 'ekavian' pronunciation is more and more forced in schools and public institutions what is contrary to the European Charter of regional and local languages, and protection of minority identity, as well as the Framework Convention, and all this is done with an aim of a quite assimilation and estrangement of the Bosniaks in Serbia and Montenegro,

- Placing large crosses on hills and elevations around the populous places around Sandzak, thereby the citizens – members of Islam are disturbed,

- Physical attack onto believers of legal Islamic community in Serbia on 9 March 2008, and disabling the establishment of a founderstone for a construction of a Medresa (religious school) in Tutin,

- As well, neither in the Constitution of the Republic of Montenegro nor in the Constitution of the Republic of Serbia, the Bosniaks are treated as equal citizens, there are not the Bosniaks as people in the Preamble of the Constitution,

- The state symbols of both Montenegro and Serbia do not reflect either a national diversity or civil character of the states, but they enforce exclusively Serbian and Montenegrin national symbols - a coat of arms, a flag and a national anthem, what does not contribute to a spirit of tolerance and equality of the citizens in these states.

## 6. Interethnic relations

The public opinion enquiries as in Montenegro as in Serbia in recent years, indicate that there is a noticeable dissatisfaction with international relations at the level of these two states. It is interesting that researches indicate that this dissatisfaction is not a product of a direct experience and conflict with neighbors of other nationalities at the local level, but it is mainly caused 'from above', in other words by the politics of the central authorities, or by the politics of significant political factors from the Republic level (the war-provoking politics toward Bosnia and Herzegovina, Croatia and Kosovo, arresting the outstanding Bosniak in Sanjak from 1993-1995, mounted political trials, investigation of weapon, irruption into apartments and houses and beating up a large number of the Bosniaks by the police, not providing conditions for returning of the banished Bosniaks from 28 villages in a municipality of Pljevlje, the nationalistic politics of certain Serbian and Montenegrin parties, unobjectivness of media and diabolism of the religion Islam and the Bosniaks/Muslims at all, burning the mosques in Belgrade and Nis, unreadiness for arresting the Hague prisoners, unsolved and dissatisfactory constitutional-rightful position of national minorities and minority/constitutional people, intolerant attitude toward religious institutions, interference with dealing of the islamic religious institutions, irruption into the mosques by the police, beating up the believers during their prayers in the mosques, disturbing the construction of religious objects, promoting splitting inside the Islamic community, and the like).

Naturally, in Serbia and Montenegro, there are also democratic forces that are ready, at least verbal, to more democratic and active politics of the government and the other state bodies toward minorities and religious communities, what is encourage, but that politics has not revealed desired results in practice yet. Therefore, it is indispensable to start adoption and applying of European standard in the region of protection of human and minority rights and liberties.

## 7. Decentralization

One of the ways that would make easier a way of Serbia and Montenegro toward Europe, which would be appropriate for implementation of human and minority rights and liberties, that is for solving the constitutional-rightful status of the Bosniaks in Sandzak, is also decentralization of the authority.

Concerning a fact that goodwill of the citizens is mainly oriented toward European integrations, it is necessary for the decentralization of the current emphatically centralized governmental authority in Serbia and Montenegro, to be performed to the changes of the current or passing of new Constitutions and adequate laws, in accordance with experiences of developed Western European countries. Decentralization would be performed through regionalization of the state, taking as a model Italy and Spain, in order to involve the regions in the Committee of the Regions of Europe, either by strengthening a true autonomy for Vojvodina and giving the status of the autonomy to a part of Sanjak and other parts of Serbia, as well to a part of Sandzak in Montenegro, and afterwards Sanjak would become the European trans-border region. However, the **decentralization** can have a sense only if it provokes direct participation of citizens in exercising and examining the authorities and public affairs. If the **centralization**, like so far, were moved from Belgrade to the regional centers, (Kraljevo, Uzice, and the others), and in Montenegro from Podgorica to the municipalities, there would be only an apparent decentralization instead of a real one. Today, a local self-government in Serbia and Montenegro, has limited functions and authorities, which are not in accordance with the European Charter of Local Self-government. In the European countries, authority of a local self-government is incomparably greater. A municipality is, as well as a local self-government in Serbia and Montenegro, deprived of essential authorities in many public affairs that should be exercised – for example in a sphere of education, social insurance and health care, maintaining the public law and order – the police, economic activities, catering industry, trade, tourism, culture, protection of national – ethnologic values of minorities and minority/constitutional people and the like. Therefore, it is necessary to enable a larger participation of citizens at the local level with performing the public affairs. Instead of this, today, a municipality is only authorized for public services both in Serbia and Montenegro.

An executive committee – a council of local assembly is also its executive body in accordance with regulations, as well as a mayor; however they have a true 'authority' while the committee members and an Assembly as chosen representatives of citizens decide only generally about some issues that are proposed by the executive committee and a president. 'It is an European practice that the significance of executive committees is repressed more and more, and a work of a committee member with working bodies – committees, which cover all

the important dealings that are under competence of local authorities'.<sup>26</sup> There are also ordinary people as experts for certain spheres in committees. So the aim is for a local self-government to approach to the citizens, whereby they would decide by themselves about their local needs.

## 8. Conclusion

At the end it can be concluded that in Serbia and Montenegro, that is in Sanjak, the rights of Bosniak people as constitutional people, are not solved in an adequate way and the obligation of all Bosniak national and other structures is to give a contribution for these rights and a status of the Bosniaks to be harmonized with valid European documents and the documents of international community. In this study, we have briefly instanced a historical view, then a real condition of the rights and liberties of the Bosniaks in Sanjak, that is in Serbia and Montenegro, as well as European standards referring to the human and minority rights. We emphasized that considering that the Bosniaks in Sanjak, particularly in Montenegro, do not accept to be treated as a minority, because they already have the right, once acquired, to be a **nation** and have a significant percentage of presence in total population of Montenegro, and so they want to preserve that name. We also emphasized that the Bosniaks want to solve their constitutional rightful status in a way how it is predicted by international and European documents which regulate the issues of autochthonous and constitutional people. That way is Sanjak as an European trans-border region. Such Sandzak would be a member of the Committee of the Regions of Europe that is a body of the European Union. As an European region, Sanjak would participate in the European Union and accomplish some significant privileges, among the rest the capital goods and credits for funding of various development projects.

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<sup>26</sup> Zoran Lutovac, *New Serbian political thought (Nova srpska politička misao)*, Institute for the Humanities, Special edition 1 (2001) UDK 323.22 (497.11), 2000(082), Belgrade, March 15, 2001.