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REALISATION OF RIGHTS  
OF NATIONAL MINORITIES

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REALISATION OF RIGHTS  
OF NATIONAL MINORITIES  
– IMPLEMENTATION OF  
RECOMMENDATIONS OF  
INDEPENDENT INSTITUTIONS  
FOR THE PROTECTION OF  
HUMAN RIGHT IN SERBIA

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BELGRADE CENTRE FOR HUMAN RIGHTS



REALISATION OF RIGHTS OF NATIONAL MINORITIES  
– IMPLEMENTATION OF RECOMMENDATIONS  
OF INDEPENDENT INSTITUTIONS  
FOR THE PROTECTION OF HUMAN RIGHT IN SERBIA

Realisation of rights of national minorities  
– Implementation of recommendations of independent  
institutions for the protection of human right in Serbia

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## Preface

In addition to the regular systematic monitoring of the situation of human rights in Serbia, during the realisation of the project “Enhancing the efficiency and visibility of independent institutions for the protection of human rights in Serbia”, the Belgrade Centre for Human Rights team monitored the implementation of recommendations of the Ombudsman and the Commissioner for Protection of Equality and the Vojvodina Ombudsman in regard to the realisation of rights of national minorities. Although a satisfactory legal frame for the protection of rights of minorities has been established during the past several years, predicaments are still present in the implementation of certain rights guaranteed to national minorities. Given that these three institutions can influence the enhancement of the situation of national minorities, as they control the activities of public administration and can send recommendations to local and republic authorities, they present a natural partner to a civil society, particularly to those organisations which are engaged in the protection of human rights. On the other hand, the activities of the associations of citizens specialising in the enhancement of human rights, and their collaboration with the independent institutions serves to the strengthening of the role and impact of these bodies.

In the project “Enhancing the efficiency and visibility of independent institutions for the protection of human rights in Serbia”, which was financially supported by the USAID through the Institute for Sustainable Communities (ISC), the Belgrade Centre for Human Rights was enabled to actively monitor the fulfilment of the recommendations of the Ombudsman and the

Commissioner for Protection of Equality and the Vojvodina Ombudsman in regard to certain specific rights of minority communities guaranteed by the Constitution of Serbia and positive law in the period of four months.

During the course of this research, the associates of the Belgrade Centre for Human Rights visited the towns of Subotica, Novi Sad, Sjenica, Tutin, Priboj, Prijepolje, Novi Pazar, Senta, Bujanovac and Zrenjanin, where the team members had the opportunity to meet with both the representatives of local governments and the representatives of the National Councils of Hungarian, Bosniak and Albanian minorities. Furthermore, the researchers met with the representatives of the Ministry of Justice and the Ministry of Education, Science and Technological Development in Belgrade.

This publication presents the results of research which included the realisation of rights of national minorities with specific topics – transfer of founder and governance rights over the cultural institutions and within the framework of the official use of language and script, the display of the names of public authorities, the names of the local government units, towns, squares and streets and other toponyms in the language and according to the orthography and traditions of the national minority, through the monitoring of the implementation of recommendations in practice. Each of the listed rights at the same time presents a separate chapter of this publication, where the possibility of its realisation is analysed through the overview of legislation and the situation in practice, and recommendations are offered for the enhancement of the current state. The recommendations are based on the advice for practical actions of relevant decision-makers, and the highlighting of poor law solutions which make the realisation of a certain right difficult. The Belgrade Centre for Human Rights takes this opportunity to thank office of the Serbian Ombudsman, the Vojvodina Ombudsman and the

Commissioner for Protection of Equality, the representatives of the public authorities, the local authorities, the representatives of the Albanian, Bosniak and Hungarian National Councils and other experts who supported this research, offered their cooperation and provided valuable information. Without their help, it would not have been possible to fulfil the ultimate aim of this project, reflected in the establishment of a constructive dialogue and the opening of a space for further collaboration of all relevant parties who must act united in this process. We owe special gratitude to Ms. Imola Sörös and Mr. Vladan Joksimović for their cordial help and useful commentary and advice, and Ms. Iva Danilović for the coordination of all project activities.

# I. REALISATION OF THE RIGHTS OF NATIONAL MINORITIES IN THE FIELD OF CULTURE

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## I.1. Introduction

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Within the scope of the project “Enhancing the efficiency and visibility of independent institutions for the protection of human rights in Serbia”, the Belgrade Centre for Human Rights, in consultation with the Provincial Ombudsman of the AP of Vojvodina, decided to monitor the implementation of recommendations made by the Vojvodina Ombudsman to local government units, in reference to the authorities of the national councils of national minorities in the field of culture. In addition to the main topic of this research, the relations of the local authorities and the institution of the Vojvodina Ombudsman, the preparedness for collaboration, communication and possible steps for the collaboration improvement were also analysed.

In the Constitution of the Republic of Serbia<sup>1</sup>, national minorities are guaranteed both individual and collective rights. Through the realisation of their collective rights, members of national minorities, take part in the process of decision-making on certain issues which, among other things, refer to their culture, immediately or through their representatives.<sup>2</sup> National minorities are guaranteed the right to governance in the field of culture, and are therefore entitled to constitute national councils.<sup>3</sup>

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1 *Official Gazette of the Republic of Serbia*, no. 98/06.

2 Constitution of the Republic of Serbia Art. 75 (2).

3 Constitution of the Republic of Serbia Art. 75 (3).

Members of national minorities have the right to create separate cultural institutions, which can operate individually, but the government may take part in the financing of such institutions.<sup>4</sup>

The Act on National Councils of National Minorities<sup>5</sup> (hereinafter the Act) provides the possibility for a national council to establish cultural institutions for the purpose of preservation, enhancement and development of the cultural uniqueness and preservation of the national identity of a national minority, and fulfils the rights and obligations of the founders, and also provides that the founder rights over the cultural institutions founded by the Republic, the Autonomous Province or a local government unit *can be* fully or partially transferred to the national council. In addition to the founder rights, the Act also guarantees the right to participation in the governance of cultural institutions of particular significance for preservation, enhancement and development of cultural uniqueness and preservation of the national identity of a national minority.

The possibility of the realisation of the rights guaranteed by law was analysed in the case of the Hungarian National Council. During the regular sessions of the Hungarian National Council in 2010, in reference to the Act on the National Councils of national Minorities, 37 cultural institutions were declared institutions of particular significance. In their tenth regular session, held on 16 May 2011, pursuant to Art. 24 of the Act, the Hungarian National Council took a decision on the initiation of the takeover of founder rights of thirteen cultural institutions.

In the largest number of cases, local authorities, the founders of the aforementioned cultural institutions, did not implement the amendments to the Decision on the Establishment, nor did they decide on the initiative for the partial transfer of found-

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4 Act on the Protection of Rights and Freedom of National Minorities, Art.12 (2).

5 Act on the National Councils of National Minorities, *Official Gazette of the Republic of Serbia*, no.72/09.

er rights, wherefore the Hungarian National Council submitted a request to the Vojvodina Ombudsman indicating the illegal actions of a certain number of founders of cultural institutions. Following the proceedings, the Vojvodina Ombudsman sent his opinion and the recommendations to the local authorities so that they take all necessary measures to enable the National Council to realise their right to participation in the governance, i.e. to realise founder rights pursuant to the Act.

The Belgrade Centre for Human Rights visited four townships of Senta, Subotica, Novi Sad and Zrenjanin to establish whether local authorities acted pursuant to the recommendations. The interviews were conducted with the appropriate town/municipal authorities. A visit to the Historical Archive and the Town Administration of Pančevo were also planned; however, in the meantime, it was proceeded according to the recommendation.

Having conducted the research, we recognised two main problems in the matter of compliance with the recommendations of this independent body. The first was a political issue. Many of interviewees indicated the lack of political will to resolve this matter. One of the towns we visited serves as an illustrative example. Although the Vojvodina Ombudsman requested a statement from the municipal authority on the reason why the National Council was not enabled to realise their governance and founder rights, and then sent his opinion and recommendation, the Municipality in question did not take any steps to act pursuant to the recommendation until the dissolution of the Municipal Assembly. Following the elections and the formation of the new parliamentary majority, in the period from September 2012 to the end of January 2013, the Municipality Assembly adopted all necessary acts to transfer a part of founder rights to the National Council. The second problem, which is at the same time the issue which will be the focus of this publication, is that of a legal nature. The inconsistency between the Act on National Councils of National Minorities (hereinafter: National Councils

Act) and the Culture Act<sup>6</sup>, as well as the imprecision of certain articles of the Act have led to problems in practice, and are frequently highlighted as the reason for failure to act according to the recommendations.

In addition to the main topic of this research, the analysis also includes the relations of local authorities with the institution of the Vojvodina Ombudsman, preparedness to collaboration, communication and possible steps for the enhancement of the collaboration.

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## 1.2. Legal Framework for the Operation of National Councils

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The Act on National Councils of National Minorities and Culture Act provide the jurisdiction of national councils related to cultural institutions of particular significance for preservation, enhancement and development of cultural uniqueness and preservation of cultural identity. Although adopted on the same day, 31 August 2009, these two acts are contradicted in a great number of provisions. In the next chapter, more will be laid out on the problems of the implementation of law. In this chapter, the analysis of legal solutions is presented, and the observed problems are pointed out, through a special review of the right of national minorities to partake in the governance of cultural institution of particular significance for the national minority and the right to be founders of cultural institutions.

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### 1.2.1. *Transfer of Governance Rights*

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The national council determines which institutions in the field of culture are of particular significance for preservation, enhancement and development of cultural uniqueness and na-

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6 Official Gazette of the Republic of Serbia, no. 72/09.

tional identity of a particular national minority.<sup>7</sup> Declaration of an institution to be an institution of particular significance entails the following steps:

- The national council shall inform the founder of the cultural institution of the declaration of the cultural institution to be of particular significance (in this research, founders were local government units and will hereinafter be mentioned as founders; however, this also refers to the institution founded by the AP or the Republic).
- The founder of the institution shall amend the Decision on the establishment of the institution, which needs to provide that the institution is of particular significance.<sup>8</sup>
- The Statute of the institution should also prescribe that the institution is of particular significance, and it is therefore necessary to modify this Act, as well.
- Within the institutions established by a local government unit, pursuant to Art. 17 of the Act, one board member of the institution is appointed by the national council (the Municipal/Town Assembly renders a decision on the appointment). If several national councils declare the same institution to be of particular significance, national councils appoint one board member each.

In practice, two problems became clear:

1. The absence of the terms and criteria based on which a national council can declare an institution to be of particular significance.

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7 Act on National Councils of National Minorities, Article 18 (1).

8 Note of the Town of Pančevo. The Town Assembly. No. II-04-06-45/2012 Pančevo, 28 December 2012.



The absence of the criteria which would define more closely the very institutions and the facts based on which national councils can declare institutions to be of particular significance, provides an opportunity for the misuse of this right by national councils. An illustrative example is found in one case in Subotica, where the Croatian and the Roma National Councils declared the Palić Zoo to be an institution of particular significance for preservation, enhancement and development of cultural uniqueness and national identity. Such actions can have a negative effect in public and contribute to the creation of the political climate which may prevent national minorities from the realisation of their rights.

The Hungarian National Council has declared 37 cultural institutions to be institutions of particular significance. The research team of the Belgrade Centre for Human Rights tried to determine the criteria which the Hungarian National Council used while reaching these conclusions for each of the institutions individually, but have encountered various problems. The decisions on the declaration of these 37 cultural institutions to be institutions of particular significance are not available on the Internet page of the Hungarian National Council in the section in Serbian. In an interview conducted with a representative of the National Council, the criteria were one of the issues discussed. The matter of the “representation” proved to be the key element, depending on the particular institution in question. In the matter of the library, the criterion was the number of books in Hungarian within the library fund. The criterion for theatres is the repertoire, i.e. the number of plays on the repertoire performed in Hungarian. The representative of the National Council also confirmed that the decisions are available solely in Hungarian and that they were not translated to Serbian, hence the decisions in Hungarian would be delivered to the Belgrade Centre for Human Rights. To the day of the production of this publication this was not done. With the help of the office of the Vojvodina Ombudsman, it has been established that for the majority of cultural

institutions it has not been elaborated why these exact institutions were declared to be institutions of particular significance.

In order for this issue to be resolved, a change in the law is necessary and two solutions have emerged as possible; the law should prescribe the authorisation to the responsible Minister to provide the terms and criteria for the declaration of institutions to be of particular significance for preservation of identity of national minorities<sup>9</sup> or the criteria should be prescribed in the law itself. There are advantages and disadvantages to both solutions. The first decision empowers the executive authorities to proscribe terms and conditions. The second overloads the text of the law with details which are not inherent to the level of broadness the law needs to uphold.

2. The Inconsistency between Art. 17 (2) of the Act on National Councils of National Minorities and Art. 42 (3) of the Culture Act

When several national councils declare the same institution to be institutions of particular significance, the Act on National Councils (Art. 17) and the Culture Act (Art. 42) provide different solutions on the appointment of the board member/members. According to the Act on National Councils of National Minorities, national councils appoint one board member each, while according to the Culture Act national councils appoint one mutual board member. So far, in practice, founders of institutions opted both for the first<sup>10</sup> and the second solution.

9 Two Years of National Councils, Part II, Provincial Ombudsman of Autonomous Province of Vojvodina, Novi Sad, 2012.

10 Therefore, for example, amendment to the Decision on the establishment of the Children's Theatre of Subotica provides Article 2a which determines that the Children's Theatre is an institution of particular significance for preservation, enhancement and development of cultural uniqueness and national identity of the Hungarian, Croatian, Bunjevac and Roma minority. With the amendment of Article 10, the Managing Board is comprised of eleven members; the president and four members are the representa-

on<sup>11</sup>. The practice is evidently not uniform, and it is therefore necessary to coordinate the aforementioned Articles of these laws and level the practice.

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### *1.2.2. Transfer of Founder Rights*

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A national council may establish cultural institutions in order to preserve, enhance and develop cultural uniqueness and national identity of a national minority, and exercise founder rights and liabilities, individually or partnering with the Republic, the Autonomous Province or a local government unit. When the Republic, the Autonomous Province or a local government unit are founders of these institutions, they may fully or partially transfer the founder rights to the national council.<sup>12</sup>

Furthermore, at the initiative of a national council, the Republic, the Autonomous Province or a local government unit, transfers fully or partially the founder rights over cultural institutions whose main purpose is the preservation and the development of the culture of a national minority. At the initiative of the national council, the founder rights over cultural institutions, whose main purpose is not the preservation and development of the culture of a national minority, are transferred if they are of a particular significance to the national minority<sup>13</sup>.

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tives of the founders, and one member is appointed at the suggestion of the national councils of national minorities each, according to Article 2a of this Decision, and two members are chosen from the staff of the institution. *Official Gazette of the town of Subotica*, no. 50/12.

- 11 According to the Decision on the amendment of the Decision on the change of the founder of the Historical Archive of Pančevo, a board member is appointed mutually by the national councils of the Hungarian and Roma minorities. The Town Assembly. No. II-04-06-45/2012 Pančevo, 28 December 2012.
- 12 Act on National Councils of National Minorities, Art. 16.
- 13 Act on National Councils of National Minorities, Art. 24 (1 and 2).

Although the two Articles belong to the same Act, it is necessary to point at the different formulations the legislator uses. Both in Article 16 and Article 24 (1), the legislator refers to institutions whose main role is the preservation and the development the culture of a national minority, with the distinction that Art. 16 proscribes that the founder may (but is not obliged to) transfer the founder rights fully or partially, which leads to conclusion that the decision in question is a discretionary decision of the founder; on the other hand, it follows from Article 24 that the founder is obliged to transfer the founder rights when the institution in question is a cultural institution whose main role is the preservation and the development the culture of a national minority. Furthermore, pursuant to Article 24 (2) the founder is obliged to transfer the founder rights over institutions, whose main function is not to preserve and develop the culture of a national minority, fully or partially if they are of a particular significance for the national minority, and the national council has submitted the initiative for the transfer of founder rights.

In addition, Article 24 (3) of the Culture Act also provides the possibility of the transfer of founder rights over cultural institutions from the Republic of Serbia, the Autonomous Province and local government units as founders, to the national councils. Founder rights may be transferred fully or partially.

The Act stipulates the procedure for the transfer of founder rights. The Republic, the Autonomous Province or the local government unit conclude an agreement on the transfer of founder rights with the national council. The agreement defines the relations between the founder and the national council<sup>14</sup>, and the founder rights which are transferred. With the aim of the enhancement of the activities and services of the institution, the national council partakes with their financial means, as well. As regards the budget financing, the financial situation of the in-

14 Agreement on the partial transfer of founder rights over the “Senta Hungarian Chamber Theatre”, *Official Gazette of Senta*, no. 34.

stitutions whose founder rights are fully or partially transferred cannot be more unfavourable than that of the institutions whose founder rights are not transferred to the national council.<sup>15</sup> As the institution becomes a legal entity upon appearing in the court register,<sup>16</sup> an application for the entry of statutory changes in the court register must be submitted upon the conclusion of the agreement.

Similarly to the case of the right of national council to appoint board members of the cultural institutions, an inconsistency of regulations is evident in the situation of the right of transfer of founder rights. In addition, the insufficiently defined norms may lead to situations which are difficult to solve in practice. Therefore, for example, should several national councils request transfer of founder rights, the criteria upon which the share of founder rights a national council can request remains unclear. To date, the Hungarian National Council has requested 50% of founder rights over cultural institutions they requested the founder rights for. The law provides formulation “fully or partially” but does not define it in more detail. What happens when, assumedly, four councils request the transfer of 50% of the founder rights each? The Act on National Councils of National Minorities does not provide norms which could resolve this matter. With the absence of a legal solution, an agreement among all interested parties, founder of the institution and national councils is necessary.

Interpreting Article 24 of the Act, in their Opinion on the Implementation of the Act on National Councils of National Minorities<sup>17</sup>, the Ministry of Justice notes the distinction between cultural institutions whose the main role is the preservation and development of culture (Art. 24 (1)), which a national council is

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15 Act on National Councils of National Minorities, Art. 24 (6).

16 Culture Act Art. 31.

17 Ministry of Justice, no. 011-00-00021/2012-26, Belgrade 20 September 2012.

entitled to request the transfer of the founder rights for, and those cultural institutions whose main role is not to preserve and develop culture, and finds in Article 24 (3) that there is a possibility for the Republic, the Autonomous Province or a local government unit to transfer their founder rights over these institutions to national councils. It is undoubtedly a matter of an oversight, considering that Article 3 states “Organs from paragraphs 1 and 2 of this Article conclude an agreement over the full or partial transfer of founder rights with the national council”. The Ministry probably referred to paragraph 2 of this Article; however, “the possibility” is not mentioned in paragraph 2 either, but the word “transfer” is used instead. Since in paragraph 2 the institutions of particular significance for a national minority are mentioned, which cannot be subsumed under the definition from paragraph 2 item 1, the Ministry is of the view that in this matter, the founder of the institution (the Republic of Serbia, the Autonomous Province or a local government unit) shall determine whether the institution is of a particular significance to the national minority. Pursuant to Article 18 (1) of the Act on National Councils, it is the national council who determines which institutions and manifestations are of particular significance for the preservation, enhancement and development of the uniqueness and national identity of a certain national minority, and not the founder of the institution.

Furthermore, a question is raised as per whether the Ministry of Justice has the power to comment on this Act. Pursuant to the Law on Ministries,<sup>18</sup> the Ministry of Justice handles the administration of the register of national councils of national minorities, and the election of national councils of national minorities.<sup>19</sup> According to the Regulation of the Agency for Human and Minority Rights<sup>20</sup>, adopted by the Government, the affairs in reference to the protection and enhancement of human and mi-

18 Law on Ministries, *Official Gazette*, no. 72/12.

19 Law on Ministries, Article 10 (3).

20 Government of the Republic of Serbia, 05 no. 110–4806/2012.

minority rights are now under the authority of the Agency for Human and Minority Rights, which, acting as an independent body of the government system operating directly under the Prime Minister, is not authorised to comment on this law.

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### I.3. Review of the Constitutionality of the Act on National Councils of National Minorities

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Nine requests for determination of constitutionality of the Act on National Councils of National Minorities were submitted to the Constitutional court. Four requests were submitted individually by citizens from the towns of Subotica, Pančevo, Palić and Subotinca, while the remaining ones were submitted by the United Regions of Serbia, the Association of Independent Electronic Media, New Serbian Political Thought and Argus – civil association of Hungarians in Vojvodina for the Rights of Minorities and Association for the advancement of national minorities.

The Constitutional Court has initiated the proceedings for the review of constitutionality of the provisions of Article 2 (10); Article 10, items 6, 10, 11, 12, 13 and 15; Article 11 (3); Article 12; Article 13, item 3; Article 14; Article 15, item 7; Article 19 (2); Article 20 items 1-4 and Article 23 to Article 27 of the Act on National Councils of National Minorities. The initiatives for proceedings for the determination of unconstitutionality of the provisions of Article 15, items 5 and 6; Article 16 (3) and Articles 32 and 33 of the above Act were rejected as unacceptable by the Court. Due to the absence of presumptions for the proceedings initiation, the Court rejected the initiative for the review of constitutionality Art. 5, 17, 18, 19; Art 21(1); Art 22(1); item 1 of Articles 29, 31, 32, 33, 41; Art. 44 par. 2 item 7; Art. 47 (1,2); Articles 48, 52, 54; Art. 56; Art. 57 (1); Articles 115, 134 and 137 of the above law.<sup>21</sup>

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21 Case IUz-882/2010. Announcement from the first Sitting of the Constitution Court held on 17 January 2013 [[http://www.ustavni.sud.rs/page/view/149-101765/saopstenje-sa-1-sednice-ustavnog-suda-odrzane-](http://www.ustavni.sud.rs/page/view/149-101765/saopstenje-sa-1-sednice-ustavnog-suda-odrzane)

The Court will also decide on the constitutionality of Article 24 of the Act, which refers to the transfer of founder rights over the cultural institutions established by the Republic, the Autonomous Province or a local government unit to the national council. Given the possibility that this regulation ceases to be a part of our legal system, as unconstitutional, the legal fate of the decisions of the Hungarian National Council on the initiation of the transfer of founder rights of cultural institutions established by the Republic, the Autonomous Province or a local government unit becomes uncertain as well.

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#### I.4. Monitoring of the Visit

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As agreed with the Vojvodina Ombudsman, the Belgrade Centre for Human Rights decided to monitor the implementation of five recommendations referring to the transfer of founder and governance rights over cultural institutions, established by local government units, to the Hungarian National Council. The choice of recommendations was forwarded to the Town Assembly of Novi Sad (City Administration Office, Culture Department),<sup>22</sup> the Town Assembly of Zrenjanin (City Administration Office of Zrenjanin),<sup>23</sup> the Town Assembly of Subotica (City Administration Office of Subotica),<sup>24</sup> the

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17-januara-2013-godine-kojom-je-predsedavao-dr-dragisa-slijepcevic-predsednik-ustavnog-suda].

- 22 Recommendation of the Vojvodina Ombudsman no. I-NM-1-54/11, forwarded on 28 February 2012.
- 23 Recommendation of the Vojvodina Ombudsman no. I-NM-1-54/11, forwarded on 28 February 2012.
- 24 Recommendation of the Vojvodina Ombudsman no. I-NM-1-54/11, forwarded on 28 February 2012.



Town Assembly of Senta (Cabinet of the President of the Town Assembly)<sup>25</sup> and the Historical Archive of Pančevo.<sup>26</sup>

At the end of 2012, the Belgrade Centre for Human Rights sent reports to all local government units introducing them to the aim of this project. In such manner the organisation of meetings with bodies within the local government units with the authority to implement the recommendations sent by the Vojvodina Ombudsman, was requested. A letter with the same content, with the request for admission was sent to the Hungarian National Council, who submitted the request.

#### Senta

Based on the interview with the Head of the municipal administration, and the insight in copies of the Official Gazette of the Town of Senta, it was determined that the Town of Senta acted according to the Recommendation of the Vojvodina Ombudsman. The Hungarian National Council initiated the transfer of 50% of the founder rights over the cultural institutions of Senta-Hungarian Chamber Theatre, Senta and Cultural-Educational Centre “Turzo Lajoš”, Senta, and declared the Historical Archive of Senta, Senta-Hungarian Chamber Theatre, Senta and the Cultural-Educational Centre “Turzo Lajoš”, Senta to be institutions of particular significance. The Agreement on the transfer of founder rights over the abovementioned cultural institutions to the Hungarian National Council was signed on 25 January 2012. The Municipal Assembly of Senta rendered a Decision on amendments of the Statute of the Historical Archive in Senta which provides that a provision is added to the Statute that the Historical Archive in Senta is an institution of a particular significance for the preservation, enhancement and development of the Hungarian cultural uniqueness and preservation of the Hungarian national identity<sup>27</sup>.

25 Recommendation of the Vojvodina Ombudsman no. I-NM-1-54/11, forwarded on 28 February 2012.

26 Recommendation of the Vojvodina Ombudsman no. I-NM-1-54/11, forwarded on 28 February 2012.

27 *Official Gazette of the town of Senta* no. 38.

### Subotica

The Hungarian National Council declared eight cultural institutions to be institutions of particular significance for the Hungarian national minority, and they initiated the transfer of founder rights over five cultural institutions (Theatre “Kostolanji Deže”, Subotica, Children Theatre Subotica, the Town Museum of Subotica, the Town Library of Subotica and the Public theatre of Subotica). Transfer of founder rights was not made for either of these institutions, while the in the cases of Theatre „Kostolanji Deže”, Cultural Institution „Lifka Šandor” Art Cinema, the Children Theatre, the Town Museum, the Historical Archive, the Town Library and the Intermunicipal Institute for the Preservation of Cultural Monuments, the decision on the establishment was altered and it provided that these cultural institutions were institutions of a particular significance for the preservation, enhancement and development of cultural uniqueness and Hungarian national identity.<sup>28</sup>

The main reasons listed for the Town of Subotica not to act fully according to the Recommendations of the Vojvodina Ombudsman were the inconsistency and the imprecision of legal regulations and the lack of financial means in the Town budget. Given that the aforementioned institutions were declared to be institutions of a particular significance for the Hungarian minority and the Croatia, Roma and Bunjevac national minorities as well, a question was raised whether the municipal board members would be appointed pursuant to Article 17 of the Act on National Councils of National Minorities or Article 42 of the Culture Act. It was accepted that national councils shall appoint one board member each, but during the appointment of supervisory board members of the cultural institutions it was decided that national councils shall appoint one mutual member of the supervisory board.<sup>29</sup>

In addition, the project team met with the representatives of the Hungarian National Council, in Subotica on 31 January 2013 as well.

28 Official Gazette of the town of Subotica no. 53.

29 Culture Act, Art. 46 (2).

On this occasion, the project team was familiarised with the process of the transfer of founder and governance rights in other local government units which were not included in the research, and on the criteria used during the promulgation of a certain institution as an institution of particular significance for the Hungarian minority.<sup>30</sup>

### **Novi Sad**

The Hungarian National Council determined that four institutions founded by the city of Novi Sad are of particular significance for preservation, enhancement and development of the cultural uniqueness and preservation of national identity of the Hungarian minority (Institute for the Protection of Cultural of Novi Sad, Novi Sad Museum, “Novi Sad Theatre”, and the Historical Archive of Novi Sad), while they initiated transfer of 50% of founder rights for “Novi Sad Theatre” to the administrative bodies of Novi Sad.

The representative of the town government of Novi Sad, who attended the meeting with the research team of the Belgrade Centre for Human Rights, were not familiar with the initiated processes of amendments to the Decision on the establishment of the aforementioned cultural institutions, nor the phase which the creation of agreement on the transfer of founder rights has reached. As no relevant information were provided during the course of the interview, the Culture Department of Novi Sad committed themselves to informing the Belgrade Centre for Human Rights at a later time. To the day this publication was issued, contact was not established with the authorities from the Culture Department. Upon the review of Official Gazette of Novi Sad dating at 2012, not a single decision of the Novi Sad Town Assembly regarding the topic suggested in the recommendation of the Vojvodina Ombudsman was found.

### **Zrenjanin**

In the town of Zrenjanin, the Hungarian National Council determined that four cultural institutions are of a particular significance for the preservation, enhancement and development of the cultural uniqueness and the preservation of national identity of the Hungarian minority, which were established by the town of Zrenjanin (the Institute for the Protection of Cultural Monuments of Zrenjanin,

30 See section 1.2.1.

the Historical Archive of Zrenjanin, Zrenjanin National Museum and the City Public Library “Zarko Zrenjanin”). The town of Zrenjanin did not act in accordance with the Recommendations of the Vojvodina Ombudsman, and the main reason stated was a memorandum received from the Ministry for Human and Minority Rights.<sup>31</sup> The memorandum states as follows: “... Given that the proceedings in which the council authorities are realised are not elaborated by either of the regulations, only upon the implementation of the Act were certain intentions of the council opposed to the democratic principles the Act noticed, since in realisation of their rights, they pose a threat to the rights “reserved” for all citizens on the same terms. Therefore, we recommend that the proceedings of the request of the Hungarian National Council, dating at 14.1.2011, in regard to the promulgation of institutions of particular significance for preservation, enhancement and development of the cultural uniqueness and preservation of national identity of the Hungarian minority, are postponed until the adoption of the act which will regulate this matter.”

#### Pančevo

Initially, visits to the Town Administration Office of Pančevo and the Historical Archive of Pančevo were planned, since the Hungarian National Council has determined that the Historical Archive of Pančevo and the Institute for the Preservation of Cultural Monuments of Pančevo are institutions of particular significance for preservation, enhancement and development of the cultural uniqueness and preservation of national identity of the Hungarian minority. In the meantime, Decision on the amendments on the transfer of the founder of the Historical Archive of Pančevo and the Decision on the amendments on the establishment of the Institute for the preservation of cultural monuments of Pančevo, there was no longer a reason for the visit of BCHR team to the Town Government of Pančevo and the Historical Archive of Pančevo.

31 Memorandum no. 290-011-00-00003/2011-06, 22.2.2011, Ministry for Human and Minority Rights.

32 The Town Assembly. no. II-04-06-45/2012, Pančevo, 28 December 2012.

33 The Town Assembly. no. II-04-06-45/2012, Pančevo, 28 December 2012.

The Decisions on the establishment of these cultural institutions, upon the amendments, state in article 4 that the Historical Archive of Pančevo and the Institute for the preservation of cultural monuments of Pančevo are institutions of particular significance for the preservation, enhancement and development of the cultural uniqueness and preservation of national identity of Hungarian minority. It was also determined that the Historical Archive of Pančevo was a cultural institution of particular significance for the Romanian minority, as well. A regulation was adopted, provided by the Culture Act, so that a mutual board member was appointed by the Hungarian National Council and the Romanian National Council.

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## I.5. The Relations between the Local Authorities and the Institution of the Vojvodina Ombudsman

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A set of questions dedicated to the relationship of local authorities with the institution of the Vojvodina Ombudsman constituted an integral part of the interview which the research team of the Belgrade Centre for Human Rights conducted with the representatives of local government units. Although they appraised the institution of the Vojvodina Ombudsman as very useful, it was obvious that some of the interviewees were not entirely familiar with the jurisdiction of the Vojvodina Ombudsman, nor the manner in which he inspects the lawful conduct of the administrative authorities. In section 1.4, it is asserted which local government units have and which have not proceeded according to the Recommendation.

However, during the preparation for the visits, it was noticed that some of the local government units were not familiarised with the forwarded recommendation and they asked for the Belgrade Centre for Human Rights to send them the recommendation in order to prepare for the visit. An established rule that the Head of the Administration of a Local Government Unit

shall send the forwarded recommendation to the administrative department with an authority over the field that the Recommendation refers to was asserted. Thus it was noticed that in certain individual cases, not even the Head of the Administration or the officers from other departments were familiarised with the content of the Recommendation.

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## I.6. Conclusion

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It is evident from the abovementioned, that the amendment to the Act on National Councils of National Minorities is necessary. According to the information which the project team has acquired, a work group for the amendments to the Act was created, but it has not yet commenced with work. One of the reasons why the activities of the mentioned work group have been postponed is possibly the fact that the Act found itself before the Constitution Court for the review of constitutionality, and the Constitution Court has not reached the verdict yet. However, had the Government been more actively involved, it could have prevented some of the issues that have been pointed out. The imprecision earlier mentioned could have been prevented with the adoption of subordinate acts.

As per acting on the Recommendations of the Vojvodina Ombudsman, the inconsistency in the practice of the local government units is evident on the sample of only five recommendations. Some of the local government units proceeded entirely pursuant to the recommendation, while others did not, which raises the question of the perception of this situation. As it was stated in the introductory section, the political will was one of the deciding factors on the preparedness of a local government unit to provide the respect of the rights of national minorities at the greatest extent. On the other hand, it is obvious that, in some cases, national councils abused the rights they were guaranteed.

Having in mind these problems, it should be pointed out that in each recommendation of the Vojvodina Ombudsman to the local government units; it was underlined that the problems which might possibly occur in the practice of the authorities, pursuant to the request of the national council, may be successfully resolved by means of negotiations among all interested parties. It is also necessary to remind, again, of the article 18 (3) of the Constitution of the Republic of Serbia, that the clauses on human and minority rights must be interpreted in favour of the development of the democratic society, in accordance with the current international standards of human and minority rights and the practice of the international institutions monitoring their implementation.

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### 1.7. Recommendations

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1. Criteria must be established based on which national councils may declare a certain cultural institution to be the institution of particular significance for the preservation, enhancement and development of the cultural uniqueness and preservation of national identity of that national minority.
2. The regulations of the Act on National Councils and National Minorities and the Culture Act, which refer to the duties of a national council in the field of culture, must be synchronised.
3. There must be a higher awareness of the local authorities' employees of the recommendations forwarded of the Vojvodina Ombudsman to them.

## II. THE OFFICIAL USE OF LANGUAGE AND SCRIPT OF NATIONAL MINORITIES

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### II.1. The Official Use of Language and Script – Legal framework

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The matter of the official use of language and script is regulated in great detail in the Act on The Official Use of Language and Script<sup>34</sup> (AOULS). That a certain language and a script are in official use means that they are used by the government and province authorities and local government authorities (municipalities and cities), and other public authorities (public enterprises and public services) in: oral and written communication of public authorities among themselves and with the public; the proceedings for the realisation and protection of rights, duties and responsibilities of citizens; keeping of records by the municipal authorities and organisations with public authority in the municipality; the issuance of public documents, and other documents of interest for realisation of the legally determined rights of citizens; realisation of the rights, duties and responsibilities of employees based on the Labour Act; display of the names of places and other toponyms, names of streets and squares, names of agencies, organisations and companies; publication of public announcements, information and warnings and display of other public signs.<sup>35</sup>

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34 *Official Gazette of the Republic of Serbia*, no. 45/91, 53/93, 67/93, 48/94, 101/05 – state law and no. 30/10.

35 Articles 3 and 4 of AOULS.



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## II.2. The Right of National Minorities to the Official Use of Language and Script

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The right of national minorities to use their language and script officially is regulated by numerous regulations including the highest Act of the Republic of Serbia, international conventions, laws and other lower acts rendered under the authorisations included in higher regulations, and presents one of the ways in which the right to *cultural autonomy of national minorities*<sup>36</sup> is realised. Article 10 of the Constitution of the Republic of Serbia stipulates that Serbian language and Cyrillic script are in the official use in Serbia, and that the official use of other languages and scripts shall be regulated by laws adopted according to the Constitution. In article 79 of the Constitution, as a means of preservation of the uniqueness and the identity of national minorities, it is stated that in the environments where they constitute a significant part of the population, where the Government bodies, the organisations which were accredited public authorities, the Autonomous Province bodies and local authority units operate in their language and use their script as well, national minorities have the right to use their language for their surname and first names, and that the traditional local names, names of streets and districts and topographic indications shall also be displayed in their language.

The Ratification Act on the Framework Convention for the Protection of National Minorities<sup>37</sup> (hereinafter the Framework

36 In addition to the official use of the mother tongue and script of a national minority, cultural autonomy means preservation of cultural values of that minority, education of the persons belonging to that national minority in their mother tongue and establishment of a means of public service which would transmit their programme in the language of the national minority. Cultural autonomy has gained legal character upon the adoption of the Act on the Rights of National Minorities.

37 *Official Gazette of the Federal Republic of Yugoslavia – International Agreements*, 6/98.

Convention) stipulates that in the areas inhabited by persons belonging to national minorities, traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour 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.<sup>38</sup> In addition, the Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.<sup>39</sup> The same Act stipulates that in areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour to display traditional local names, street names and other topographical indications intended for the public also in the minority language.<sup>40</sup> In addition to the Framework Convention, it is important to mention that Serbia ratified one more convention of the Council of Europe – the European Charter for Regional or Minority Languages – where it committed itself to preserving ten minority languages including *Bosniak*.

The Act on Protection of Rights and Freedom of National Minorities (ANM)<sup>41</sup> and AOULS clearly stipulate the same as the abovementioned regulations, specifying that on the territory where, according to the results of the last census, 15% of the population were declared as persons belonging to a national minority, the authorities of such local government units are obliged to put the language and script of that national minority in of-

38 Article 10 of the Framework Convention.

39 Article 11(3).

40 Article 11 (3) of the Framework Convention.

41 *Official Gazette of the Federal Republic of Yugoslavia*, no. 11/02, *Official Gazette of the State Union of Serbia and Montenegro*, no. 1/03 – The Constitutional Charter and *Official Gazette of the Republic of Serbia*, no. 72/09 – state law.

ficial use.<sup>42</sup> The clauses of these Acts which refer to the display of the names of public authorities, names of local government units, towns, squares and streets and other toponyms in the language and script and in accordance with the tradition of the national minority whose language and script are in official use are almost identical.<sup>43</sup> The provisions which refer to the issuance of public documents and keeping official records and collections of personal data in the language of national minorities and the recognition of such documents as valid are identical, as well.

National Councils whose establishment, financing, organisation and activities are regulated by the Act on National Councils of National minorities<sup>44</sup> (ANC) have an important role in the realisation of rights of national minorities to the official use of language and script. Article 22 of ANC lists numerous authorities based on which national councils were assigned one of the key roles in the realisation of these rights:

- Determination of traditional names of local government units, towns and other toponyms in the minority language, if the minority language is in official use on the territory of the local government unit or town.
- Names determined by the national council become names in official use next to the name in Serbian language, and are announced in the Official Gazette of the Republic of Serbia.
- Proposition to the authorities that the names of the local government units, towns and other toponyms be displayed in the minority language.
- Proposition to the authorities of the local government units that the minority language and script be established as official.

42 Article 11 (2) of AOULS, and Art.11 (2) of ANC.

43 Article 11 (5) of ANC and Art. 11 (4) of AOULS.

44 *Official Gazette of the Republic of Serbia*, no. 72/09.

- Proposition of the change of names of streets, squares, parts of town, villages and other inhabited areas and institutions which were determined to be of particular significance for the national minority.
- Giving an opinion in the process of determination of names of streets, squares, parts of town, villages and other inhabited areas, if the minority language is in official use on the territory of the local government unit.
- Proposition of the monitoring of the official use of minority language and script to the authorities.

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### *II.2.1. Procedure for the Introduction of a Minority Language and Script in Official Use*

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Article 20, paragraph 1, item 3 of the Law on Local Self-Government (LLS) stipulates that Municipality i.e. its bodies (clauses which refer to a municipality refer to a town as a local government unit, as well<sup>45</sup>) decide on the introduction of minority languages and scripts in official use. This body is the Municipality/Town Assembly. It is responsible for the adoption of the Municipality/Town Statute, and minority languages and scripts are brought in official use through the Statute.<sup>46</sup> The adoption of the Municipality/Town Statute, as the highest legal act of one local government unit<sup>47</sup>, and propositions for amendments of the Statute, are proposed by the Municipality/Town Assembly.<sup>48</sup>

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### *II.2.2. Display of Toponyms in the Minority Language and Script*

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Different procedures are used to determine traditional names of the local government units, towns and other toponyms on one

45 Article 23 (4) of LLS.

46 Article 11(3) of AOULS.

47 Article 11 of LLS.

48 Article 46 of LLS.

hand, and the names of streets squares, parts of town, villages and other inhabited areas of a local government unit, on the other.

The matter of the determination of traditional names of the local government units, towns and other toponyms in such places where a minority language is in official use is under the authority of national councils.<sup>49</sup> The local government unit authorities do not have any authority in regard to this matter, except for the implementation of the rendered decision.

On the other hand, the determination and alteration of the names of streets, squares, parts of town, villages and other inhabited areas in the local government units and other inhabited areas is under the authority of the municipal/town authorities, who are obliged to acquire an authorisation from the Ministry in charge of the activities of that local government unit prior to the decision.<sup>50</sup> In such local government units, where the minority language and script are in official use, the national council of that national minority must give their opinion during the process of determination and alteration of the names of the aforementioned places.

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### II.3. Monitoring of the Visit

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The Belgrade Centre for Human Rights opted to monitor the implementation of five individual recommendations in reference to the official use of language and script, which were sent to the town of Novi Pazar and municipalities of Priboj, Sjenica, Tutin and Prijepolje – the local government units where the majority or a significant number of inhabitants belongs to the Bosniak national minority. In each of the mentioned local government units, to the day this recommendation was sent, a legal frame for the introduction of Bosniak language and Latin alphabet in of-

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49 Article 22, Paragraph 1, Item 1 of ANM.

50 Article 93(1) LLS.

ficial use, i.e. according to the results of the research conducted in 2002, each of the mentioned local government units were inhabited by more than 15% of persons belonging to the Bosniak national minority. Therefore, the Bosniak language, if it had not previously been the case,<sup>51</sup> was introduced in official use in all local government units apart from the municipality of Priboj.

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### *II.3.1. Monitoring of the Implementation of Recommendations in Practice*

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#### 1. The Municipality of Priboj – Review of the Received Recommendations

*The Commissioner for the Protection of Equality – Recommendation no. 1291/11.* – In regard to the controversial Article 5 of the Statute of the Municipality of Priboj, the President of the managing board of the Bosnian National Council (BNC), Mr. Esad Džudević, filed a complaint on 29 July 2011 to the Commissioner for the Protection of Equality, delivering, in addition to the complaint, the documentation which served as proof for the multiple efforts of the persons belonging to the Bosniak minority for the amendment of the Article in question. The Appendix included the recommendation of the Ombudsman in which the breach of rights of persons belonging to the Bosniak national minority to the official use of the minority language and script was identified, violating therefore the right to the preservation of uniqueness guaranteed by the Constitution.

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51 Bosniak language and Latin alphabet were introduced in the official use on the territory of the Municipality of Tutin back in 1998. Therefore, the Act on the Protection of the Rights and Freedom of the National Minorities, Article 11 (3) contains a clause which stipulates that in a local government unit where, at the time of the adoption of this Act, the minority language was in official use, the same language shall remain in official use.

Proceeding according to the complaint, the Commissioner for the Protection of Equality determined that, as Bosniak language and script failed to be introduced in regular use along with Serban language and Cyrillic script, Article 24 of the Act on the Prohibition of Discrimination (APD) was violated. Opinions and recommendations which followed, invited the municipal authorities of Priboj remove the established violation by the introduction of Bosniak language and Latin script in an equal use. A period of 30 days was assigned for the Municipal authorities to make a statement on the taken measures. The Municipality of Priboj did not notify the Commissioner for the Protection of Equality on the measures taken so that the recommendation is implemented within the assigned period. The Commissioner for the Protection of Equality made a public announcement on this matter, pursuant to Article 40 (2) of the APD.<sup>52</sup>

*The Ombudsman – Recommendation no. 16–1566/09.* – In December 2009, SDP filed a complaint to the Ombudsman, while the Bosniak National Council (the National Council of Bosniak minority) did the same in February, the following year. Proceeding according to the complaint, the Ombudsman conducted an inspection of the legality and validity of the activities of the Municipal Administration of Priboj. Following the procedure, the Ombudsman determined that the Bosniak minority were violated rights to the preservation of uniqueness, guaranteed by the Constitution and the Act, and within this, the right to the official use of language and script as well.

On 31 March 2010, the Ombudsman sent recommendation no. 16–1566/09 to the Municipal Administration of Priboj, that Article 5 of the Statute should be amended with a regulation which will introduce Bosniak language and Latin alphabet in official use. Furthermore, the Mayor of Priboj was assigned a period of 60 days as from the receipt of the recommendation to in-

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52 <http://www.ravnopravnost.gov.rs/lat/vesti.php?idVesti=5>.

form the Ombudsman on the procedures undertaken according to that recommendation, and to deliver appropriate documentation about it, which can serve as proof that it was proceeded according to the recommendation. Unfortunately, the Municipality of Priboj has not to date sent a reply to the Ombudsman, and the matter of Article 5 of the Statute remains unresolved.

*The facts.* – The results of the census of 2002 showed that the number of Bosniaks living in the Municipality of Priboj was 18.33%.<sup>53</sup> As it was previously stated, in the section referring to the legal framework of the official use of a language and script of a national minority, the condition for the introduction of Bosniak language and Latin alphabet was fulfilled, i.e. the number of Bosniaks living on the territory of the Municipality of Priboj at that time exceeded 15%. However, even though the legal foundation<sup>54</sup> for the introduction of Bosniak language and Latin alphabet in official use has existed since 2002, to date, the Municipal Administration of Priboj has not acted in a manner which guarantees the respect of the rights guaranteed by the Constitution and law. Article 5 of the Statute of the Municipality of Priboj<sup>55</sup> (Statute) states: “Serbian language and Cyrillic script are in official use on the territory of the Municipality”. Persons belonging to the Bosniak minority have used numerous ways and different forms of organisation (political parties, member groups and the Bosniak National Council) to try and obtain the decision which would lead to the amendment of Article 3 of the Statute, but had no success. On 25 August 2008, the Sandžak Democratic Party (SDP) submitted a proposition for a review of the constitutionality and legality of Article 5 of the Statute. On 5 November 2009, at the Constitution Court sitting, this proposition was rejected

53 Recommendation no. 16–1566/09, dating at 31 May 2011.

54 The Act on the Protection of Rights and Freedoms on National Minorities was adopted in 2002.

55 *Official Gazzete of the Municipality of Priboj*, no. 6/04, 3/05, 5/06 and 12/08.



in the conclusion. The reason for this rejection was found in the formulation of the proposition, where it was requested from the Constitution Court to take a decision to amend Article 5 of the Statute with a regulation that on the territory of the municipality of Priboj, Bosniak language and Latin script shall be in official use as well. The Constitution Court is not authorised to adopt, change or amend the Statute, or any other legal Act, but to estimate whether they follow the letter of the law and Constitution.<sup>56</sup>

### Priboj

During the visit to the Municipality of Priboj, the monitoring team were provided with the reasons which contribute to the failure to implement the recommendations of the Ombudsman and the Commissioner for the Protection of Equality. Political reasons were listed as some of the main reasons for failure to implement the recommendations, i.e. the unpreparedness of the aldermen in the local assembly to vote for the amendment to Article 15. The answer to the question whether the instruction sent from the Ministry for Human and Minority Rights and State and Local Government at the time had influence over the President himself, members of the Municipal Assembly and aldermen at the Municipal Assembly, was negative. During the interview, it was emphasised several times that there is an absence of the political will and an inability to explain to the aldermen that voting for such decision is the only way to act according to the Constitution and the law which recognise the right of national minorities for the introduction of their language and script in official use. An impression was created that inertness of the local government representatives existed for the contribution to the solution of this matter. Although this matter is under the authority of the local government, pursuant to the following articles, Article 20 (1), item 33 of LLS, and Article 11 (2) of ANC and Article 11 (2) of AOULS, during the interview, it was stressed that only by means of an intervention of the Republic authorities can the current situation be changed.

56 Information on the rejection of the proposition stated in the explanation of recommendation of the Ombudsman, Recommendation no. 16–1566/09 dating at 31 March 2011.

## Conclusion

The fact that in all local government units where the condition for the introduction of a minority language and script in official use was fulfilled this was done, points out that the proposition that the representatives of the Municipal Administration of Priboj made on the transfer of such authorities, which would include a number of legislative changes from the local to the republic level, is neither realistic nor needed. Examples of good practice are found in each local government unit where the minority constitutes a large or a majority part of the population, not only in local government units where Bosniaks live, and following such examples should be a priority of the Local Government of Priboj. Members of the Municipal Council, the Mayor and councillors of the Parliament of Priboj, regardless of their nationality, represent all citizens of Priboj, regardless of their nationality; therefore, they shall all act in such way which enables that all citizens equally enjoy all rights guaranteed by law. The fact that, according to the results of the latest consensus, the number of Bosniaks has decreased to less than 15%<sup>57</sup> cannot be an excuse for the former failure to proceed according to the Constitution, international conventions and laws, or the reason for the avoidance of responsibility. Furthermore, given that the persons belonging to the Bosniak minority have so far been discriminated and void of the rights they were entitled to, we are drawing the attention of the local authorities that they should not be deceived by the binding nature of Article 11 (2) of AOULS, which stipulates mandatory introduction of the language

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57 According to the results of the consensus from 2012, the total number of Bosniaks decreased below 15% and is now just above 14%.

and script of such national minority whose members compose 15% of the population in official use, as this condition no longer exist. Paragraph 1 of that same Article leaves an optional possibility of the introduction of a minority language and script in official use.

### *Recommendations*

1. Irrespective of the decreased number of Bosniaks to less than 15% after the latest consensus, the Municipal Council of Priboj should proceed pursuant to Article 46, Paragraph 1, Item 1 of the ANC and propose an amendment to Article 3 of the Statute to the Local Parliament of Priboj, which would introduce Bosniak language and Latin alphabet in equal official use, pursuant to Article 11 (1) of AOULS. The same recommendation refers to the Mayor of Priboj who has such authority pursuant to Article 135 of the Statute of the Municipality of Priboj.
2. It is necessary that presidencies of all political parties which created a coalition in Priboj (SPP, DP, SDP, SRM, NS and SPS) influence their members who function as local authorities, to act according to the Constitution, international conventions and laws. As far as the Belgrade Centre for Human Rights is informed, each of those political parties intercedes for the application of all regulations, and respect of all international commitments,<sup>58</sup> and the realisation of national and all other equalities, which, in the case of the Municipality of Priboj, have been violated for more than ten years. Furthermore, the Belgrade Centre for Human Rights expects that the party organs initiate the procedure for

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58 Such as the commitment to preserve Bosniak language – European Charter for Regional or Minority Languages.

the determination of responsibility of their members who constituted a part of the local government from the period when the introduction of Bosniak language and Latin script was first initiated to the day of the delivery of this report.

3. The control mechanism over the implementation of the Act on the Official Use of Language and Script is not sufficiently efficient. Sanctions for the failure of the local authorities to enforce the law are not stipulated. The only way to achieve this is to review the constitutionality and legality of the Statute, which is initiated pursuant to Article 82 (1) of the LLS.<sup>59</sup> This proceeding has lasted too long in order for an efficient protection of rights guaranteed by AOULS<sup>60</sup> to be provided.

## 2. Municipalities of Sjenica, Tutin Prijepolje and the Town of Novi Pazar – Review of the Recommendations

On 5 February 2010, according to their authority, pursuant to Article 22 of ANC, the Bosniak National Council reached a “Decision about the Establishment of Traditional Names of the Local Government Units, Settlements and Other Geographic Names in Bosniak Language and Latin Alphabet in Novi Pazar, Tutin, Sjenica and Prijepolje.”<sup>61</sup> To this day, it has not been acted pursuant to this decision in any of the four local government units.

On 25 April 2012, based on the complaint of the Bosniak National Council, by Mr. Esad Džudžević, the Ombudsman sent

59 In March 2011, the Ministry for Public Administration, Local Government, Human and Minority Rights, along with the Ombudsman, initiated the review of constitutionality and legality which still has not been decided on. In the meantime, after the consensus in 2012, the number of Bosniaks has decreased and there no longer exist legal terms for mandatory introduction of Bosnian language and Latin alphabet in official use.

60 *Official Gazette of the Republic of Serbia*, no. 5/10.

61 *Official Gazette of the Republic of Serbia*, no. 5/10.

four identical recommendations to the municipalities of Sjenica, Tutin Prijepolje and the town of Novi Pazar. Given that Bosniak language and Latin alphabet were introduced in official use in all four local government units through their Statutes, it is necessary to display the names of public authorities, local government units, towns, squares and streets and other toponyms in the language of the Bosniak minority, according to their tradition and orthography, simultaneously with Serbian language and Cyrillic script.<sup>62</sup> Furthermore, it is necessary that already displayed names of towns, streets, squares, parts of towns, villages and other inhabited areas in local government units and all announcements and warnings for public and other public displays which are not displayed in a manner which respects the tradition and orthography of the Bosniak minority, and which are mere Latin transcriptions of the Cyrillic script, are replaced with appropriate displays.

#### Municipalities of Sjenica and Tutin

During the visit to the local authorities of Sjenica, the monitoring team were presented with the reasons which contribute to the failure to implement the recommendations. A representative of the Municipal Administration of Sjenica offered very useful information in reference to the formation and activities of the Commission for naming streets, squares and institutions in Sjenica (hereinafter Commission). We were informed that the Commission, which was first elected, met certain interferences, and a new one was founded. The newly-founded Commission successfully completed the entrusted duties and established proper names. However, the problem arose when they were to be approved by the current Ministry for Public Administration, Local Government, Human and Minority Rights (hereinafter the Ministry). In order to learn more details on the aforementioned matter, we asked the Mayor that we are delivered, as soon as possible, the entire written communication with the Ministry, so that we could determine the reasons for the absence of the approval.

62 Article 11 (2) and Article 19 of AOULS.

The documentation which was to be delivered referred to the decision of the founding of the Commission, the constitution of the Commission (titles of the members of the Commission), the proposition of the Commission, the decision on the adoption of the proposition of the Commission of the municipal assembly, the opinion of the Bosniak National Council and the decision on the approval or rejection by the Ministry. Unfortunately, only the Decision on the Street Names in Sjenica was delivered to us, which was not enough for the determination of the problem in communication in the relations between the local government and the Ministry. Signs with traditional names of the local government units, towns and other toponyms pursuant to the decision of BNC were not displayed due to the lack of financial means (such information was not provided in the statement to the Ombudsman). In the Decision on the Budget for 2013, we were told means were not assigned for such purpose. With the aim of the enhancement of the realisation of the right to the official use of Bosniak language and Latin alphabet, the representatives of the authorities shall appoint a lector for Bosniak language. In such manner, conditions will be created for all public announcements and warnings and other public displays to be written both in Serbian language and Cyrillic script and Bosniak language and Latin script. This would create conditions for a change in the current practice, based on the Latin transcriptions of Cyrillic texts. In the Decision on the Budget of the Municipality of Tutin for 2013, no means were assigned for the procedures outlined in the Decision of BNC (which stands in contrast to the content of the statement in which it is stated that full official use of Bosnian language and Latin script will be introduced as soon as possible)<sup>63</sup> and for the display of bilingual signs with indicated names of towns, streets, squares, parts of towns, villages and other inhabited areas in Tutin and other settlements in the Municipality. The representatives of the local government informed the Belgrade Centre's team that the Commission which was to propose the names and changes in names of towns, streets, squares, parts of towns, villages and other inhabited areas was established,

63 Recommendation by the Ombudsman, no. 16-1195/11 dating at 25 April 2012.

that this proposition was adopted in the Municipal Assembly of Tutin, and that the decision was sent for approval to the Ministry with the authority over the local government administration,<sup>64</sup> pursuant to Article 94 of the LLS; however, there was no approval. In order to determine the reason for the rejection of the Decision on the Adoption of the Proposition of the Commission, we asked our interviewees for the delivery of the entire documentation in regard to this matter – Decision on the Establishment of the Commission, members of the Commission, the proposition of the Commission, the decision on the adoption of the proposition opinion of the BNC, and the reply of the Ministry in reference to the rejection of the decision which was adopted by the local parliament. Unfortunately, the requested documentation was not delivered in time to be included in the conclusions, therefore is difficult to determine the real reason for the Ministry's rejection.

There are interpreters for Bosniak language in Tutin, so the recommendation for the display of public announcements and warnings and other public displays in Bosniak language is fulfilled.

### *Conclusion*

The fact that the BNC took a Decision on the determination of traditional names of local government units, towns and other toponyms in Bosniak language in Novi Pazar, Tutin, Sjenica and Prijepolje, on 5 February 2010, and that it has still not been acted according to this decision, cannot be justified by the lack of financial means. In article 21 of AOULS, it is stipulated that the means required for the realisation of the official use of language and script shall be provided by the authorities, i.e. organisations within which the rights and responsibilities stipulated by this law are realised, and that the period of three years is enough to proceed according to the Decision.

64 Ministry in the term of office from 2008-2012 – Ministry for Public Administration and Local Government and Human and Minority Rights.

### Recommendations

1. Local authorities are to fulfil their obligation from Article 21 of AOULS and to decide on the amendment of the budget for 2013, which shall provide the means for the procedure pursuant to the Decision on the determination of traditional names of local government units, towns and other toponyms in Bosniak language in Novi Pazar, Tutin, Sjenica and Prijepolje. The Belgrade Centre for Human Rights is of the opinion that a sufficient period was assigned for the provision of appropriate means so as to proceed according to the abovementioned Decision, and that proceeding on this Decision is of importance for the realisation of equality of persons belonging to the Bosniak minority, and their language, script and tradition with Serbian language, script and tradition.
2. Currently displayed names of streets, squares, town quarters, villages and other inhabited areas, are to be displayed bilingually, according to the tradition and orthography of the Bosniak national minority.
3. The Municipality of Sjenica is to undertake all necessary measures so that public announcements and warnings and other indications are displayed in Bosniak language as well.<sup>65</sup>

#### Municipality of Prijepolje

During the discussion on the recommendation itself, the research team has encountered a slightly different situation from the one in the municipalities of Tutin and Sjenica. Namely, as one of the reasons for the failure to proceed according to the Decision on the determination of traditional names of local government units, towns and other toponyms in Bosniak language in Novi Pazar, Tutin,

65 In favour of such claim, an example of practice in legislation is provided.



Sjenica and Prijepolje, the representatives of the local authorities expressed their insecurity in the choosing which of the two existing national councils is valid.

As regards the display of the names of streets, squares, town quarters, hamlets and other parts of populated areas in the local government units, and other towns, board signs have been provided but are yet to be printed and displayed.

A Commission such as those in Tutin and Sjenica, which would determine the names of the names of streets, squares, town quarters, hamlets and other parts of populated areas pursuant to the Bosniak tradition was not formed in Prijepolje.

Furthermore, as one of the reasons why there is the absence of bilingual public announcements and warnings, and other public displays, it was pointed out that the representatives of the local authorities are not familiar that there are authorised translators for Bosniak language in Serbia, or persons they know who were educated in Bosniak language.<sup>66</sup>

### *Conclusion*

The situation in Prijepolje is more favourable than that in other municipalities, since financial means for the display of bilingual names were provided in 2012. Although this is the period of the “technical term of office” of BNC, it represents a legal body fully recognised by the Government authorities. Given that the BNC is funded by the Republic of Serbia, and that the Decision on the determination of traditional names of local government units, towns and other toponyms in Bosniak language in Novi Pazar, Tutin, Sjenica and Prijepolje was published in the Official Gazette of the Republic of Serbia, there are no obstacles for the traditional names

66 In favour of this claim, practice in regard to the legislative procedures was given as an example.

of towns, determined by the National Council of the Bosniak minority to be displayed.

### *Recommendations*

1. The local authorities need to do what is necessary to proceed pursuant to the Decision of the BNC, since there are no obstacles, of either financial or formally-legal nature, for the traditional names of local government units, towns and other toponyms in Bosniak language in Prijepolje to be displayed both in Serbian language and Cyrillic script and Bosniak language and Latin script, according to the Bosniak tradition. Financial means are provided, as well as the signs, and a valid Decision of the BNC was published in the Official Gazette.
2. Current displays of the names of streets, squares, town quarters, hamlets and other parts of populated areas need to be displayed bilingually, in accordance with the tradition and orthography of the Bosniak minority.
3. Commission for naming streets, squares, town quarters, hamlets and other parts of populated areas in accordance with the tradition and orthography of the Bosnian minority whose proposition shall be adopted by the local parliament of Prijepolje, needs to be formed after the models of Sjenica and Tutin.
4. The BNC needs to give their opinion on the adopted decision (pursuant to Article 22, Paragraph 1, Item 5) in order for the Ministry in charge to be able to take propositions listed in the Decision into account, pursuant to Article 95 of LLS.
5. The Municipality of Prijepolje needs to appoint translators for Bosniak language in order that all public announcements, warnings and signs are displayed in

accordance with the tradition and orthography of the Bosniak minority.

#### Novi Pazar

The Commission for naming streets, squares, town quarters, hamlets and other parts of populated areas was formed in Novi Pazar. In the documentation provided by the Town Administration of Novi Pazar, it was established that the Commission had determined names of streets, squares, town quarters, hamlets and other parts of populated areas as early as 2011, and in addition to the determined names they submitted their propositions to the town Assembly. The propositions were adopted by the Decision of the Town Assembly and sent to the current Ministry for Government, Local Government and Human and Minority Rights. The authority representatives in Novi Pazar have not delivered the reply from the Ministry; however, a regulation from Article 94 (2), which stipulates that the agreement is made on unless the Ministry provides a statement on in within 60 days, is applicable. Department for Utilities and Housing Services and Environmental Protection was to place the board signs displaying bilingual names, but this was not done. The reason was poor financial situation of Novi Pazar, and the frozen account of the Department for Urban Planning which was to place the signs.

#### *Conclusion*

The fact that the BNC took a Decision on the determination of traditional names of local government units, towns and other toponyms in Bosniak language in Novi Pazar, Tutin, Sjenica and Prijepolje, on 5 February 2010, and that it has still not been acted upon this decision, cannot be justified by the lack of financial means. In Article 21 of AOULS it is stipulated that the means required for the realisation of the official use of language and script are provided by the authorities, i.e. organisations where the rights and responsibilities stipulated by this law are realised at. The Belgrade Centre for Hu-

man Rights believes that the period of three years was sufficient for proceeding according to the Decision.

### *Recommendations*

1. Local authorities are to fulfil their obligation from Article 21 of AOULS and decide on the change in the budget for 2013, which shall provide the means for the procedure pursuant to the Decision on the determination of traditional names of local government units, towns and other toponyms in Bosniak language in Novi Pazar, Tutin, Sjenica and Prijepolje. Having in mind the financial situation, the Belgrade Centre for Human Rights is of the opinion that a sufficient period was assigned for the provision of appropriate means so that it could be proceeded according to the abovementioned Decision, and that proceeding on this Decision is of importance for the realisation of equality of persons belonging to the Bosniak minority, and their language, script and tradition with Serbian language, script and tradition.
2. Current displays of the names of streets, squares, town quarters, hamlets and other parts of populated areas shall be displayed bilingually, in accordance with the tradition and orthography of the Bosniak minority.

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### *The Relations between Local Authorities and the institution of the Ombudsman and the Commissioner for the Protection of Equality*

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An integral part of the interview The Belgrade Centre for Human Rights research team conducted with the representatives of local self-governments was a set of questions dedicated to the relations between local authorities and the institution of the Ombudsman and the Commissioner for the Protection of Equality. The authority representatives appraised that they have a proper

collaboration with the institutions for the protection of citizens, although they are not fully familiar with their jurisdiction.

However, during the visits, it was noticed that some of the local government units were not familiar with the recommendation, and they asked for the Belgrade Centre for Human Rights to forward the recommendations so that they could prepare for the visit. It was concluded as an established rule that the Head of Administration of a local government unit sends the recommendation to the Department with the authority over the area the recommendation refers to. It was noticed that the employees at the local government units are not familiar with, that is that they confuse the authorities which the independent institutions have for the protection of human rights in the Republic of Serbia. To that effect, we recommend organisation of trainings which would contribute to the increase of the capacity of the employees in municipal and town. Next, it should be worked on the enhancement of the familiarity of the employees with the recommendations of independent institutions to a particular local government unit, in order for all staff to be able to familiarise with the content of the recommendations, regardless of their department and position, through e.g. the publication of recommendations on the official Internet page of the municipal or town administration.<sup>67</sup>

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67 During the project “Strengthening the Role of the Ombudsman”, the Lawyers’ Committee for Human Rights and the Belgrade Centre for Human Rights, established the practice of the publication of all recommendations on the Internet page of the Ministry of Internal Affairs.

### III. SPECIAL TOPICS

#### III.1. Legislative framework

According to Article 37 (3), all citizens have the freedom of choice and use of their names and names of their children.<sup>68</sup> The right of persons of belonging to a national minority to use their first names and surname in their language is foreseen as one of the ways of preservation of the uniqueness of a national minority.<sup>69</sup>

The Act on the Protection of Rights and Freedom of National Minorities contains and almost identical regulation as that in Article 37 of the Constitution, and stipulates that persons belonging to national minorities have the freedom of choice and use of their name and names of their children, and registering these names in all public documents, official records and collections of personal data in the language and orthography of the persons belonging to a national minority.<sup>70</sup> The same Act and the Act on the Official Use of Language and Script (AOULS) provide that the official use of language and script of a national minority entails the issuance of public documents and keeping of the

68 Article 37 (3) of the Constitution of the Republic of Serbia (*Official Gazette of the Republic of Serbia*, no. 83/06).

69 Article 79 of the Constitution of the Republic of Serbia (*Official Gazette of the Republic of Serbia*, no. 83/06).

70 *Official Gazette of the Federal Republic of Yugoslavia*, no. 11/2002, *Official Gazette of the State Union of Serbia and Montenegro*, no. 1/2003 – the Constitutional Charter and *Official Gazette of the Republic of Serbia*, no. 72/2009 – state law (an identical provision exists in the Act on the Official Use of Language and Script *Official Gazette of the Republic of Serbia*, no. 49/91, 53/93, 67/93, 48/94, 101/200 – state law and no. 30/2010 Article 18a).

official records and collections of personal data in minority languages, and the acceptance of such documents in such languages as valid. The first name of a child, parent, spouse or the deceased is recorded in Serbian language, in Cyrillic script, and the people belonging to a national minority have the right to record first names in the language and orthography of the persons belonging to that national minority, which is not to exclude the parallel recording of first names in Serbian language, in Cyrillic script, as well.<sup>71</sup> In local government units, where it is determined by the Statute that the minority language is in official use, birth certificate forms are printed bilingually, in Serbian language, in Cyrillic script and in the language and orthography of minority whose language is in official use. The text in rubrics in the language and orthography of the minority is printed below the text in Serbian language in the same font type and size.<sup>72</sup> In case that a person belonging to a national minority files a request for the registration of their name in the language and script of the minority they belong to after the completion of the primary entry in the birth registry, the additional entry shall be recorded pursuant to Article 26 of the Official Birth, Death and Marriage Registries Act (OBDMRA).<sup>73</sup> The entry of names in Birth Registries in the original form is a foundation for the realisation of the right to the entry of first names in other public documents and official records. Article 9 of the Identity Cards Act (IDA) stipulates that template forms of identity cards are printed in the minority language according to law, the data is entered in the original form identical to the entry in the Birth Registry; furthermore, the first

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71 *Official Gazette of the Republic of Serbia*, no. 20/09 Article 17 (1).

72 Instructions on the keeping of birth registries and template forms of birth certificates *Official Gazette of the Republic of Serbia*, no. 109/2009, 4/2010 – rev., 10/2012 and 25/1011, item 137.

73 If due to a higher power, an emergency or other similar reasons, certain data was not entered in the birth registry, additional entry shall be made pursuant to the decision of the authority.

name and surname of persons belonging to national minorities are entered simultaneously in Serbian language and Cyrillic script and orthography.<sup>74</sup> Article 80 of OBDMRA stipulates that the National Bank of Serbia (NBS) is authorised for the production and printing of standardised template forms of birth certificates. Furthermore, the same Act stipulates that keeping of the Birth Registries is in the line of duty of municipalities, towns and the City of Belgrade.<sup>75</sup> The supervision over the implementation of OBDMRA is undertaken by the administrative inspectorate under the Ministry of Justice.<sup>76</sup>

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### *III.1.2. In Brief on the Recommendation of the Provincial Ombudsman<sup>77</sup> to the Ministry of Public Administration and Local Self-Government<sup>78</sup>*

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During 2009 and 2010, the Ombudsman conducted research on the realisation of rights on the official use of language and script of national minorities, where it was determined that the order and method of the entry of names in birth registries in the language and orthography of national minorities was not performed in the same manner.<sup>79</sup> Moreover, the procedure

74 *Official Gazette of the Republic of Serbia*, no. 62/06 and 36/11.

75 *Official Gazette of the Republic of Serbia*, no. 20/09 article 6.

76 <http://www.drzavnauprava.gov.rs/article.php?id=21>.

77 Recommendations of the Ombudsman and the Vojvodina Ombudsman dating at 16 March 2011, no. 16-166/11 and 16-167/11.

78 In the new Government assembly from 2012, according to the Law on Ministries, *Official Gazette of the Republic of Serbia*, no. 72/12, this domain is under the authority of the Ministry of Justice.

79 For example, in the AP of Vojvodina, first names are first entered in the language of a national minority, in their script and then in Serbian language and in Cyrillic script. In some of the local government units, first names are entered in the minority language and script in brackets, next to the entry in Serbian language, in Cyrillic script, or in a row, without the brackets, etc.



is different for requests for the additional entry in the minority language and orthography, when the main entry of a person belonging to a national minority was made only in Serbian language, in Cyrillic script. Sometimes, it is done as if the request for the change of a first name was submitted, and sometimes as per request for correction. The described procedure has led to an unequal treatment of citizens in the same legal and factual situations, and as a consequence, it has brought inequality of the legal situations of citizens, in terms of the decisions and procedures based on them, the duration and expenses, all of which is opposed to the principles of proper administration.

In addition, the Ombudsman determined that the Instruction on the keeping birth registries and template forms of birth certificates (hereinafter Instruction), is adverse to the regulations of AOULS which stipulate that template forms of public documents, as well as the records for areas where minority languages are in official use, are printed bilingually, in Serbian language and the language of each national minority whose language is in official use. Item 137 of the Instruction stipulates that rubric names on the birth certificate forms are printed in the language and script of the national minority of the back side of the certificate, which presents a deviation from the bilingual approach proclaimed by AOULS. The Ministry in charge of this matter was given a period of 60 days to adjust the practice to the regulations.

Based on the complaints of persons belonging to national minorities, the Ombudsman determined that in the practice of Registrar's Offices there are flaws, which are inconsistent with the principles of proper administration, which include proclamations that it is the obligation of the administrative office staff to rightly and fully inform the citizens on their rights and responsibilities and the ways in which they can realise such rights. These flaws are also inconsistent with Article 15 of the General Administrative Procedure Act (hereinafter GAPA), according to

which the body which is in charge of the proceedings makes sure that the ignorance of the client and other parties involved in the proceedings does not harm the right they are legally entitled to. At the Registrar's Offices which the Ombudsman visited, there are no properly displayed notices with information about the ways in which persons belonging to a national minority can enter their first and last names in the language and script of the minority they belong to in public documents, particularly in instances when the first name was entered in the birth registry in Serbian language only, in Cyrillic or Latin script. Furthermore, the Ombudsman determined that the employees at the Registrar's Offices in immediate communication with citizens, who belong to a particular national minority, do not instruct these persons on the ways in which they can realise their right to enter their first names in birth registries in the language and script of that minority. A period of 60 days is assigned for the procedures to take place according to the recommendation.

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### *III.1.3. Proceeding According to the Recommendation*

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The Ministry informed that they proceeded according to the recommendations as follows: The instruction on keeping the Birth Registry was amended.<sup>80</sup> Template forms of birth,

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80 Item 15a was added in the Instruction and it says: "First name of a child, parent, spouse and the deceased is entered in the birth registry in the language and script of a national minority following the entry in Serbian language, in Cyrillic script, below that entry in the same font style and size". Item 97a was added and it says: "If a first name of a child, parent, spouse or the deceased person belonging to a national minority is entered in the minority language as well, first name in the language and script of the person belonging to a national minority is entered following the entry of the first name in Serbian language, in Cyrillic script, below that entry in the same font style and size in the birth registry". The modified item 137 of the Introduction which now says "In the local government units, where it is determined in the Statute that the minority language is in official use,

death and wedding certificates are translated and delivered to NBS which is authorised for the production and printing of the forms. Bilingual forms were printed pursuant to item 137 of the Introduction, and their use commenced on 20 April 2011. All municipal and town administration offices were sent the Opinion of the Ministry as per the implementation of the regulations regarding the proceedings of the Registries Offices. In addition, all municipality and town administration offices were sent the layouts of announcements for display.

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#### *III.1.4. Monitoring of the Visits to the Ministry of Justice and Field Observations*

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During the monitoring visit, the Belgrade Centre for Human Rights research team were presented that Administrative Inspectorate authorised for the monitoring of regulations in the field of Registries Offices, following the Instruction, did not receive complaints to the practice of the Registries Offices. Next, it was presented that it was difficult to maintain a uniform practice following many years of different practices, but that the efforts the Ministry invested in that direction were noticeable.<sup>81</sup> During the interview with the representatives of

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template forms of birth certificates from items 134-136 of this Instruction, are printed bilingually, in Serbian, in Cyrillic script and in the language and script of the persons belonging to a national minority whose language is in official use. The rubric text in the language and script of the persons belonging to a national minority is printed below the text in Serbian in the same font style and size". In such manner, it is established that Article 18 of AOULS is respected.

81 By proceeding in such manner, and since the Ministry proceeded to the recommendation and sent the instructions in order to increase the capacities of the Registries Offices, the authorised ministry will organise seminars regarding the additional entry of first names in the language of the national minority.

national councils, the research team had an opportunity to see samples of birth certificate forms, completed in various ways, but dating at a period before the Instruction was sent. However, it is difficult to determine whether the instructions of the Ministry in charge were followed in the section which refers to immediate communication, which can be a proposition for further research. During the field visits to local governments, the research team were told that in smaller town settlements, the practice of bilingual entry was still not followed through. During their visit to PS Bujanovac, the researchers were alerted about the cases in which, when requesting the issuance of identity cards, the parties brought birth certificates inconsistent with the updated instruction. By means of visiting local government units, the attempt was to determine, as much as it was possible, whether general recommendations which refer to the practice of the Registries Offices are abided by; for example, to determine, through immediate monitoring, whether announcements were displayed in the Registries Offices which are most frequently located at the same building as the municipal administration office. A difference in practice was noticed in the local government units in the AP of Vojvodina and municipalities and towns such as Prijepolje and Novi Pazar. Failure to display the announcements potentially points at the failure to proceed according to the recommendation and instructions, therefore it would be desirable for the administrative inspectorate to visit municipalities and towns in multiethnic environments and inspect whether bilingual forms are in use, the announcements displayed, and how the immediate instruction of the client on their rights and according to the principles of proper administration functions.

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*III.1.5. In Brief on the Recommendation of the Ombudsman and the Vojvodina Ombudsman<sup>82</sup> to the Ministry of Internal Affairs<sup>83</sup>*

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The Recommendation of the Ombudsman and the Vojvodina Ombudsman is the product of research conducted by these independent institutions for the protection of human rights during 2009 and 2010, and the complaints from national councils and individuals belonging to the Albanian minority, who did not realise their right for their first names to be entered in identity cards in their minority language and script. Recommendations referred to the displays of announcements in all police offices/stations on the right for the entry of first and last names of the persons belonging to a national minority in the language and script of their minority in identity cards. Additionally, the Ministry will provide for the data on first and last names to be entered in identity card identically as it was entered on the birth certificates, as well as the information on the languages and scripts of national minorities which can technically be entered. The Ministry proceeded pursuant to the recommendation and sent a memorandum to all police departments stating that it is necessary to inform persons belonging to national minorities on the way they can realise their right to the issuance of an identity card with a first name; which means that they first need to make an additional entry of their name in the birth registry, since identity cards are issued based on the data in birth certificates, that an identity card is issued in their minority language and script, and that in all police stations, detailed instruction is displayed on the way this right can be realised (both in Serbian language and the language of the minority which constitutes a significant part of the population).

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82 Recommendations of the Ombudsman and the Vojvodina Ombudsman dating at 16 March 2011, no. 16-166/11 and 16-167/11.

83 Recommendation of the Ombudsman and the Vojvodina Ombudsman dating at 16 March 2011, no. 16-2572/10.

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### *III.1.6 Monitoring of the Visits to the Ministry of Internal Affairs and Field Observations*

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Given that this Ministry has a developed internal mechanism for handling complaints, the monitoring team were presented that there had not been complaints of any kind recently. The Ministry representatives introduced the monitoring team to the proceedings and visits of internal control, and also that following the recommendation there was no control over PS Medveđa which was listed in the explanation of the recommendation of independent institutions for the protection of human rights. This being a general recommendation, the research team visited the police station in Bujanovac as a strategically chosen multinational municipality. They were pointed out that the employees of the Albanian minority instructed the clients on the possibilities of the entry of first and last names in the minority language and script. The research team were confirmed by the interviewees that information was on display but that due to the technical construction work in that Police station, it was removed. Furthermore, they were informed of the way in which all employees are informed on the receipt of the instructions by the Ministry.

It is difficult to claim with certainty how the instruction of persons belonging to national minorities on the possible entry of their first names in identity cards in their minority language and script operates in practice, especially if birth certificates submitted with the remaining documentation is completed in Serbian language and Cyrillic script; therefore, the proposition for further research is to monitor visits on a larger sample, both in the multinational environments and those environments where the persons belonging to national minorities do not form majority of the population.

In his opinion with a recommendation no. 16-2091/10, dating at 25 October 2010, the Ombudsman perceived the obstacle in multilingual environments for the construction and development of the democratic, tolerant and multicultural society, which is related to the mandatory studying of Serbian language for persons belonging

to a national minority, and the neglecting of studying the language of national minorities for the students of Serbian nationality. A recommendation was sent with the aim to enhance the quality of teaching Serbian language, where education for persons belonging to a national minority is done in their minority language, and the teaching of the language of a national minority with elements of culture in primary and secondary schools, with the aim of active knowledge of Serbian, i.e. the language of a national minority as a language of the society as a whole, after the completion of education. It was noticed that a large number of Serbian citizens, members of national minorities, complete their education without gaining a functional knowledge of Serbian language, despite the organised education of Serbian as a foreign language at the primary and secondary school levels. Furthermore, it was noticed that citizens whose mother tongue is Serbian, and who live in environments where minority language is widely spread and introduced in official use according to law, despite the voluntary lessons of minority language with the elements of national culture, complete their education without the functional knowledge of the minority language spoken in their social surroundings. The Ministry of Education was proposed to adopt more appropriate educational plans and curricula for learning Serbian as a foreign language and the language of a national minority as the language of the social surroundings, that the school employs a larger number of bilingual teachers and introduces appropriate teaching and learning materials in education, particularly for minority languages. In his recommendation, the Ombudsman also states that the introduction of the minority language as a language of the social surroundings to be a mandatory subject, would benefit a higher quality coexistence, and in this way the children would be enabled to functionally master one more language.

In an interview with the representatives of the Ministry of Education, it was determined that it was not proceeded according to this recommendation, and the Belgrade Centre for Human Rights desires for the Ministry to review the possibilities of the fulfilment of the recommendations one more time, which could contribute to a higher social i.e. functional integration.

## APPENDIX 1

### Method and Sample

In the selection of fields to monitor, the Belgrade Centre for Human Rights research team opted for the field of national minorities as one of the fields within which independent institutions for the protection of human rights operate. Above all, a change in the practice of the realisation of collective rights of persons belonging to a national minority in fields of the official use of language and script, the transfer of founder and governance rights over cultural institutions to national councils and the field of education were monitored. During the selection of the recommendations, BCHR team formed several different criteria, based on which a sample for monitoring was created.

These criteria included: 1. The choice of recommendations to specific persons belonging to the the Hungarian, Albanian and Bosniak national minorities; 2. The level of power/type of authority who the recommendation was directed at; 3. Whether the complainant to the independent institutions for the protection of human rights was a national council which represents national minorities.

The Belgrade Centre for Human Rights team decided on specific geographical areas in the Republic of Serbia where the implementation of the Recommendations was monitored. During the course of the research, the recommendations themselves served as a basis for the identification of problematic points in rules regulating one of the listed areas, and an additional analysis of the legal solutions which regulate a particular area which was monitored. In the process of the selection of recommendations, individual recommendations to particular units of local



government – towns and municipalities during 2012, with specific topics – were followed primarily; the transfer of founder and governance rights over the cultural institutions and within the official use of language and script, display of names of public authorities, names of local government units, towns, squares and streets and other toponyms in the language, orthography and in accordance to the tradition of a national minority. On the other hand, as per the field of education, and the official use of language and script in the field of the right on the first name (issuance of identity cards) and the practice of Registries Offices, system (general) recommendations to authorised ministries were selected. Through the monitoring of particular ministries and field visits the research team on this project maintained, as much as possible, to determine in which manner the instructions of the authorised ministries which followed the recommendations were implemented in the local government units – municipalities and towns.

Recommendations with reference to a particular local government unit were sent in 2011 and 2012, while systematic recommendations which require monitoring of the changes in wider practice were sent in the period from 2010 to 2012.

Representatives of the public authorities were contacted through a memorandum, when the organisation of meetings with persons in charge in those administrative bodies was requested. Conducting these interviews was the central part of the research, and based on the acquired information, conclusions and recommendations were formulated which can contribute to the change of the situation in practice. The interviews included several topics – the first topic referred merely to the familiarity with the practice of independent institutions for the protection of human rights, experiences in communication and propositions for the improvement of collaboration, while the second topic referred to the implementation of the recommendation in practice, and

possible problems and challenges during this implementation. In addition to the conducted interviews, the research team had insight in the available documentation and communication of the public authorities with the independent institutions for the protection of human rights, and other documents which would give ground to the change of the current situation (e.g. Official Gazettes, decisions on budget etc.). In addition to the meetings with public authorities, meetings with the representatives of national councils as complainants to the independent institutions for the protection of human rights were held. The research team was also in constant contact with the representatives of the independent institutions for the protection of human rights which helped with the formulation of the conclusions and recommendations.

## APPENDIX 2

### List of recommendations

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#### *Recommendations by the Ombudsman*

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1. Recommendation to the Ministry of Government and Local Self-government<sup>84</sup> no. 16-166/11 and 16-167/11, dating at 16 March 2011.
2. Recommendation to the Ministry of Education no. 16-2091/10, dating at 25 October 2010.
3. Recommendation to the Ministry of Internal affairs no. 16-2572/10, dating at 16 March 2011.
4. Recommendation to the Municipality of Sjenica no. 16-1195/11, dating at 25 April 2012.
5. Recommendation to the town of Novi Pazar no. 16-1195/11, dating at 25 April 2012.
6. Recommendation to the Municipality of Tutin no. 16-1195/11, dating at 25 April 2012.
7. Recommendation to the municipality of Prijepoje, no. 16-1195/11, dating at 25 April 2012.
8. Recommendation to the municipality of Priboj, no. 16-1566/09, dating at 31.3.2010.

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84 According to the Law on Ministries *Official Gazette of the Republic of Serbia*, no 72/2012 (under the authority of the Ministry of Justice).

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*A Recommendation from the Commissionaire for the Protection of Equality*

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1. Recommendation to the Municipality of Priboj reg. no. 1291/2011, dating at 20 October 2011

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*Recommendations by the Vojvodina Ombudsman*

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1. Recommendation to the Town Assembly of Novi Sad, Department of Culture of Novi Sad, no. I-NM-1-54/11, dating at 28.02.2012.
2. Recommendation to the Town Assembly of Zrenjanin, Town Administration Office of Zrenjanin, Department for Social Affairs, Department for Education, Culture, Health and Other Social Affairs, no. I-NM-1-54/11, dating at 28 February 2012.
3. Recommendation to the Town of Subotica, Assembly of Subotca, Town Administration Office of Subotica, Secretariat for Social Affairs, Department for Primary and Secondary Education, Students, Culture, Publicity, Physical Education and Sports no. I-NM-1-54/11, dating at 28 February 2012.
4. Recommendation to the Municipality of Senta, Assembly of the Municipality of Senta, Cabinet of the Mayor, no. I-NM-1-54/11, dating at 15 May 2012.
5. Recommendation to the Historical Archive in Pancevo, Assembly of Pancevo no. I-NM-1-54/11, dating at 10 May 2012.

## ANNEX 3

### List of the published interviews

1. Municipality of Priboj  
Date: 9 January 2013  
Interviewee: Mr. Lazar Rvović, Mayor of Priboj
2. Municipality of Sjenica  
Date: 10 January 2013  
Interviewee: Mr. Mustafa Baltić, President of the Assembly of Sjenica
3. Municipality of Tutin  
Date: 17 January 2013  
Interviewees: Ms. Edita Dazdarević, Chief of the Cabinet and the Secretary of the Town Council with associates
4. Municipality of Prijepolje  
Date: 9 January 2013  
Interviewees: Emir Hašimbegović, Mayor of Prijepolje, Hanka Hajdarević, Head of the Administration Office
5. Town of Novi Pazar  
Date: 20 January 2013  
Interviewee: Dr Fevzija Murić, Assistant to Mayor
6. Bosniak National Council  
Date: 20 January 2013  
Interviewee: Mr. Esad Džužević, President of the Council
7. Municipality of Senta  
Date: 23 January 2013  
Interviewee: Head of Municipality Administration Office, Ms. Marija Pastor with associates

8. Town of Subotica  
Date: 28 January 2013  
Interviewees: Ms. Marija Ušumović Davčik, Head of the Town Administration Office of Subotica, Mr. Horvat Franjo, Secretary for Social Affairs, Ms. Katarina Čović, Head of the Department of Primary and Secondary Education, Students, Culture, Publicity, Physical Education and Sports
9. Town of Novi Sad  
Date: 31 January 2013  
Interviewees: Ms. Vesna Srdanov, Town Administration Office of Novi Sad with associates
10. Hungarian National Council  
Date: 31 January 2013  
Interviewee: Žolt Varkonji, President
11. Town of Zrenjanin  
Date: 7 February 2013  
Interviewees: Ms. Dubravka Bengin Bulović, member of the Town Assembly, Ms. Stana Rajić, Town Administration Office of Zrenjanin
12. Ministry of Internal Affairs  
Date: 24 January 2013  
Interviewee: Ms. Jasmina Vasiljević, Head of the Bureau for Information of Public Importance with associates
13. Ministry of Education, Science and Technological Development  
Date: 24 January 2013  
Interviewee: Ms. Vesna Acković, Counsellor at the Ministry of Education, Science and Technological Development
14. Ministry of Justice  
Date: 12 February 2013  
Interviewee: Ms. Jasmina Benmansur, Assistant to the

Minister – Department for Birth Registries and Realisation  
of the Freedom of Association

15. Police Station of Bujanovac  
Date: 18 February 2013  
Interviewee: Ms. Sonja Arsić, PS Bujanovac
16. Albanian National Council  
Date: 18 February 2013  
Interviewee: Galip Bećiri, President of the Council







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