

Special Edition

Law on Protection of Rights and Freedoms of National Minorities



**In the Eve of Ratification of the Law Amending the Law on
Protection of Rights and Freedoms of National Minorities**

EDITORIAL

DAY BY DAY, IN EVERY WAY, I AM GETTING BETTER AND BETTER

(Emile Coue)

After years of expectations, announcements, and big hopes, amendments to one of the two principal minority policy laws is entering the ratification procedure at the Serbian Assembly. The Draft Law Amending the Law on Protection of Rights and Freedoms of National Minorities was prepared in less than a month in November 2016. During an unusually short public debate, which formally lasted from December 8 to December 28, 2016, regulatory bodies, national minority councils, experts, and civil society had put together a number of comments and proposals, including a totally new draft law, and submitted them to the Ministry in charge by the set deadline. However, of couple of hundreds of comments and suggestions, only two have been accepted, the one on setting a specific 90 day deadline for the local self governments to decide on a request for introducing a minority language as an official language, and the other one, which envisages curricular and extracurricular activities on history, culture, and tradition of the national minorities and replaces the word "coexistence" with the word "interculturalism".

As expected, reactions of the participants in the public debate to such an outcome were rather negative, with comments that this was another evidence of the absence of a genuine desire of the institutions to secure an inclusive process, and that, as it had been the case in the past, what should have been a truly democratic process was degraded instead to a mere lip service and pro-forma procedures. To this end, the public debate was only a final act of the process, which had, from the very start, focused more on the form and not the substance.

The Rationale on the reasons that require the amendments to the Law is one more brick in the wall of the aforementioned criticism. The Rationale points to the need to harmonize the Law formally with the changes in the legal system of Serbia made since 2002, namely with the Constitutional changes that were necessitated by the independence of Serbia in 2006 and the subsequent changes of the systematic laws. As special reasons, the Rationale also states that the amendments are required in line with the provisions and

timetables set by the Minority Action Plan for Chapter 23, and due to the need to introduce penalty provisions in the Law. What should have been the primary reason for the amendments from the very start - further promotion of the position of the national minorities in the Republic of Serbia and the change of the existing segregational model of multiculturalism - has been overshadowed by the insistence on a formal and not substantial aspect of the reasons for the change.

In light of the expected Constitutional changes, the explanation that it is necessary to change the law in order to harmonize it with the other changes in the legal system of Serbia calls into question the sequence of steps in this process, and one of the comments of the participants in the public debate was that it would be more logical to wait for the new Constitution to have been ratified and then amend the Law at hand. The position of the expert groups is that insistence on amending this law before the completion of the announced Constitutional changes in order to meet the deadlines set by the Minority Action Plan is continuation of an unsystematic approach in the reforms of the legal framework, which have been, up to now, frequently done in reverse order, starting from the tail and wagging the dog along the way, with endless changes, additions, and unsuccessful harmonization attempts in this process.

One of the most criticized issues during the public debate was also the hierarchy of the law, as the draft gives higher precedence to the general sector laws, whereas the national minority councils, expert groups, and the civil society are strong proponents of the higher precedence of the minority legislation. Inadequate access to the right for democratic participation is criticized, too, as the draft law keeps this right out of reach for majority of the national minority communities, other than those with large population, and, in practice, makes them hostages of the will of the big political parties of the majority community.

There is no question that the position of the national minorities in Serbia has improved substantively since 2002, when the Law, which is now subject to change,

was ratified. The communication of the national minorities with the state and its institutions has been enhanced, too. Understandably, it is difficult to make everyone happy and meet all requests, since individual minority communities naturally have their own priorities, which are not necessarily seen as a common interest by other national minorities. And there are also interests of the state and its institutions that time and again reduce the participation of the national minorities in the legislative process to window-dressing and set unrealistic deadlines, perceiving the achieved through rose-colored glasses and idealizing the results. Regrettably, the process of amending the Law on the Protections of Rights and Freedoms of National Minorities is not an exception in this regard.

As Prime Minister Brnabić said in Brussels couple of weeks ago, it is not the speed but the quality of the reform process that is important in Serbia's accession to the EU. In the case of the reform of the minority legislation, which has been only formally inclusive, this approach has obviously not been thoroughly applied, since the process of consultations and public debate was unusually – and, as it seems, unjustifiably – hastily wrapped up. Still, eleven months later, the Draft Law, the quality of which is severely questioned by the key stakeholders, is still pending ratification by the Serbian Assembly.

And it is exactly the highest legislative body of our state that holds the last line of defense for the honor of this Draft Law, as amendments could somewhat improve what is possible to be improved in the Draft. The deputies from the ranks of the national minorities readily await the beginning of the debate, determined to use strong arguments to pave the way to the numerous amendments they have prepared for this Draft, the same way they have tried many times thus far in the case of other laws of importance for the national minority communities. Whether the percentage of accepted amendments presented by the deputies who represent the national minorities will be again statistically insignificant as it has been the case thus far - is yet to be seen.

DRAFT LAW AMENDING THE LAW ON THE PROTECTION OF RIGHTS AND FREEDOMS OF NATIONAL MINORITIES

Article 1

In the text of the Law on the Protection of Rights and Freedoms of National Minorities (Official Gazette of FRY, No. 11/02, Official Gazette of Serbia and Montenegro, No. 1/03 – Constitutional Charter and Official Gazette of RS, No. 72/09 – new law and 97/13- Constitutional Court), Article 1 Paragraph 1 shall be amended as follows:

“This Law shall govern the manner of exercising individual and collective rights guaranteed to national minorities under the Constitution of the Republic of Serbia and the ratified international treaties.”.

Paragraph 2 shall be amended as follows:

“This Law shall further govern the protection of national minorities from any form of discrimination in the exercise of their rights and freedoms and shall provide for the exercise of the right of national minorities to self-government in culture, education, information and official use of languages and alphabets.”.

A new Paragraph 3 shall be inserted after Paragraph 2, with the following wording:

“Rights of national minorities shall also be exercised in accordance with the law which governs the status of national councils of national minorities and on the basis of other separate laws that govern specific areas of social life relevant for national minorities.”.

The current Paragraph 3 shall become Paragraph 4 and shall be amended as follows:

“Provincial regulations may provide for additional rights of members of national minorities, in accordance with

the Constitution and on the basis of the law.”.

Article 2

In Article 2 Paragraph 1, the wording “the Federal Republic of Yugoslavia” shall be replaced with the wording “the Republic of Serbia”.

Article 3

In Article 3 Paragraph 1, after the wording “linguistic” a comma and the wording “religious and any other” shall be inserted, and after the wording “against” the wording “national minorities and” shall be inserted.

In Paragraph 2, the wording “federal” shall be deleted and the wording “city and municipal” shall be replaced with the wording “local self-government”.

Article 4

In Article 4, Paragraph 1 shall be amended as follows:

“Public authorities of the Republic of Serbia may, in accordance with the Constitution and the law, pass regulations and individual legal instruments and undertake measures to ensure full and effective equality for national minorities and members of national minorities who are essentially in an unequal position in relation to other citizens.”

In Paragraph 2, the wording „shall pass“ shall be replaced with the wording “shall be passing”.

Paragraph 3 shall be amended as follows:

“Measures to promote full and effective equality in employment or benefits in case of termination of em-

ployment in the public sector at all levels of territorial organisation specified under the provisions of the separate laws which govern the labour law status of public sector employees shall not be considered discrimination if such measures are applicable until appropriate representation of members of national minorities set out by those laws is achieved.”.

New Paragraphs 4 and 5 shall be inserted after Paragraph 3 as follows:

“The Republic of Serbia shall ensure the conditions for efficient participation of members of national minorities in the political life, representation of members of national minorities in the National Assembly and proportional representation of national minorities in the assemblies of autonomous provinces and local self-government units, in accordance with the law.

The Republic of Serbia shall undertake appropriate measures to improve the financial situation of underdeveloped areas where members of national minorities traditionally live.”.

Article 5

In Article 5 Paragraph 1 shall be amended as follows:

“In accordance with freedom of expression of ethnicity guaranteed under the Constitution of the Republic of Serbia, no person shall suffer damage for expressing his/her ethnicity or for refraining from doing so.”.

New Paragraphs 3 and 4 shall be inserted after Paragraph 2 as follows:

“Members of national minorities who wish to do so shall have the right to have information on their ethnicity entered in the official records and

personal data files, where this is provided for by a separate law.

The information on registration referred to in Paragraph 3 of this Article can be used for the purposes and in the manner specified by a special law."

The current Paragraph 3 shall become Paragraph 5.

Article 6

In Article 6 Paragraph 1, the wording "the Federal Republic of Yugoslavia" shall be replaced with the wording "the Republic of Serbia".

Paragraph 2 shall be amended as follows:

"Special benefits may be provided for the purpose of exercising the right referred to in Paragraph 1 of this Article."

Article 7

In Article 7 Paragraph 1 shall be amended as follows:

"Any abuse of rights provided under this Law aimed at violent subversion of the constitutional order, violation of territorial integrity of the Republic of Serbia, violation of human and minority rights and freedoms guaranteed under the Constitution and provoking and inciting of racial, ethnic and religious hatred and intolerance shall be prohibited."

In Paragraph 2, the wording "shall not" shall be replaced with the wording "shall not". (Note: this is a change of the word order in the Serbian language and does not concern the English translation of the Law)

In Paragraph 3, the wording "guaranteed" shall be replaced with the wording "regulated".

Article 8

Article 8 shall be amended as follows:

"This Law shall not decrease the achieved level of minority rights guaranteed under the Constitution, generally accepted rules of the international law and ratified international

treaties."

Article 9

In Article 11 Paragraph 2 shall be amended as follows:

"Local self-government units shall provide for the equal official use of a language and an alphabet of a national minority in their Statutes if the percentage share of members of that national minority in the total population reaches 15% in their territory according to the results of the most recent census. Local self-government units shall provide for the official use of such languages and alphabets of national minorities within 90 days of the date when it is determined that the applicable statutory requirement is met."

Paragraph 6 shall be amended as follows:

"In the settlements within in local self-government units, the territory of which is determined in accordance with the law providing for territorial organisation of the Republic of Serbia, where the share of a specific national minority in the total population of that settlement is at least 15% according to the most recent census, the names of bodies with delegated public powers, local self-government units, settlements, squares and streets and other toponyms shall also be written in the language of such national minority, in accordance with its tradition and orthography, even if the language of such national minority is not officially used in the territory of the local self-government unit in accordance with Paragraph 2 of this Article."

A new Paragraph 7 shall be inserted after Paragraph 6 with the following wording

"Assemblies of local self-government units shall identify the settlements referred to in Paragraph 6 of this Article in their statutes, taking into account the traditional population distribution of members of a national minority and a previously obtained opinion of the relevant national council."

In the current Paragraph 7, which shall become Paragraph 8, the wording "the Federal Republic of Yugoslavia" shall be replaced with the wording

"the Republic of Serbia", and the wording "federal authorities" shall be replaced with the wording "national authorities".

After the current Paragraph 7, which will become Paragraph 8, a new Paragraph 9 shall be inserted, with the following wording:

"Members of a national minority who account for less than 2% of the total population of the Republic of Serbia according to the most recent census may address national authorities in their language and shall have the right to receive a reply in that language through a local self-government unit where the language of that national minority is in official use, in which case the local self-government unit provides translation and bears expenses of translation of communications sent to national authorities and replies of those authorities."

The current Paragraph 8, which shall become Paragraph 10, shall be amended as follows:

"Members of parliament who are members of national minorities which account for minimum 2% of the total population of the Republic of Serbia according to the most recent census shall have the right to speak in their languages on the floor of the National Assembly."

A new Paragraph 11 shall be inserted after Paragraph 10, with the following wording:

"The National Assembly shall ensure conditions for the exercise of the right provided for in paragraph 10 of this Article and shall regulate in detail the manner of exercise of that right by an enactment."

Article 10

After Article 11, new Articles 11a and 11b shall be inserted, with the following wording:

"Publishing of Laws in Languages of National Minorities

Article 11a

The ministry responsible for the ex-

exercise of rights of national minorities (hereinafter referred to as “the Ministry”) shall arrange for the translation and shall publish collections of consolidated texts of the most important laws of the Republic of Serbia the scope of which wholly or mainly relates to the exercise of rights of national minorities.

The Ministry shall also make the laws referred to in Paragraph 1 of this Article available electronically, on its official website and on the e-Government portal, and shall, subject to mutual agreement, provide national councils of national minorities with a certain number of collections of consolidated texts of the laws referred to in Paragraph 1 of this Article.

The Ministry shall inform the Council for National Minorities periodically or whenever necessary about the publishing of the laws referred to in Paragraph 1 of this Article.

Notwithstanding Paragraph 1 of this Article, national councils of national minorities may file a petition with the relevant ministry, outlining why this would be of particular importance for the exercise of rights and freedoms of national minorities, in order to obtain the translation and arrange for the publishing of a collection of consolidated texts of certain laws within its purview which contain provisions pertaining to the exercise of rights of national minorities or which govern social relations that are of particular importance for national minorities.

If the relevant ministry accepts such petition filed by a national council of national minorities, the ministry shall also make the laws referred to in Paragraph 4 of this Article available electronically on its official website and on the e-Government portal and shall, subject to mutual agreement, provide national councils of national minorities with a certain number of collections of consolidated texts of the laws referred to in Paragraph 4 of this Article.

When deciding on the petitions referred to in Paragraph 4 of this Article, specific considerations that must be taken into account shall include the availability of budget funds and

whether there are plans to amend the existing law or to enact a new law to replace the one for which translation or publishing is requested within one year of filing of such petitions by national councils of national minorities.

The relevant ministry shall inform the Council for National Minorities of actions under Paragraphs 4-6 of this Article.

Article 11b

Regulations of autonomous provinces shall be published in the languages of national minorities in accordance with the statutes and general enactments of autonomous provinces.

Regulations of local self-government units shall be published in the languages of national minorities according to the statutes and general enactments of local self-government units, as provided by the law.”.

Article 11

In Article 12, Paragraph 3 shall be amended as follows:

“Institutions, societies and associations referred to in Paragraph 2 of this Article shall be independent in the performance of their activities. The state, autonomous provinces and local self-government units may participate in the funding of societies and associations of national minorities.”.

In Paragraph 4, the number “5” shall be replaced with the number “3”.

Paragraph 5 shall be amended as follows:

“Museums, archives and institutions for the protection of cultural monuments founded by the state, autonomous provinces or local self-government units shall arrange for the presentation and protection of cultural and historic heritage of particular importance for national minorities in the respective territories they serve. Members of national councils of national minorities shall participate in deciding on the manner of presentation of cultural and historic heritage identified as heritage of particular importance for those national minorities in ac-

cordance with the provisions of a separate law.”.

A new Paragraph 6 shall be inserted after Paragraph 5, with the following wording:

“Cultural institutions founded by local self-government units considered to be ethnically mixed local self-government units within the meaning of the law governing local self-government shall arrange for amenities, measures, activities or events in their programmes to preserve and promote the cultural identity and tradition of the national minorities that traditionally live in their territories.”.

Article 12

In Article 13 Paragraph 1, after the wording “language” a comma and the wording “and speech” shall be inserted and the wording “institutions” shall be replaced with the wording “institutes” .

Paragraph 2 shall be deleted.

The current Paragraphs 3-7 shall become Paragraphs 2-6.

In the current Paragraph 3, which shall become Paragraph 2, the wording “Paragraphs 1 and 2” shall be replaced with the wording “Paragraph 1.”

The current Paragraph 6, which shall become Paragraph 5, shall be amended as follows:

“National councils of national minorities shall participate in the preparation of curricula for subjects which reflect the identity of national minorities in the languages or speech of national minorities, bilingual classes and learning of languages of national minorities with elements of national culture, in accordance with the regulations which govern the adoption of curricula for national minorities.”.

The current Paragraph 7 shall become Paragraph 6 and shall be amended as follows:

“To promote mutual tolerance between national minorities and the majority population and to ensure interculturality, curricular and extracurricular

activities relating to the history, culture and position of national minorities in the Republic of Serbia shall be implemented in primary and secondary education.”.

Article 13

Article 14 shall be amended as follows:

“For the purpose of education in the languages of national minorities referred to in Article 13 Paragraph 1, development of study programmes for pre-school teachers and teachers in the languages of national minorities shall be supported within higher education, in accordance with the law governing higher education.

Higher education institutions may provide instructorship in languages of national minorities where students who are members of national minorities can learn expert terminology also in the language of the respective national minority.

The state, provinces and local self-government units may assist in the professional training of teachers for the education referred to in Paragraph 1 of this Article.

The state shall promote international cooperation in order to provide an opportunity for members of national minorities to study abroad in their mother tongue and thus ensure the recognition of their diplomas.”.

Article 14

In Article 15 paragraph 2 shall be amended as follows:

“Domestic and foreign organisations, foundations and private persons may participate in the funding of the institutions referred to in Paragraph 1 of this Article and in the provision of funds to improve the quality of education in the languages of national minorities in institutions founded by the state, autonomous provinces or local self-government units, in accordance with the law.”.

Article 15

In Article 16, in paragraph 3, the

wording “Federal Council” shall be replaced with the wording “Council”.

Paragraph 4 shall be amended as follows:

“Symbols and signs of national minorities may, after publication of a decision on their recognition by the Council for National Minorities, be officially displayed during public holidays of the Republic of Serbia and the recognised holidays of national minorities on the buildings and in the offices of local authorities and organisations with delegated public powers in the territories where languages of national minorities are in official use, in the manner specified in the decision on recognition of the symbols.”.

Paragraph 5 shall be amended as follows:

“The national flag and the lesser coat of arms of the Republic of Serbia shall be displayed together with the signs and symbols of national minorities during the celebration of public holidays of the Republic of Serbia, in the manner specified by the law which governs the appearance and use of national symbols of the Republic of Serbia.”.

After Paragraph 5, Paragraphs 6 and 7 shall be inserted, with the following wording:

“The national flag and the lesser coat of arms of the Republic of Serbia shall be displayed together with the signs and symbols of national minorities during the celebration of recognised holidays of national minorities, in the manner specified by the law which governs the appearance and use of national symbols of the Republic of Serbia.

Symbols of national minorities may be displayed at entrances to the offices of national councils throughout the year in an appropriate manner together with the national symbols of the Republic of Serbia.”.

Article 16

In the heading of Article 18, the wording “Federal Council” shall be replaced with the wording “Council”.

Article 18 shall be amended as follows:

“Article 18

The Government shall establish the Council for National Minorities (hereinafter referred to as “the Council”) as a permanent working body of the Government to preserve, improve and protect the national, ethnic, religious, linguistic and cultural identity of members of national minorities and to ensure exercise of their rights.

The Council shall have the following tasks: monitoring and considering the situation concerning the exercise of rights of national minorities and the situation in interethnic relations in the Republic of Serbia; proposing measures to promote full and effective equality of members of national minorities; monitoring cooperation between national minorities and public authorities and authorities of autonomous provinces and of local self-government units; reviewing conditions for the operation of national councils of national minorities and proposing measures in that field; monitoring compliance with international commitments of the Republic of Serbia in the field of exercise of rights of national minorities; reviewing international agreements on the position of national minorities and protection of their rights when such agreements are being signed; reviewing draft laws and other regulations of relevance for exercise of rights of national minorities and providing opinions in that regard to the Government and recognition of symbols, signs and holidays of national minorities at the proposal of national councils of national minorities.

Members of the Council shall be the heads of public administration authorities and the Government’s services in charge of issues that are relevant for the status of national minorities and presidents of national councils of national minorities.

The Government shall appoint members of the Council by a decision and shall designate a public administration body or a service of the Government responsible for providing expert, administrative and technical support to the Council.”

Article 17

Article 19 shall be amended as follows:

“Members of national minorities may elect national councils for the purpose of exercising the right to self-government in culture, education, information and official use of languages and scripts guaranteed under the Constitution.

National councils shall represent national minorities in culture, education, information and official use of languages and alphabets, shall participate in deciding or decide on certain issues in these fields and shall form institutions in these fields.

National councils shall have the status of legal entities.

National councils shall be based on the principles of voluntariness, electiveness, proportionality and democracy.

The powers, the election procedure, funding arrangements and other issues of relevance for operations of national councils shall be governed by a separate law.”.

Article 18

In the heading of Article 20, the wording “Federal” shall be replaced with the wording “Budget”.

Article 20 shall be amended as follows:

“Article 20

Funding of programmes and projects in the field of culture, education, information and official use of languages and alphabets of national minorities from the Budget Fund for National Minorities shall be governed by a separate law.”.

Article 19

The heading of Article 21 and Article 21 shall be deleted.

Article 20

The heading of Article 23 and Article 23 shall be deleted.

Article 21

After Article 22, a new Part Six with Articles 22a-22c shall be inserted as follows:

„Part Six

PENAL PROVISIONS

Article 22a

A fine in the amount between RSD 50,000 and RSD 100,000 shall be imposed for an infringement on a responsible officer in an authority or an organisation with delegated public powers if the name of the authority or the organisation is written in violation of the provisions of Article 11 Paragraphs 5 and 6 of this Law.

A fine in the amount between RSD 200,000 and RSD 1,500,000 shall be imposed for economic infraction on an organisation authorised to place traffic signs and plates with names of cities/towns which acts in violation of Article 11 Paragraphs 5 and 6 of this Law.

A fine in the amount between RSD 50,000 and RSD 100,000 shall also be imposed on a responsible officer in the organisation referred to in Paragraph 2 of this Article for economic infraction referred to in Paragraph 2 of this Article.

Article 22b

A fine in the amount between RSD 500,000 and RSD 2,000,000 shall be imposed on a legal entity which:

1) Officially or publicly presents, displays or uses symbols and signs of another country as symbols and signs of a national minority;

2) Officially or publicly uses a name of a holiday of a national minority, which has not been recognised by the Council for National Minorities

and published in the Official Gazette of the Republic of Serbia.

A fine in the amount between RSD 50,000 and RSD 150,000 shall also be imposed on a responsible officer in a legal entity for the infringement referred to in Paragraph 1 of this Article.

Article 22c

A fine in the amount between RSD 50,000 and RSD 150,000 shall be imposed for an infringement on the responsible officers in local self-government authorities and organisations with delegated public powers founded by local self-government units or legal entities if:

1) Symbols and signs of national minorities are not displayed or are displayed contrary to the provisions of Article 16 Paragraph 4 of this Law;

2) Signs and symbols of the Republic of Serbia are not displayed together with signs and symbols of national minorities in official use referred to in Article 16 Paragraph 4 of this Law.”.

The current Part Six shall become Part Seven.

Article 22

Names of authorities with delegated public powers, names of local self-government units, towns and cities, squares and streets and other toponyms shall be written in accordance with Article 9 of this Law until 1 January 2018 at the latest.

Article 23

Assemblies of local self-government units shall identify the settlements referred to in Article 9 of this Law within six months of the date when this Law enters into force.

Article 24

This Law shall enter into force on the eighth day of its publication in the Official Gazette of the Republic of Serbia.

RATIONALE

I. CONSTITUTIONAL BASIS FOR RATIFICATION OF THE LAW

The constitutional basis for the adoption of the Law Amending the Law on the Protection of the Rights and Freedoms of National Minorities is contained in Article 14, Art. 75-81. and Article 97, Paragraph 2 of the Constitution of the Republic of Serbia.

Article 14 of the Constitution stipulates that the Republic of Serbia protects the rights of national minorities and that the state guarantees special protection to national minorities in order to achieve full equality and preserve their identity.

The constitutional principle of Article 14 is normatively elaborated in Art. 75-81. In addition to the rights guaranteed by the Constitution to members of national minorities, additional rights, individual or collective rights are guaranteed (Article 75, paragraph 1), guaranteed equality before the law, prohibition of discrimination and the possibility of introducing special regulations and temporary measures to achieve full equality (Article 76), guaranteed right to participate in the management of public affairs and to enter public functions under the same conditions as other citizens, with the prescribed obligation of the employment agencies, public services, autonomous province authorities and local self-government units to take into account the national composition of the population and the adequate representation of members of national minorities (Article 77), the prohibition of violent assimilation (Article 78), guaranteed rights to preserve specific features in accordance with law (Article 79), right to association and cooperation with compatriots (Article 80) and the prescribed obligation of the state to encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and cooperation among all people living on its territory, regardless of their ethnic, cultural, linguistic or religious identity (Article 81).

Article 97, paragraph 2 of the Constitution, *inter alia*, stipulates that the Republic of Serbia shall regulate and ensure the exercise and protection of the freedoms and rights of its citizens.

II. REASONS FOR THE RATIFICATION OF THE LAW

The reasons for adopting this Law are reflected in the need to harmonize the Law on the Protection of the Rights and Freedoms of National Minorities with the changes that followed in the legal system of our country after its adoption in 2002, as well as in adapting individual solutions to the real needs of improving the position of national minorities in the Republic of Serbia and further development of policies in the field of their protection. Having in mind the historical significance of the Law on the Protection of the Rights and Freedoms of National Minorities, which, for the first time in the legal system of our country, envisaged a series of progressive solutions that greatly improved the position of national minorities (definition of the concept of a national minority, the application of affirmative measures, the right to self government through national councils of national minorities, etc.), which have not lost on its actuality, the proposer stands at the position that it is not necessary to pass a new law that would regulate the subject matter in its entirety.

The Law on the Protection of the Rights and Freedoms of National Minorities was adopted by the Federal Assembly of the FR of Yugoslavia in 2002. Since the adoption of the law, two significant constitutional changes followed - in 2003, the State Union of Serbia and Montenegro was created, and in 2006 the Constitution of the Republic of Serbia was ratified, with a number of systemic laws adopted that regulate social relations in a comprehensive way, including the areas of social life that are of particular importance for the protection of national minorities. In that sense, it is necessary, both *nomotechnically* and *content-wise*, to make concessions, or to harmonize a series of solutions contained in the provisions of the Law on the Protection of the Rights and Freedoms of National Minorities with the provisions of the Constitution of the Republic of Serbia, as well as the corresponding solutions contained in the systemic laws.

The real needs of improving the position of national minorities in the Republic of Serbia and further development of the policy in the area of their protection require amendments to the Law on the Protection of the Rights and Freedoms of National Minorities, which would create a legal basis for further legislative regulation of measures for the promotion of full and effective equality in order to achieve adequate representation of members of the national minorities in the public sector, as well as for exercising the rights to enter data on national affiliation into official records and collections of personal data. Also, the real needs of improving the position of national minorities in the Republic of Serbia and the further development of their protection policy imposes the need to amend the Law on the Protection of the Rights and Freedoms of National Minorities that would more precisely regulate certain aspects of the official use of the language and alphabet of national minorities and the right to choose and use national symbols and signs. Special reasons for the amendments to the Law on the Protection of the Rights and Freedoms of National Minorities are contained in the need to ensure consistent compliance and effective implementation of legal provisions by penal and other appropriate transitional provisions. It is important to note that the need for amendments to the Law on the Protection of the Rights and Freedoms of National Minorities has been identified by the Action Plan for the Execution of the Rights of National Minorities adopted by the Government of the Republic of Serbia on the basis of the Action Plan for Negotiating Chapter 23 and defined by the Republic of Serbia for the strategic improvement of the institutional and the legislative framework in the area of human and minority rights.

III EXPLANATION OF INDIVIDUAL SOLUTIONS

Article 1 of the Draft Law changes the first Paragraph of Article 1 of the Law on the Protection of the Rights and Freedoms of National Minorities, which is necessary in order to align

the provisions of the Article with the constitutional solutions, as the Constitution does not “guarantee” minority rights and freedoms, since the guarantees of the rights enjoyed by members of minorities under international treaties can only be those provided for by ratified international treaties which, according to the Constitution, form an integral part of the internal legal order. It is also envisaged to change the Paragraph 2 of the Article, which stipulates that the subject of the Law is the provision of the exercise of the rights of national minorities to self-government in culture, education, information and official use of languages and alphabet, a solution that is more in the spirit of constitutional provisions, given the fact that the part of the existing provision, which envisages that the Law establishes the instruments to ensure and protect the special rights of national minorities to self-government, has been made obsolete by the adoption of the Constitution which explicitly provides for not only the right to minority self-government in the defined areas of social life, but also for the establishment of national councils as an institutional expression of the right to self-government. Article 1 of the Draft Law also supplements Article 1 of the Law by adding a new Paragraph 3, which stipulates that the rights of national minorities are exercised not only based on the Law on the Protection of the Rights and Freedoms of National Minorities, but also in accordance with the Law on National Councils of National Minorities, as well as on the basis of other special laws governing certain areas of social life that are of importance for the national minorities. For instance, this is due to the fact that the matters of election and competences of the national councils of national minorities are regulated by a special law, and the fact that there are specific laws governing the manner of exercising the constitutionally guaranteed rights in certain areas of social life. The Draft Law also provides for the amendment of Paragraph 3 of the Law, which becomes paragraph 4. by requiring the provincial regulations to establish additional rights of persons belonging to national minorities, in accordance with the Constitution, and based on the law, which is a decision that is harmonized with the corresponding provision of Article 79, Paragraph 2, of the Constitution.

Article 2 of the Draft Law shall be amended by replacing the words “Fed-

eral Republic of Yugoslavia” with the words “Republic of Serbia”, without changing the substance and meaning of the provision of Article 2, Paragraph 1 of the Law.

Article 3 of the Draft Law supplements Article 3, Paragraph 1 of the Law, prohibiting discrimination of not only the members of national minorities, but also of minorities as collectivities, and the prohibited grounds of discrimination have been extended to include religious and every other discrimination. The same article also provides for the amendment of Paragraph 2 of Article 3 of the Law, because in accordance with the constitutional provisions, the word “federation” and the words “city and municipalities” are to be replaced with the constitutional term “units of local self-government”.

Article 4 of the Draft Law envisages amendments to Article 4 of the Law. Firstly, there is an amendment to Paragraph 1 of the Article, which provides that the beneficiaries of the measures for the promotion of full and effective equality and the conditions for taking such measures are determined in accordance with the relevant constitutional arrangements. The same Article prescribes linguistic corrections in paragraph 2. whereas by an essential amendment to Paragraph 3 it is foreseen that it will not be considered as discrimination to promote full and effective equality in employment, or benefits in case of termination of employment in the public sector at all levels of territorial organization, which are prescribed by the provisions of special laws governing the labor and legal status of employees in the public sector, if such measures are applicable to attaining the appropriate representation of members of national minorities established by these laws. The aforementioned provision creates a legal basis for further legislative regulation of measures to promote full and effective equality in order to achieve adequate representation of members of national minorities in the public sector, where it is clearly stipulated that such measures will have a temporal character, that is, they will be valid until achieving adequate representation which must be defined by the provisions of these laws.

This Article also supplements Article 4 of the Law, by adding new Paragraphs 4 and 5, which, in accordance with the Constitution, in principle stipulate that the Republic of Serbia, in accordance with the law, will provide the conditions for the effective participation of mem-

bers of national minorities in political life, the representation of members of national minorities in the National Assembly of the Republic of Serbia and the proportional representation of national minorities in assemblies of autonomous provinces and local self-government units, and it will also take appropriate measures to improve the economic position of underdeveloped areas traditionally inhabited by members of national minorities.

Article 5 of the Draft Law changes and amends Article 5 of the Law, first by Paragraph 1 in terms of terminology, in accordance with Article 47 of the Constitution, guaranteeing the freedom of expression of nationality, and then adding new Paragraphs 3 and 4, regulating the right of members of national minorities, who wish to enter data on their nationality into official records and collections of personal data. The information on the registration of a nationality may be used for purposes and in the manner provided for by special legislation. The set provisions create a legal basis for the special laws to provide for the possibility of entering the data on national affiliation in the appropriate official records and collections of personal data, which would be important in creating policies and measures for improving the full and effective equality of members of national minorities.

Article 6 of the Draft Law changes the Article 6 Paragraph 1 by replacing the words “Federal Republic of Yugoslavia” with the words “the Republic of Serbia”, while in Paragraph 2 the nomotechnical adjustment is carried out, without changing the substance and the meaning of the provision.

Nomotechnical adjustment without changing the essence and meaning of the provisions was also made by Article 7 of the Draft Law amending the Paragraph. 1-3. of Article 7 of the Law.

Article 8 of the Draft Law changes Article 8 of the Law, in line with the provisions of Article 20, Paragraph 2 of the Constitution.

Article 9 of the Draft Law changes the certain positions, as well as the amendment of Article 11 of the Law. Paragraph 2 of this Article is in line with the corresponding solutions contained in the Law on the Official Use of Languages and Alphabets (“Official Gazette of the Republic of Serbia”, No. 45/91, 53/93, 67/93 and 48/94), because it is envisaged that it is obligatory for the units of local self-government, when the legal requirements are ful-

filled, to introduce the language and the alphabet of the national minority in equal official use with its statute. Also, a new solution was introduced according to which the obligation of the local self-government unit is specified by anticipating that the language and the alphabet of the national minority are to be introduced in official use no later than 90 days from the determination of compliance with the statutory requirements. The same Article of the Draft Law provides for the amendment of Paragraph 6. The prescribed amendment creates the basis for further improvement of the position of national minorities in the Republic of Serbia and the development of policies in the area of their protection through the regulation of certain aspects of the use of languages and alphabets of national minorities. This provision stipulates that in settlements in local self-government units, whose territory is determined in accordance with the law governing the territorial organization of the Republic of Serbia, in which the percentage of members of a particular national minority in the total number of inhabitants in the territory of the populated place reaches 15% according to the results of the last census, the names of local self-government units, settlements, squares and streets and other toponyms, shall also be displayed in the language of the respective national minority, in line with its tradition and orthography, and even in the event that the language of the national minority is not in the official use in the territory of the local government. Such a solution consistently allows the use of the language of national minorities in environments where their participation in the total population is more significant. The same Article of the Draft Law provides for the introduction of a new Paragraph 7, according to which the assembly of the local self-government unit will define the list of such settlements with the statute, having in mind the traditional population of members of the national minority and the previously obtained opinion of the national minority council. Also, the same Article of the Draft Law stipulates that in the current Paragraph 7, which becomes Paragraph 8, the necessary replacement of the word: "Federal Republic of Yugoslavia" with the words "Republic of Serbia" is made, as well as the words "federal authorities" by the words "republic authorities". Also, this article of the Draft Law envisages the addition of a new Paragraph

9, which, in accordance with the Law on the Official Use of Languages and Alphabets, stipulates that members of national minorities whose number in the total population of the Republic of Serbia does not reach 2% according to the last the population census can address the Republic authorities in their own language and have the right to receive an answer in that language through a local self-government unit in which the language of that national minority is in official use. This Article of the Draft Law also provides that the previous Paragraph 8, which now becomes Paragraph 10, shall be amended to prescribe that a national MP belonging to a national minority whose number in the total population of the Republic of Serbia reaches at least 2% according to the latest census, has the right to address the National Assembly in his/her own language. The same Article of the Draft Law was supplemented by the addition of a new Paragraph 11, which contains the reference norm according to which the National Assembly will provide the conditions for exercising the right of the deputies to speak in their own language.

Article 10 of the Draft Law envisages the amendment of the Law by adding new Articles 11a and 11b that regulate the matter of translation and publishing a collection of consolidated texts of the most important laws of the Republic of Serbia (Article 11a), as well as the publication of the regulations of the autonomous province and the local self-government units in the languages of national minorities 11b). The new Article 11a stipulates that the Ministry in charge of the execution of the rights of national minorities shall ensure the translation and publishing of collections of consolidated texts of the most important laws of the Republic of Serbia, the subject of which is regulated in whole or in the most part referring to the exercise of the rights of national minorities, but also provides for the national minority councils a possibility to submit their proposals to the relevant Ministry, if they are of particular importance for the exercise of the rights and freedoms of the national minority. The relevant Ministry is in charge of translating and publishing of a collection of consolidated texts of certain laws from their legal scope, which contain provisions relating to the exercise of the rights and freedoms of national minorities and regulate social relations that are of particular importance for national minorities. Given provisions

in the internal legislation provide a legal basis for fulfilling the obligation under Article 9, paragraph 3 of the European Charter for Regional or Minority Languages ("Official Gazette of Serbia and Montenegro - International Treaties", No. 18/2005), which was taken and confirmed by translation of the most important national legislation in minority languages, and especially the legislation of interest to the persons who use these languages. The new Article 11b contains provisions according to which the regulations of autonomous regions are published in the languages of national minorities in accordance with the statute and general acts of the autonomous province, while the regulations of local self-government units are published in the languages of national minorities, in accordance with the statute and general acts of local self-government units as provided by the law. The stipulated provisions provide the systematic quality of the solutions in regard to the publishing of the regulations of the province and the local self-government units in the languages of national minorities.

Article 11 of the Draft Law amends Article 12 of the Law. It is envisaged to amend Paragraph 3 of this Article of the Law, which, instead of the existing solutions, providing that it is exclusively the state that provides funding to institutes, societies, and associations of members of national minorities, in accordance with its possibilities, stipulates that, in addition to the Republic, the province and units Local governments can also participate in provision of funding, but only to the societies and associations of national minorities. The solution is in line with the provisions of the systemic laws. Amendments to Paragraph 5, which are also foreseen by this Article of the Draft Law, regulate the substance of the presentation and protection of cultural and historical heritage of national minorities. Instead of the previous decision according to which ensuring the presentation of such a heritage was the sole obligation of museums, archives and institutions for the protection of cultural monuments, founded by the state, as envisaged by Article 10, this obligation is extended to the institutions founded by the provinces and local self-government units, but at the same time specifies that it is a cultural heritage of special importance for national minorities in the territory for which these institutions are competent, while retaining the right of representatives of national

minority councils to participate in decision making on the way such cultural and historical heritage should be fostered. It is also proposed to add a new Paragraph 6, which should prevent the cultural institutions founded by local self-government in nationally mixed communities, to neglect in their activities the cultural needs, the identity and tradition of national minorities traditionally living in that territory. To this end, the new paragraph explicitly stipulates that these institutions in local self-government units, which are considered as ethnically mixed, will provide contents, measures, activities or manifestations in their programs of activities that will preserve and promote the cultural identity and tradition of national minorities traditionally living in these territories.

Article 12 of the Draft Law envisages amendments to Article 13 of the Law regulating the subject of education. First, an amendment to the existing Paragraph 1 is envisaged, according to which, based on the solutions existing in practice, members of national minorities would have the right to education and education in institutions of pre-primary, primary and secondary education in their own language and speech, which allows members of national minorities who do not have a standardized language to study subjects of special importance for the preservation of their identity, as it is the case with the subject of the Mother Tongue with Elements of National Culture. The same Article of the Draft Law also provides for the erasing of the existing Paragraph 2 of Article 13 of the Law, since this provision stipulates the obligation of the state to create conditions for organizing education in the language of the national minority, if, at the time of the ratification of the law, there is no education in the language of a national minority in the public education system. In order to harmonize the solutions contained in the systematic laws regulating the field of education, amendments to the previous Paragraphs 6 and 7 are proposed, to have them become Paragraphs 5 and 6. To this end, it is envisaged that the national minority councils participate in the curriculum development for subjects specific for the study of language and speech of national minorities, bilingual teaching and learning the languages of national minorities with elements of national culture, and that, with the objective of increasing the level of mutual tolerance between national mi-

norities and majority population and interculturalism, programs of extracurricular activities in primary and secondary education on the history, culture and position of national minorities in the Republic of Serbia are to be implemented.

Article 13 of the Draft Law changes the Article 14 of the Law and provides its harmonization with the systemic solutions regulating the field of higher education, especially those guaranteeing the autonomy of higher education institutions. In this regard, it is envisaged that for the purposes of education in the language of national minorities within the framework of higher education, the development of study programs for teachers and educators in the languages of national minorities will be supported, in accordance with the law governing higher education, and that the higher education institutions may organize departments in the languages of national minorities where students of national minorities can master professional terms in the language of the national minority. The same article of the Draft Law specifies the role of the state, the province and the local self-government unit in creating personnel capacities for the needs of elementary and secondary education in the languages of national minorities, through the provisions according to which the republics, provinces and local self-government units can facilitate vocational training of teachers for the needs of such education, and the republic is also promoting international cooperation in order to enable members of national minorities to study abroad in their mother tongue and have the acquired diplomas recognized in Serbia in accordance with the law.

Article 14 of the Draft Law changes the Article 15 Paragraph 2. Instead of the previous decision according to which domestic and foreign organizations, foundations and private persons, in accordance with the law, could participate in the financing of education in the languages of national minorities, which caused some doubts as to the possibility for those entities to participate in the financing of education in public educational institutions, the proposed solution foresees that these entities can participate in the financing of private educational institutions, while in educational institutions founded by the Republic, the autonomous province or local self governments, they can participate in securing funds for higher quality of education in minority lan-

guages.

Article 15 of the Draft Law changes and supplements Article 16, which regulates the right to choose and use national symbols and signs. In Paragraph 3 the word: "Federal Council" shall be replaced by the word: "Council". An amendment to Paragraph 4 is also foreseen to specify that the symbols and signs of national minorities can be officially displayed only after the publication of the decision of the National Minorities Council confirming their use during national holidays of the Republic of Serbia and during confirmed national minority holidays on buildings and in the premises of the local authorities and public institution, not only in areas where the language of the national minority is in official use, but also in other areas identified in the process of confirmation of the use on the symbol. In this way, there are not any uncertainties regarding the official display of the symbol of the national minority prior to publishing of the decision on their confirmation, or during the national minority holidays that have not been confirmed in accordance with the provisions of the Law. However, the Law also provides for use of the official national symbols of the national minorities whose languages are not in official use in any unit of local self-government. The proposed amendments to Paragraph 5, in accordance with the Law on Appearance and Use of State Symbols of the Republic of Serbia, regulate the use of the national symbols which, along with the signs and symbols of the national minority, shall be displayed during the celebration of the state holiday of the Republic of Serbia, i.e. whether it is the Flag of the Republic of Serbia and the Lesser Coat of Arms of the Republic of Serbia. The same Article also supplements the Article 16 of the Law, and, by the new Paragraph 6, it stipulates that, along with the signs and symbols of the national minority, during the celebration of the confirmed national holiday, the National Flag of the Republic of Serbia and the Lesser Coat of Arms of the Republic of Serbia are mandatory, in the manner established by the Law on Appearance and Use of State Symbols of the Republic of Serbia, while the new Paragraph 7 deals with the unregulated question of the use of the symbol of the national minority at the entrance to the official premises of the national minority council, stipulating that the symbols of national minorities, in that place, can be displayed in a suitable

manner, with the state symbols of the Republic of Serbia, throughout the year.

Article 16 of the Draft Law replaces the Article 18 Paragraph 1. It envisages that, in order to preserve, promote and protect national, ethnic, religious, linguistic and cultural specifics of members of national minorities and in order to exercise their rights, the Government of the Republic of Serbia shall establish the Council for National Minorities, as a permanent working body of the Government. The tasks of the Council are defined in Paragraph 2, while Paragraph 3 stipulates that the members of the Council shall be heads of state administration bodies and the Government services, in charge of issues relevant for the status of national minorities, as well as the presidents of national minority councils. The new Paragraph 4 provides that the Government, by its decision, shall appoint the members of the Council and decide on the state administration body, i.e., the Government service in charge of providing professional, administrative and technical support to the work of the Council.

Article 17 of the Draft Law replaces Article 19, which regulates the matter of national councils of national minorities. Since the creation of national minority councils is envisaged for the first time by this Law, although certain solutions are incorporated in the subsequently adopted Constitution, and since the matter of elections and competences of national minority councils is regulated in detail by the Law on National Councils of National Minorities ("The Official Gazette of the Republic of Serbia"), the position of the proposer is that this Law regulates, in principle, the questions of the purpose of electing national minority councils (Paragraph 1), their role and character (Paragraphs 2 and 3), principles on the basis of which they are formed (Paragraph 4), together with the provisions on the elections, financing, and other issues of relevance to the work of national councils, which should be regulated in detail by a special law (Paragraph 5).

Article 18 of the Draft Law replaces the Article 20. Because the existence of the Budget Fund for National Minorities is also provided for in the Law on National Councils of National Minorities, Article 119, which explicitly stipulates that national minority councils participate in the procedure for allocation of funds from the Fund and that funds are awarded by public tender,

the proposed amendments stipulate that the financing of programs and projects in the field of education, culture, information, and official use of languages and alphabets of national minorities will be regulated by a special law on the use of the Budget Fund.

Article 19 of the Draft Law foresees the deletion of the existing Article 21 of the Law, which stipulates that in the course of employment in public services, including the police, the national composition of the population, the adequate representation, and the knowledge of the language spoken in the areas of service should be taken into account. Bearing in mind that the Draft Law explicitly provides for the implementation of measures for the improvement of full and effective equality in employment in the public sector, as well as the fact that Article 77 Paragraph 2 of the Constitution stipulates that in employment in state bodies, public services, autonomous province bodies and the local self-government units the national composition of the population and the appropriate representation of members of national minorities shall be taken into account, the position of the proposer is that Article 21 of the Law should be deleted.

Article 20 of the Draft Law foresees the deletion of Article 23. According to this article, members of national minorities and national minority councils may, for the protection of their rights, file a claim for compensation of damages to the competent court (Paragraph 1), while, pursuant to Paragraph 2, national councils of national minorities are authorized to file a constitutional complaint to the Constitutional Court if it is assessed that there has been a violation of the constitutional rights and freedoms of members of a national minority, or in the event of a member of a national minority who considers that his/her constitutional rights and freedoms have been violated. Bearing in mind that Article 22 Paragraph 1 of the Constitution stipulates that everyone has the right to judicial protection if he has been injured or denied some human or minority rights guaranteed by the Constitution, as well as the right to eliminate consequences that have been caused by the violation, and that appropriate provisions of the Constitution and the Law on the Constitutional Court regulate the question of who can file a constitutional complaint, the position of the proposer is that the provisions of Article 23 should be deleted.

Article 21 of the Draft Law supplements the Law by introducing a special part containing penal provisions. This shall ensure consistent observance and effective implementation of the legal provisions. New Articles 22a-22v prescribe fines and determine the monetary amounts of penalties for organizations that exercise public authority, legal entities and responsible individuals. The Law foresees the fines in the case of violations, e.g. when the name of the authority or organization is posted in contravention of the legal provisions (Article 22a), in the case of use of a symbol and a sign of another state as a symbol and a sign of a national minority, in the case when the name of a holiday is officially or publicly declared without prior confirmation by the Council for National Minorities published in the "Official Gazette of the Republic of Serbia" (Article 22b), as well as in the case that the symbols and signs of the national minorities are not visible contrary to the provisions of the Law, and that the signs and symbols of the Republic of Serbia (Article 22v) are not displayed with the signs and symbols of the national minority in official use.

Article 22 of the Draft Law prescribes that the names of the authorities exercising public competencies, the names of local self-government units, settlements, squares and streets and other toponyms shall be posted in accordance with Article 9 of this Law no later than on January 1, 2018.

Article 23 of the Draft Law stipulates that the assembly of the local self-government unit shall determine the list of settlements referred to in Article 9 of this Law within 6 months from the date of entry into force of this Law.

Article 24 of the Draft Law regulates the entry into force of this Law.

IV. FINANCIAL ASSETS NECESSARY FOR IMPLEMENTATION OF THE LAW

In order to implement this Law, it is not necessary to provide any funds in the Budget of the Republic of Serbia.

V. ANALYSIS OF THE EFFECTS OF THE LAW

The Draft Law does not require an analysis on the effects of the law, since it does not create any new obligations for economic and other entities.

REPORT ON THE PUBLIC DEBATE ON THE DRAFT LAW AMENDING THE LAW ON PROTECTION OF RIGHTS AND FREEDOMS OF NATIONAL MINORITIES

I Legal Framework, Timeframe, and Methodology of the Public Debate

The Committee for Legal System and State Institutions of the Government of the Republic of Serbia, in line with the Article 33, Paragraph 4 of the Law on the Government ("The Official Gazette of the RS" No. 55/05, 71/05-correction, 101/07, 65/08, 16/11, 68/12 – Constitutional Court, 72/12, 7/14 / Constitutional Court, 44/14), and Article 41, Paragraph 3 of the Rules of Procedure of the Government of the Republic of Serbia ("The Official Gazette of the RS" No. 61/06 - cleared text, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14), in its session on December 6, 2016, issued a Decision 05 No. 011-11670/2016, on the opening of a public debate on the Draft Law Amending the Law on Protection of Rights and Freedoms of National Minorities, and defined the Public Debate Program, as suggested by the Ministry of Public Administration and Local Self Government.

The Draft Law Amending the Law on Protection of Rights and Freedoms of National Minorities (hereinafter referred to as the "Draft Law") was prepared by a Special Working Group, formed by the Decision of the Minister of Public Administration and Local Self Government No. 119-01-00218/2015-08 dated October 31, 2016, consisting of representatives of the Ministry of Education, Science, and Technological Development, the Ministry of Culture and Information, the Ministry of Interior, the Ministry of Justice, the Republic Secretariat for Legislative Affairs, the Office of Human and Minority Rights, the Coordination Body for Preševo, Bujanovac, and Medvedja Municipalities, the Republic Statistics Institute, the Provincial Secretariat for Education, Regulations, Administration and Na-

tional Minorities – National Communities, national minority councils of the Hungarian, Romanian, Slovak, and Bosniak national minorities, the Office of the Council of Europe in Belgrade, and the OSCE experts.

The public debate was carried out from December 8-28, 2016. The text of the Draft Law was posted on the web site of the Ministry of Public Administration and Local Self Government www.mduls.gov.rs and the E-Uprava portal, and the interested parties were able to submit their comments and suggestions to the Ministry, electronically to the address ljiljana.bekcic@mduls.gov.rs, or by mail to the following address: Ministry of Public Administration and Local Self Government, Bircaninova 6, 11000 Belgrade.

During the public debate, on December 22, 2016, a round table was organized with participation of the members of the Working Group and representatives of the state institutions, national minority councils, international organizations, and the civil society.

II Participants in the Public Debate

Participants in the public debate were state institutions, institutions of the AP of Vojvodina, national minority councils, political parties and movements, associations of citizens, and individuals. The following participants in the public debate submitted their comments and proposals to the email address of the Ministry of Public Administration and the Local Self Government: the Ombudsman, the Provincial Secretariat for Education, Regulations, Administration, and National Minorities, national minority councils of the Albanian and Croatian national minority, Ruben Fuks, the President

of the Union of Jewish Municipalities of Serbia, Serbian Movement Dveri, Hungarian Movement, the Interculturality Network, consisting of the Center for Ethnicity Study, Center for Regionalism, YUCOM – Lawyers' Human Rights Committee, Belgrade Human Rights Center, CDCS, Urban-In, Damad-In, Roma League, and the National EU Convent, and Aleksandar Marton, a councilman in the Zrenjanin Municipality.

III Analysis of the Results of the Public Debate

1. Principal Comments and Suggestions

The analysis of the comments and suggestions by the participants in the public debate and the participants in the round table in regard to the Draft Law, leads to the following findings:

- All participants in the public debate were familiar with the reasons and the character of the suggested amendments to the Law on Protection of Rights and Freedoms of National Minorities, consisting of three groups of amendments: 1) harmonization with the constitutional solutions and relevant nomotechnical changes, 2) inclusion of the solutions defined in the Action Plan for Execution of the Rights of the National Minorities, ratified by the Government of the Republic of Serbia on the basis of the Action Plan for Chapter 23 in the Law, and 3) inclusion of the penalty provisions in the Law to secure consistent observance and effective implementation of the legal provisions.

- Majority of the participants in the public debate supported the solutions envisaged for the nomotechnical changes and penalty provisions.

- Majority of the participants in the public debate submitted specific comments, proposals, and suggestions.

- A number of participants in the public debated submitted or stated the following principal comments: the Draft Law does not remove identified obstacles that have disabled a consistent and effective implementation, i.e. obstacles that have caused in problems in execution of the rights provided by the Law, although the Rationale notes that one of the reasons for the new law is to adjust some legal solutions to the real needs of further promotion of the position of the national minorities; the Draft Law does not envisage the way the authorities in the Republic of Serbia should interpret its provisions and relations with other laws, by explicitly prescribing that, in the case that other laws decrease the rights of the members of the national minorities, i.e. in the case that other legislation differently addresses the execution of the minority rights, the legislation that provides higher level of rights is to be applied; that, in light of the fact that the Draft Law introduces amendments to over 20 basic provisions of the existing Law, which is in conflict with the unique methodology for preparation of any legislation, conditions have been created for drafting an entirely new law, and, lastly, that the Draft Law consists of the terminology given in the future tense.

2. Specific Comments, Proposals and Suggestions

Specific comments, proposals, and suggestions refer to the specific provisions of the Draft Law, as follows:

- To define more precisely the definition of a national minority in a way that is adequate to reality and needs of the citizens who feel and declare this way, and that the size of the ethnic community should not and must not be the only criterion for recognition of the collective rights in regard to the foundation of the national minority councils, i.e. the definition of a national minority should be deleted from the basic provisions of the Law, since an arbitrary decision on the number of citizens who declared as a national minority in a census as the main criterion for recognition or denial of the national minority status

represents a discrimination by a number or by a group's representativeness. There were proposals to have the existing "open" definition, which enables full freedom of minority ethnic groups to request recognition of their ethnic cultural identity, and, on the basis of this recognition, to execute their granted rights, as a source of legal insecurity, either list the national minorities in the future law (which is also possible to do by constitutional changes) or establish accurate, well-thought, and well justified criteria for recognition of the status of a national minority.

To amend Article 4 that envisages the implementation of affirmative measure, as follows:

- In Paragraph 1, providing that the institutions of the Republic of Serbia can, in line with the Constitution and the law, make regulations, individuals legal acts and undertake measures to secure full and effective equality of the national minorities and members of the national minorities, who are in essentially unequal position with other citizens, to change the wording "other citizens" with "members of the majority community", or, on the other hand, expand the existing provision to read that these measures are undertaken to remove extremely unfavorable living conditions that particularly affect them.

- Solutions envisaged in Paragraph 3 neither define the measure of the affirmative action to be undertaken nor do they define the goal to be achieved by implementing the measure; to this end, there are two issues: a) all other provisions of the Draft Law envisage that the execution of the rights of the national minorities is based on the legal equality of the Law on Protection of Rights and Freedoms of National Minorities with other legislation in the legal system, while the wording of Article 4, Paragraph 3 establishes its precedence over legislation regulating employment legal status, and b) other legislation does not prescribe the conditions, the specific measures, and the criteria used by members of the national minorities to receive preferential treatment in employment.

- It is also proposed that in Article 5, Paragraph 2 of the Draft Law, which provides that members of the national minority who desire so have the right to have the data on their ethnic affiliation entered in the official registry

and personal databases, when this right is provided by a specific law, and to add that this right is to implemented in regard to the public documents, as envisaged by the Action Plan.

- In Article 5, Paragraph 4 of the Draft Law on the representation of the national minorities in the legislative power, it is necessary to establish who is entitled to these measures (by giving or defining percentage) , i.e. to prescribe explicitly that national minorities have the right to be represented in the legislative bodies as provided by the affirmative measures, particularly the smaller national minorities, or that national minorities be guaranteed a specific number of seats in legislative bodies on the Republic, Provincial, and local level.

- To make an addendum to Article 9 of the Draft Law, which also provides addendum to Article 11, Paragraph 2 of the basic text, prescribing that a local self government unit shall introduce a language and an alphabet of a national minority into official use by its statute when legal requirements are met in this regard, by envisaging a method which will secure direct implementation of the legal provisions guaranteeing official use of a language or an alphabet; the aforementioned can be solved by prescribing that a local self government unit introduces a national minority language into an official use not later than 90 days after it has been established that legal requirements have been met in this regard, by envisaging appropriate penalties for the local self government units that fail to do so. Furthermore, it is also suggested that percentage of the participation of the national minority members in the overall population in a local self government unit, as a condition for obligatory introduction the national minority's language and alphabet into official use at the local self government unit, be decreased from the existing 15% to 10%.

- To replace the existing provision envisaging that a member of the parliament, representing the national minority consisting 2% of the overall population of the Republic of Serbia, has the right to address the National Assembly in his/her mother tongue by a provision that this right is guaranteed to a national minority deputy whose mother tongue is in the official use in the AP Vojvodina or local self

government units, and that this right is guaranteed to all members of the parliament representing the national minority consisting of a minimum of 1% of the overall population of the Republic of Serbia.

- In the provision prescribing that the Republic, the Province, and local self government units can participate in the funding of societies and associations of national minorities, to replace the word "can" with "shall" or delete the word "can" and leave "participate in the funding"

- The provision of the Draft Law linking the execution of the right for protection of cultural identity with the territory of the local self government unit, which is considered to be ethnically mixed, is not a good solution, since percentages, i.e. criteria on the basis of which such a status is granted to a local self government unit, are not clearly defined, nor is it clear what the basis and the reasons are for definition of these percentages.

- Deletion of Article 13, Paragraph 2 of the basic text, envisaged by Article 12 of the Draft Law, providing that, if, at the moment of ratification of the law, there is no education in a national minority language within the public education system, the state is responsible to create conditions for organization of education in the national minority language, and, up to that Paragraph, secure either bilingual education or studies of the language of the national minority with the elements of national culture, is not acceptable. In regard to the Article 12 of the Draft Law, it was also suggested that, in the provision envisaging that, with the objective of securing mutual tolerance and coexistence of the national minorities and the majority population, curricular and extracurricular activities be organized on history, culture, and position of the national minorities in the Republic of Serbia, the emphasis is put on a segregational model of multiculturalism, which is in contradiction with the multi-ethnic Serbia. To this end, the objectives in this Paragraph should be replaced by wording "integration" and "interculturalism".

- Suggested amendments to Article 14, which envisage that, for the purpose of education in national minority languages in the higher education, development of study programs for teachers and educators will be sup-

ported; also, universities and higher education organizations can upon departments in national minority languages, represent a decrease in the achieved level of protection of human and minority rights, since the existing Law provides the state's responsibility for securing the departments and faculties in the national minority languages.

- To set the criteria for membership in the Council for National Minorities in a different way, to enable representatives of the national minority councils, delegated by the national minority councils (instead the existing solution that national minority councils can only be represented by their presidents), the multiculturalism and ethnicity experts, and representatives of the civil society, participate in the work of the Council in addition to the officials of the public administration and Governmental services in charge of national minority affairs.

- That it is more rational in regard to the organization and mode of operation of the national minority councils to envisage their decentralization by the Draft Law, i.e. to prescribe the methodology of election, organization, jurisdiction, and financing of the minority self governments on the local level, propose the methodology for election of the national minority councils on the national level that would be clearly related with previously elected members on the minority self governments on the local level, and propose competences and internal relations between the central structures and minority local self governments.

- That the solution provided by the Draft Law, envisaging that funding of the programs and projects in the areas of culture, education, information, and official use of language and alphabet allocated from the Budget Fund will be determined by a special law is not rational, since the issue of funding the cultural autonomy rights is essentially linked to the implementation of the rights prescribed by Article 4, Paragraph 9-13, and that, in addition of the methods of funding, it is necessary to define the issues in regard to establishment, organization, competences, decision-making process, and responsibilities of the Budget Fund.

IV Deliberation of Specific Comments and Suggestions

The Ministry of Public Administration and Local Self-Government has considered all comments, proposals, and suggestions submitted by the participants in the public debate.

The Ministry has been unable to accept most of the specific comments, proposals, and suggestions, either because they are not in part in the spirit of the concept the Law is based on, and because they considerably contradict the systematic legal solutions, interfere with matters that are to be regulated by other legislation, or represent criticism of the solutions that are already in force as provided by other laws.

To this end, it is necessary to note first that the Ministry has not accepted proposals and suggestions in regard to the revision of the existing definition of a national minority. The definition of a national minority caused a great interest in the discussion, and, in this regard, numerous comments and suggestions were submitted, but the Ministry is firm in its position that the existing definition of a national minority should not be changed, and that the representativeness criterion in the existing definition, by not being explicitly numerically defines, is not discriminatory. Furthermore, the aforementioned position of the Ministry is also based on the practice of the relevant international bodies. To this end, it should be noted that the Advisory Committee of the Council of Europe, which assists the Ministerial Committee of the Council of Europe in monitoring of the implementation of the Framework Convention for Protection of National Minorities, consisting of prominent and unbiased experts in the area of protection of national minorities, in Chapter 23 of their Assessment on the Implementation of the Framework Convention in the first monitoring cycle "find the fact that this definition covers a high number of groups... , including those that are small in size, positive".¹ Given the fact the Article 18 Paragraph 3 of the Constitution interprets provisions on human and minority rights to the benefit of the promotion of values of a democratic society, in line with the existing international human and minority rights stan-

dards, and in line with the practice of the international institutions that carry out the monitoring of their implementation, it is clear the existing definition of a national minority provided by the Law on Protection of Rights and Freedoms of National Minorities cannot be considered as discriminatory.

The Ministry does not find the criticism on a number of provisions of the Draft Law prescribing the implementation of affirmative measures founded, due to the fact that the definition of the types of measures (quotas, preferential treatment, etc.) available to the members of national minority in regard to the employment in the public sector is realistically impossible to prescribe in advance by this law (as these are the matters of separate legislation) and also because it is not accurate that the objective of these measures is unclear, given the provision that these measures will be applied until an *adequate level of representation* has been reached, as provided by the labor legislation. It is possible that this will be a percentage-based participation adequate to the percentage of the members of the national minority in the overall population of the Republic or in the area under the jurisdiction of the institution at hand, or an adequate level of representation will be based on the participation of native speakers of a certain minority language, etc. All of this (types of measures and more precise definition of the general goal of certain representation) can be regulated in a different way depending on the objectives of the social policy. Therefore, it is not possible to regulate this matter in advance and in a uniformed way by this Law for all level of territorial organization and all parts of the public sector. Since they represent the solutions on the matters that are to be regulated by special laws, the proposals and suggestions regulating the rights to certain number of seats in the legislative bodies (the matter of the law on the elections of members of parliament and local elections, and the matters regulated by the general acts of the autonomous province), organization and the functioning of the national minority councils, and funding of the programs and projects through the Budget Fund (the matters regulated by the Law on National Minority Councils) could not be

accepted either. Understandably, these comments and suggestions can be valuable for preparation of amendments to these laws, and the Ministry shall, within its jurisdiction and in cooperation with other relevant institutions, take them in consideration in the case of changes of the aforementioned legislation. Also, the Ministry has not accepted to change Article 4, Paragraph 1 of the Draft Law, that provides that executive government in the Republic of Serbia can, as provided by the Constitution and the law, can issue regulations, individual legal acts and undertake measures to ensure full and effective equality of the national minorities and the members of the national minorities that are in an essentially unequal position with other citizens, the wording "other citizens" with the formulation "members of the majority nation", and to delete the formulation "that are in essentially unequal position", or, on the other hand, made an addendum to the existing provision that these measures are undertaken in order to remove exceptionally unfavorable living conditions that particularly affect members of the minority community. Namely, Implementation of the Affirmative Measures is also regulated by the Constitution, although in different ways. In basic provisions on human and minority rights, the Constitution, in Article 21, Paragraph 4, envisages that special measures that the Republic of Serbia can introduce to ensure full equality of individuals or groups of individuals that are essentially in an unequal position with other citizens, and this is not considered to be discrimination. On the other hand, Article 76, Paragraph 3 of the Constitution, provides that special regulations and temporary measures that the Republic of Serbia can introduce in the economic, social, cultural, and political life to ensure full equality between members of a national minority and members of the majority, if they are aimed at removal of extremely unfavorable living conditions that particularly affect them, are not to be considered to be discrimination. It is visible that the aforementioned Constitutional provisions regulate the basis, i.e. the reasons for implementation of affirmative measures and their beneficiaries in numerous ways. Therefore, if only provisions of Article 76, Paragraph 3, are to be

implemented in the area of minority protection, they will be envisaged only *for members of the minority communities*, and only in the case of removal of *extremely unfavorable living conditions that particularly affect them*, which has been criticized by the relevant international bodies. Therefore, the provision of the Draft Law is based on Article 21, Paragraph 4 of the Constitution and it envisages that such measures are undertaken for the benefit of national minorities as groups and for members of national minorities that are in an essentially unequal position. On the other hand, if the provision of the Draft Law is based on Article 21, Paragraph 4 of the Constitution, it is necessary to regulate the issue of the reference group for assessing the position of the beneficiaries of these measures in the same spirit, and, as provided by Article 21, Paragraph 4 of the Constitution, this group is defined as "other citizens".

The Ministry has not accepted the proposal to expand Article 5, Paragraph 2 of the Draft Law, which envisages that members of national minorities who want to do so have the right to have the data on their national affiliation entered in the official registries and personal databases, as provided by a special law, to read that this right is to be implemented for the public documents as well, as defined by the Action Plan. Article 161 of the Law on General Administrative Procedure ("The Official Gazette of FRY" No. 33/97 and 31/2001, and "The Official Gazette of the RS" No. 30/2010) provides that institutions issue certificates and other documents on the facts they keep the official registry of (Paragraph 1), and that these certificates and other documents on the facts they keep the official registry of must be issued in correspondence with the data from the official registry and, as such, have the status of public documents (Paragraph 2). The Ministry's position is that the aforementioned provision of the Law on General Administrative Procedure represents a sufficient legal basis for the entry of data on national affiliation of members of national minorities in public documents, as well.

The Ministry has not accepted a number of comments and suggestions as they are contradictory to the solutions provided in systematic laws. To

this end, suggestions to re-formulate the provision prescribing that the Republic, the Province, and the local self government units can participate in financing the societies and associations of national minorities as an obligation of all levels of public government to fund such societies and associations, have been dismissed. The project co-funding of these societies and associations is already envisaged by specific laws, which also provide that it is possible that the societies and associations of national minorities might not apply for funding in these open calls for project funding, as well as it is possible that their project proposals might not meet the criteria of these open calls for proposals, and these situations definitely cannot be regulated by the legal obligation of the government on all levels to fund **all** societies and associations of members of the national minorities. For the same reason, the Ministry has dismissed the criticism of the draft amendments to Article 14 of the Law on Protection of Rights and Freedoms of National Minorities, since the existing obligation of the state to secure departments and faculties for education in national minority languages does not correspond with the autonomy of the University, proclaimed by the Constitution and regulated by the Law on Higher Education, which, among other things, envisages the right to define the curriculum of the university studies.

A number of comments and suggestions have not been accepted since they represent a diversion from the concept the Draft Law is based on and disarray of its internal systematic quality. This is the case with the suggestion that deputies can address the National Assembly in their mother tongue if they represent national minorities whose languages are in official use in autonomous provinces and local self government units. There is no connection between the official use of languages and alphabets of national minorities in autonomous provinces and local self government units with the right to address the National Assembly in one's mother tongue, and there is also a question whether there

are any justified reasons to enable these deputies to address the National Assembly, a central legislative body that represents all citizens of the Republic of Serbia, in their mother tongue. On the other hand, it is fully justified to keep the provision prescribing that such a right is granted to the deputies of the national minorities that represent 2% of the overall population, since the same percentage is prescribed as a criterion for execution of the right of the members of the national minorities to address the state institutions in their mother tongue and receive a reply in their mother tongue. Due to the same reason, the proposal to extend the obligation of official display of the national symbols of national minorities to whole year has not been accepted either, as there is no reason for a symbol of a national minority, which shows affiliation to this community, to be officially displayed throughout the year on the buildings and premises of local institutions and organizations with public competencies.

The proposal to regulate membership in the Council for National Minorities belongs to the same group of proposals and suggestions. The Ministry's position is that, if representatives of the national minority councils delegated by the national minority councils were also included as the members of the Council that consist of the heads of state institutions and Government's services, it would in a way degrade the importance of this body and such a provision will not be in accordance with the need to institutionalize the dialogue between the heads of the relevant state institutions and the national minority councils. Likewise, the Ministry's position is that, if experts in the area of multiculturalism and ethnicity and representatives of the civil society were included as members of the Councils, on the one hand, this would be important for implementation of certain missions of the Councils (monitoring and analysis of the execution of the rights of national minorities and interethnic relations in the Republic of Serbia), while, on the other hand, it would, to certain extent, degrade

the possibility given to the national minorities to participate in the implementation of the objectives of the Council of relevance for their position and work (as in the case of monitoring of cooperation of national minority councils with state, provincial, and local institutions and the conditions for work of the national minority councils) in a direct dialogue with the representatives of the state institutions, or to decide authoritatively on the issues in which they represent their national minorities (proposal of national symbols, marks, and holidays and participation in the decision making process on their confirmation). Membership of the experts in multiculturalism and ethnicity, and the civil society representatives in the Council for National Minorities, which is a permanent working body of the Government, whose members are *ap*Paragraphed by the Government by a special decision, would open a number of questions, from establishing their expertise to their rights and obligations in the Council, and, since there are important and effective mechanisms that allow the experts and interested civil society organizations to contribute to achieving the Council's objectives, particularly those of expert nature, the Ministry has not accepted the aforementioned proposal either.

The proposal to expand the provisions of Article 9, Paragraph 1 of the Draft Law with the obligation of the local self government unit to introduce a national minority language in the official use not later than 90 days after it has been established that the conditions provided by the Law have been met, has been accepted.

Also, in the provisions of Article 12, Paragraph 6, which envisage the introduction of programs of curricular and extracurricular activities on history, culture, and position of national minorities in the Republic of Serbia with the objective of mutual tolerance and coexistence of national minorities and majority population, it has been accepted to replace the word "coexistence", as the objective of these programs and activities, with the word "interculturalism".

Amendments to Both Minority Laws to Be Ratified by Mid-December

On October 25, the Center for Migration Studies, with support of the Foundation for Open Society, organized a round table discussion on pending amendments to the Law on Rights and Freedoms of National Minorities under the umbrella of the Minority News Project.

The participants in the round table included representatives of the Ministry of Public Administration and Local Self Government, the Institute of Social Sciences, the Human Rights Lawyers Committee, the Coordination of the National Minority Councils, and the individual national minority councils.

In her opening address, the Project Director, Biljana Jovic, noted that the topic is of outmost importance of the national minorities in Serbia. She reminded the participants in the event that representatives of the Coordination of the national minority councils, civil society, and the expert organizations submitted their comments and proposals during the public debate on the draft law. "Before the final draft enters the Parliamentary procedure, it is important to determine if the relevant authorities were receptive to these comments at all, whether they made relevant changes in the draft law, or this was yet another exercise of a pro-forma democratic procedure", Jovic said.

Ljiljana Bekcic addressed the attendees on behalf of the Ministry of Public Administration and Local Self-Government. She pointed out that the Ministry's priority in the previous months was to prepare amendments to the Law on Protection of Rights and Freedoms of National Minorities, as well as the amendments to the Law on National Minority Councils. She reminded the participants that ratification of these amendments have been envisaged by the Action Plan for Exercise of Right of National Minorities. "The extraordinary parliamentary elections slowed down the activities in preparation



of the draft amendments. After the Government had been formed, the conditions were put in place to form a Working Group, which prepared the Draft Law. The public debate was organized in December 2016, and, on September 13, we received the evaluation of the draft from the European Commission. Upon receipt of the evaluation, we organized a meeting with the representatives of the Coordination, who looked into the draft law and the recommendations received from the European Commission".

Bekcic also reminded other participants on the course of the amend-

BAŠIĆ: There Should Be Only One Law for Minorities and Their Self-Governments

Goran Bašić, the Director of the Institute for Social Sciences, assessed that there should be one law that would define the position of the national minorities, their immediate participation in the public life, and the position of the minority self governments. As he said, the existing laws should have been changed for more relevant reasons than the state provided in the justification document. "This Law should have been changed to provide a direct participation of national minorities in all social processes, because, at the moment, we have a segregation model of multiculturalism and because gap between the national minorities and the majority is getting deeper and wider every day. The draft law at hand makes absolutely no changes whatsoever in this regard, it will not enable us to build a healthy minority policy and help this situation improve. I believe that we should have waited for the new Constitution to be endorsed and only then proceeded with the amendments to the minority laws, regardless of the delay this would cause in implementation of the Chapter 23 Action Plan." As he elaborated, a delay in the Chapter 23 would have caused less damage than ratification of a law without a clearly defined social policy which provides for long term stability



of democracy and relations among people who live in this country.


Representatives of the Bosniak National Council, Muhedin Fijuljanin i Ahmedin Škrijelj, agreed fully with this position. Fijuljanin noted that a single law should regulate the minority policy in the country, it should be a supreme law regulating the minority policy as a whole, whereas Škrijelj, who is also a member of the working group for preparation of the draft, pointed out that the legitimate needs of individual national minorities, have been totally ignored in the process. "The Bosniak National Council has submitted a number of comments, even a full draft law proposal, and they have been immediately rejected without any elaboration."

ments. "I would like to note that the Law on Protection of Rights and Freedoms of National Minorities was ratified in 2002, at the time the federal state still existed. In 2006, after Montenegro had declared independence, this Law became the republic law. In 2006, when the Constitution of the Republic of Serbia was ratified, it was necessary to make terminology adjustments, i.e. harmonize a number of provisions of the Law on Protection of Rights and Freedoms of National Minorities with the provisions of the Constitution of the Republic of Serbia." As she explained further, additional amendments were necessary in light of the requirements defined by the Minority Action Plan, predominantly in regard to the creation of legal provisions for entry of national background data for members of the national minorities in official registers, in line with the constitutional principle on freedom of declaration of ethnic affiliation. As she said, as a consequence to this, the amendments to the Law on National Registry Books were required, and this process is about to be completed soon. The third group of amendments provide basis for affirmative measures for national minorities, by introducing legal provisions that will ensure equality of all employees in the public sector.

As Ljiljana Bekcic said, the law should be ratified mid-December, at the same time as the Amendments to the Law on National Minority Councils. This in-

LULIĆ: Numerous Diverse Perspectives

Emil Lulić, a lawyer in the National Council of the Hungarian National Minority, presented the positions of the Coordination of the National Minority Councils. As he said, the Coordination could not agree on a joint position in regard to the draft Law. "We know that the existing law has "worn out" over the years. The most important provisions that protect individual and collective rights have been transferred either to the Constitution or have been elaborated further in subsequent legislation, such as the Law on National Minority Councils. We were unified on the legal force of the law and we agreed that the minority legislation should have supremacy over other laws, since they can only be ratified by a qualified majority. We were deeply hurt to hear that some of other laws represent an umbrella or system legislation, and that the minority laws are not as relevant. Some members of the Coordination insisted on a special provision in the draft Law that would clearly prescribe its supremacy over other legislation,



whereas other had a firm position that we should wait for the amendments to the Constitution, and, to this end, the given solutions, although temporary, can be considered as satisfactory", Lulić concluded.

The participants in the round table agreed that ratification of a new legislation in such a short timeframe is not what we need at the moment and that it would be much more effective and adequate to continue the debate and ratify the law next year.

formation provoked strong reaction of all participants, who were visibly surprised, since the positions of the organizations taking part in the debate

are profoundly different from the solutions proposed by the state in the case of the Law on National Minority Councils.





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