

Special Edition

National Assembly of the Republic of Serbia Ratifies Amendments to the Minority Laws



Laws As a Bridge Between National Minorities and the State

The long-awaited amendments to the minority laws were adopted on June 20 by a majority vote of the deputies in the National Assembly. There have been many controversies on how the amendments to the Law on the Protection of the Rights and Freedoms of National Minorities, or amendments to the Law on National Councils of National Minorities, will affect the position of national minorities in Serbia. The opinions are, of course, divided.

Supporters of the ruling coalition from the ranks of national minorities believe that the new set of laws does not restrict the rights of national minorities; on the contrary, it is a step forward in the current situation. They particularly emphasize that the law clearly regulates that the work of national councils is public. However, national minorities' representatives from the ranks of the opposition parties do not approve the adopted laws, primarily because of the fact that joint requests made by all national councils have been totally disregarded, particularly in the case of the Law on National Minorities' Councils. As they note, the Law has failed to define the status of national minority councils and the status has remained an open issue. It is known that the national councils have requested the status of public administration bodies, which would give them greater decision-making power, and not limit their authority to participation in decision-making, or giving opinions or proposals only.

Amendments to the Law on the Official Use of Languages and Scripts have also been ratified as a part of the minority legislation. The amendments to this law stipulate that in cities and towns where the national minority makes 15% of the total population, the names of streets, squares, settlements, and other toponyms are printed in the language of that minority. Also, the Law provides for the possibility for minority MPs in the Serbian Parliament to speak in their mother tongue, and the Secretary General of the National Assembly is obliged to provide simultaneous translation of their oral presentation or the document they submitted to the Serbian language. This novelty was greeted by the MPs from the ranks

of national minorities, both in the ruling coalition and the opposition, as members of smaller communities also received the opportunity to speak or to submit documents in their mother tongue.

Elections for National Minority Council members will be held in the autumn and the recently adopted laws should contribute to this year's elections being held in a democratic and transparent manner. This is supported by the fact that the Ministry of Public Administration and Local Self-Government introduced a new on-line application "Special Voters Registry for National Minorities", which, according to the Minister of Public Administration and Local Self-Government, Branko Ružić, should contribute to more precise data management and more efficient submission of requests for data entry in the Special Voters Registry.

What is certain is that national minority councils will have to motivate members of their community not only to register in the Special Voters Registry, but also to go to the polls to exercise their guaranteed right and, of course, to support, or, at least, try to change the current situation. We have often witnessed that members of a national minority are divided into several factions, rather than being homogenous. We have often listened to mutual accusations and wondered if the council members came from the same national community. It is for such and similar reasons that, in the eyes of an ordinary citizen, an image is created that national minority councils do not work for the benefit of members of the community, but only for their personal benefit. Members of these national minorities, who know best the situation in their community, are well aware if this is true or not. Whether the implementation of the new laws will in some way contribute to the reduction of heightened tensions in individual national councils, is currently difficult to predict. However, in spite of everything, citizens should not run away from their rights, even commitments, guided by the thought that "their vote will not matter any way", because a large number of such "irrelevant" votes can affect the outcome. Only after that will it be justified to judge the results.

National Councils Are Still Insufficiently Recognized Bodies

After more than two years of work on the preparation of amendments to the two key minority policy laws, the Government of the Republic of Serbia adopted draft laws amending the Law on the Protection of Rights and Freedoms of National Minorities and the Law on Amendments to the Law on National Minority Councils and sent them to the National Assembly of the Republic of Serbia for adoption. The draft amendments to the Law on the Protection of the Rights and Freedoms of National Minorities were finalized more than a year ago and we discussed them in great detail at that time. Today, we will address amendments to the other key law, the Law on National Minority Councils, with Ivan Bošnjak, State Secretary in the Ministry of Public Administration and Local Self-Government.



How would you rate the whole process of preparing amendments to these laws? To what extent has this process been transparent and inclusive?

I can say with great pride that, in the past four years, between the two cycles of elections for national minority councils, I have been tasked with overseeing the entire process. In 2014, when the then Minister of the Public Administration and Local Self Government was the Deputy Prime Minister, Kori Udovički, my colleagues and I entered a serious dialogue with the national councils of

national minorities. The work of the Republic Council for National Minorities has been established, and now, in practice, the Prime Minister, or the then Prime Minister, and the highest representatives of state bodies meet with representatives of national minority councils. In the meantime, the Action Plan for Chapter 23 and the so-called Special Action Plan for Improving the Position of National Minorities have been ratified. During the process of implementation of the activities from this plan, we have also come to the amendments of two key laws concerning the

rights of members of national minorities and I can say with great pleasure that we have done a great job. As you said, a year ago we completed the work on the amendments to the Law on the Protection of Rights and Freedoms of National Minorities, which had originally been adopted in 2002 under completely different conditions and, I would say, in another state, in the then State Union of Serbia and Montenegro. It was necessary to modernize this law, but also to bring some solutions into it, so that other regulations concerning the rights of national minorities, not only from

the portfolio of this ministry, could be modernized or used in full. To this end, as one of the key amendments to this law, we have introduced the possibility of registration of nationality in the public registers. This will, in turn, enable us to enter this data into the registries, and after that, we will implement all the other activities that we mentioned: take care of the education of national minorities, enable further development of culture and in general minority life in all parts of our country, as well as employment of members of national minorities, especially in those parts of the state where equal representation has not been achieved.

The other law, the Law on National Councils of National Minorities, partially underwent changes following the decisions of the Constitutional Court in 2014, and, with these changes, we entered the election cycle of that year. According to the Law, elections for national councils have since been conducted by the Republic Electoral Commission. We have now regulated everything else that was not sufficiently precise and clearly stated, from the very status of the national council as a legal person to the position of elected persons, certain functions, employment within national councils, and many other issues that have opened up in the meantime with the development of minority policies in Serbia and the adoption of these legal solutions. The Law on National Councils of National Minorities was ratified in 2009, and the elections under this law were organized for the first time in 2010. In 2014, we had decisions of the Constitutional Court. The same year, the first amendments were made, and I would say that we have now finally brought this work to completion.

The Draft Law on Amendments to the Law on National Minority Councils, which until recently was the subject of a public hearing, has been received with numerous complaints from national councils of national minorities, professional public and civil society. What are the most significant shortcomings of the Draft the representatives of national councils indicated pointed to?

We can talk about previous shortcomings. I would not say that the current legal solution, that is, this Draft has any shortcomings. Of course, the final word on the Law will be said by the deputies, as legitimate representatives of citizens in the Republic of Serbia. After this Draft Law has passed the parliamentary debate, after it has been adopted by the majority vote in the Assembly, it will get its final form, and it will be up to us to implement it jointly and fully. The questions received from the expert

We expect that once the Law has been passed, it is really our common duty to make our fellow citizens who live in Kanjiža feel equal and in the same way as someone who lives in Belgrade, Novi Pazar and Tutin. Likewise, we expect that everything that is available to the citizens of Kragujevac, is also valid for the citizens of Bosilegrad or Preševo.

public also included those on what national minority councils were, and we have come to a correct definition that they are non-state forms of organizations, most similar by their nature to citizens' associations. Given that representatives of national minorities are elected into these bodies in two ways, by electoral system and by classical representational system, they have the possibility to have their own administration. The Draft Law envisages who can be employed as well as employment procedures to be followed. The aforementioned provisions have been defined in consultations and agreement with the members of the working group, which, in addition to representatives of numerous state in-

stitutions, also included five representatives of the Coordination National Councils of National Minorities. The working group held a large number of sessions. We have jointly defined who can be employed and in what way, what is the position of elected officials in a national minority council and how they can regulate their labor rights. We have come to the conclusion that only the president of the national council and the president of the executive board should be able to be formally employed in the council during their mandates, thus preventing some of the abuses that were observed in the previous period. Also, one of the key solutions suggested to us by respected international experts, such as Professor Hoffman, who was hired by the EU and the Council of Europe as an expert in this field, is that, due to the observed practice of over-politicization, a special attention must be given to depoliticization. To this end, we introduced a limitation of functions within political parties and national minority councils, which may have been a subject to criticism. In the democratic practice of Serbia, however, the national minority councils are still insufficiently recognizable bodies of minority self-government. As the professional public noted, national minority councils have thus far been reserved for a number of political representatives, as, in most cases, it was the political parties of national minorities who had the opportunity to propose candidates for the national councils. As a consequence, national minority councils are insufficiently recognizable, particularly among the younger generations. From 2014 to 2018, there is a large number of young people who have become of age in the last four years, from 2014 to 2018, and, as registering of these new voters in the Special Voters Registry is done on a voluntary basis, our common task, task of members of national minorities, representatives of the state, and the media, is to urge these young people to engage in minority politics. Thus we will strive to promote, on the one hand, the rights and the benefits of the community as a whole, and, on the other, putting political issues on the margin and really taking into account the everyday life of every citizen of our

country, regardless of their ethnic origin.

The Coordination of National Minority Councils submitted a document with seven key points jointly formulated by national councils as the main flaws of the Draft Law. Has any of these comments and proposals been assessed as positive and acceptable and can they be found in the final version of the Draft?

We could not agree on these seven key points in the working group, and I would like to emphasize that discussions during sessions of the working group lasted for hours, sometime even for nine hours. In total, 11 such working group sessions were held and we had five public hearings, i.e. consultative meetings throughout the Republic of Serbia, from Bujanovac to Subotica, through Novi Pazar and Kučevo, where we presented the Law to the stakeholders, and, in the end, we organized a large round table here in Belgrade. These key seven proposals were presented to the Prime Minister and she decided that they, too, should be included in the Draft Law, so now we are presenting a complete proposal before the deputies. Of course, there is always room for further improvement of the Draft Law and, as it is defined in the Constitution, their final versions will be defined by the parliamentary majority through possible amendments. This area is always politically interesting, but I am sure that it concerns the lives of each of us, it also affects the development of democracy, and personal rights and freedom of expression. I hope that everything that is possible, what is proposed in a good and constructive spirit, will be adopted.

Can we expect that the adoption of amendments to the Law on National Councils of National Minorities will contribute to improving the legal framework for the realization of the rights of members of minority communities?

The legal framework related to national minorities in the Republic of Serbia has already been assessed by the communities themselves as good. We have

now really adjusted this legal framework to the modern functioning of the administration, but also to all those requirements that the development of democracy in Serbia has demanded. We expect that once the Law has been passed, it is really our common duty to make our fellow citizens who live in Kanjiža feel equal and in the same way as someone who lives in Belgrade, Novi Pazar and Tutin. Likewise, we expect that everything that is available to the citizens of Kragujevac, is also valid for the citizens of Bosilegrad or Preševo. In this way, Serbia is becoming a leader in realization of the rights of national minorities, and it is this particular quality, which has been recognized by our partners from the EU, that we are bringing as a special value to the Union. Vojvodina has been already recognized as a region where the rights of national minorities are exercised at the highest possible level, perhaps in the best way throughout Europe. Our task was to spread this good Vojvodina practice to the south of the Sava and the Danube rivers.

Will the adoption of the Law contribute to the harmonization of measures with the Action Plan for Chapter 23 for the Realization of the Rights of National Minorities, as well as the harmonization of the Law with the decisions of the Constitutional Court, which declared certain provisions of the old law unconstitutional in 2014?

This has been the framework for our activities. First, there was the Action Plan that we prepared in good practice and consultations with national minority councils at the end of 2015, and then adopted it in 2016. Next, we also adopted amendments to these key laws. This will complete the activities that the Ministry of Public Administration and Local Self-Government has put before us, and thus we will contribute to the implementation of the Action Plan for Chapter 23. We have carefully looked into the rulings of the Constitutional Court and we hope that the new law, the one we are now talking about, and these amendments to the law will not have to be re-examined by the Constitutional Court. We also hope that, in the next four years, we will be able to

focus more on what is ahead of us, as there are issues in other laws that have, in the meantime, emerged, such as the representation of national minorities in the Republican Parliament, and, of course, on the provincial and local levels, then, perhaps, the new model of the electoral system, etc... A new cycle of elections for national minority councils is ahead of us, and I think that it is important that, in the next few months, namely until November 4, when the elections will be held, we urge as many citizens as possible to participate in this process, and elect new leaderships that will, with their constructive proposals and work, participate in improving the lives of their compatriots, and our citizens, citizens of the Republic of Serbia.

Given that the final draft versions of both draft laws have entered the parliamentary procedure, is there a way for the remarks and proposals of national councils and professional public to be incorporated into new laws?

Write to your deputies, and the public will learn about your comments and proposals, at least on live TV broadcasts of the parliamentary debate. After that, the deputies will consider them and they may be included in the Law if it is decided by the majority vote. This is my call and advice to all stakeholders. I would also like to add that, this autumn, with the elections for national minority councils, we will have specially designed electronic applications for the Special Voters Registry on the local level. It was noticed that there was no electronic link between the Unified Voters' Registry and the Special Voters Registry, and now we have resolved this issue. Of course, all data on nationality is still protected by the Law. This special web service will help you in the event of a change of address, change of data in the Unified Voters Registry, or in your personal ID card, register these changes in the Special Voters Registry, that is, update all information in the event of a change in any data concerning the residence address, surname or other information related to a citizen who is enlisted in the Special Voters Registry, and wishes to vote for his/her national council.

Laws Do Not Deal With Substance, But Formalities

The National Assembly has recently adopted the long-awaited set of minority laws - the Law on Amendments to the Law on the Protection of the Rights and Freedoms of National Minorities, as well as the Law on Amendments to the Law on National Councils of National Minorities. There has been a lot of controversy in the public about these laws, especially when it comes to the Law on National Minority Councils. We talked with MP Enis Imamovic about whether these laws have restricted the already existing rights of national minorities, or they will contribute to further improvement of the minorities' position.



The Draft Law on Amendments to the Law on National Councils, which until recently was the subject of a public hearing, has been received with numerous complaints by national councils of national minorities, professional public and civil society. What are the most significant shortcomings of the Draft Law, as pointed out by representatives of the national minority councils and parties representing the interests of national minorities?

The very way in which these draft laws came into being was the biggest offense and the biggest drawback! Draft laws are the result of the work of a working group, a government working group, which had 26 members, only 5 of which were legitimate representatives of national minorities. This sufficiently speaks about the influence of national minorities in the work of this working group and on the impact on the drafts of these laws. When it comes to the

Law on National Councils of National Minorities, we and representatives of other national minorities had numerous complaints, and this is why we called on the Government of the Republic of Serbia to withdraw such laws from the parliamentary procedure and not to continue with their ratification. Specifically, this law, as well as its previously made amendments, has missed the opportunity to define finally what national councils are. Are they minority

self-government bodies, are they governmental advisory bodies, are they non-governmental organizations or associations of citizens what is their exact authority, but also what are their relations with other state bodies and institutions? These are national minorities' self-governing bodies elected in direct elections, in the same way that MPs are elected in the Parliament. However, in this case, the Government has obviously made the difference between these two elections, and according to the Government, there are important elections, in which all citizens vote, and those less important elections, in which representatives of national minorities cast their ballots for their representatives in, as the State Secretary said in your program, "something that resembles associations of citizens with certain powers in minority self-government." I would like to remind you that this statement was made by the man who was also the chairman of the working group that had drafted these new laws. Instead of specific solutions and instead of a specific definition, the ruling majority has used these amendments to the Law to strengthen additionally the control over national minority councils. On the other hand, it has also introduced provisions, which deny the right of members of national minorities, who are members of political parties, to run in elections for national minority councils or to be elected to the bodies of the national minority councils. We, therefore, have a paradox that the President of the State, or the Prime Minister, can be leaders of political parties, even the minister in charge of the portfolio covering issues related to national minorities and national minority councils may be the president of the executive board of one of the ruling parties, but this right is denied to members of minority communities who are members of minority political parties. In other words, the Government has told us that politics can deal with us, but that we can not deal with politics.

Can we expect that the adoption of amendments to the Law on Na-

tional Councils of National Minorities will contribute to enhancement of the legal framework for the implementation of the rights of members of minority communities?

I do not think so, for a number of reasons. The first reason is because the laws adopted by the Assembly are not harmonized with other laws under which national minorities exercise some of their rights. We have a case that the Law on the Protection of the Rights and Freedoms of National Minorities and the Law on National Minority Councils of National Minorities provide for one national minority right, while other laws challenge this same right or disregard its implementation.

The other reason is, as I have just mentioned, the profession was not consulted and the people to whom this law applies were not consulted in drafting of these laws. None of the essential requirements or proposals made by representatives of national minorities in this group was recognized. They were bluntly rejected, without any concrete discussion within the working group, they were not voted on or even recorded in the minutes, so we do not know what the fate of these proposals made by legitimate representatives of national minorities was. The laws were adopted in the Assembly without any debate on the amendments, and among those amendments there were also those made by MPs from the ranks of national minorities. However, according to the already established practice in the Assembly, we are not given a chance to discuss essential matters, we do not have the opportunity to discuss the amendments, draw the attention to the shortcomings of the draft legislation at hand to the Government and point out what can be done to correct and improve these draft laws. Lastly, I would like to note that one of the deficiencies of these latest amendments is that they do not provide for adequate penalties for those who violate minority laws. As a consequence, it will continue to be possible for the low ranking officials in the field to

challenge or deny the use of some rights to national minorities.

Will the adoption of the Law contribute to the harmonization of measures with the Action Plan for Chapter 23 for the Enforcement of the Rights of National Minorities, as well as the harmonization of the Law with the decisions of the Constitutional Court, which declared certain provisions of the old law unconstitutional in 2014?

First, it is necessary to harmonize the Action Plan with the real needs of national minorities. You know that the Bosniaks did not support this Action Plan, and for us, it does not have the necessary legitimacy because of the fact that there was no understanding in the working group for the drafting of this document for the legitimate demands of Bosniaks, and we consequently decided to leave the working group. If the goal of the Minority Action Plan is to increase the confidence of national minorities in the state and state institutions, I do not know how it is possible without insisting on solving the crimes committed against Bosniaks in Sandzak in the 1990s, involving the police and army of this country. How is it possible for the state to consider that Bosniaks should trust the state institutions if these crimes remain unresolved and those who committed them remain exempt from punishment? To have a bright future, we must also clear our past.

This Action Plan also envisages increased the presence of Bosniaks in state bodies with public authority. So, if the enforcement of law and justice are the responsibility of the police, the court and the prosecution, how can the Bosniaks trust the police, the court and the prosecutor's office where there are few or no Bosniaks at all? The criticism that came from the European Union was also in regard to the representation of national minorities in state bodies with public authority, including the representation of Bosniaks in the police, judiciary and prosecution. However, neither in this Ac-

tion Plan nor in the laws, have any mechanisms been created to correct this. We have called on the Government several times to revise this Action Plan and to adopt an Action Plan that will deal with the essence and not the form.

Can you tell us what the quality of the course of the debate on the amendments to the Law on National Councils of National Minorities was, how many amendments were made by the members of minority communities, and what the submitted amendments focused on?

Unfortunately, the Parliament has long since stopped being a place where a sound and argumentative debate takes place. The ruling majority, by their submission of senseless number of amendments and by ruthless spending of the time reserved for the debate on pointless reading of the same explanations that the Government proposed during the filing of the bill, prevents MPs from having an opportunity to discuss any draft legislation and submitted amendments. We submitted over 25 amendments, however, not only were they not adopted, but we did not have the opportunity to discuss them either. I want to believe that the situation will change. Bosniaks want to participate in building of the institutions of the system and want to solve their problems through the institutions of the system and seek mechanisms for a lasting solution, an institutional solution to their problems. We will certainly fight against the imposed solutions, and since this Government does not want or does not know how to regulate the area of protection and promotion of the rights of national minorities, we will soon submit to Parliament our own proposal of the Draft Law on the Protection of the Rights and Freedoms of National Minorities. Thus we hope to make it easier for the state to remove these obstacles from its European path, and, if there is no understanding in this regard in this ruling majority, we

will definitely work to get to the majority that will know how to hear what the real needs of minorities are.

Have the minority parties submitted amendments to the minority laws that would improve the status of members of minorities and facilitate the exercise of their legally guaranteed rights?

As I said, we submitted amendments, however, these amendments were rejected without any explanation. What is more crucial is that we did not even have the opportunity to justify the amendments, nor to discuss with the representatives of the proposers possible ways our amendments may enhance draft laws at hand. These laws, including the Minority Action Plan, do not deal with substance, but deal with formalities. We have suggested that the resolution of these issues, including the resolution of the problems national minorities face, be approached essentially by building stable and strong mechanisms for the realization and protection of the rights of national minorities. One of the best mechanisms that exists is the definition of a middle level of government, which would reduce the gap between the citizen and the state. We have a good example in our country, in the Autonomous Province of Vojvodina, where there is a middle level of government and where minorities have the opportunity to use their rights as guaranteed by the Constitution and the law at a far higher level than members of national minorities have in the rest of the country. We are talking about the same country, about the same system, about the same laws under which we work, but the centralism introduces an additional obstacle to the realization of the rights of national minorities. That is why, as Sandžak's citizens, we are in favor of Sandžak gaining the status of an autonomous province, which will enable all citizens a faster economic and cultural development through the middle-level government.

Article 4 of the Draft Law on Amendments to the Law on the Protection of the Rights and Freedoms of National Minorities, provides for introduction of positive discrimination against members of national minorities in regard to the employment in state institutions. Will this provision increase the visibility of vulnerable groups and will it contribute to their better integration into society?

Laws on paper do not mean anything unless followed by implementation on the ground. Unfortunately, when it comes to Bosniaks, the level of implementation on the ground is really catastrophically low. It is not enough to put a provision into law and think that we have solved all the problems. This is the case with the article of the law that you mentioned. This law and the article you referred to were adopted during the same debate in the Parliament, when the ruling majority, in addition to ratifying this article, also ratified the nomination for the president of the court in Novi Pazar. However, the nominee was not a Bosniak, it was a candidate of Serbian ethnic background, who does not even live in Sandžak, but comes from a town close to Sandžak. Not to mention the situation regarding the employment of Bosniaks in the police, the judiciary, the prosecution, the choice of prosecutors. This case best speaks about the huge gap between laws on paper and their implementation on the ground. This is why we demand that the Action Plan and the laws at hand provide for implementation of a correct procedure, i.e. to define the exact procedure for employment of police officers and election of judges and prosecutors, in order to harmonize the ethnic structure of these institutions with the national structure of the population. The laws must reflect the situation on the ground, and the Action Plan and the laws must prescribe a clear procedure, deadlines, sources of funding, and persons in charge for implementation of these provisions.

THE LAW ON AMENDING THE LAW ON NATIONAL COUNCILS OF NATIONAL MINORITIES

Article 1.

In the Law on National Councils of National Minorities ("Official Gazette of the Republic of Serbia" No. 70/09, 20/14 - US and 55/14) in Article 1 the word: "jurisdiction" is replaced with the words "legal position and powers".

After Paragraph 1, Paragraph 2 shall be added, reading as follows:

"All terms used in this Law in masculine form include the same terms in feminine form, in accordance with the Law."

Article 2

After Article 1, Articles 1a and 1b are added to read:

"Article 1a

The National Council is an organization that is legally entrusted with certain public authority to participate in decision-making or to decide independently on certain issues in the field of culture, education, information and official use of languages and scripts in order to exercise the collective rights of a national minority in self-government in these areas.

Members of a national minority can elect only one National Council.

Article 1b

A member of the National Council is obliged to participate in the work of the National Council.

The National Council Statute shall closely regulate the rights and obligations of a member of the National Council, in accordance with the law. "

Article 3

In Article 2, Paragraph 2, the words: "and establish institutions, companies and other organizations in these areas" shall be deleted.

After Paragraph 2, Paragraph 3 shall be added to read as follows:

"The National Council may establish institutions, companies and other organizations in the areas referred to in Paragraph 2 of this Article in accordance with special laws."

Article 4

After Article 2, Article 2a is added as follows:

"Article 2a

The name of the national council is written in Serbian and Cyrillic script.

The name of the National Council, if provided for by the statute, may also be in the language and script of the national minority.

The name referred to in Paragraph 2 of this Article shall be entered in the Register of National Councils in parallel with the name in Serbian and Cyrillic script. "

Article 5

In Article 4, paragraph 4, after the word: "entry", a comma and the words "or deletion" shall be added.

Article 6

In Article 4b, Paragraph 1, Point 2), after the word: "half", a comma is added and the words: "because there are no candidates on the electoral lists that have not received a mandate."

After Paragraph 1, a new Paragraph 2 shall be added, reading as follows:

"By being deleted from the Register, the National Council loses the status of a legal entity."

The former Paragraphs 2, 3 and 4 become Paragraphs 3, 4, and 5.

Article 7

After Article 4b, Article 4v is added as follows:

"Article 4v

The Ministry shall submit to the provincial administration authority with jurisdiction over minority rights and the Registry, the decisions on the application for entry of changes in the Register and the decision on removal from the Register for National Councils registered in the territory of the Autonomous Province of Vojvodina. "

Article 8

In Article 5, Paragraph 1, the words: "movable and immovable" are deleted.

After Paragraph 1, Paragraphs 2-5 are added to read:

"The assets of the National Council shall be used to exercise the powers provided for by the Law.

The assets of the National Council cannot be transferred to its members, members of the National Council's bodies, or persons associated with them.

Persons affiliated to persons referred to in Paragraph 3 of this Article shall be persons who are as such determined by the Law governing companies.

In the case of the removal of the National Council from the Register, the assets of the National Council acquired through public revenues shall become the property of the Republic of Serbia, and the proceeds from donations shall be distributed in accordance with the acts of the National Council."

Article 9

In Article 6, new Paragraphs 2-4 are added to read:

"Other general acts of the National Coun-

cil must be in accordance with the Statute.

The provisions of another general act of the National Council that are contrary to the Statute are null and void.

A procedure before the Administrative Court for determining the nullity of a general act of the National Council that is not in accordance with the statute may be initiated by a ministry, a provincial administrative body with jurisdiction over minority rights, institutions, companies and other organizations founded by the National Council and at least one third of the members of the National Council. "

In the previous Paragraph 2, which becomes Paragraph 5, Point 4) shall be amended to read:

"4) the name, seal and symbol of the National Council which cannot be identical to the name, seal and symbol of another national council that is registered or is due for entry in the Registry, nor cause confusion as to the national council, its objectives and powers, or the national minority's view of the national minority; "

In Points 5), 5a) and 6) after the word: "choices", the words "and dismissals" shall be added.

The previous Paragraph 3 becomes Paragraph 6.

Article 10

Article 7, Paragraph 2 is amended to read as follows:

"President of the National Council:

1) Represents the National Council and is responsible for its work;

2) Takes care of the lawful use and disposal of financial assets and property assets;

3) Adopts individual acts for which it is authorized by law, statute or general act of the Council;

4) Performs other tasks determined by the articles of association and other acts of the Council. "

After Paragraph 4, a new Paragraph 5 shall be added, which shall read:

"Executive Board:

1) Directly executes and takes care of the execution of decisions and other acts of the National Council;

2) Takes care of the exercise of public

authority entrusted to the National Council;

3) Performs other tasks determined by law, statute and general acts of the National Council. "

In the previous Paragraph 5, which becomes Paragraph 6, the words: "within the competence of the national council" shall be replaced with the words "in connection with the exercise of the power of the national council, as provided by this Law."

The previous Paragraph 6 becomes Paragraph 7.

After Paragraph 7, Paragraph 8 shall be added to read:

"In the committees for education, culture, information, and official use of languages and scripts, national councils may also elect an individual who is not a member of the National Council but possesses the appropriate knowledge and experience in the area of which the committees are formed. Committees provide expert opinions, proposals and make analysis for the needs of the National Council."

Article 11

After Article 7, Articles 7a and 7b are added to read:

"Article 7a

The President of the National Council and a member of the Executive Board cannot be a member of the governing bodies of a political party such as the president, the presidency, the executive board, etc.

The President of the National Council and a member of the Executive Board cannot be elected or appointed person in a state body, a provincial authority, or a body of a local self-government unit that, within the framework of its competencies, decides on issues concerning the work of national councils.

By choice, or arising from Paragraphs 1 and 2 of this Article, the term of office of the President of the National Council, or membership in the Executive Board, shall be terminated.

The termination of the term of office of the President of the national council or of the membership in the Executive Board shall be confirmed by the National Council at the first session following the receipt of the notice on the occurrence of the reasons

referred to in Paragraph 3 of this Article. "

Article 7b

A member of the National Council may be gainfully employed in the National Council during the term of office.

The provisions of the law governing the labour matters are applied on the National Council employment issues. "

Article 12

Article 8 Paragraph 1 is deleted.

The former Paragraphs 2-6 become Paragraphs 1-5.

Article 13

After Article 8, Article 8a shall be added to read as follows:

"Article 8a

The work of the National Council is public.

All decisions and acts of the National Council shall be published no later than ten days after the date of their entry into force, or their adoption, on the website of the National Council, which is bilingual, in the Serbian language and in the language of the national minority, or made public in other ways determined by the statute (bulletin board, daily newspapers, or otherwise).

When publishing the decisions and acts referred to in Paragraph 2 of this Article, it shall be taken into consideration that the right to privacy and the right to protection of personal data are not violated, in accordance with the Law. "

Article 14

In Article 9a, Paragraph 4, the words: "within the competence of the National Council" shall be replaced by the words "in connection with the exercise of the powers of the National Council provided for by this Law".

Article 15

Title of the Chapter III. "III. COMPETENCES OF THE NATIONAL COUNCIL "is amended to read:

"III. POWERS OF THE NATIONAL COUNCIL"

the title of Section 1." 1. General Jurisdiction "is amended to read:

"1. General Powers"

In Article 10, after Point 7), Points 7a) and 7b) are added, which read as follows:

"7a) proposes to the Republic, Autonomous Province or local self-government unit as the founder of the institution, the establishment of an institution of special importance as referred to in Articles 11a and 17 of this Law;

7b) initiates or proposes to the Republic, Autonomous Province or local self-government unit as the founder of the institution, which, in accordance with this law, is established as an institution of special importance for the national minority, the transfer of founding rights; "

In Article 10, Points 10) to 13) change and read:

"10) participates in the preparation of laws and other regulations and initiates the adoption or amendment of laws and other regulations addressing the constitutionally guaranteed rights of national minorities in the field of culture, education, information and official use of languages and scripts;

11) initiates the adoption, or amendments to, of special regulations and provisional measures in the areas in which the right to self-government is exercised, in order to achieve full equality between the members of the national minority and the citizens belonging to the majority;

12) submits a complaint to the Ombudsman, Provincial and Local Ombudsmen and other competent bodies, when assessing that there has been a violation of the rights and freedoms of persons belonging to national minorities guaranteed by the Constitution and the Law;

13) file a complaint from Point 12) of this Article on behalf of a member of a national minority;"

Article 16

The title of Section 2 above Article 11 is amended to read as follows:

"2. Powers in the Field of Education"

In Article 11, Paragraph 3, after the words: "this Article", the words "which, in accordance with this Law, have been established for institutions of special importance for the national minority", shall be added.

Article 17

After Article 11, the title above the

Article and Article 11a shall be added, which shall read:

"Institutions of Special Importance for Education of a National Minority"

Article 11a

An institution of special importance for the education of a national minority is an institution of education founded by the Republic, the Autonomous Province, a local self-government unit or a national council, in which, traditionally or substantially, the Constitution guarantees the right of persons belonging to national minorities to education and upbringing in their own language.

In the institution referred to in paragraph 1 of this Article, the National Council shall participate in the management in accordance with the Law.

An institution of education and training where instruction is conducted in the language of a national minority may be proclaimed an institution of special importance for the education of a national minority.

The institution referred to in Paragraph 1 of this Article may be:

1) one institution of elementary and secondary education in which the teaching is conducted in the language of the national minority, or in the speech of the national minority, if the number of institutions in which teaching is conducted in the local self-government is performed in the language of the national minority is less than four;

2) up to 1/4 of the total number of institutions of elementary and secondary education in which instruction is conducted in the language of the national minority, or in the language of the national minority, if in the local self-government the number of institutions in which teaching is conducted also in the language of the national minority is more than four;

3) elementary school in which instruction in the language of a national minority is attended by at least 1/3 of pupils and a secondary school in which instruction in the language of a national minority is attended by at least 90 pupils, if there is an institution of a certain level of education in a unit of local self-government proclaimed as an institution of special importance for the education of a national minority;

4) elementary school in a unit of local self-government where, due to the decline

in the number of inhabitants as a consequence to the negative natural increase and emigration, members of national minorities must especially protect themselves by guaranteeing additional rights.

The provisions of this Article shall also apply *mutatis mutandis* to an institution where language or speech with elements of national culture is studied, in the case of a national minority in whose language the teaching is not delivered. "

Article 18

Article 12, Paragraph 1, Point 2) is amended to read as follows:

"2) proposes the members of the administrative and school board - representatives of the local self-government unit in an institution where the majority of the educational work is carried out in the language of the national minority, or which is found to be of particular importance for the education of a national minority, in accordance with Article 10, Point 7a) and Article 11 of the Law; "

In Point 3) the words: "Point 1)" are deleted.

Point 4) is deleted.

Paragraph 3 is amended to read:

"In the field of higher education in institutions founded by the Republic, the National Council:

1) appoints a representative with the right to decide to participate in the work of the National Council for Higher Education in matters of importance for teaching in the language of the national minority when teaching in the language of a national minority in whole or in part in higher education;

2) gives an opinion on the candidates proposed for the managing body of the higher education institution in which teaching is conducted in whole or in part in the language of the national minority. "

Article 19

The title above Article 13 is amended to read:

"Teaching and Learning Plans and Programs"

In Article 13, Paragraphs 1 -3 change and read:

"1) proposes to the minister responsible for education the basis of the program of

preschool education, the program of teaching and learning of elementary and secondary education and the basis of the educational program, for contents that express the special character of the national minority, and especially in the field of history, music education and fine arts;

2) proposes to the minister responsible for education a program of teaching and learning for elementary and secondary education for the language of the national minority and the national minority speech with the elements of national culture;

3) gives the opinion to the minister in charge of education on the teaching programs of the Serbian language, as a second language; "

In Point 4) after the word: "education" the words: "and upbringing" are added.

Article 20

Article 14 is amended to read:

Article 14

The textbook plan in the language and script of national minorities and textbooks for subjects of interest for national minorities shall be adopted by the Minister in charge of education, at the proposal of the Institute for the Promotion of Education and Upbringing and the National Councils, following the positive opinion of the National Educational Council,

The National Council shall give prior consent in the process of approving manuscripts of textbooks, manuals, additional teaching aids, didactic means and didactic play tools in the language and script of the national minority, in accordance with the Law. If the National Council fails to reply to the publisher within 30 days from the day of submitting the request for the issuance of prior consent, the consent shall be deemed to have been granted. "

Article 21

The title above Article 15 and the Article 15 shall be amended and shall read as follows:

"Other Powers in the Field of Education"

Article 15

National Council, in accordance with the Law:

1) promulgates educational institutions of special importance for the education of

a national minority, in accordance with Article 11a of this Law, and proposes to the founder to establish this status in accordance with Article 10, Point 7a) of this Law;

2) proposes:

- one joint representative of the national councils as a member of the National Education Council;

- to the Ministry responsible for education the approval of non-competitive programs of continuous professional development of teachers, educators and professional associates in the language of a particular national minority abroad, for recognition in the process of evaluating the work of teachers;

- to the Ministry responsible for the education competitions of pupils of primary and secondary schools abroad who will be awarded in accordance with the regulations;

3) gives an opinion:

- in the process of adopting the act on the network of preschool institutions and elementary schools in the local self-government unit where the language of the national minority is in official use or in which educational work is carried out in the language of the national minority;

- to the minister responsible for education, or the provincial body responsible for education, in the process of determining the network of secondary schools and student institutions;

- to the minister responsible for education, or the provincial body responsible for education, in the process of giving consent to the opening of the department in the language of the national minority for less than 15 pupils;

- in the process of determining the number of pupils for enrolment in secondary school in the language of the national minority, as well as in the procedure for determining the number of pupils for acquiring the vocational training of re-training, additional qualification and specialization in the language of the national minority;

- in the process of allocating places in student campuses;

- in the process of adopting the act on the network of student and student campuses founded by the Republic, the Autonomous Province or a local self-govern-

ment unit;

- in the process of allocation of funds from the budget of the Republic, Autonomous Province and local self-government units, which are awarded through public competition to institutions and associations in the field of education;

4) appoints a representative to attend the session of the National Education Council and participate in its work without the right to vote, when the National Education Council considers issues of relevance to the education of the national minority;

5) establishes scholarships from own funds and, by its acts, prescribes the criteria and procedure for deciding on the granting of scholarships and implements the award procedure;

6) participates in the monitoring and improvement of the quality of adult education that is realized in the language of the national minority;

7) performs other tasks in this field as defined by law and other regulations. "

Article 22

The title of Section 3 above of Article 16 is amended to read:

"Powers in the Field of Culture"

In Article 16, paragraph 3, after the words: "this Article", the words "which, in accordance with this Law, have been established for institutions of special importance for a national minority," shall be added. "

Article 23

Article 17 is amended to read:

"Article 17

The institution of culture whose program activities predominantly relate to the study, preservation and presentation of the culture of national minorities in the Republic of Serbia, in accordance with the number of members of national minorities in the territory in which it performs activities, and if such program activities are of particular importance for meeting cultural needs specific for national minorities, is considered to be the institution of special importance to the national minority.

Upon the proposal of the National Council, the founder, by amending the founding act, can determine that the institution of culture is of special importance to the na-

tional minority.

In the institutions of culture for which the amendment of the founding act has been determined to be of particular importance to the national minority, the national council:

1) appoints at least one member of the Managing Board of the institution, in accordance with the law regulating the field of culture;

2) gives opinion on the proposed members of the Managing Board of the institution;

3) gives opinion in the process of election of the director of the institution.

If it is established that an institution in the field of culture is of particular importance for the preservation, improvement and development of the special features and national identity of a number of national minorities, the national councils shall jointly appoint one member of the Managing Board referred to in Paragraph 3, Point 1) of this Article. "

Article 24

The title above Article 18 is amended to read:

"Other Powers in the Field of Culture"

In Article 18, Points 11) and 12) change and read:

"11) In coordination with other national councils, proposes two, or, at most, twice as many candidates for the selection of two members of the National Council for Culture;

12) in coordination with other national councils, organizes the procedure for nominating candidates for members of the National Council for Culture; "

In Point 13), the words "by the act of the Autonomous Province or local self-government unit" are deleted.

Article 25

The title of the Section 4 is amended to read:

"4. Powers in the Field of Information
Founding Rights

Article 19

The National Council may establish institutions and business associations in order to exercise the right to public infor-

mation in the language of a national minority or foundation in order to achieve the general objective of promoting public information in the language of the national minority in accordance with the Law.

Acts on the establishment of an institution, a company or foundation, which is a media publisher, must be harmonized with the laws regulating the field of public information and the media.

Right to Nominate a Member to

The Council of the Regulatory Body for Electronic Media

Article 20

National councils are obliged to submit a reasoned proposal to the competent service of the National Assembly for two candidates for the member of the Council of the Regulatory Body for Electronic Media, in accordance with the procedure established by the law regulating the election of members of the Council of the Regulatory Body.

The proposal for two candidates of national councils comes with a joint agreement of national councils.

The National Assembly, in a plenary session, elects by vote one candidate for the member of the Council of the Regulatory Body for Electronic Media.

Other Powers in the Field of Information

Article 21

National Council:

1) adopts a strategy for the development of information in the language of the national minority, in accordance with the strategy in the field of public information of the Republic of Serbia;

2) makes a proposal for the allocation of funds for projects, which are submitted to a public competition announced by a public authority, in order to raise the quality of information for members of national minorities;

3) makes proposals and recommendations to the administrative boards and program councils of the public media services in relation to the programs in the languages of national minorities;

4) gives opinion on candidates for editors-in-chief of programs in the languages of national minorities in public media serv-

ices, if public media services have program editors in the languages of national minorities;

5) gives opinion on the report of the Program Board of the Public Media Services on the program contents in the languages of national minorities. "

Article 26

The name of Section 5 above Article 22 is amended to read: "5. Authority in the Field of Official Use of Languages and Scripts".

In Article 22, Point 1) after the word: "To the Official Gazette of the Autonomous Province of Vojvodina," the following sentence shall be added: "These names shall also be published in the local official gazette;".

In Point 4), after the word "place" and comma, the word "as" is added.

Point 7) is amended to read:

"7) Initiate the publication of the most important laws of the Republic of Serbia in the language of a national minority that is in official use and provide expert and other assistance, in accordance with its possibilities, in the translation process;".

In Point 9, the words "by the act of the Autonomous Province or local self-government unit" shall be deleted.

Article 27

The title above Article 25 is changed to read:

"Relations with the Government and Public Administration Bodies".

Article 25, Paragraph 1 is amended to read:

"The National Council may submit to ministries and special organizations proposals, initiatives and opinions on issues related to the exercise of the powers envisaged by this Law."

In Paragraph 3, the words "state authorities" are replaced by the word "ministries".

Article 28

In Article 26, Paragraph 2 is added to read as follows:

"The National Council shall be obliged to submit the required data, files and documents, within ten days at the latest, to the institutions of the Autonomous Province

with jurisdiction over the areas in which the powers envisaged by this law are exercised."

Article 29

In Article 27, Paragraph 1, after the word: "regional organizations", the words "dealing with the rights of persons belonging to national minorities" shall be added.

After Paragraph 1, a new Paragraph 2 shall be added, reading as follows:

"The cooperation referred to in Paragraph 1 of this Article must be carried out in accordance with the Constitution and the Laws of the Republic of Serbia and with respect to the territorial integrity and legal order of the Republic of Serbia."

The former Points 2 and 3 become Points 3 and 4.

Article 30

In Article 35, Paragraph 4, after the words: "half", the words "are added:" because there are no candidates on the electoral lists for whom the parties submitting the electoral lists were not given a mandate. "

Article 31

The title above Article 39 and the Article 39 shall be amended and shall read as follows:

"Media Obligations Regarding the Elections for National Councils"

Article 39

The media shall report on the elections for national councils in accordance with the laws regulating the field of public information and the laws regulating the election procedures. "

Article 32

In Article 40, Paragraph 1, Point 5) after the word: "half", the words are added as follows:" because there are no candidates on the electoral lists who have not been given a mandate.

In Paragraph 5, the words: "within the competence of the National Council" shall be replaced by the words "in connection with the exercise of the power of the National Council provided for by this Law".

Article 33

The title above Article 43 and the Article 43 shall be amended to read:

"Application of Other Regulations"

Article 43

The provisions of the laws governing the election of deputies and the law governing the administrative dispute shall apply accordingly to the elections of the national council and issues not regulated by this Law.

The provisions of the Law governing the general administrative procedure shall apply to matters of conduct in administrative matters not otherwise regulated by this Law. "

Article 34

In Article 48, Paragraph 6 is amended to read:

"The Ministry takes over the data from the Unified Voters Registry list required to update and execute ex officio changes in the Special Voters Registry."

After Paragraph 6, Paragraphs 7 and 8 are added to read:

"Particularly sensitive data are processed in accordance with the Law.

A decision shall be made on any change made on the basis of the data referred to in Paragraph 6 of this Article. "

Article 35

Article 50 is amended to read:

"A Special Voters Registry shall contain: the serial number, name and surname of the voter, the name of one of the parents of the voter, the nationality of the voter, the unique national identity number of the voter, the date and place of birth of the voter, polling station, the place of residence and the address of the voter, local self government unit where the voter has permanent residence, and a place of residence for internally displaced persons."

Article 36

In Article 52, Paragraph 4, after the words: "permanent residence", the words "the place of residence for internally displaced persons" shall be added.

Article 37

In Article 53, Paragraph 3, after the words: "permanent residence", the words "the place of residence for internally displaced persons" shall be added.

Article 38

Article 112 is amended to read:

"Article 112

The National Council adopts the annual financial plan and final annual financial statement.

An integral part of the final annual financial statement is the annual financial report on the execution of the plan, which contains the annual performance report, with justification.

The National Council adopts the annual financial plan according to the program model in which the revenues and expenditures are in accordance with the powers of the National Council.

The annual financial plan shall be adopted in accordance with the procedure and in the manner prescribed by the statute of the National Council and shall be submitted to the budgetary user financing the work of the national councils within five days from the date of its adoption.

The National Council adopts the annual financial report for statistical purposes and financial reporting for the purpose of entering into the register of financial statements in accordance with the regulations governing accounting.

The National Council shall, within 15 days from the date of the issuance of the financial report or the final financial statement, send a copy of the report or account to the budgetary user financing the work of the national councils. "

Article 39

Article 113 shall be amended to read:

"Article 113

Acquired funds, in accordance with this law, can be used to finance the regular activities and permanent costs of the National Council.

The expenses of the regular activities of the National Council include:

1) Financing or co-financing programs and projects in the field of education, culture, information and official use of the language and script of the national minority;

2) Financing of the work of institutions, foundations and companies whose founder or co-founder is the national council or whose founding rights are partially or completely transferred to the national council.

The permanent costs of the National Council include:

- 1) Costs for renting and using the premises of the National Council;
- 2) Salaries, taxes and contributions for employees in the National Council;
- 3) Fees and contributions for the work performed for the needs of the National Council;
- 4) Travel and per-diem allowances for business trips;
- 5) Procurement of office materials and equipment for the work of the National Council;
- 6) Bookkeeping services;
- 7) Annual audit costs;
- 8) Costs of maintaining a national council website.

Funds for financing the permanent expenses of the National Council can not amount to more than 50% of the funds defined by the budget of the Republic of Serbia, the autonomous province and units of local self-government."

Article 40

Article 115 shall be amended to read:

"Article 115

Funds for the activities of national councils are provided by the Budget Law of the Republic of Serbia and decisions on the budget of the AP Vojvodina and local self-government units.

The funds referred to in paragraph 1 of this Article provided in the budget of the Republic of Serbia are allocated so that 30% is distributed in equal amounts to all registered national councils in the Republic of Serbia, while the remaining funds (70%) are proportional to the number of members of a particular national minority represented by the national council according to the results of the last census, as well as the total number of institutions, foundations and companies whose founder or co-founder is the national council or whose founding rights are partially or completely transferred to the national council.

The decision on the allocation of funds from the budget of the Republic of Serbia is made by the budget beneficiary with the funds in the budget earmarked for financing the work of the national councils, based on the proposals submitted by the

national councils.

Funds cannot be transferred to the National Council if expenditures according to the financial plan are not in accordance with the objectives set forth in Article 113 of this Law or in case there is a pending or ordered enforced debt collection from the National Council.

Criteria for the allocation of funds for financing the activities of national councils from the budget are regulated by the Government, the AP Vojvodina and the local self-government units.

The funds referred to in paragraph 1 of this Article provided in the budget of the local self-government unit shall be allocated, in accordance with the decision of the competent authority of the local self-government unit, to the national councils which:

- 1) Have a seat in the territory of the local self-government unit;
- 2) Represent national minorities that in the population of the local self-government unit makes at least 10% of the total population;
- 3) Represent national minorities whose language is in official use on the territory of a local self-government unit. "

Article 41

Article 117 shall be amended to read:

"Article 117

The National Council has an account registered with a branch of the Treasury Department, through which all transactions from the received budget funds are performed.

Bookkeeping records are kept by the source, amount and structure of revenues and expenditures, in accordance with the regulations governing accounting and supporting records for reporting needs for program activities.

Bookkeeping records of revenues and expenditures and supporting records of program activities of the National Council are subject to annual audit in accordance with the regulations governing international accounting and auditing regulations.

The National Council is obliged to keep a separate record of its property.

The National Council is obliged to report quarterly to the competent budget bene-

ficiary about the use of funds as provided by the law and the decision on the budget for financing the work of national councils. If it is determined during the audit procedure, inspection controls, or on the basis of quarterly reports that the national council has not used funds from the budget as authorized, the budget beneficiary making a budget grant shall suspend the transfer of funds from the budget until irregularities have been corrected.

A budget beneficiary making a budgetary grant shall inform the National Council on the irregularities identified by the auditor and order that they be corrected.

The deadline for remedying the irregularities identified by the auditor is 60 days from the date of receipt of the notice on suspension of the transfer of funds by the budget beneficiary making a budgetary grant.

In the event that the National Council does not remedy the irregularities identified by the auditor, the budget beneficiary making the budgetary grant will reduce the funds allocated for financing the work of the National Council for the next fiscal year in relation to the year for which the audit was carried out. The amount of reduction is equal to the amount of funds for which the National Council has not remedied the irregularities identified by the auditor."

Article 42

Article 119 shall be amended to read:

"Article 119

The Budget Fund for National Minorities (hereinafter: the Fund) is managed by the Ministry.

Allocations from the Fund are awarded through a public competition for financing programs and projects in the field of culture, education, information and official use of languages and scripts of national minorities.

The procedure for the allocation of funds from the Fund and the implementation of a public competition is more closely regulated by the Government. "

Article 43

In Article 120, Paragraph 1 is amended to read:

"The legality of work and the acts of national councils, in accordance with the Constitution and the law, within their scope

of work, shall be supervised by the ministries responsible for administration, culture, education, information and official use of languages and scripts."

Article 44

Article 121 shall be amended to read:

"Article 121

The line ministry shall initiate a procedure for assessing the constitutionality and legality of a statute, regulation or other general act of a national council before the Constitutional Court, if it considers that the act is not in accordance with the Constitution and the law. "

Article 45

Article 122 shall be amended to read:

"Article 122

If it finds that an individual act of a National Council against whom no judicial protection is provided is not in accordance with the law or other regulations, or with the statute, regulation or other general acts of the National Council, the line ministry shall propose to the National Council to revoke or cancel such act.

If the National Council fails to act upon the proposal of the line ministry referred to in Paragraph 1 of this Article within 30 days, the line ministry shall, with its decision, revoke or annul the act referred to in Paragraph 1 of this Article."

Article 46

Article 123 shall be amended to read:

"Article 123

A responsible official in the competent institution shall be charged with a fine in the amount of 10,000 to 100,000 dinars in the case of:

1) Failing to provide the submission of the acts referred to in Article 4v of this Law to the competent provincial administration body;

2) Failing to ensure the accuracy and timeliness of the Special Voters Registry as provided by Article 48 of this Law;

3) Failing to enter or delete entries on voters from the Special Voters Registry, contrary to the provisions of Article 48 of this Law;

4) Using data from the Special Voters Registry for purposes not permitted by this Law, contrary to Article 51 of this Law.

"

Article 47

Article 127 shall be amended to read:

"Article 127

A national council shall be charged with a fine in the amount of 50,000 to 200,000 dinars if it:

1) Fails to comply with Article 4a Paragraph 1 of this Law;

2) Fails to comply with Article 6, Paragraph 6 of this Law;

3) Fails to publish all the decisions and acts of the National Council not later than ten days after the date of their entry into force, or their adoption, on the website of the National Council or otherwise determined by the Statute (bulletin board, daily newspaper, etc.) - (Article 8, Paragraph 2);

4) Does not submit the required data, files and documents (Article 26, Paragraph 2) to the bodies of the autonomous province with jurisdiction over areas in which the powers of the national councils are exercised at the latest within ten days from the day of the submission of the request;

5) Contrary to the provisions of Article 120, Paragraph 2 of this Law, fails to submit to the ministry that supervises the legality of the work and acts of national minorities the required data, files and documents within eight days from the date of submission of the request;

For violations referred to in Paragraph 1 of this Article, a fine of 5,000 to 50,000 dinars shall also be charged to the responsible person in the national council. "

Article 48

Article 128 is deleted.

Article 49

From the date of entry of this Law into force, the national councils shall continue to exercise the public powers entrusted to them in accordance with this Law.

National Councils that have, until the entry of this Law into force, used the traditional name of the National Council, respecting long-standing work and public recognition, can continue to use this name only with a clear distinction in the title that it is a national council in the Republic of Serbia.

The provisions of Article 11 of this Law, to which a new Article 7a is added, shall apply after the conduct of the first subsequent elections for members of national councils.

National Councils are obliged, after implementing the first next elections for members of national councils, to harmonize their statutes with this law within 20 days from the date of their constitution.

National Councils are obliged to harmonize the powers of the President and the Executive Board of the National Council with Article 10 of this Law (Article 7 of the Law amended) and ensure the publicity of the work in accordance with Article 13 of this Law (after the first elections for members of national councils) Article 8a of the Law), with the day of entry into force of the statute harmonized with this Law.

Until the entry of this Law into force, the founder of the institutions of education and pre-school children care and the cultural institutions that the National Council has declared as institutions of special importance for the national minority is obliged to harmonize the founding act with the provisions of this Law within 90 days from the date of entry of this Law into force.

Budgetary financing of the work of the national councils will be carried out as provided by this Law from the date of the implementation of the Budget Law for 2019, and the decisions of the provincial and local authorities on the budgets for 2019.

The Minister is obliged to pass the acts envisaged by the Law within 60 days from the date of entry of this Law into force.

In the contents of the forms referred to in Article 3, Paragraph 6, Article 44, Paragraph 3, Article 52, Paragraph 4, Article 53, Paragraph 3, and Article 102, Paragraph 4 of the Law, the Minister shall, within 60 days from the day of entering of this Law into force, add annotation stipulating that the applicant has been informed at the time of signing the form of the processing of personal data and that he has agreed with the processing of such data, in accordance with the Law.

Article 50

This Law shall enter into force on the eighth day from the date 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 Con-

stitution 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 "Federal 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-govern-

ment".

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 members 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 im-

prove 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 fulfilled, 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 na-

tional 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 minorities 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 provi-

des 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 go-

vernments, they can participate in securing funds for higher quality of education in minority languages.

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 Minori-

ties 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 Mi-

nistry 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 National 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 suggestion to the Ministry, electronically to the address adrdress@ljliljana.bekcic.mduls.gov.rs, or by mail to the following address: Ministry of Public Administration and Local Self Government, Birčaninova 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 de-

bate 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 nomenclature 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 nomenclature 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 debate 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 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 Consti-

tution 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 be 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 "in-

terculturalism".

- 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 supported; also, universities and higher education organizations can open 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". 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 standards, 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 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 suggestion 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 associa-

tions 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 rea-

sons 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 Minori-

ties, which is a permanent working body of the Government, whose members are appointed 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".

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 be-

come 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 employment 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 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 Pa-

ragraph 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 accordance 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 organisa-

tions, 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 Repu-

blic 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 lan-

guages 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 on Amendments to the Law on National Councils of National Minorities (hereinafter: the Law) 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 of the Constitution. For the adoption of amendments to the Law, Article 75 of the Constitution, which stipulates that members of national minorities, in addition to the rights guaranteed by the Constitution to all citizens, are also subject to additional, individual or collective rights (paragraph 1), that through collective rights national minorities, directly or through their representatives, participate in decision-making or decide on particular issues related to their culture, education, information and official use of languages and scripts, in accordance with the law (paragraph 2), and in order to realize the right to self-government in culture, education, information and official use of languages and scripts, members of national minorities may elect their National Councils in accordance with the law. Articles 76-81, inter alia, provides that members of national minorities are guaranteed equality before the law, the prohibition of discrimination, and the possibility of introducing special regulations and temporary measures for achieving full equality (Article 76), the right to participate in the management of public affairs and to enter public functions under the same conditions as other citizens (Article 77), the prohibition of violent assimilation (Article 78), the right to the preservation of specifics (Article 79), the right to association and cooperation with the compatriots (Article 80) The Constitution also

stipulates the obligation of the state to encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect, understanding 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 RATIFICATION OF THE LAW

The reasons for amendments to this Law can be categorized into several special groups.

The direction of amendments to the Law was determined first of all by the Action Plan for the Realization of the Rights of National Minorities adopted by the Government of the Republic of Serbia on the basis of the Action Plan for the Negotiating Chapter 23, which the Republic of Serbia has defined for the strategic improvement of the institutional and legislative framework in the field of human and minority rights.

The reasons for adopting this law are also expressed in the need to harmonize the Law with the Constitutional Court's decision. Namely, on the grounds of a number of initiatives for assessing the constitutionality of the Law, the Constitutional Court, by its January 2014 Decree, censured certain provisions of the Law, while retaining certain provisions in force provided they were interpreted and applied in accordance with the Court's opinion as set forth in the Decision. In that sense, in order to ensure uniform application of the provisions of the Law and legal certainty, it is necessary, in accordance with the Decision of the Constitutional Court, to amend the text of the Law, especially in regard to the use of the term power rather than the competence of National Councils, as well as the cooperation of National Councils with the Government, administration and provincial and local author-

ities.

A special group of reasons for amendments to the Law are recommendations of relevant international bodies that, as part of the monitoring of the application of international treaties on the protection of national minorities, are addressed to the Republic of Serbia as a signatory. In this regard, it should be noted in particular that the Advisory Committee that monitors the implementation of the Framework Convention for the Protection of National Minorities has recommended to the Republic of Serbia that the amendments to the Law reduce the excessive politicization of National Councils and ensure a "division of power" in National Councils.

Lastly, but not least, the reasons for amendments to the Law are in the need to harmonize certain solutions contained in this Law and the systemic laws governing certain areas of social life in which the councils exercise their powers, as well as to define more precisely certain solutions and provide closer normative regulation of certain issues for which the need has arisen in the practice of implementing the Law. In that sense, it should be noted that the proposed amendments related to the issues of exercising certain powers of National Councils in the sphere of education, culture and information are in line with the solutions contained in the systemic laws regulating those areas of social life, and that the changes and amendments related to the removal of councils from the register, the publicity of the work of the council, issues related to the voter registries, the delivery of the decision on data entry, deletion and changes in the registry to the provincial administrative body in which the scope of the protection of national minorities covers the cooperation of National Councils with the provincial authorities, as well as the financing of National Councils is a consequence of the need to specify certain solutions and to approximate the normative editing of certain issues for which the need has arisen in practice.

III EXPLANATION OF INDIVIDUAL SOLU-

TIONS

In Article 1 of the Draft Law, the word "jurisdiction" is replaced by the words "legal position and powers". Such an amendment arises from the Decision of the Constitutional Court (IUz-882/2010 "Official Gazette of the Republic of Serbia" No. 20/14) in which the Court took the view that the National Councils could not have jurisdiction, but that the law delegated them a public authority. Also, this article is supplemented by a new paragraph according to which all terms used in the masculine form include the same terms in the feminine form as provided by the law.

Article 2 of the Draft Law adds a new Article 1a, which also arises from the Constitutional Court Decision, in which the Court stated that the National Councils are non-state bodies which are institutional forms of the self-government of national minorities, guaranteed by the Constitution, and that they bear the public authority in the constitutionally defined areas of social life. Since the applicable law does not include the definition of National Councils, it is necessary that the National Councils be legally designated by the amendments and supplements to the Law, and such a definition is prepared in accordance with the understanding of the Constitutional Court's ruling. Also, this article of the Draft Law adds a new Article 1b, which refers to the rights and duties of a member of the National Council. It is envisaged that a member of the National Council is obliged to participate in the work of the National Council and that the statute of the National Council shall closely regulate the rights and obligations of the members of the National Council.

Article 3 of the Draft Law changes and amends Article 2, as a result of the harmonization of the Law with the Decision of the Constitutional Court. Namely, according to existing Article 2, paragraph 2 of the Law, the National Council "establishes institutions, companies and other organizations in the field of social life in which it operates", but the Constitutional Court ruled that the establishment of companies was possible only in those areas of social life in which such a possibility is foreseen by special laws that regulate these areas (for example,

it is not possible for the National Council to establish a company in the field of education). For this reason, it was necessary to re-formulate the existing Article 2.

The existing law does not contain provisions governing the issues of the name of National Councils and the official use of the languages and scripts of national minorities in the names of National Councils. For this reason, the amendment adds a new Article 2a, which stipulates that the name of the National Council must be in Serbian and Cyrillic alphabet, and that the name of the National Council, if provided for in its acts of association, may also be in the language and the script of a national minority, and that such a name of the National Council will be entered in the Register of National Councils in parallel with the name in Serbian and the Cyrillic alphabet.

In the current Article 4 of the Law, among other things, the issue of data that is entered in the Register of National Councils is regulated. In the process of preparing amendments to the Law, it was noted that the Register should not only include the number and date of the decision on registering, but, in the event that such a decision is adopted, the number and date of the decision on removal from the Register (Article 5 of the Draft Law). The current Article 4b addresses the issue of deleting National Councils from the National Councils Register. According to existing provisions, a National Council is deleted from the Register in case it is dissolved due to suspension of the procedure of selection of the National Council, and in case it is dissolved because the number of its members is reduced for more than a half. In the process of preparing amendments to the Law, it is considered that the existing reason for deleting a National Council from the Register, in case the number of its members is reduced for more than a half, requires a more detailed and precise regulation. For this reason, Article 6 of the Draft Law changes and supplements the applicable Article 4b. so it is stipulated that the erasing of the National Council from the Register is unnecessary in case the number of its members is reduced below half, because there are no candidates on the electoral lists for

which the candidates for the electoral lists were not given a mandate. Also, the introduction of a new provision is envisaged, whereby a National Council will lose the status of a legal entity if it is removed from the Register.

Article 7 of the Draft Law, adds a new Article 4v, which is a consequence of the need for better cooperation and coordination of activities between the state and provincial bodies. Namely, according to the existing Law, the provincial authorities cooperate with the National Councils and have the obligation to participate in the financing of the work of those National Councils that have their headquarters on the territory of the Autonomous Province. For this reason, it is necessary that the provincial institutions that have jurisdiction over minority rights receive copies of decisions on registration of National Councils in the Register, as well as copies of decisions on applications for entry of changes in the Register and the removal decisions from the Register, for all National Councils registered head office in the territory of the Autonomous Province.

Article 8 of the Draft Law adds new paragraphs in Article 5 of the existing law, as a consequence of the need to regulate more precisely the use and disposal of property of National Councils and that such solutions have systemic quality, that is, they are analogous to solutions for use and disposal of assets by other non-state bodies that may be holders of public authority (such as, for example, citizens' associations). To this end, it is envisaged that the assets of the National Council can be used exclusively for the exercise of the powers provided for by law (which prevents the National Councils from becoming business entities and participants in market activities), that assets must not be transferred to members, members of the National Council body, or related individuals, and that, in the event of the removal of the National Council from the Registry, the assets of the councils acquired from public revenues become the property of the Republic of Serbia, while the assets acquired through donations are distributed in accordance with the acts of the National Council.

Amendments to Article 6 of the exist-

ing law (Article 9 of the Draft Law) ensure that the statute of the National Council is indeed an act of the strongest legal force that the National Council brings. To this end, it is explicitly stipulated that other general legal acts, if adopted by the National Council (eg the Rules of Procedure), must be in accordance with the Statute, that the provisions of other general acts of the National Council are null and void if they are contrary to the Statute, and the issue of the competence of the Administrative Court was also regulated to decide on the nullity of other general acts of the National Council, which are not in accordance with the Statute. During the preparation of amendments to the Law, it is worth considering that the circle of subjects authorized to initiate such proceedings before the Administrative Court, in addition to the Ministry and the competent provincial authority, includes institutions, companies and other organizations founded by the National Council and at least one-third of the members of the National Council, as these entities may also have an interest in determining the nullity of general acts that are not in accordance with the statute, and in practice they will first encounter such a problem. Article 6 of the existing Law envisages one change. Namely, it was established that the previous provision according to which the statute of the National Council was regulated and the issues of the name, symbols and stamps of National Councils should be further specified. To this end, in accordance with the solutions that exist in the Law on Associations, it is proposed to specify that the National Council's statute regulates the name, seal and symbol of the National Council, which can not be identical to the name, seal and symbol of another National Council that is registered, or duly filed for entry in the Registry, nor cause confusion as to the National Council, its objectives and powers, or in respect of the national minority represented by the National Council. In addition to items 5), 5a) and 6) of paragraph 5 of Article 6 of the existing Law, it is stipulated that the statute of the National Council shall, inter alia, regulate the procedure for dismissal of the president, the executive board and members of other committees and bodies of the National Council.

Article 10 of the Draft Law changes and amends Article 7 of the current law specifying the powers and duties of the President of the National Council and the Executive Board of the National Council, which is in line with the recommendations of the relevant international bodies a "division of power" should be implemented within the framework of National Councils. To this end, it is especially important that the President of the Council is explicitly responsible for his work and that he is accountable for lawful use and disposal of financial assets and property of the council, and that the Executive Board directly oversees execution of decisions and other acts of the National Council and takes care of the exercise of public authority entrusted to the National Council. Article 7 of the current Law is supplemented by a provision specifying the composition and powers of the National Council Board. To this end, it is envisaged that members of these committees may also be experts who do not have to be members of National Councils, but, on the other hand, it is explicitly prescribed that committees for education, culture, information, and official use of language and script, provide expert opinions and proposals and carry out analysis for the needs of National Councils.

Article 11 of the Draft Law adds a new Article 7a, which regulates the issue of the incompatibility of functions or affairs. The amendment to the existing law is in line with the recommendations of relevant international bodies. To this end, these amendments envisage that the President of the National Council and a member of the Executive Board can not be a member of the governing bodies of a political party, as exempli causa, the president, the presidency, the executive board, etc., can not be elected or appointed person in a state body, a provincial authority, or a local self-government unit, which, within its competencies, decides on issues related to the work of National Councils. The amendments are expressly provided for the mandate of the President of the National Council, i.e. membership in the Executive Board, which shall be terminated by election or appointment in the bodies designated by the aforementioned Article as incompatible. The end of the term of office of

the President of the National Council, or membership in the Executive Board, shall be ascertained by the National Council at the first session following the receipt of the notice on the occurrence of the reasons referred to in paragraph 3 of this Article.

The new Article 7b (Article 12 of the Draft Law) regulates the issue of employment in the National Council. This issue has not been regulated by the existing law so far, and in practice it has caused some doubts, especially in the context of the possibility for members of the National Council to be employed in the National Council, which is also significant in terms of spending of funds intended for financing of the work of National Councils. Amendments to the current Law stipulate that a member of the National Council may be legally employed in the National Council during the term of his mandate and that all employment in the National Council, that is, the employment of both the members of the National Council and other individuals employed by the National Council, are regulated by the provisions of the law governing labour.

The amendments to the current Law also apply to more precise regulation of the work of National Councils. In the findings and opinions of relevant international bodies, as well as domestic civil society organizations, it has often been stressed that the work of National Councils is not transparent enough, that their role is not recognizable, not only within the national minorities they represent, but also in the wider social community. To this end, Article 14 of the Draft Law adds a new Article 8a, which explicitly provides that the work of the National Council is public and that all decisions and acts of the National Council are published no later than ten days after the date of their entry into force, posted on the website of the National Council, which is bilingual, in the Serbian language and in the language of the national minority, or made public in any other way determined by the statute (bulletin board, daily newspaper, or other appropriate way). Bearing in mind the need to protect personal data, it is also stipulated that, when publishing decisions and acts, it is ensured that the right to privacy and the right to protec-

tion of personal data are not violated, in accordance with the law. In accordance with the amendments to Article 14 of the Draft Law, the provisions of Article 8 of the existing law are also deleted (Article 13 of the Draft Law).

Pursuant to the Constitutional Court's Decision, the amendments to the current Article 9a paragraph 4a, which provide that the National Council, which mandate is about to expire, shall carry out ongoing urgent tasks in connection with the exercise of the powers of the National Council provided for by this law, which changes the previous decision according to which such a work of the National Council was performed within the competence of the National Council (Article 15 of the Draft Law).

Particularly important amendments to the applicable law relate to the powers of National Councils. The aim of these amendments is to harmonize legal solutions on the powers of National Councils with the understanding of the Constitutional Court, which is outlined in the Decision of the Constitutional Court, and to regulate systematically qualitatively and uniformly the powers of the National Councils, which are standardized by this law, as well as systemic laws which regulate the areas of social life in which National Councils operate.

To this end, first of all, Article 16 of the Draft Law supplements Article 10 of the current Law, which regulates general authorizations, by introducing new points 7a) and 7b) according to which the National Council proposes to the Republic, the Autonomous Province or the local self-government unit as the founder institutions, establishment of an institution of special importance referred to in Art. 11a and 17 of this Law and initiates or proposes to the Republic, Autonomous Province or local self-government unit as the founder of the institution, which, in accordance with this Law, is established as an institution of special importance for the national minority, the transfer of founding rights. Also, the provisions contained in Points 10), 11), 12) and 13) are also amended; these provisions were subject to review by the Constitutional Court, which ruled that they could be kept, provided that they are interpreted in the manner that the Court

has prescribed in its Decision. Therefore, the proposed amendments clearly specify the nature of the general authority. To this end, the provisions of the existing Law that stipulate that the National Council 1. proposes amendments to the regulations governing the constitutionally guaranteed rights of national minorities in the field of culture, education, information and official use of languages and scripts (Point 10), 2. proposes special regulations and provisional measures in the areas where the right to self-government is exercised (Point 11); and 3. initiates proceedings before the Ombudsman, the Provincial and Local Ombudsman and other competent authorities, when assessing that there has been a violation of the constitutionally guaranteed rights and freedoms members of national minorities (Point 12) are changed in the sense that the National Council, since, according to the Constitution, it is not an authorized proposer for the adoption of such acts, initiates the adoption or amendments to laws and regulations, as well as files a complaint with the protector of citizens, provincial and local Ombudsman and other competent authorities, when assessing that there has been a violation of the constitutionally guaranteed freedom of members of national minorities, or files a complaint from Point 12 of this Article on behalf of a member of a national minority.

The largest number of amendments to the existing law relate to the powers of National Councils in the field of education. First of all, Article 17 of the Draft Law, in addition to the technical change of the title of the Section, envisages amendments to Paragraph 3 of Article 11 of the Law, by supplementing this provision, ie it specifies that the Republic, the Autonomous Province and the local self-government unit, as founders of the institutions, can transfer in whole or in part founding rights to a National Council for institutions that, in accordance with this law, have been established as institutions of special importance for the national minority.

Article 18 of the Draft Law provides for the addition of a new Article 11a which, in accordance with the decision of the Constitutional Court, emphasizing the need for the legislator to regulate

the term "institutions of special importance for the national minority", specifies that it is the institution of education and upbringing founded by the Republic, the Autonomous Province, a local self-government unit or a National Council, in which, traditionally or substantially, the Constitution ensures the right of members of national minorities to education and upbringing in their own language. This Article also regulates the maximum number of institutions that can be proclaimed as institutions of special importance for the national minority, which is important in the context of the participation of National Councils in the management of such institutions and their funding. By amendments to Art. 12-15 of the existing law, solutions are provided in line with new legal solutions in the field of education, especially with regard to the matter of the participation of National Councils in determining the general bases of pre-school programs, curricula and programs of primary and secondary education, as well as the use of textbooks.

Because of the different solutions contained in the existing law and the Law on Culture, it is necessary to make changes to the provisions that regulate the powers of National Councils in the field of culture. First of all, Article 23 of the Draft Law, in addition to the technical change of the title of the section, envisages amendments to Paragraph 3 of Article 16 of the Law, by supplementing this provision, i.e. by specifying that the Republic, Autonomous Province and local self-government units, as founders of the institutions, partially transfer the founding rights to a National Council for institutions that, in accordance with this law, have been established as institutions of special importance for the national minority. Furthermore, amendments to Article 17 of the current Law (Article 24 of the Draft Law) stipulate that a cultural institution whose program activities mainly relate to the study, preservation and representation of the culture of national minorities in the Republic of Serbia, in accordance with the number of members of national minorities and the territory in which it performs activities, and if such program activities are of particular importance for meeting the cultural needs specific to the national mi-

norities of the institution of special importance for the national minority and that, upon the proposal of the National Council, the founder may determine that they are of special importance by amending the founding act. It is also stipulated that the National Council in the institutions of culture founded by the Republic, the Autonomous Province or a local self-government unit, for which it is established by the amendment of the founding act that they are of special importance for a national minority, appoints at least one member of the board of the institution in accordance with the law regulating the field of culture, gives opinion on the proposed members of the board of directors of the institution and gives opinion in the process of election of the director of the institution. In the event that it is established that an institution in the field of culture is of special importance for the preservation, improvement and development of the special features and national identity of a large number of national minorities, the National Councils appoint a joint member of the board of directors referred to in paragraph 3, item 1) of this Article.

Article 25 of the Draft Law, amends Article 18 of the existing Law, harmonizing Points 11 and 12 with the provisions of the Law on Culture.

Article 26 of the Draft Law envisages amendments to Articles 19-21 of the existing law, harmonizing the provisions on the powers of the National Councils in the field of information with the solutions contained in the system laws regulating public information and media, and making them more precise. To this end, first, the amendments to Article 19 provide that the National Council may establish institutions and companies in order to exercise the right to public information in the language of a national minority, or a foundation in order to achieve the general objective of promoting public information in the language of the national minority, in accordance with the law (Paragraph 1) and it is specified that acts on the establishment of an institution, a company or foundation, which is a media publisher, must be in compliance with the laws regulating the field of public information and the media. Also, Article 20 incorporates the so-

lution already contained in the Law on Electronic Media, which provides for the right to nominate a member of the Council of the Regulatory Body for Electronic Media. According to the new provision of Article 20, the National Councils are obliged to submit a well founded proposal for the two candidates for the position of a member of the Council of the Regulatory Body for Electronic Media, in accordance with the procedure established by the law regulating the election of members of the Council of the Regulatory Body, and that two National Council candidates are nominated jointly by all National Councils. Also, the Law on Electronic Media also harmonized the provision according to which the National Assembly, in a plenary session, elects one of the two candidates nominated by the National Council for the member of the Council of the Regulatory Body for Electronic Media, by voting. Amendments to the provisions contained in Article 21 specify other powers of National Councils, which include: 1) adopting a strategy for the development of information in the language of the national minority, in accordance with the strategy in the field of public information of the Republic of Serbia; 2) making a proposal for the allocation of funds for projects, which are submitted through a public competition announced by a public authority, in order to raise the quality of information for members of national minorities; 3) making proposals and recommendations to the board of directors and program councils of public media services in relation to programs in the languages of national minorities; 4) giving opinions on candidates for editors-in-chief of programs in the languages of national minorities in public media services, if public media services have editors for the program in the languages of national minorities, and 5) giving an opinion on the Program Council's public service report regarding program contents in the languages of national minority.

Article 27 of the Draft Law, amends Article 22 of the current Law, prescribing the powers of National Councils in the field of official use of language and script. Namely, these provisions are precise and harmonized with systemic solutions in this field. First, Point 1) is supplemented

by the provision according to which the traditional names and other geographical names in the language of the national minority are also published in the local official gazette. Amendments to Point 7) of the Article stipulate that the National Council initiates the publication of the most important laws of the Republic of Serbia in the language of a national minority that is in official use and provides expert and other assistance, in accordance with its possibilities, in the translation process. Such a solution facilitates implementation and allows the participation of National Councils in the implementation of the obligation arising from the European Charter of Regional or Minority Languages to provide translations of the most important legal texts in the languages of national minorities. Amendments to Point 9) of this Article of the existing law, which stipulates that the National Council decides on other issues in the field of official use of the language and script entrusted to it by law, omit the definition according to which it can be entrusted to them by the act of the Autonomous Province or local self-government unit, because the autonomous provinces and local self-government units do not have the original competence in the field of social life, and the tasks entrusted to them can not be further transferred to non-state entities.

A large number of amendments to the existing law, which arise from the Decision of the Constitutional Court, regulate the relationship of National Councils with republic, provincial and local authorities, as well as with international regional organizations, which, to date, was partly regulated by the existing Articles 25-27. To this end, Article 28 of the Draft Law specifies that the provisions on relations with the Republic authorities regulate relations with the Government and state administration bodies. Within this segment of the relationship, it is specified that the National Council can submit proposals, initiatives and opinions on the issues related to the exercise of the powers envisaged by this Law to the ministries and special organizations, and that the National Council can submit an initiative to the Government for the abolition or annulment of the regulations of ministries and special organizations, instead of the previous provisions accord-

ing to which such an initiative could be submitted for the abolition, ie annulment of the regulations of state bodies. The relationship of National Councils with the Autonomous Province is two-way. To this end, Article 29 of the Draft Law supplements Article 26 of the current law, which provides that the National Council is obliged to provide the institutions of the Autonomous Province, having jurisdiction over the areas where the powers provided for by this Law are exercised, with requested information, files, and documents within a period of ten days. The Decision of the Constitutional Court also requests the amendments of the existing Article 27 (Article 30 of the Draft Law), which regulates the cooperation of National Councils with international and regional organizations. The amendments to this Article stipulate that the National Council, in accordance with the Law, shall cooperate with international and regional organizations dealing with the issues of the rights of persons belonging to national minorities and that such cooperation must be carried out in accordance with the Constitution and the law of the Republic of Serbia, with respect to the territorial integrity and the legal order of the Republic of Serbia.

Article 31 of the Draft Law supplements the Article 35, Paragraph 4 of the current Law, specifying that the elections for the National Council will not be slated if the National Council is dissolved due to the suspension of the procedure of election of members of the National Council, or because the number of its members has reduced for more than a half, because there are no candidates on the electoral lists for which the candidates for the electoral lists were not given a mandate, which is a consequence of the amendment included in Article 4b of the existing law.

Article 32 of the Draft Law changes the Article 39 of the existing law, which provides for media reporting on the elections for National Councils, in accordance with the laws regulating the field of public information and the laws regulating the election procedure. These amendments make the terminological and systemic harmonization of this law with the provisions of the systemic laws regulating the field of public information and

elections.

By amendments of Article 40, Paragraph 1, Point 5 of the existing law is specified, which is a consequence of the amendment to Article 4b. Also, in accordance with the Decision of the Constitutional Court, in Paragraph 5 of Article 40 of the existing law, the words: "within the competence of the National Council" shall be replaced by the words: "in connection with exercising the powers of the National Council provided for by this Law." (Article 33 of the Draft Law) .

Amendments to Article 43 of the existing law (Article 34 of the Draft Law) stipulate that the provisions of the law governing the election of deputies and the law regulating administrative dispute should be applied to the election of the National Council and issues not regulated by this law. The provisions of the law governing the general administrative procedure shall apply to matters of conduct in administrative matters not otherwise regulated by this Law. Such changes are a necessary consequence of the adoption of the new Law on General Administrative Procedure.

Amendments to Articles 48, 50 and 52, which regulate the Special Voters Registry of national minorities, provide for solutions that facilitate the management of data in the list, legally regulate all changes made in it, more precisely regulate the data entered in it and the submission of a request for registration in this list. In this regard, the amendments to Article 48 (Article 35 of the Draft Law) stipulate that the Ministry shall take over the data from the Unified Voters Registry required to update the Special Voters Registry, in particular sensitive data processed in accordance with the law, with a decision issued on all changes made. Amendments to Article 50 (Article 36 of the Law) provides that the Special Voters Registry shall contain: the serial number, name and surname of the voter, the name of one of the parents, the nationality of the voter, unique national identification number of the voter, the date and place of birth of the voter, polling station, the place of residence and the address of the voter, the local self-government unit where the voter has his place of residence – the temporary place of residence for inter-

nally displaced persons - whereas the amendments to Article 52 (Article 38 of the Law) stipulate that a request for registration in the Special Voters Registry of a national minority shall be submitted to the administrative body of the local self-government unit according to the place of residence, i.e. according to the temporary place of residence for internally displaced persons. The change of the same content is also included in Article 53, Paragraph 3 of the existing law, and in the context of filing a request for deletion from the Special Voters Registry.

Many of the amendments to the current Law refer to the financing of the work of National Councils, the spending of funds, especially those acquired from public sources, as well as solutions that ensure transparency in the spending of funds and financial discipline, thus aligning the provisions of this law with the systemic solutions existing in the legislation governing public finances. First of all, Article 39 of the Draft Law envisages the amendment of Article 112 of the Law, which stipulates that the National Council adopts the annual financial plan and the annual financial report, that an integral part of the annual financial report is the report on the execution of the annual financial plan, which contains the annual performance report with an explanation, and that the annual financial plan of the National Council is adopted according to a program model in which revenues and expenditures are aligned with the powers of the National Council, thus creating a legal basis for easier monitoring of expenditures. To this end, it is also stipulated that the annual financial plan is adopted according to the procedure and in the manner envisaged by the statute of the National Council, and is submitted to the budget beneficiary, where the funds for financing the work of the National Councils have been allocated from, within five days from the date of report's adoption. Particularly important is the provision stipulating that the National Council adopts the annual financial report for statistical purposes and financial reporting for the purpose of entering it into the register of financial statements in accordance with the regulations governing accounting, and prepares a financial re-

port on the effect of program activities, which is submitted to the budget beneficiary, where the funds are allocated for funding of work of National Councils, for monitoring and reporting on the proper use of budget funds. It is stipulated that the National Council is obliged to send a copy of the report to the budget beneficiary which allocates funds for financing the work of the National Councils within 15 days from the day of issuance of the financial report.

Amendments to Article 113 of the existing Law (Article 40 of the Draft Law) regulate the use of assets that are acquired in accordance with the law. In this regard, it is first stipulated that the funds acquired in accordance with this Law may be used to finance the regular activities and fixed costs of the National Council. Amendments specify that the costs of regular activities of the National Council include: 1) financing or co-financing programs and projects in the field of education, culture, information and official use of the language and script of the national minority, and 2) financing the work of institutions, foundations and companies whose founder or co-founder is the National Council or whose founding rights are partially or entirely transferred to the National Council, while the permanent costs of the National Council include: 1) the costs of renting and using the premises of the National Council; 2) salaries, taxes and contributions of employees in the National Council; 3) fees and contributions for the work performed for the needs of the National Council; 4) travel and per diem allowances for business trips; 5) procurement of office materials and equipment for the work of the National Council; 6) bookkeeping services; 7) annual audit costs; and 8) costs of maintaining the website of the National Council. In order to prevent the possibility of the exclusive use of funds for permanent expenses, it is explicitly stipulated that the funds for financing the permanent expenses of the National Council can not amount to more than 50% of the funds allocated by the budget of the Republic of Serbia, the Autonomous Province or the local self-government unit.

Amendments to Article 115 of the existing law (Article 41 of the Draft Law), more precisely regulate the amount of

funds and the way of allocating funds for financing the activities of National Councils that come from the budget of the Republic, the Autonomous Province and local self-government units. The new Paragraph 1 of this Article stipulates that funds for the activities of National Councils shall be provided by the Budget Law of the Republic of Serbia, i.e. budget decisions of the AP Vojvodina and local self-government units. Paragraph 2 stipulates that the funds provided in the budget of the Republic of Serbia are allocated so that 30% is distributed in equal amounts to all registered National Councils in the Republic of Serbia, while the remaining funds (70%) are proportional to the number of members of a particular national minority represented by the National Council according to the results of the last census, as well as the total number of institutions, foundations and companies, whose founder or co-founder is a National Council or whose founding rights are partially or fully transferred to a National Council. The essence of the change that is envisaged in the presented position consists in specifying the allocation criteria in the total number of institutions. Namely, the current text of the Law stipulates that the criterion for distribution is the total number of institutions of the national minority in the field of culture, education, information and official use of languages and scripts and the scope of activities of these institutions. Since the term "national minority institution" is vague and is not contained in any applicable law, it is considered that this allocation criterion should apply to institutions, foundations and companies whose founder or co-founder is a National Council or whose founding rights are partly or fully transferred to a National Council. Amendments are explicitly prescribed and the decision on the allocation of funds from the budget is made by a budget user with the budgetary allocations for financing the work of National Councils, taking into account the proposals of National Councils. A significant novelty in regulating this issue is also the new provision in Paragraph 4, according to which the funds can not be transferred to the National Council if, according to the financial plan, expenditures are not in accordance with the purpose set out in Article 113 of this law, or in case there are filed

requests and orders for forced debt collection from the National Council. Such a solution prevents unwarranted use of funds, as well as the obligatory transfer of funds in case there are filed requests and orders for forced debt collection from the National Council, what could not be avoided so far. The new provision in Paragraph 5 of this Article stipulates that the criteria for the allocation of funds for financing the activities of National Councils from the budget are regulated by the Government, but also by the AP Vojvodina and the local self-government unit, which in fact, unlike the previous ones, obliges local self-government units to set more detailed criteria for the allocation of funds provided for financing activities of National Councils from their budgets. Significant novelties are also presented by the new provisions in Paragraph 6 of this Article, which prescribe that the funds from the budget of the local self-government unit, in accordance with the decision of the competent body of the local self-government unit, are distributed to the National Councils: having a seat in the territory of the local self-government unit (Point 1), represent national minorities that in the population of the local self-government unit make no less than 10% of the total population (Point 2) or represent a national minority whose language is in official use on the territory of the local self-government unit (Point 3).

Article 42 of the Draft Law changes the provisions of the current Article 117 in relation to the obligation of National Councils for keeping the accounting records subject to annual audit. Among other things, it is envisaged that the accounting records of revenues and expenditures and auxiliary records of the program activities of the National Council are subject to an annual audit in accordance with the regulations governing international accounting and auditing regulations and that, if during the audit, inspection or quarterly reports, it is determined that the National Council has not used funds from the budget as provided by the Law, the budget beneficiary who makes the grant suspends transfer from the budget to the elimination of irregularities expressed in the opinion of the auditor (paragraph 6). Accordingly, Paragraph 7 stipulates that a budget ben-

efficiary who makes a budgetary grant informs the National Council on the suspension of funds and instructs them to eliminate irregularities expressed in the opinion of the auditor. This is an important novelty that also prevents possible ineligible use of funds from public sources.

Article 43 of the Draft Law amended the existing Article 119 of the Law regulating the Budget Fund for National Minorities, managed by the Ministry. It is envisaged that funds from the Fund are awarded through a public call for funding programs and projects in the field of culture, education, information and official use of languages and scripts. Paragraph 3 explicitly stipulates that the procedure for the allocation of funds from the Fund is more closely regulated by the Government. This creates the legal basis for the Budget Fund to become operative.

Article 44 of the Draft Law provides for the amendment of Paragraph 1 of Article 120 of the existing law, which regulates the competence of the line ministries in exercising supervision over the legality of work and acts of National Councils.

Article 45 of the Draft Law amended the current Article 121, so that it is envisaged that the line ministry will initiate a procedure for assessing the constitutionality and legality of the statute, regulations or other general acts of the National Council before the Constitutional Court if it considers that these acts are not in accordance with the Constitution and the Law.

Article 46 of the Draft Law, which changes the previous Article 122, provides the legal basis for controlling the work of National Councils that is conducted over their individual acts. Namely, the new provisions stipulate that, if it finds that an individual act of a National Council, against which the judicial protection is not provided, is not in accordance with the law or other regulations, or with the statute, regulations or other general acts of the National Council, the line ministry shall propose to the National Council to annul or cancel such act. If the National Council fails to act in accordance with this proposal within 30 days, the line ministry will abolish or annul it. These provisions are fully

in line with solutions that are prescribed for the same situation by the Law on Local Self-Government and it is logical that such type of control is applied to National Councils as a form of non-territorial self-government as well.

Articles 47 and 48 of the Draft Law make amendments to the penal provisions of the existing law. Article 47 of the Draft Law changes the Article 123 of the law in force by envisaging misdemeanor penalties for a responsible person in the competent body, not only in case they do not implement or act contrary to the provisions of the law in entering or deleting voter's data from the Special Voters Registry and using data from the Special Voters Registry of members of national minorities for purposes not permitted by law, but also if they fail to ensure the delivery of documents to the competent provincial administration body and fail to ensure the accuracy and promptness of the Special Voters Registry, as provided by this Law. Also, the amendments include the increase in the amount of fines to 100,000 dinars. Article 48 of the Draft Law envisages the amendment of Article 127 of the existing law, so that for the misdemeanors, a fine is prescribed for the National Council or the responsible person in the National Council, if they fail to act under Article 4a paragraph 1, Article 6, Article 6 paragraph 2, Article 26, paragraph 2 and contrary to the provisions of Article 120, paragraph 2 of this Law.

Article 49 foresees deletion of Article 128 of the Law.

Article 50 of the Draft Law prescribes transitional provisions. Paragraph 1 stipulates that the National Council, from the date of entry into force of this Law, shall continue to exercise the public powers entrusted to it in accordance with this Law. Paragraph 2 stipulates that National Councils which have, until the entry into force of this Law, used the traditional name of the National Council (that is, a name that is different in relation to the name of the National Council in the language and script of the national minority), bearing in mind longstanding work and public recognition, can continue to use this name, only with a clear clause in the title that it is a National Council in the Republic of Serbia. Fur-

thermore, it is envisaged that the provisions on incompatibility referred to in Article 7a of the Law, be applied after the completion of the first next elections for National Councils, that the National Councils are obliged to harmonize their statutes with this Law after the elections in accordance with this Law within 20 days from the date of their constitution, and that, after implementing the first subsequent elections for the members of National Councils, they shall harmonize the powers of the President and the Executive Board of the National Council with Article 10 of this Law and ensure the publicity of work in accordance with Article 14 of this Law, with the day of the entry into force of the statute harmonized with this Law. Particularly important is the provision of paragraph 6 of this Article, according to which the founder of the institution of education and upbringing, and the institution of culture that the National Council declared prior to the entry into force of this Law as an institution of special importance for the national minority, is obliged, within 90 days from the day the entry into force of this Law, to harmonize the founding act with the provisions of this Law. Paragraph 7 stipulates that the budgetary financing of the work of the National Councils will be carried out as provided by this Law from the date of implementation of the Budget Law for 2019, and the decisions of the provincial and local authorities about the 2019 Budget. It is also stipulated that the Minister is obliged, within 60 days from the date of entry into force of this Law, to adopt the acts envisaged by this Law. In order to harmonize the provisions of the existing law with legal decisions on the collection and processing of personal data, it is stipulated that the Minister is obliged to include a special annotation in the contents of the forms referred to in Article 3, paragraph 6, Article 44, paragraph 3, Article 52, paragraph 4, Article 53 3. and Article 102, paragraph 4 of the Law, within 60 days from the date of entry into force of this Law, stipulating that the applicant making a request, has been informed at the time of signing the form about processing of personal data and has agreed with it, in accordance with the Law.

Article 51 foresees that this Law shall

enter into force on the eighth day from the date of its publication in the "Official Gazette of the Republic of Serbia".

IV. FINANCIAL ASSETS NECESSARY FOR IMPLEMENTATION OF THE LAW

The financial assets for the implementation of this Law are provided by the Law on the Budget of the Republic of Serbia for 2018 within:

I) Line 20 - Ministry of Public Administration and Local Self-Government, Chapter 20.0 - Ministry of Public Administration and Local Self-Government, function 111- Executive and Legislative Bodies, Program 1001- Promotion and Protection of Human and Minority Rights and Freedoms, Program Activities 0001 - Enhancing the Rights of Members of National Minorities, Economic Classification 423 - Services Under Contract, as follows:

- in the amount of 4,800,000.00 dinars for the service for establishing an application for the Special Voters Registry and

the Register of National Councils, their maintenance and improvement, and

- in the amount of 720,000.00 dinars for printing the extract from the Special Voters Registry for elections for members of National Councils of national minorities.

II) Line 3 – the Government of the Republic of Serbia, Chapter 3.19 - Office for Human and Minority Rights, Program 1001 - Improvement and Protection of Human and Minority Rights and Freedoms, Function 160 - General Public Services Not Elsewhere Classified, Program Activity 0007 - Improving the Status of National Minorities, on Economic Classification 481 - Grants to Non-Governmental Organizations:

- in the amount of 247.981.000,00 dinars for financing National Councils of national minorities.

Funds for 2019 and 2020 will be defined in accordance with the balance sheet of the budget of the Republic of

Serbia, within the limits set by the Ministry of Finance for the needs of the Ministry of Public Administration and Local Self-Government and the Office for Human and Minority Rights.

V. REASONS FOR EXPEDITED RATIFICATION OF THE LAW

It is proposed that this Law be ratified in an expedited procedure, as not taking an immediate action could cause harmful consequences to the work of administrative bodies in the Republic of Serbia.

Namely, given that the existing Law stipulates the obligation to hold regular elections for members of National Councils in 2018, it is necessary to implement this Law expeditiously in order to enable the smooth conduct of these elections and constitution of National Councils.

REPORT ON IMPLEMENTED PUBLIC DEBATE ON THE DRAFT LAW ON AMENDMENTS TO THE LAW ON NATIONAL COUNCILS OF NATIONAL MINORITIES

I Legal Framework, Period and Method of Public Debate

Committee on Legal System and Governmental Institutions of the Government of the Republic of Serbia, pursuant to Article 41, paragraph 3 of the Rules of Procedure of the Government ("Official Gazette of the Republic of Serbia", No. 61/06 - revised text, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14), at a session held on March 29, 2018, issued Conclusion 05 No. 011-29250 / 2018, which determines the implementation of the public hearing on the Draft Law on Amendments to the Law on National Councils of National Minorities and defined the program of the public debate, as proposed by the Ministry of Public Administration and Local Self-Government.

The Ministry of Public Administration and Local Self-Government established a Special Working Group, consisting of representatives of the Ministry of Education, Science and Technological Development, the Ministry of Culture and Information, the Ministry of Justice, the Ministry of Finance, the Ministry of Foreign Affairs, the Republic Secretariat for Legislation, the Office for Human and Minority Rights, the Office for Kosovo and Metohija, the Coordinating Body for the Municipalities of Presevo, Bujanovac and Medveđa, the Republic Institute for Statistics, the Provincial Secretariat for Education, Regulations, Administration and National Minorities - National Communities, and national minority councils of Bosniak, Bunjevac, Hungarian, Romanian and Slovak national minorities. The Special

Working Group prepared the working text of the Draft Law.

The Ministry of Public Administration and Local Self-Government, with the support of the OSCE Mission to the Republic of Serbia, conducted a process of public consultations on the working text of the Draft Law on Amendments to the Law on National Councils of National Minorities, with a view to widespread discussion and exchange of suggestions. In the framework of public consultations, six round tables were held on November 29, 2017 in Novi Sad, December 4, 2017 in Novi Pazar, December 5, 2017 in Bujanovac, December 7, 2017 in Petrovac Na Mlavi, December 15, 2017 in Subotica, and December 18, 2017 in Belgrade. Representatives of relevant state bodies, national councils of national minorities, civil society organizations, professional public, the international community and other interested parties took part in the process of preparation of this regulation.

The working text of the Draft Law was sent to the Council of Europe for an expert analysis provided for under the TAPA Program - a horizontal program of cooperation for the Western Balkans and Turkey. On February 12, 2018, an expert analysis of the working text of the Draft Law on Amendments to the Law on National Councils of National Minorities was submitted to the Ministry.

After considering all the comments and suggestions made during the process of public consultations and recommendations from the expert analysis, the text of the Draft Law on

which the public debate was conducted had been prepared.

The public debate on the Draft Law was conducted from March 29 to April 18, 2018. The text of the Draft Law was published on the website of the Ministry of Public Administration and Local Self Government www.mduls.gov.rs, the e-Government Portal www.euprava.gov.rs and the Office for Cooperation with Civil Society www.civilnodrustvo.gov.rs, and interested parties could submit their remarks, suggestions and proposals to the Ministry at the e-mail address: miroslav.raskovic@mduls.gov.rs or in writing, to the address: Ministry of Public Administration and Local Self-Government, Belgrade, Birčaninova 6.

During the public debate, two round tables were held, on April 11 in Kučevo and on April 16 2018 in Belgrade, attended by representatives of state institutions, independent bodies, national councils of national minorities, international organizations, and civil society organizations.

II Participants in the Public Debate

State institutions, institutions of AP Vojvodina, national councils of national minorities, political parties and movements, citizens' associations, and individuals participated in the public debate. The following participants in the public debate submitted their comments and proposals in regard to the Draft Law to the e-mail address of the Ministry of Public Administration and Local Self-Government: the Coordination of National Councils of National Minorities, the Provincial Secretariat for Education, Regulations,

Administration and National Minorities, national councils of German, Croatian, Slovenian, Czech, Romanian, Roma, Bosniak and Greek national minorities, member of the National Council of the Macedonian National Minority Slave Gruevski, the Bunjevac Association - the political party of the national minority - President Mirko Bajic, Center for Policy Research "Argument" - Slobodan Martinovic, Citizens' Association "Europius" - Dr Milica Kolaković-Bojović, Coalition of Journalistic and Media Associations for Information in the Minority Language, and an interested individual, Vesna Prčić.

III. Analysis of the Results of the Public Debate

1. Comments and Suggestions of Principle Character

Analyzing the comments, proposals, and suggestions submitted by the participants in the public debate on the text of the Draft Law, as well as oral presentations at the round tables, the following can be noted:

- All participants in the public debate were familiar with the reasons and character of the proposed amendments to the Law on National Councils of National Minorities, which consist of:

1. The harmonization of the Law with the measures from the Action Plan for the Realization of the Rights of National Minorities adopted by the Government of the Republic of Serbia on the basis of the Action Plan for the Negotiating Chapter 23;

2. The harmonization of the Law with the Decision of the Constitutional Court of IUz-882/2010 of January 2014 ("Official Gazette of the RS", No. 20/14) (hereinafter: the Constitutional Court Decision), by which the Court has censured certain provisions of the Act, retained certain provisions in force provided they were interpreted and applied in accordance with the Court's opinion as set out in the Decision;

3. Entering into the Law recommendations of relevant international bodies that, as part of the monitoring of

the application of international treaties on the protection of national minorities, are addressed to the Republic of Serbia as a party to the treaty, which relate to individual legal solutions;

4. The harmonization of certain solutions contained in this Law and the systemic laws governing the areas of social life in which the councils exercise their powers, as well as the precise definition of certain solutions and the more detailed normative regulation of specific issues for which the need has arisen in the legal practice pointed.

- The majority of participants in the public debate provided specific comments, proposals, and suggestions.

- A number of the participants in the public debate delivered or expressed principle remarks: that the Draft Law only partially complies with the measures from the Action Plan; that the Draft does define national councils as organizations of cultural autonomy and a form of non-territorial self-government; that the Draft reduces the powers of national minority councils in certain areas (for example, in the field of culture) which represents a reduction in the attained level of minority rights and restricts the right to minority self-government, which is contrary to Article 20, paragraph 2 of the RS Constitution); that the introduction of excessive control over the work of national councils deteriorates the institutional position of national councils; that the attempt to reduce the excessive politicization of national councils did not recognize the distinction between political parties of national minorities and other political parties; that the criterion of using data from the last census of population for the exercise of certain rights determined by this Law is questionable; that the draft does not introduce any kind of cooperation between state bodies and organizations and national councils, but imposes control over the work of national councils, and does not provide for timely and clear obligations of state bodies in relations with national councils; that the Draft does not provide for the regulation of the in-

stitutionalization of the Coordination of National Councils; that the Draft does not provide for the harmonization of the provisions of other laws with the solutions contained in this regulation; that the Draft does not contain any solution to the problems that national councils have encountered in the previous work nor in any way contributes to the proper organization of national councils in their efficient and effective work; that the scope and importance of the changes required the drafting of a new law.

2. Specific Comments, Proposals, and Suggestions

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

- To amend Article 2 of the Draft Law by determining that minority self-government is the right of citizens of minority members to participate in decision-making through their freely elected representatives in the national council or to decide on certain issues of importance for the exercise of their rights; formulating that the national council is a representative body of a national minority or that it represents a non-territorial cultural self-government; that the national council represents a national minority, that is, it can be entrusted with public authority, and in other areas of importance for achieving full equality; by standardizing that the national council has the same rights and duties as public administration bodies when exercising delegated public powers; that a national minority can have only one national council; as well as to regulate normatively the position of members of the national council in terms of prescribing their duty to participate in the work of the national council, the right to paid leave due to the obligation to participate in the work of the national council, and to determine the immunity for an expressed opinion or vote at the session of the national council.

- To amend Article 4 of the Draft Law by, inter alia, prescribing that the name of the National Council in the Serbian language and the script and in the language and script of the national minority shall be governed by

the Statute of the National Council, that the name be written in accordance with the provisions of the Law on Official Use of Language and Script, or supplement to the definition according to which the name of the national council, if provided for by the statute, may be in the language and script used by the national minority as official.

- To amend Article 9 of the draft law, inter alia, by envisaging that proceedings before the Administrative Court for the determination of the nullity of a general act of a national council that is not in accordance with the statute may be initiated not only by the aforementioned entities, but also by members of the national minority.

- It was also proposed that Article 10 of the Draft Law be amended so that in the existing Article 7 of the Law it is foreseen that the President and the members of the Executive Board of the National Council shall not be elected from among the members of the National Council, that members of the Committee on Culture, Education, the Use of the Language and Script of the national council for which the Draft Law stipulates that they do not have to be members of the national council must be registered in the Special Voters Registry and that the existing provisions of Article 7, 5 and 6 according to which the National Council may delegate to the Executive Board decisions on certain issues within the competence of the National Council and which regulate the procedure for confirming such decisions be deleted.

- That Article 11 of the Draft Law, which provides that a member of the National Council can not be a member of the governing bodies of a political party such as the president, the presidency, the executive board, etc., explicitly provides that this does not apply to the bodies of political parties of national minorities, or to be deleted in its entirety, or that the envisaged solution applies only to the president of the national council and members of the executive board, and that the decision according to which a member of the national council can

not be a functionary, an appointed person or a manager in a state administration body, the provincial administration body or the body of a local self-government unit that decides on matters concerning the work of national councils in the framework of its competences so that instead of the word "official" stands the elected person, that is, he can not be a deputy, a councilor, nor a member of a political party structures, with the exception of political parties of national minorities.

- To add a new paragraph in Article 12 of the Draft, according to which it would be envisaged that elected members of councils who base their employment in the National Council perform public functions and are obliged to report the property of officials in accordance with the provisions of the Law on the Agency for the Fight against Corruption.

- That Article 14 of the Draft Law stipulates that all decisions and acts of the National Council shall be published no later than within 10 days from the day of adoption, on the web presentation of the National Council, which is bilingual, in the Serbian language and the language of the national minority, or otherwise determined by the statute (bulletin board, daily newspaper or otherwise), so that the obligation to publish refers only to the general acts of the national councils, that the deadline for publication is 30 days, and that instead of an alternative manner of publication can be regulated by the statute of a national council provides for the obligation of cumulative publication both on the web site of the national council, and otherwise provided for by the statute.

- Amendments to Article 15 of the Draft Law have been proposed, so that, inter alia, it is stipulated that any activity of the national council and institutions and organizations founded by it, which fall within the domain of scientific and educational work, and especially those for the purpose of studying and standardizing languages, publishing, and education of the teaching staff. It was also suggested that this article be amended, inter alia, by

the provisions according to which the National Council: prescribes the manner of marking the confirmed national minority holidays; proposes dismissal of responsible persons in state bodies, bodies of the AP and local self-government units, institutions, public services and organizations with public authorizations when it determines that they do not allow individual or collective members of the national minority to use the Constitution and law guaranteed rights; establishes days of special importance for the national minority; proposes a way of resolving issues of importance for the national minority on which the public authorities decide; pass special regulations and propose to public authorities the adoption of provisional measures in the areas in which the right to self-government is exercised in order to achieve full equality between members of the national minority and citizens belonging to the majority and ensure the realization of the rights of national minorities guaranteed by the Constitution and the law when it establishes that the exercise of these rights may be or has been denied, and that national councils may co-operate with each other, in accordance with their needs, through the Coordination of National Minorities Councils, in order to achieve common obligations, goals, plans and programs, as well as other needs of common interest.

- Article 17 of the Draft Law, which prescribes a new Article 11a, should be amended so as to prescribe that an institution of primary and secondary education in which teaching is conducted only in the language of the national minority may be proclaimed a special education institution for education of a national minority.

- To amend Article 19 of the Draft Law with new paragraphs, which would envisage that while proposing a curriculum for courses of special importance for national minorities, the National Council will simultaneously propose contents from the curriculum of teaching, which is conducted in Serbian language that will be replaced with content that expresses the specialty of a national minority in the field of history, music education and fine

arts, and that bodies and organizations responsible for taking part in the curricula adoption process for subjects expressing the special character of a national minority can change or challenge the proposed content in regard to the terminology, events, and personalities addressed.

- That Article 23 of the Draft Law regulating the concept and determining the character of the institution of special importance for the national minority in the field of culture, as well as the powers of the national councils in these institutions, is reformulated so that it is stipulated that the institution of culture, the one whose activity is particularly related for the cultural specialty and preservation of the national identity of national minorities, on the proposal of the national council, the founder is obliged to establish that the institution of culture is of special importance for the national minority, and that, in such institutions, the national council has the right to appoint one member of the management board, whereas in the case several national councils establish that the same institution is of special importance to their national minorities, each of them appoints one member of the board of directors.

- To amend Article 24 of the Draft Law regulating other powers in the field of culture in order to exclude the provision that the issues related to the powers of the national councils in the field of culture, which are not regulated by this law, are in accordance with the provisions of the law regulating the area of culture, and adding new provisions according to which, in certain cases, the national council would have left a deadline of at least 15 days for the proposal, it established the obligation of the presence of an authorized representative of the national council at the session on which the allocation of assets and liabilities was decided by the competent authority to explain the decision in the event of a rejection of the proposal of the national council. It was also proposed that the strategy for the development of a national minority culture by the National Council be binding on the institutions of culture founded by the

Republic, autonomous province, and local self-government units.

- To amend Article 25 of the Draft Law so that the National Council, instead of the opinion, makes a proposal for projects, which are submitted to the public competition announced by the public authority, in order to raise the quality of information for members of national minorities.

- To amend Article 26 of the Draft Law by envisaging that the National Council, instead of initiating the publication of the most important laws of the Republic of Serbia, initiates the publication of regulations in the language of the national minority.

- To amend Article 27 of the Draft Law by envisaging that the duty of the National Council to deliver decisions and acts to the competent ministry (in one proposal it is foreseen that it is only the ministry in charge of human and minority rights affairs) to limit it to general acts only, and extend the delivery deadline from 10 to 30 days.

- It was suggested that a new Article 27a be included in the Draft Law, which would regulate the legal position of the Coordination of National Councils of National Minorities

- To amend Article 34 of the Draft Law by envisaging that the verification of data entry in the Special Voters Registryl can be done electronically.

- It was suggested that the Draft Law be amended by adding a new Article, which would provide for the deletion of paragraph 2 of Article 105 of the existing law.

- To amend Article 38, paragraph 4 of the Draft Law, which stipulates that the funds for financing the permanent expenses of the National Council can not amount to more than 50% of the funds defined by the budget of the Republic of Serbia, the autonomous province or local self-government unit, so that the percentage defined the provision only applies to salaries, taxes and contributions in the national council.

- That Article 39 of the Draft Law changes, so as to increase the percen-

tage of funds provided in the budget of the Republic of Serbia, distributed to all National Councils, in proportion to the number of members of the national minorities, and to delete the provision that defines that this number is determined based the results of the last census.

- To amend Article 40 of the Draft Law so as to delete provision according to which the budget user who disburses budgetary funds to a national council shall suspend the transfer of funds from the budget if the annual auditor's report points to irregularities in use of dedicated budgetary funds until after these irregularities have been resolved.

- To amend Article 41 of the Draft Law by stipulating either that the establishment and operation of the Fund shall be regulated by a special law, which would enable it to be constituted as a separate organization, or by envisaging that the allocation of funds from the Fund is based on the opinion obtained from national councils.

- To amend Article 46 of the Draft Law by introducing the provision which stipulates that the responsible person in the national council will be punished for infringement only in case they do not to publish general acts of the Council, and not all decisions and acts of the Council as provided in the draft, to provide for a longer deadline for publication of the aforementioned documents, and to add new provisions to prescribe punishment of the responsible person in the state authority, province or local self-government institutions and organizations exercising public powers in the event that a decision is made without obtaining the proposal or opinion from the national council or without enabling participation of the national council in decision-making, or if a decision is made contrary to the opinion or proposal of the national council without justification.

- To add a new paragraph in Article 49 of the Draft Law that would stipulate that the institutions of culture and educational institutions that have been proclaimed as institutions of special importance before this Law has

come into force retain such status.

IV Consideration of Specific Proposals and Suggestions

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

A number of specific comments, proposals, and suggestions could not be accepted by the Ministry because they are not in the spirit of the concept the law is based on or because they significantly differ from systemic, particularly Constitutional solutions, court recommendations, and recommendations of relevant international bodies.

In this respect, it should first be noted that proposals and suggestions regarding the definition of minority self-government and legal nature and the role of the national council as a representative body and identification with public administration bodies in the exercise of trusted public authorizations have not been accepted. The Ministry points out that the minority self-government, as a collective right of members of national minorities, for realization of which national councils are elected, is already adequately determined by Article 75, paragraph 3 of the RS Constitution, and that there is no need for additional legal elaboration of this term. Also, based on the Constitutional Court Decision which explicitly states that a National Council is a non-state body, any legal regulation of the national council as a public administration body would not be acceptable, as, in the performance of the public competencies, a national council has the status as any other non-state organization entrusted with such powers. The proposal that the national council be designated as a non-territorial cultural self-government, although in principle theoretically correct, is not accepted because of the fear that the term "cultural" is not interpreted too restrictively in the application of the law, bearing in mind that from the provisions of the RS Constitution and this law, national councils, except in the field of culture, also have competencies in the field of edu-

cation, information, and official use of languages and scripts. It is precisely from these provisions that it is not acceptable to suggest that a national council represents a national minority and that it can be entrusted with public authority in other areas of importance for achieving full equality. The Ministry has accepted the proposal to state explicitly that a national minority may have only one national council. In addition, the Ministry partially accepted the proposal regarding the regulation of the position of a member of the National Council, and in the text of the Draft Law it included provisions according to which a member of the National Council is obliged to participate in the work of the National Council and that its rights and obligations are regulated in more detail by the Statute of the National Council, in accordance with the law. Based on the opinion received from the line ministry, the proposals under which a member of the national council is entitled to paid leave due to the obligation to participate in the work of the national council and can not be summoned to criminal responsibility, detained or punished for an expressed opinion or vote at a session of the national council, have not been accepted, because, as it was pointed out, the Decision of the Constitutional Court established that the national council is a non-state body, and the issue of immunity should be regulated by the Constitutional norms.

No proposals have been accepted regarding the provisions governing the name of the national council, because the name of the national council in the Serbian language and the script (with no reference to the script in question) can not be regulated solely by the statute of the national council, given that the name is determined by the constitutional and legal provisions. Also, the law can not prescribe that the official name of the national council can be in the language and script used by the national minority, which was one of the proposals, because the legal order is not in official use the languages and script of all national minorities.

A proposal for extending the circle

of entities authorized to initiate the procedure for determining the nullity of the general act of the National Council before the Administrative Court to include every citizen was not accepted, since the Ministry stands at the view that the Draft adequately establishes circle of entities, and that its extension would not be in accordance with the nature and purpose of this type of normative control.

The Ministry did not accept any proposals regarding changes and amendments to Article 10 of the Draft, because a provision that would allow that the President, representing the National Council, and members of the Executive Board, who are entrusted with the decision on certain issues from the scope of the National Council, are individuals who are not members of the national council, would be in violation of the whole concept of the law. Also, no suggestions have been accepted to abolish the possibility for the National Council to entrust the Executive Board with decisions on certain issues, since this provision, previously amended, was just envisaged at the request of the national councils which indicated that it had imposed the practice of urgency of making certain decisions. The Ministry points out that it is not possible to accept a proposal that members of committees dealing with areas in which national councils exercise public authority should have been registered in the Special Voters Registry, because it would potentially make it impossible for professionals, who possess the appropriate knowledge and experience in the areas for which committees are formed, participate in their work.

Proposals relating to amendments to Article 11 of the Draft Law are partially accepted. Namely, the meaning of Article 11 of the Draft Law is to reduce excessive politicization, which is in line with the recommendations of relevant international bodies. The exclusion of national minorities' political parties from the statutory regulation of incompatibility, although they are the proponents of electoral lists for the direct elections of national councils, would not be in the function of reducing excessive politicization. Also,

if the proposed solution for incompatibility refers to all political parties, except for political parties of national minorities, insofar as it would result in putting an unlawful position on persons belonging to national minorities who are active in different political parties, because the proposed solution would refer to those members of national minorities who are members of political parties that do not have the character of political parties of national minorities. Also, it should be noted that political parties of national minorities are the authorized proposers of electoral lists only in direct elections for national councils and that they do not have such a role in electoral elections. On the other hand, precisely on the basis of the fact that the meaning of Article 11 of the Draft Law is to reduce the excessive politicization, the Ministry has accepted the remark that the proposal of that member discussed during the public hearing is too wide-ranging, and in that sense, took into account the suggestion according to which membership in the governing bodies of political parties should be incompatible with the tasks and authorities of the president of the national council and a member of the executive board of the national council.

The Ministry did not accept the proposal regarding Article 12 of the Draft Law, since members of the National Council are not and can not be considered officials in terms of the provisions of the Law on the Anti-Corruption Agency. The Agency for the Fight against Corruption (Opinion of the Agency no.011-00-167 / 2010-06) has the same standpoint.

Proposals and suggestions related to Article 14 of the Draft Law have been taken into consideration and partially adopted, since the proposed member of the Draft Law has been reformulated so that all decisions and acts of the National Council are announced no later than ten days after the date of entry into force, or their adoption. The Ministry points out that such a provision envisages a deadline of 10 days for the publication of general acts of the national council in line with the suggestions that the na-

tional councils should leave sufficient time to carry out all the activities that precede publication. It was not accepted the proposal to publish only general acts of the National Council, because the Ministry stands at the position that it is in the interest of members of national minorities, and the general public, to be acquainted with the work and all acts of national councils in a timely manner.

The Ministry did not accept the proposals in relation to Article 15 of the Draft Law, because they are not in the spirit of the concept on which the law is based, and because they significantly differ from the systemic, especially the Constitutional provisions, as well as from the Constitutional Court Decision. Namely, on the one hand, any prohibition of national councils to carry out certain activities in the areas in which the self-government of national minorities is exercised according to the Constitution of the Republic, deviates from the concept of laws and constitutionally proclaimed protection of minority rights, while, on the other hand, the significant extension of the powers of national council is not in accordance with the legal framework for their actions and the non-state character of national councils, as determined by the Constitutional Court.

In regard to the proposal for amendment of Article 17 of the Draft Law, the Ministry points out that the existing provisions of the Draft Law already enable establishment of the education and upbringing institutions that are stated in the proposal as institutions of special importance for the national minority.

No proposals were adopted to amend Article 19 of the Draft Law, as they exceed the constitutional concept of self-government of national minorities, posing questions of general interest to all citizens of the Republic of Serbia, as, in practice, different national councils differently qualify the same terms, events and personalities, and their acceptance could create the conditions that would prevent the teaching of contents that express the specialty of the national minority in the field of history, music

education and fine arts.

The Ministry, based on the position of the Ministry of Culture and Information, partially adopted proposals for amendments to Article 23 of the Draft Law. Namely, by systemic interpretation of the existing provisions of the Law on National Councils of National Minorities and the Law on Culture regulating the appointment of a member of the Board of Directors in institutions of culture of special importance for the national minority, it can be concluded that they are not terminologically harmonized. In this regard, the Draft Law stipulates that, in cultural institutions for which the amendment of the founding act is determined to be of special importance for the national minority, the national council shall propose at least one member of the board of directors, when the founder, in accordance with the law regulating the field of culture, is appointed for a member of the board of directors. Based on the proposed provision of the Draft, it is clearly concluded that the founder of the institution is obliged to appoint a person nominated by the national council to its board of directors, which means that, by the nomination of that member by the national council, the national council, as the founder, appoints one member of the Board of Directors. The Ministry did not accept proposals that envisage that an institution of culture, whose activity is particularly related to the cultural specialty and the preservation of the national identity of national minorities, must be automatically declared the institution of culture is of special importance to the national minority, if the national council proposes it to the founder. These proposals were not accepted because, first of all, the Draft Law, in accordance with the Constitutional Court Decision, set the criteria for determining whether an institution of culture is of special importance to the national minority, whereby this criterion is embodied in the predominant character of the program activities of the cultural institution which is, as the national council, as well as the founder, is obliged to appreciate. The predominant charac-

ter of program activities necessarily implies that the institution is of particular importance to the national minority and is a more precise term, while the acceptance of the term "of particular importance" for the national minority would still leave room for different interpretations, thereby this legal norm still depriving the basic standards of clarity and determinations as preconditions of the principle of the rule of law, to which the Constitutional Court pointed out in its Decision. The Ministry did not accept the proposal that, if several national councils find that an institution is of special importance to the national minority, each of them shall appoint one member of the board, because such a decision was not in accordance with the systemic solutions.

No proposals for amendments to Article 24 of the Draft Law were accepted. The Ministry points out that it is necessary that the provisions on the issues related to the powers of national councils in the field of culture, which are not regulated by this law, are in line with the provisions of the laws regulating the field of culture and that its omission will not have systemic quality. The addition of a new provisions on the deadline for submitting a proposal of a national council, the presence of council representatives at a meeting where the allocation of funds is decided and the obligation of the competent authority to explain the decision in case of rejecting the proposal of the national council would not be in accordance with the systemic decisions of the Law on General Administrative Procedure and the nature of the opinions and suggestions given by the national council. Namely, the presence of interested parties in the meetings of the aforementioned commissions is possible at sessions in which no decision is made, and not at sessions in which commissions are to deliberate and decide on specific project proposals, and there is a danger that interested public may try to influence the work of the commission, all this having in mind that Article 64 of the Law on General Administrative Procedure stipulates that no voting and draft decisions records should be

available to the public. The Ministry did not accept the proposal that the strategy for the development of a national minority culture should be binding on all institutions of culture founded by the Republic, autonomous province and local self-government units, because the cultural institution, within the meaning of the Law on Culture, is a legal entity established for the purpose of performing cultural activities which ensures the exercise of citizens' rights, that is, satisfaction of citizens' needs. The purpose of the strategy of developing the culture of a national minority is precisely the other way around - to be binding on the institutions of culture founded by the national council.

The Ministry did not accept any suggestions regarding Article 25 of the Draft Law, since the use of the term "proposal", which the national council would give on the proposal of projects submitted to the public competition announced by the public authority, in order to raise the quality of information for members of national minorities, in the sense of the Law on General Administrative Procedure could only be considered as an opinion, which is normatively expressed in the existing provisions of the Draft Law. In this sense, the proposed formulation that the national councils give an opinion on the projects will eliminate the existing conflict between the Law on National Minority Councils and the Law on Public Information and the Media, without derogating the powers of national councils.

The Ministry did not accept a proposal in relation to Article 26 of the Draft Law, since the Draft Law contains content and formal observation of the obligations of the state envisaged by the European Charter on Regional or Minority Languages, and in that sense the use of the term "regulations" is much wider than the notion of "laws" which is contained in the Charter.

Proposals have not been accepted in relation to Article 27 of the Draft Law, because they systematically differ from other solutions contained in the Draft Law.

The Ministry did not accept the pro-

posal to introduce a new provision into the Draft Law regulating the issue of the position and work of the Coordination of National Councils. Namely, although the Coordination is a form of cooperation that contributes to the interaction of national councils, which, at the same time, facilitates the communication of national councils with the state bodies in order to promote common interests, the Ministry is of the opinion that forming another institution would not be justified from organizational, legal, and economic points of view. At the same time, the opinion of international experts on this issue was particularly taken into account, which expressed concern over the already overly institutionalized approach to minority issues.

The Ministry did not accept the proposal to amend Article 34 of the Draft Law, because the issue of enabling the checking of registration in the Special Voters Registry electronically is not a matter of legal regulation.

The Ministry is of the view that the proposal for the drafting of a new article to the Draft Law, which would have envisaged the deletion of paragraph 2 of Article 105 of the applicable law, which regulates the smallest number of electors that must be present at the electoral assembly, is unfounded. Namely, the meaning of the provision whose deletion is proposed is to ensure that a number of electors participating in the electoral assembly is higher than the number of persons they elect for members of the national council. Bearing this in mind, it is clear that omission of such a provision would lead to absurd consequences that a relatively small number of electors would elect a higher number of members of the national council. Moreover, the condition foreseen by a provision whose deletion is proposed is easily met if there is sufficient interest of members of the national minority to form a national council. When this is not the case, when there is no such interest, the election procedure for members of the national council is suspended.

The Ministry did not accept the proposal for amendment of Article 38 of

the Draft Law, because its acceptance would undermine the purpose of this provision, apparent in the need to ensure that funds acquired by the National Council from public sources are primarily used for the exercise of competencies or the performance of regular activities of the national council, and to prevent the bureaucracy of national councils. Moreover, the adoption of a proposal that the percentage defined by this provision only applies to salaries, taxes and contributions in the national council would lead to absurd consequences, that a large percentage of public funds would be used only for this purpose.

Proposals for amending Article 39 of the Draft Law were not accepted, since the increase in the percentage of funds allocated in equal amounts to all national councils would in principle reduce the funds available to finance the scope of the activity of the national council already exercised in practice, which would practically mean the endangerment of the achieved level of activity of national councils. Also, it was not accepted that the criteria for the distribution of funds in proportion to the number of members of a certain minority be omitted from the definition according to which the number is determined according to the results of the last census, since the census is the only relevant means for determining the number of members of national minorities and, as such, this context is contained in a number of provisions of the Law on National Councils of National Minorities.

The Ministry did not accept the proposal in relation to Article 40 of the Draft Law, as this would deprive control over the financial operations of the Council and prevent the sanctions for unjustified spending of funds from public sources.

Regarding the proposal for amendment of Article 41 of the Draft Law, the Ministry points out that in the existing economic conditions in our society, and with a number of already

existing institutions, it would not be justified from an organizational, legal, and economic point of view, to create a new institution that would only conduct a competition for financing programs and projects, which would, by nature, also have a larger number of employees. The Ministry points out that, in accordance with the Action Plan for the Realization of the Rights of National Minorities, the Government adopted the Decree on the Procedure for the Distribution of Funds from the Budget Fund for National Minorities in 2016, and that the Instructions on How to Determine the Composition and Number of Members of the Convening Commission for Allocating Funds from the Budget Fund for National Minorities, thus enabling the legal framework for the functioning of this Fund to be completed. On the other hand, it is not possible to accept the proposal that funds from the Budget Fund for National Minorities be allocated with the previously obtained opinion of the national councils, as this could result in a conflict of interest, bearing in mind that in accordance with the said Regulation, institutions, associations, foundations, companies and other organizations whose founders are national councils of national minorities have participated in the competition.

The Ministry did not accept the proposal to amend Article 46 of the Draft Law in such a way that the provision prescribing punishment of the responsible person in the National Council would only refer to a misdemeanor in the event that general acts of the Council were not published, and not all decisions and acts of the Council, since, as it was pointed out, it did not accept the proposal to have only general acts of the National Council published, as it is in the interest of members of national minorities, as well as of the general public, to be acquainted with the work and all acts of national councils in a timely manner. The Ministry points out that the proposal envisaging a longer deadline for publication is adopted in a certain way,

since the Draft Law has been reformulated so that all decisions and acts of the National Council are announced no later than ten days after the date of entry into force, respectively their adoption. The proposal to add new provisions that would impose penalties on a responsible person in a state body, a province body or a local self-government unit, institution and organization that exercises public authority in cases a decision is made without obtaining proposals, opinions or facilitating participation in decision-making, or if a decision is made contrary to the opinion or proposal of the National Council and does not explain such conduct, was not accepted since it deviates significantly from the system solutions provided for by the Law on General Administrative Procedure. On the other hand, the Ministry has accepted the arguments for the need to extend the penal provisions for the responsible persons in the competent body, and included amendments to Article 123, which provide for misdemeanor sanctions for responsible persons in the competent bodies, and in cases where the delivery acts to the competent provincial administration body (Article 4v) and that the accuracy and timeliness of the Voters Registry is not ensured within the meaning of Article 51 of the Law. Also, the prescribed amount of fines has been increased to 100,000 dinars.

The relevant ministries have accepted the proposal to include in the Draft Law a provision that would stipulate that the founder of the institution of education and the institutions of culture which, before the entry into force of this law, was proclaimed an institution of special importance for the national minority, is obliged, should harmonize the founding act with the provisions of this Law within 90 days from the date of entry into force of this Law, which will ensure that the founding acts of all such institutions stipulate that the institutions are of special importance for the national minority.



The issuance of the newsletter is supported by the Ministry of Foreign Affairs of the Republic of Bulgaria.
Opinions expressed in the newsletter do not necessarily represent the official positions of the donor.