



Developing a Minority Policy in Montenegro

Second Roundtable

Kolasin, Montenegro
June 2-3, 2006

Introduction

In October 2005 the Project on Ethnic Relations (PER) held a roundtable discussion in Pržno, Montenegro as the first effort in a three-year initiative to support the development and implementation of state policy toward ethnic minorities in Montenegro. The initiative is supported by the British Embassy in Serbia and Montenegro and is being conducted in close cooperation with the Montenegrin Ministry for the Protection of Minority Rights. The goal of the Pržno discussion was to help Montenegro's parliamentary parties reach accord on remaining points of disagreement over the republic's first ever minority law. Participants in the Pržno roundtable, which included representatives of all Montenegro's parliamentary parties and key government officials, were able to come to broad, if not unanimous, agreement on a number of outstanding issues, including: the question of the reserved parliamentary representation of minorities; the most appropriate terminology for describing Montenegro's minority ethnic groups and the name of the law; the minority councils called for in the draft law; and the special issue of the Roma.

On May 10, 2006, Montenegro marked a major milestone with the passage of the law on minority rights. While this was a significant step forward for the country, which had been working on the legislation since 2002, it also represented the beginning of a new set of challenges connected with the law's implementation. One of the first issues to be tackled was the establishment of minority councils—a key provision of the new law. PER's roundtable in Kolasin, then, was an effort to facilitate discussion among representatives of ethnic minority communities, leaders of political parties, and key government officials on how the councils will be established, and how they can function most effectively. PER also invited to the roundtable representatives of international organizations with experience in the field of minority rights, and experts from neighboring states to speak about their countries' approach to minority councils.

The discussion in Kolasin focused on a number of issues pertaining to the councils. The most important of these was the question of who would serve on the councils, and, more particularly, how strong a role ethnic minority and civic political parties should play in them. Participants also considered the proper sphere of competency of the councils, several key technical questions regarding their formation, and the situation of the Roma with regard to the councils. Following the meeting a communiqué was issued summarizing the points on which agreement was reached by a majority of participants (see attached document).

This report documents the discussion at the Kolasin roundtable.

Minority Parties and the Balance of Power within Minority Councils

The question that received the most intensive discussion in Kolasin was how seats in the minority councils should be apportioned among elected officials from political parties on the one hand, and independent intellectuals, leaders of minority-related NGOs, or other representatives of civil society on the other.¹ There were two competing views of this issue. Some participants argued that individuals elected to public office from minority lists (which could include not only ethnic minority political parties but other minority organizations and representatives as well), should hold the balance of power on the councils. These participants asserted that it is important that the majority of council members have the popular legitimacy of being elected by minority communities as their political representatives. As one Albanian political leader put it, “We should not allow the balance of power to be held by something that does not hold any political legitimacy in the society.” Many of the participants agreed with this argument. A representative of an ethnic Croat party stated, “We believe the majority of the council should be political representatives,” since “political parties have decision-making responsibility and accountability.” A leader of an ethnic Hungarian political party in Serbia confirmed that the Hungarian council in Serbia was organized such that elected political representatives from ethnic minority parties would have a dominant role. “The influence of political parties cannot be excluded,” he said, “but they must be very wise in working with the councils.”

A formula suggested during the discussion was that “50% plus one” of council members should comprise elected representatives of “minority lists.” There was agreement among the majority of the participants that this would be an acceptable arrangement.

At the same time, however, a number of participants emphasized that independent leaders of ethnic communities should also have an important place in the councils. Several arguments were offered in support of this position. The first was that national minority councils should represent the interests of the entire minority community in the country, rather than the more narrow interests of one or another political party. In the words of a participant from Serbia, there is a need “to separate the role of national councils as protectors of national identity, language, culture, etc., from political struggles.” In Serbia, he added, “national councils were often used for political means.” This issue is especially important considering the fact that minority councils exercise a degree of financial power over the media of their national language, and “media should represent the entire community, not only political parties.”

A number of participants shared this cautious view of the role of political parties in national councils, warning against the “politicization” of councils in the service of one party or one ideology. In this connection a parliamentary leader emphasized the point that national councils should include a broad range of views. “A council,” he said, “should be a common representative body, where common interests are discussed and clarified. Not just political interests, but other interests too.”

¹ The new minority law provides for the inclusion of both elected political representatives and others. Article 33 states:

The Council shall be comprised of: the members of parliament elected from the minority candidates list, members of the Government at the proposal of the candidates from that minority candidates list, mayors of municipalities in which the majority of the population belongs to the minority and other members of the parliament and Government, as well as mayors of municipalities from the respective minority who wish to participate in the Council, presidents of minority parliamentary parties and presidents of the caucuses of the minority parties in local assemblies.

Other members of the Council shall be elected by secret ballot on the constitutive assembly of the minority concerned.

A representative of an international organization presented another argument, asserting that NGOs should also take part in councils, “to provide for openness and transparency.” This participant expressed disappointment that Article 33 of the law gave civil society a small role in the councils. However, she added that in her view the formation of the councils would help improve the overall political situation in the country.

A leader of a civic party who is also a member of an ethnic minority highlighted a different provision of Article 33. He noted that he is pleased that the law provides for the inclusion in the councils of representatives of civic parties as well as ethnic parties. “I have a feeling of belonging to a national [ethnic] group, though I am a member of a civic party. It is good that I can be on the national council as well.” He went on: “If a civic party gets two-thirds of national [ethnic] votes, then members of that party should be on councils as well. So, these national councils make sense. If they were reduced to members of national [ethnic] political parties, then they would become nationalistic.” This participant also noted that he believes one of the crucial goals of the minority law, and the councils, is “the protection of cultural identity.”

While other participants did not dispute the importance in the councils of NGO leaders, independent intellectuals, or minority politicians who belong to civic parties, they maintained that representatives elected to public office from minority lists should preserve a “50% plus one” majority. This proposal was accepted by a large majority of the participants, who recognized the value of finding a proper balance between the popular legitimacy of elected minority representatives on the one hand, and balancing influence of independent minority leaders, who would broaden the range of views held in the councils and safeguard against their being captured by a particular political party, on the other.

The principle of maintaining a “50% plus one” majority for representatives chosen from minority lists was included in the final communiqué issued at the meeting. Other council members, it was agreed, would be chosen through an electoral assembly.

On a related topic, participants also considered how councils can be established and structured to cause minimal division within minority communities. A representative of the Romani community in Montenegro warned participants that “we need to avoid the situation in Serbia, where there are several different councils for Roma.” “We need to preempt the possibility of manipulation, and of having multiple councils.” “For example,” he asked, “will the Ashkalia and Egyptians have their own councils” in Montenegro? This issue was not “fully regulated” in the minority law, he said.

An ethnic Hungarian leader from Serbia stated that councils will include not only “a plurality of interests, but also competition.” “There will be competition for resources,” he said. “Divisions cannot be fully preempted.” However, he added that such divisions “can be dealt with.” The best way to deal with this issue, he said, is to make sure that all state legal provisions concerning the councils are perfectly clear.

The Role of National Councils

Participants agreed that national councils should be consulted on questions concerning “cultural identity.” Thus, questions of language, education, the media, and culture are clearly the primary areas of concern of the national councils. Several participants, however, suggested additional roles that national councils can play in Montenegro. A U.S. participant argued that the national councils will be important counterparts for the government of Montenegro. “Today, the government cannot select a counterpart for discussion of minority issues” without being accused of favoring a certain party or NGO, he said. “The question of legitimacy will be resolved with these councils.”

An ethnic Hungarian political leader from Serbia offered several additional ways national councils can serve minority interests. In the case of the Hungarian minority in Serbia, he said, the national council “has become an element in the bilateral cooperation between the ‘mother state’ and the ‘home state.’” He added that the Hungarian national council in Serbia also assists the Hungarian government in its effort to provide financial support to Serbia’s Hungarian community. “We give suggestions as to the distribution of this support,” he said, and “this is a very important and responsible duty.”

A leader of the Romani community in Montenegro (a community currently without a political party or parliamentary representation) offered his view that councils are important “not only for communication with the government, but also as a chance for minorities to discuss among themselves issues that are important to them.” Another Romani participant argued that the councils should help keep the Romani community better informed of government policies and programs for Roma. A participant representing an international organization echoed these remarks, adding that the national councils will help build up the capacity of minority groups to take part in Montenegro’s public life.

Participants also discussed the power national councils will have to influence government policy. Several emphasized that councils will not hold the power to veto policy or legislation, but rather will serve as consultative bodies with which state institutions are obliged to consult prior to taking steps in areas of direct concern to minority communities (see Article 35 of the minority law). Veto power will only be wielded by the parliamentary group of a minority, pointed out one ethnic minority leader, citing Article 29 of the law.²

Technical Issues

A number of technical issues related to the councils were discussed at the Kolasin roundtable. One Montenegrin participant from the civil sector raised the question of how national councils can be constituted under current electoral law. In particular, he said, in Montenegro there are two minorities that are not politically organized—the Roma and the Muslims. While the minority law provides for their inclusion in local or national decision-making bodies, thus establishing elected representatives who can take part in national councils following Article 33, under the current system there are no Romani or Muslim officials who hold public office on the basis of minority candidate lists. Thus, to avoid this problem, “perhaps we should first amend the election law, then have elections, and then establish national councils,” he said.

Other participants agreed with this suggestion, and the final communiqué included the recommendation that the Montenegrin parliament adopt new electoral legislation as soon as possible. Participants agreed that the next parliamentary elections (likely in fall 2006) should be held in accordance with the new law on minorities, and that following these elections national councils will be formed.

² Article 29 states:

Should representatives elected from the minority candidate list consider that a proposed act or regulation substantially interferes with interests of that minority, the proponent and these representatives shall harmonise their stands thereon.

The harmonisation, in the sense of paragraph 1 of this Article, shall relate to:

- *issues pertaining to changes in the ethnic composition of the population contrary to Article 39 paragraph 1 of the present Law;*
- *issues pertaining to educational curricula adopted without the opinion of the Council of minorities;*
- *issues pertaining to preservation of linguistic and national identity of minorities.*

A second issue of interest to the participants was the question of who will be able to take part—as a voter or as a candidate—in elections for national councils, and how such voting will be regulated. On this subject a leader of an opposition party, who noted his party’s disagreement with some provisions of the minority law as well as “the atmosphere in which the law was adopted,” asserted that “no person should be pushed into identifying themselves as belonging to a certain group and being represented through the ethnic parties of that group.”

In response to questions from the other participants, an official with the Office for National and Ethnic Minorities of the Government of Hungary explained how voting for minority self-governments is arranged in her country. According to this participant, new legislation has recently been passed setting the following procedures: representatives serving in minority self-governments will be elected directly, in elections that take place at the same time as municipal elections. Only Hungarian citizens who declare their membership in a minority community will be eligible to vote (previously, all Hungarian citizens could take part in these elections). The issue of voting eligibility was the most difficult and controversial in Hungary, explained this participant. In the end, it was decided that citizens’ declarations of membership in a minority group will be kept by the chief administrator of a given settlement, who would not make the information public, or have any right to judge the content of the declarations. (Indeed, nobody would have a right to question these declarations.) The administrator’s role vis-à-vis the declarations would be purely supervisory, and after elections these records would be destroyed.

As for candidates, representatives of organizations that have existed for three years or more are allowed to run for office in minority self-governments, this participant explained. No independent candidates are allowed. Candidates will also have to make a declaration of their membership in the minority group, and state whether they speak the language of that group—though knowledge of the language is not a requirement.

These new rules, she said, were adopted as an effort to prevent abuse of the system, which has been a problem in Hungary.

Reflecting this discussion, participants included in the final communiqué the recommendation that the rules for establishing the councils require that organizations and individuals seeking membership in the councils “prove their long-term connection to a given minority and to the mission of improving minority and human rights.”

A third issue taken up in the discussion was the size of the councils. While some participants questioned whether it would be advisable to have more than seventeen seats on the councils, as called for in the minority law, others affirmed that this is now the law and asserted that it will not be changed in the near future. A participant from Poland advised that, for a country as small as Montenegro, seventeen members are enough for the councils, and said that in comparison with minority councils in other countries this number is not unreasonable.

Participants also discussed the possibility of setting a minimum number of seats on the councils, which is not included in the law. All agreed that the rules for creating the councils should set a minimum number of council members, and this recommendation was included in the final communiqué.

National Councils and the Roma

During the roundtable several participants referred to the particular situation of the Roma in Montenegro, who, according to the last census, number 2,601, though generally accepted unofficial estimates are between 15,000 and 25,000. The low census count of Roma puts them below the threshold of 1% for

guaranteed representation in the national parliament. (Roma will, however, have guaranteed seats in municipal assemblies where they make up greater than 1% of the local population, according to Article 24 of the minority law).

While several participants expressed regret over the fact that the last census did not reflect the reality of the Romani population in Montenegro, a government official stated that the current official census, however flawed, must be used. This, he said, is the law, though hopefully “the situation will be rectified in the future.” An ethnic minority parliamentary leader noted that there are discrepancies between the official and unofficial numbers of other minority groups in Montenegro as well, and suggested that admitting unofficial census numbers would open numerous difficult debates. However, a government official involved in the development of the minority law pointed out that Article 7 of the law calls for the government to undertake special measures for the integration of Roma in Montenegrin society, and stated that this is an important provision included for the Roma. He added that the minority council will be especially important for the Romani community, given their lack of representation in the national parliament.

An ethnic Albanian parliamentary leader suggested an opposing view. He noted that Roma are not politically organized in Montenegro, and raised the question of whether the Romani community would in fact be well served by having a national council, or whether other mechanisms, such as the state Roma strategy, would not be better suited to their particular case. This suggestion, however, was rejected by a number of participants, who asserted that Roma have a right both to national councils and to a targeted state strategy for their integration. One participant cited the recommendations of the Council of Europe in this connection, which assert that Roma, as an ethnic minority recognized throughout Europe, “are entitled to have the same rights as any other minority, regardless of their number in the population.” Another participant noted that the point is moot, since these rights for the Roma are now part of Montenegrin law.

Communiqué

The Project on Ethnic Relations, a U.S.-based institute, together with the Ministry for the Protection of Rights of Persons Belonging to National and Ethnic Groups of Montenegro, held in Kolasin on June 2-3, 2006 its second roundtable in the series on Developing a Governmental Minority Policy for Montenegro. The meeting was sponsored by the British Embassy in Serbia and Montenegro. Participants included members of the parliament of Montenegro, government officials, leaders of ethnic communities from Montenegro, and international experts.

The main topic of the discussion was implementation of the law on minority rights, especially the establishment of national councils that are envisioned in this law.

Following are the main items of the consensus that was reached at the meeting by the majority of participants:

- The implementation of the law on minority rights and freedoms must improve Montenegro's already good interethnic practice;
- To encourage the parliament of Montenegro to adopt the new electoral legislation as soon as possible by taking into consideration provisions of the law on minority rights and freedoms;
- Taking into consideration the fact that the law on minority rights and freedoms gives the Ministry for the Protection of Rights of Persons Belonging to National and Ethnic Groups of Montenegro one year to draft the minority strategy for Montenegro, the ministry should be encouraged to draft the rules of establishing the national councils and to form them as soon as possible according to the specific features of each minority;
- The Ministry for the Protection of Rights of Persons Belonging to National and Ethnic Groups of Montenegro will produce the first draft of the rules on establishing the national councils and will present it to the participants upon its completion;
- The law on minority rights and freedoms sets up the maximum number of members of national councils; the rules should include the minimum number;
- The rules will provide for representation from non-governmental organizations and intellectuals; these organizations and individuals should prove their long-term connection to a given minority and to the mission of improving minority and human rights;
- The state should strive for the council membership to be as authentic and representative as possible in relation to a given minority while respecting the provisions of the law on minority rights and freedoms; a possible solution might include the provision that 50%+1 members of the total number of council members should come from the minority lists.

The participants will provide all support needed to the Ministry for the Protection of Rights of Persons Belonging to National and Ethnic Groups as it works on drafting the provisions necessary for the formation of the national councils.

*Kolasin, Montenegro
June 3, 2006*