



Developing a Minority Policy for Montenegro: A Roundtable Discussion on the Minority Strategy

Meeting Report

Introduction

It has been an important year with regards Montenegro's progress in minority rights legislation. The new Montenegrin Constitution, adopted in October 2007, allows for the possibility of reconsidering the issue of securing parliamentary representation for minorities. Montenegro's first ever Roma Strategy was passed in November 2007 – this document is often touted as uniquely progressive with regards European Roma policy in that it commits the Montenegrin government to allocating 0.2% of its annual budget for the strict purposes of implementing elements of the strategy. By explicitly allocating a percentage of its national budget to Roma issues, Montenegro's government declared its firm commitment to prioritizing minority issues, especially concerning those most marginalized.

Another important step for a more cohesive minority policy began this past summer with the government's publication of the Rules on the First Formation of Minority Councils – the announcement officially began the process of Minority Council commencement. Since the July announcement, the Minister for Human and Minority Rights, Fuad Nimani, has met with representatives of each minority community in Montenegro, and explained the logistics of this important legislative document.

In conjunction with this progress, PER and the Ministry for Human and Minority Rights Protection convened a discussion on the draft of the Minority strategy – a document which will not only help Montenegro in its quest for European integration but also represents an important step in strengthening its multiethnic democracy and cohesiveness of its citizenry and in improving its all-inclusive democratic governance.

This roundtable, which was funded by the British Embassy in Montenegro through the Global Opportunities Fund of the British Foreign and Commonwealth Office, took place in the Montenegro Parliament building in Podgorica on December 14-15, 2007, and brought together government officials, senior representatives of Montenegro's parliamentary parties, leaders of Montenegro's ethnic communities, domestic and foreign experts, and foreign diplomats. The meeting was opened by Minister for Human and Minority Rights Protection Fuad Nimani and PER President Livia Plaks.

In order to encourage frank discussions, it is PER's practice not to attribute remarks in the following report to specific participants unless made in opening statements in the presence of media. PER Program Officer Adrienne Landry is the author of this report, which has not been reviewed by the participants, and for which PER assumes full responsibility.

Opening Remarks

Minister for Human and Minority Rights Protection, Fuad Nimani, opened the meeting by stating, "Montenegro is a country of harmony where minorities are not seen as the factor of instability but the basis for peace." PER President, Livia Plaks, followed suit remarking on the commitment Montenegro has shown to working on minority issues and cautioning against complacency with regards implementation of these initiatives.

Vice President of the Montenegro Parliament, Rifat Rastoder, responded saying that, "We want Montenegro to be a role model in this controversial Balkan Peninsula." He asked participants to be

especially constructive in their criticism as it was the government's priority to improve the minority strategy draft, and minority rights legislation in general.

Presenting Montenegro's First Ever Minority Strategy

After the opening remarks, the floor was given to one of the experts responsible for drafting the text. The expert informed participants that, "What all international legal instruments emphasize is that states have the final say with regards to protection of minority rights," and that this strategy's aim is to raise the level of Montenegro's protection with respect to each citizen's personal, ethnic, or religious identity. "We need to get to a point where everyone feels that they are a part of the Montenegro state. We also need improvement of relations in the immediate neighborhood so that each citizen feels comfortable identifying with his or her state of ethnic origin," the expert advised.

When asked about the difference between individual and collective rights, the expert responded that the strategy text explicitly focused on protection of the individual, and the need to protect that individual from discrimination. Collective rights are inherently protected if each individual in that collective group have these rights, the expert answered. The expert spoke of the Minority strategy's attention to education as a perfect example of protecting collective rights through the individual. By addressing the right to education of each child in the Albanian minority, the government is also addressing the Albanian minority's collective right to education in their own language.

The expert also explained the government's need to make each citizen in Montenegro aware of minority cultures in Montenegro. In this way, the strategy is not focused entirely on minority communities, but also on creating a cohesive society in Montenegro proud of its diversity. The expert recommended that while each member of a minority community should have a right to use their own language, other members of Montenegrin society, especially members of the majority, should have a right to learn that minority language as well – that this might be one more additional way to integrate society. One way of doing this is to ensure that there is space in both electronic and print media formats dedicated to minority language entertainment and information.

When it comes to political participation, said the expert, this strategy emphasizes Montenegro's duty to fully regulate the representation of minorities in Parliament on the basis of the new Constitution and the Minority Law. Encouragement and assistance in establishing minority councils will benefit this process, the expert advised. The strategy also pays particular attention to minority representation in the police and military, especially in locations where minorities are the majority.

The expert concluded the presentation by addressing the need to create special commissions and inter-ministerial cooperation in order to ensure timely and efficient implementation of the strategy. "The adoption and implementation of the strategy is, of course, up to the government of Montenegro and its working bodies – the main coordinator is the Ministry for Human and Minority Rights Protection which has a special role to play," said the expert. That said, implementation will not be possible without joint efforts and open communication between other governmental bodies also involved in the implementation process.

As it was explained, "The task of this commission will be to pay attention to multiple strategies and see the bigger picture so that during implementation, there is no collision between the tasks of these various strategies. Because, honestly speaking, in the past 5 years, Montenegro has adopted a lot of strategies. A lot of those strategies were not simply because of a desire for that strategy, but because certain international institutions told us that without them, we cannot move forward. We've had a lot of ambitious projects and ambitious ideas, but implementation has often fallen flat. We try and have good will, but sometimes it is not realistic or feasible based on the realities of our budget and capacity. The special commission's mandate will be to see these deficiencies and find solutions to work around them."

Timelines and Action Plans

An international participant noted that the period for implementation was too long, but expressed more concern about the length of preparation time. One of the experts advised that, “A period of ten years is a deadline which, from an international practice in this region, seemed to be the best and most acceptable considering the number and complexity of the activities. A social environment must be created to overcome some of the obstacles and this strategy recognizes that it does not happen over night.”

It was also observed that, “the timeline of ten years might sound too long, but for a state that has just got out of a conflict (with Serbia) and especially keeping in mind the context in which Montenegro has to live – the timeline isn’t so long and is realistic. We need to also allow some time to the private sector to benefit from some of the shorter goals in this strategy so that they can help us move forward with the process.”

Another expert observed that, “We must also take into consideration the security of the region. If the region remains stable, I imagine the interethnic policies of Montenegro will improve exponentially. If there are problems or conflicts, there will be a destabilizing factor in Montenegro which we must be aware of and prepared for.”

The same expert commented, “To get the regulations on the language moving, we need to change 50 laws for consistency. This will cause many cases to be argued and might even end up in Strasbourg. Just to get the laws in accordance, so many laws have to be changed. That’s why there’s been a ten year deadline.”

An international participant observed that, “You always have minority representatives saying that timeframes are too long. One thing I would like to note with pleasure is that many of the explanations used to be: ‘we have a problem with Kosovo’ or ‘we have a referendum’. It’s refreshing to see that more rational explanations are now being given – these are real reasons and must be taken into consideration.”

A compromise was proposed in which the drafters would create schedules for each individual chapter in the strategy thereby setting shorter deadlines within the implementation process. The text in the strategy would also identify specific actions to be completed within that shorter timeframe, thus guaranteeing that implementation of the minority strategy would not be delayed until the final year. For example, the issue of language could be resolved within 2 years while the issue of political participation in 3 months.

While the text pays a great amount of attention to the need of harmonizing existing laws with the new Constitution, especially in regards to minority rights – the experts who drafted the strategy cautioned that this could be a lengthy process, and that the deadlines were set bearing this in mind. The experts also mentioned that the deadlines cannot be entirely arbitrary as Montenegro, in its signing of agreements with the European Union, has deadlines already scheduled and the Minority strategy must be in accordance with these agreements.

One of the participants advised that mechanisms for evaluation should be placed within that new timeframe and that the strategy should be revisited every three years and reassessed. It was suggested to the drafters that the deadline for harmonizing electoral legislation be shortened as elections in Tivat and Herceg Novi are occurring as early as Spring 2008.

It was recommended by participants that each minority group should have a specific activity and part of the action plan as each have different priorities. Many minority groups observed that the needs of the Albanian minority do not match the needs of the Croat minority – and neither of these needs match the needs of the Roma. Said one participant, “for every minority, there is a specific issue that should be addressed. For Albanians, it’s education. For the Croats, it’s the issue of employment. The biggest ethnic distance is towards the Albanians – why? – there needs to be research done to discover the roots of this distance.”

While Montenegro has adopted a separate strategy for the Roma, it was advised that there be cross references placed in the text referring to the Roma Strategy which will be attached as an appendix when the document is brought forth for adoption. One international expert commented that these cross references “will show how Montenegro mainstreams all minorities and all policies of the state.”

Permanent Representation and Political Participation

During the roundtable, minority representatives placed special emphasis on the need to reinstate the two articles of the Minority Law which were rendered unconstitutional by the Constitutional Court. One participant stated, “Without authentic minority representatives, we cannot talk about minority policy in a real way.”

Other government officials acknowledged that the new Constitution and the Minority Law left little doubt as to whether or not minority communities should be represented in parliament but that how to do this legally and fairly remains problematic. A participant responded that a solution must be figured out soon if Montenegro is to keep its reputation for serving as a good role model for interethnic relations in the Balkans.

“I would like for all of us to make efforts together for those two articles of the Minority Law to be reinstated,” said one participant. “If we do so, I can guarantee that Montenegro will be in a position to never face any problems of minority conflict. It will also make it easier to implement what the strategy suggests within five years.”

A local expert commented that, “Political participation is not the most important thing. It is a significant issue but not the *most* significant issue. If you look at these issues from the perspective of human rights – for both the Albanian population and the Roma, the most important thing is to have access to education. They ask why there are no Albanian or Roma judges? We don’t have Albanians and Roma with the ability to be judges because of lack of education. Education, therefore, is the most significant issue.” “Political representation,” responded the participant, “will only speed up this process.”

An international participant agreed stating that, “I’ve heard all day about overcoming the ethnic gap and the ethnic difference. My organization has worked in many places trying to overcome the ethnic gap – the most successful countries have done so by including them in political processes and putting them in positions of power. The best way is to push them out there and to have them have a stake in the future of the country.”

Another participant commented, “I have never understood correctly who is an authentic representative of a minority. In my opinion, all MPs are authentic representatives of somebody. There is a problem we obviously have to find a solution for: a way to represent minorities in the parliament -- but also in other state authorities.”

The same participant expressed concern over the practice of majority leaders using legislative promises to gather minority votes, “All of us should stop using blackmail and political trading and focus on international standards and principles that exist in the democratic world.” An international participant responded, “there is nothing unusual in negotiations between minorities and the representatives of the government. Finding consensus and cooperation through compromise is done every where. It has been successful in this part of the world and in many of the other countries in which we work. It is not specific to just Montenegro, and so long as both sides keep their word in these agreements, it will be successful in Montenegro. Wherever there is political gain to be found, there will be compromise.”

A member of a governmental body observed that, “The constitution has already stipulated that within 90 days we must amend the minority law – this will force a serious discussion on reinstating the two articles withdrawn. Within 90 days, we will hopefully have a solution for political representation.”

Faulty Data and Unreliable Statistics

All participants acknowledged that there is a very serious problem in Montenegro with regards accuracy of statistics. Said one participant, “The 2003 census states that there are 0.4% Roma in Montenegro. I’ve been living here and if you go to just one part of Montenegro, you will see not 2,500 Roma but 5,000. You can’t adopt measures on the basis of such a faulty census. If we look into the actual situation of the Roma in Montenegro, we know there are well over 1%.”

While generally agreeing with these observations, the drafters of the strategy insisted that this problem should not be an issue of the Minority strategy, but an issue of the state. “In 2013 we will have a new census,” said one of the experts. “We don’t want to make speculations and would prefer to use exact data but that’s not possible at present. We still need to move forward.”

A representative from the Roma community stated, “I regret that we, as Roma NGOs, did not give greater contribution to this minority strategy. We focused on our own strategy more – seeing this minority strategy allows us to have a greater understanding where the Roma fit in the planning of the government with regards minority rights in general. I would like to indicate about the local implementation of this strategy. The problem has been with past strategies, implementation at the local level has been a problem. I would advise that mayors and representatives of local municipalities be present at the next conversation. They are the ones who will actually have to implement these ideas.” The same participant added that participation of local officials will provide for a better perspective on the numbers and statistics issue as they are the ones who have a better view of the reality on the ground.

Implementation and Funding

It was generally recommended to the experts in charge of drafting the strategy that presidents of the Minority Councils should serve on a special commission responsible for monitoring the implementation of the strategy. By involving the Minority Councils, Roma, who have no other means for representation, will be included in the implementation process. It was also advised that the commission be headed by a Deputy Prime Minister and include the Minister for Human and Minority Rights Protection. It was observed by PER staff that the text of the strategy also includes provisions for inter-ministerial cooperation, a solution that PER has been encouraging for since the inception of this project.

“Frankly speaking,” said one international participant, “one of the most important parts of the Roma Strategy is that Montenegro is the only country which has put in a budgetary allocation – this has impressed everyone. No matter how marginal it is, I think this should be put into the Minority strategy as well, no matter how small.”

“Just by looking into the document,” observed an expert, “your suggestion for financing is very much welcome. A financial framework for meeting the demands in Montenegro will have to be determined. We will rely on available data to make this assessment. But again, we don’t have exact data so this financial framework can’t be fixed. We need to come to a satisfactory position until we have more reliable data. This will be our recommendation. It needs to be determinable but not determined.”

“In regards to the financing of this strategy,” responded a representative from the Ministry for Human and Minority Protection, “funds will be taken from the Minority Fund which was adopted in November. It seems to me that we won’t need that much money – not as much money as we needed for the Roma. Why? Because many of the minorities have been already integrated to a degree not done by the Roma. Everyone unanimously supported the Roma Strategy when it was adopted by the government in October. Everyone understands that in regards to the position of Roma in Montenegro, something radical has to be done. Obviously there is strong will coming from the government with regards minority issues, and this will translate into implementation.”

Conclusion

The above dialogue clearly shows the interest Montenegro has in moving forward with its minority legislation. The general tone of the meeting was that the current draft of the minority strategy is a good and comprehensive document. In the text there are definitions of "affirmative action" and other terms, which have been used in the political life of Montenegro but so far has not been officially defined in detail. It was also observed that the strategy draft gives a good balance between the concepts of individual and collective rights, and emphasizes integration over assimilation.

As shown, the deadlines set forth in the strategy draft proved to be contentious. A member of the international community pointed out that it is fairly common with such documents that minority representatives feel that the time period for implementation is too long while government representatives worry it is too short. The creation of shorter deadlines within the longer timeframe is a workable compromise.

Permanent political representation of minorities in parliament proved to be another contentious issue. Some minority representatives felt that the new Constitution along with the Minority Law guaranteed them this right. This issue will hopefully be resolved in the 90 day deadline set forth in the new Constitution.

There was consensus that the statistics used in the Minority strategy, and in most other government strategies in Montenegro, are unreliable. That said, a solution to this problem has not yet been produced and all agreed that it was more important to move forward than wait.

Whether or not this strategy will translate into action will be seen over the coming months. According to the Ministry for Human and Minority Rights Protection, the deadline for submitting the Minority strategy to government for adoption has been extended to late January, early February. The Ministry expressed interest in having a similar dialogue with minority representatives on a more complete document before it is submitted to government.

All participants agreed that minority councils will be very important in the implementation of the strategy. The failure of many minority communities to proceed with forming these councils is cause for concern. At present, only the Croat minority council is set with holding in December its first electoral assembly for the new council (the Roma and Bosnjak minorities are in the process of preparing their applications).

List of Participants

English Language Alphabetical Order

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Ferhat Dinosh, Member, Parliament of Montenegro; President, Democratic League of Albanians
Helen Gardiner, Human Rights Officer, Organization for Security and Co-Operation in Europe, Mission to Montenegro
Alex Grigor'ev, Executive Director, Project on Ethnic Relations (USA)
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Adrienne Landry, Program Officer, Project on Ethnic Relations (USA)
Kevin Lyne, Ambassador, Embassy of the United Kingdom of Great Britain and Northern Ireland in Montenegro
Andrzej Mirga, Senior Advisor on Roma and Sinti Issues, Contact Point for Roma and Sinti Issues, Democratic Institutions and Human Rights, Organization for Security and Cooperation Europe
Roderick Moore, Ambassador, Embassy of the United States of America in Montenegro
Bozo Nikolic, Member, Parliament of Montenegro (Croat Civic Initiative)
Fuad Nimani, Minister for Human and Minority Rights Protection of Montenegro
Mevludin Nuhodzic, Member, Parliament of Montenegro (Democratic Party of Socialists)
Koca Pavlovic, Chairman, Committee on Human Rights and Freedoms, Parliament of Montenegro (Movement for Changes)
Vladimir Philipov, Special Representative of the Secretary General, Office in Podgorica, Council of Europe
Livia Plaks, President, Project on Ethnic Relations (USA)
Rifat Rastoder, Vice President, Parliament of Montenegro (Social Democratic Party)
Orhan Sahmanovic, Secretary, Ministry for Human and Minority Rights Protection of Montenegro
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