*Nationalities Papers*, 2014
Vol. 42, No. 3, 426–448, http://dx.doi.org/10.1080/00905992.2014.916660

Routledge
Taylor & Francis Group

# Diversity recognition and minority representation in Central and Southeast Europe: a comparative analysis[†]

István Gergő Székely* and István Horváth

*Romanian Institute for Research on National Minorities, Cluj, Romania*

(*Received 27 March 2013; accepted 30 March 2014*)

The need to handle ethnocultural diversity and the external pressures of Euro-Atlantic integration have led to the development of complex minority rights regimes in Central and Southeast European states. The aim of this paper is to perform a comparative analysis of the political representation dimension of these regimes, and to investigate how the regulations in this domain are related to the more general attitude of states toward diversity recognition and registration. For this purpose, we classify the states according to a series of variables concerning the manner in which ethnocultural diversity is recognized and portrayed, as well as the regulations concerning the representation of minorities, and identify patterns of their incidence. The formal-legal analysis of the constitutions, minority protection laws and of the electoral legislation of the included countries reveals a clear connection between the general attitude of the state toward diversity and the incidence of autonomies, and a less unequivocal, yet strong relationship in the case of minority representation in the national polity.

**Keywords:** minority rights regimes; diversity recognition; minority representation; autonomy

## Introduction

The totality of policies in a specific country that "accommodate diversity and grant members of minorities certain rights" is often referred to as the minority rights regime of that state (Rechel 2009). Such regimes comprise policies in numerous domains, like language usage, culture, education, participation in the public sector and political representation, etc.

In this paper, we attempt to investigate one specific aspect of the minority rights regimes of 16 Central and Southeast European (CESE) countries, namely the way ethnocultural diversity becomes represented at the level of *the political system*. We are interested, on one hand, in the aspects of *diversity recognition* (to what extent states acknowledge diversity, how they categorize the groups living on their territory), and on the other, in the more concrete conditions for *political representation*, referring both to the national polity and to the existence or absence of an autonomous political sphere of the minorities. Having

*Corresponding author. Email: szekely_istvan-gergo@ceu-budapest.edu
[†]An earlier draft of this paper has been presented at the 6th ECPR General Conference, 25–27 August 2011, Reykjavík, Iceland (Section 43 – Themes and Challenges to Multi-Level and Regional Politics, Panel 313 – Minority Politics within the Europe of Regions).

© 2014 Association for the Study of Nationalities

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

surveyed the relevant features of the states in these domains, we proceed to identify patterns in respect to the connection between diversity recognition and minority representation.

Such a comparative analysis of the CESE region is made relevant by the fact that to our knowledge no comprehensive study has tried to connect these aspects, despite the existence of a broad literature about minority representation, either in the form of case studies (Alionescu 2004; Dobos 2007; Horváth 2001; Komac 2002; Petričušić 2004a, 2008; Vasiljević 2004), or of comparative efforts (Bird 2013; Bochsler 2010; Frowein and Bank 2001; Htun 2004; Meier 2009; Reynolds 2005; Venice Commission 2000, 2005). The analysis is also motivated by the fact that the specific forms of electoral representation are one of the most important micropolitical techniques that can be deployed as a building block of macropolitical designs of ethnocultural diversity management (Hadden 2005; McGarry and O'Leary 1993; McGarry, O'Leary, and Simeon 2008; Rechel 2009).

## Minority rights in Central Eastern and Southern Europe

We consider that the countries included in this analysis, besides being in geographical proximity, share a series of common features regarding the political significance of ethnicity, rooted on one hand in the history of this region, and on the other hand, in the political processes of the past two decades.

First, due to the particularities of the nation-building processes, in most states of the region ethnicity is considered to have a political significance, and as a consequence, one can witness its political institutionalization in one way or another (Brubaker 1994). Second, in the last two decades, the international community was more or less effective in limiting these states in promoting the ethnopolitical goals meant to reduce ethnic diversity (ethnic cleansing and forced assimilation), thus the negative rights of the minorities (non-coercion and non-discrimination, equality of civil and political liberties, etc.) were more or less respected. Moreover, within the EU conditionality system, the articulation of ethnic diversity at the level of political systems was encouraged. Although the long-term effectiveness of EU conditionality is highly contested in the literature (Atikcan 2010; Rechel 2009; Sasse 2009; Schwellnus and Schimmelfennig 2008), it is doubtful that without the requirement in the Copenhagen criteria to guarantee "respect for and protection of minorities," and the activity of international organizations such as the Council of Europe or the Organization for Security and Co-operation in Europe, the minority rights regimes in the region would look as they do today (Kelley 2004; Markusse 2007).

The inclusion of Greece and Turkey needs further clarification, given that these countries did not undergo post-communist transition. It was motivated primarily by their close geographical and historical ties with the Balkans region. Geographical proximity also involves the presence of Greek and Turkish national minority groups in the other examined states, consequently the inclusion of these two states is also reasonable as kin-states which can react to the minority policies of other states toward their ethnic kin. However, in terms of developing a minority protection regime these two polities are exceptional cases. Greece obtained EU membership more than two decades earlier than the other CESE countries, before the imposition of any conditions related to minority rights. Thus, the EU could not exert influence through the so-called persuasion through sanctions mechanism, its norms could only have an impact if domestic political elites came to believe that the appropriate behavior is to follow these norms (Atikcan 2010; Schwellnus and Schimmelfennig 2008). Conversely, though arguably rather far from EU membership, Turkey has been a candidate country since 1999, and conditionality has clearly contributed to some changes of legislation concerning the Kurdish minority (Atikcan 2010; Çelik and

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

Rumelili, 2006; Schimmelfennig, Engert, and Knobel 2003), even if in the view of further enlargement it is an open-ended question whether the South-Eastern European pattern will be applicable here too.

Given these characteristics of the region, a comparison of the minority protection systems becomes a meaningful but also challenging endeavor. However, since minority protection involves a plethora of aspects, we must introduce some limits to the scope of our study. First, we restrict the focus on the connection of diversity recognition and political representation.[1] Second, we only include states from the CESE region, that is, the Visegrad countries, the Balkans and the Western Balkans, but not the post-Soviet countries, or even the Baltic states. This is motivated by the low levels of democratization in the case of most post-Soviet republics, and with the unresolved citizenship issue in the case of the Baltic states. Our paper focuses on political representation, but in two Baltic states the consequences of the exclusion of large groups from citizenship are the most serious precisely concerning this aspect of the minority rights regime, as in other domains the special status offered for stateless residents has brought about significant improvements and rendered EU-membership possible (Gelazis 2004).

The paper is based on the analysis of legal documents: constitutions, minority protection laws, electoral laws and laws on political parties.[2] We are only interested in the rights guaranteed in the legal documents and are not dealing with their implementation, despite our awareness that deficient implementation is one of the most serious problems in the region (Wolff et al. 2008).

## The politics of recognition and the institutionalization of ethnicity in political representation

Our analysis is divided into two major parts: the first focuses on the recognition and registration of diversity, and the second on the specific regulations concerning minority representation.

Regarding *diversity recognition*, we are interested in whether the most important pieces of national legislation acknowledge in some way the socio-cultural diversity of a given country, whether minorities are considered potential actors for politics, or, conversely, rather, is an official stance of homogeneity conveyed, despite the sociological realities? To grasp this, we look at the following variables:

- How is the source of ultimate political sovereignty defined? What is the standing of minorities in this respect, are they recognized as part of "the people" or as constituent parts of the political community?
- If the existence of minorities is acknowledged, are they referred to as individuals or as communities?
- Are the minorities enumerated in the constitution or other important legal documents, or mentioned only in general terms?

In what concerns the *political representation of minorities,* we are interested in the institutional framework regulating the contestability of elections in the national parliament, and in the existence or absence of autonomous political structures created for the minorities, which can serve as internal arenas for contestation. Examining the incidence of both types of arrangements is important also because ensuring the political representation of minorities in the national polity and allowing them to have a distinct political sphere of their own are arguably related to two different ideas of ethnocultural diversity management: the first

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

reflects an integrative goal by the state, while the second an autonomy or accommodation approach (Hadden 2005; McGarry, O'Leary, and Simeon 2008).

According to Bartolini (1999, 2000), *the contestability of elections* denotes the degree to which political pluralism can materialize in a political system, and is a necessary condition for both democracy and political competition. From our perspective, the important issues are (1) whether and to what extent minorities have the opportunity to become part of the national party system through their own political organizations and (2) whether they have the possibility to develop political pluralism within their own community (that is, to have multiple parties or even a minority party system). We are not interested in the actual behavior of the minority organizations, that is, whether they actually engage in competition or collusion, only in the opportunity structure.

Contestability depends mainly on the nature of two types of barriers: the conditions of entry into political competition (presenting candidates or party lists) and the thresholds for representation or the conditions of winning seats (Bartolini 1999, 2000).[3] These institutional regulations have consequences not only for the *prospects* of representation, but also for the *logic* of representation, the type of party system that will emerge.

While the above-discussed aspects of contestability are relevant to political representation in general, without regard to ethnicity, the representation of minorities is a special case, as they may be too small to be able to secure adequate representation in the polity according to the general electoral regulations. Thus, their representation may require the adoption of minority-friendly rules, such as reserved seats or separate electoral rolls (Bieber and Wolff 2007; Hadden 2005).

The literature on electoral systems and minority representation (Frowein and Bank 2001; Htun 2004; Meier 2009; Reynolds 2005; Venice Commission 2000, 2005) generally distinguishes between: (1) *general electoral rules*, which apply to all competitors, (2) *special arrangements* from which only minorities can benefit and (3) *adjusted general rules,* that is, rules that are not framed specifically with reference to minorities, but which were obviously drafted with an eye on them. We treat all deviations from the rules that apply for all competitors as special arrangements, including: easier conditions for presenting candidates, exemptions from the electoral threshold or the existence of an alternative threshold for minorities, reserved seats or a delimitation of the electoral districts that is clearly advantageous for minorities.

Unfortunately, the conditions of contestability can be manipulated not only to facilitate minority representation, but also to keep them out of decision-making. To grasp both the facilitating and the restrictive electoral rules that target minorities, we combined the threefold distinction from above (*general, special* and *adjusted*) with the intention of the lawmaker, which can be *facilitating* or *restrictive*, to obtain a scale on which the electoral arrangements for national parliaments[4] can be arranged:

(1) Electoral rules meant to make the participation of minorities more difficult:
   (a) explicit bans on ethnic parties;
   (b) disproportionally difficult conditions for registering ethnic parties;
   (c) difficult conditions for running in the elections, which, while avoiding direct references to ethnicity, clearly disadvantage minority organizations implicitly, more than mainstream parties.
(2) Neutral general regulations, framed without explicit references to ethnicity, which may have intended or unintended consequences regarding minority representation, nevertheless, it would be too speculative to decide whether the lack of institutionalization of ethnicity stems from such intentions.

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

(3) Rules meant to facilitate minority representation:

(a) apparently neutral legislation without explicit references to ethnicity, but with some regulations that have clear positive indirect effects on minority representation, so the intention can be established without the risk of speculation;
(b) framed by explicitly referring to ethnicity.

In what concerns *the autonomous political sphere* of minorities, the representative institutions of minority self-government (bodies of autonomy) are of interest. While autonomies are usually assessed according to the competences transferred to their bodies, we focus here on the mere existence of directly elected bodies of self-government, as such bodies are arguably indicative of a qualitatively different type of minority representation (Hadden 2005; McGarry, O'Leary, and Simeon 2008). Thus, the only relevant aspect for us is that the bodies of the autonomy be directly elected, as this is what transforms them into an additional arena for electoral contestation, facilitating pluralism within the minority groups.

Finally, we are interested in one more feature of the regulations, namely whether they apply *uniformly* to all minorities, and to all organizations of a specific minority, or not? Differentiation can appear at the level of both recognition and concrete representation policies. In relation to diversity recognition the issue is whether there are terminological differentiations employed between minorities and whether there are policy consequences that follow from this, meaning different levels of political recognition. In our case this means representation policies that differentiate among minorities. The basis of differentiation may be the size of the groups, but sometimes the distinctions are arbitrary and discriminatory. Where information is available, we also take into consideration the instances of contested recognition (such as the refusal to recognize some minorities at all, or to recognize them on the level demanded by some of their representatives).

## Analysis

In this section we investigate the relevant sections of legislation that make references to diversity, including the definition of the holders of sovereignty, the nature of references made to minorities and the rights granted to them, the existence or lack of an official list of minorities, and whether the various minorities are referred to uniformly or in a differentiated manner. After this, we turn to the electoral rules concerning minorities and the existence or absence of autonomous self-governing bodies for the minorities. The situation in each country is summarized briefly in the table from Appendix 2.[5]

### *Recognition of diversity*

1. The aspect of diversity recognition is closely connected to the differentiation between politically constituted or civic, ethnic nation-states. In civic nationalism the state is taken as a given, and sovereignty belongs to the population residing within the territory. Equality of individuals is more important than traditional ties of culture and history. Cultural unity is important, but it has to be achieved independently of ethnic unity. Conversely, in ethnic nationalism it is not the state but the nation which is historically given, and the state is a realization of the undivided nation in its historical homeland, its political expression. While both forms are essentially nation-states which propagate some shared vision of the good life, and as such stand in opposition to the idea of the state as a civic association which is only meant to provide a framework of order and protect basic rights, the civic nation-state remains more open and inclusive, while the ethnic type more closed and exclusive (Parekh 2002, see also Markusse 2007). Building on these ideas, we classify the studied countries into three

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

broad categories, according to *the way the source of sovereignty is defined in the constitution*. The states from the first group equate the source of sovereignty with the majority nation, defined in ethnic terms, without including other ethnocultural groups into it, or, in other words, employ an *exclusive* definition. This is the case in Albania, Bulgaria, Romania and Turkey. The constitution of Greece does not have a section relevant in this sense, but due to the almost complete lack of references to ethnocultural diversity (see below), one can take such an attitude for granted, so Greece belongs here too.

A second group of countries defines the holders of sovereignty in *neutral* or *civic* terms: the source of supreme power is simply the citizenry, regardless of ethnocultural belonging. For instance, in Serbia the constitution is adopted by "the citizens," without any further specifications. A similar formulation can be found in the constitution of the Czech Republic: "we, the citizens of the Czech Republic in Bohemia, Moravia and Silesia."[6]

The constitution of Poland contains an equivocal formulation, as adopted by "the Polish Nation – all citizens of the Republic." We call this a *quasi-civic* formulation: the holder of sovereignty is the Polish nation, which, however, consists of the totality of its citizens (it is not defined in ethnic terms), so we include Poland into the second category.

In a third category of states it is clearly spelled out (though with varying emphasis) that sovereignty does not reside only with the titular or majority ethnic group, but also with the minorities, which are recognized as distinct constituent parts of the nation. We shall call this an *inclusive* definition. This pattern is followed in Croatia, Hungary, Slovakia and Slovenia. Diversity is also acknowledged in the constitutions of Bosnia and Herzegovina, Kosovo, Macedonia and Montenegro, even more so than in the last-enumerated countries. In Macedonia all the ethnocultural groups enumerated in the preamble are granted the status of "people" (except for the category of "others"): "the Macedonian people, as well as citizens living within its borders who are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Romany people, the Bosnian people and others." Nevertheless, the order and wording make it clear that Macedonians are considered the main constituent people (Daskalovski 2004). The constitution of Kosovo is similar, it defines the republic as "a multi-ethnic society consisting of Albanian and other Communities," although their enumeration only follows in a later article.

The constitution of Montenegro uses a double definition: the constitution is adopted by the citizens; yet, the preamble also contains the phrase "persons belonging to nations and national minorities living in Montenegro: Montenegrins, Serbs, Bosnians, Albanians, Muslims, Croats and others."[7] Bosnia and Herzegovina is defined as the state of "Bosniacs, Croats and Serbs, as constituent peoples (along with others), and citizens of Bosnia and Herzegovina." While the civic element is present here too, it is much more important that there are three constituent nations, plus the category of others, comprising those who belong to other minorities or do not wish to belong to any group. Bosnia and Montenegro declare to be multinational countries, while Macedonia and Kosovo do not go this far, yet clearly belong to the inclusive category.

2. The second issue to be addressed is *whether references to minorities are formulated in individual or in collective terms* and whether the state frames the rights granted to them as group rights or only as individual ones. The question refers not to the actual existence or absence of group rights or rights that can only be enjoyed collectively, or to the consequences that follow, but to the *formulation* used in the legal documents.

Greece and Turkey avoid even mentioning ethnocultural diversity in their constitutions. Both countries acknowledge diversity only to the extent of a non-discrimination clause (negative rights), so not even individual positive rights are granted to ethnic or national minorities.[8]

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

A second category of countries, including Albania, Bulgaria, the Czech Republic,[9] Slovakia and Romania, carefully avoid any reference to minorities as collectivities or to the possibility of granting group rights. The legal documents of these countries consistently use phrases like "persons belonging to minorities" or "citizens who are members of minorities," but avoid references to rights of "minorities," "national groups," "nationalities" or "communities." The formulation used in the Bulgarian constitution is unique: "citizens whose mother tongue is not Bulgarian," reflecting that only linguistic but not ethnic diversity is acknowledged.

On the other hand, countries like Hungary, Serbia or Montenegro not only state, but even emphasize that minorities enjoy a collective rights, although the latter two states often use the phrase "persons belonging to national minorities" too. The Slovenian constitution does not explicitly spell out that the rights enjoyed are of collective nature, but labels the Hungarian and Italian minorities as "autochthonous national *communities*," and also warrants the "special rights of the Romany *community*." The constitutions of Croatia and Poland do not mention the label collective rights either, but use the phrase "rights of national minorities," and the minority law of Poland states that persons belonging to a minority may enjoy rights and freedoms both individually as well as together with other members of the minority. The constitution of Kosovo warrants "the rights of Communities and their members," and the Macedonian constitution also uses references to rights of both individuals and communities.

The Bosnian constitution does not address the rights of national minorities (who are subsumed to the category of "others"), apart from banning non-discrimination on the grounds of membership in such groups, but the minority protection law of the country is entitled "Law on the Rights of National Minorities," so one can conclude that minorities are considered the holders of rights both as individuals and as collectivities.

3. The next question that we investigate is whether a *concrete enumeration of recognized minorities* exists, or they are only referred to in general terms. If an enumeration exists, is it found in the constitution or in some other legal document?

Greece and Turkey do not mention national or ethnic minorities in their constitution and do not have special minority laws. Five countries acknowledge the existence of minorities in their constitution, but no enumeration exists, either in the constitution, or in the electoral or minority laws. Albania, Bulgaria, Romania and Slovakia did not pass special minority laws,[10] while neither of the two laws about national minorities in force in Serbia contains a concrete list of minorities. However, in Romania and Serbia it is easy to identify which minorities are de facto recognized, as their recognition has been done in a *post hoc* manner, meaning that those groups gained recognition which succeeded in securing some sort of representation.[11]

A third category of states – including Poland, Hungary and the Czech Republic – only mention the existence of minorities in the constitution, but leave the enumeration to lower-order legislation. In Bosnia the constitution only names the three constituent nations, and leaves the enumeration of minorities to the Law on the Rights of National Minorities.

Conversely, Croatia, Kosovo, Macedonia, Montenegro and Slovenia enumerate their minorities in the preamble of their constitutions. While the enumeration is mirrored in the minority law of Kosovo, and in the electoral law of Croatia,[12] this is not the case everywhere. Montenegro only mentions the Albanians and the Roma in its minority law and only the Albanians in its electoral law.[13] In Slovenia the Law on Self-governing Ethnic Communities only deals with the Hungarians and Italians, while separate legislation concerns the Roma. Macedonia does not have a special minority law, and regulations concerning

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

minorities that have been adopted as a result of the Ohrid Agreement are scattered in various pieces of legislation.[14]

4. The final point to address within the domain of diversity recognition is whether the states employ *differential labeling concerning their minorities*. Of course, this is only relevant in as much as it has consequences concerning the policies directed toward minorities. Yet, in this section we only survey the labels used, and we return to the issue of policy differentiation in the section about political representation.

The most illustrative case to start the analysis of this aspect is Bosnia. As already mentioned, according to its constitution, Bosnia is the state of "Bosniacs, Croats and Serbs, as constituent peoples (along with others)." "Others" here refers to those who do not belong to the three constituent nations, and indicates their obviously inferior constitutional status, given the fact that the power-sharing system is designed for the former three. These "others" – 17 by number – are then enumerated in the minority law. However, this enumeration also ends with "others." This time, it refers to those minorities that were not listed, indicating the possibility of recognizing additional minorities in the future.

Besides Bosnia, Croatia, and Kosovo, Macedonia and Montenegro employ the residual category "others" in their constitution, and Kosovo is the only one to have it in its minority law too. The Hungarian minority law does not have an "others" category, but it sets out a procedure for recognizing new minorities. Conversely, the Polish minority law has a closed list of minorities, without the residual category or a provision about the recognition of new minorities (Halász 2007), while the rest of the minority laws do not contain enumerations or only some of the minorities appear in an explicit manner.

Among the analyzed cases, only in Montenegro, Poland and Slovenia is more than one label used for minorities in the legislation.[15] In the minority law of Montenegro various terms can be encountered (*autochthonous minority peoples*, *national minorities* and *ethnic minorities*), but it is also stated that all these groups will be referred to as *minorities*. In Poland minorities are classified into three groups: *national*, *ethnic* and speakers of the *regional* language (Kashubian). The difference between national and ethnic minorities is that the latter do not have a kin-state. Slovenia recognizes two *autochthonous communities* (Hungarians and Italians) and the *autochthonous group* of the Roma. A third category is also frequently used in public discourse, that of the *newly emerged minorities,* which refers to members of post-Yugoslav nations, but their status is not settled in legislation (Komac 2002).

In the rest of the countries only one label is used. In the Czech Republic, Romania, Serbia and Slovakia there are only *national* minorities, while in Bulgaria there are only "citizens whose mother tongue is not Bulgarian." In Greece and Turkey the lack of terminological differentiation is a logical implication of the failure to recognize minorities.

### *Diversity recognition – assessment*

Based on the scrutiny of the various aspects of diversity recognition and registration, three patterns seem to emerge:

(1) An exclusive definition of the people, an obvious avoidance of speaking about minorities as communities or to mention collective rights, and no official list of recognized minorities. Greece and Turkey clearly belong here, but also Albania and Bulgaria fit this category best, as references to diversity are minimal (a very general mention in the constitution). We also coded Romania into this category, as it has an exclusivist definition of the sovereign, avoids references to minorities

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

as groups and its minorities are only de facto recognized, without codifying an explicit juridical status. This pattern can be labeled the *mono- or dominant ethnic* model.

(2) A non-exclusive definition of the people, recognition of minorities as holders of rights as collectivities and an enumeration of the groups. Croatia, Hungary, Kosovo, Macedonia and Slovenia belong here, but we also included Poland into this category despite its quasi-civic definition of the sovereign, as it has a minority law that does not avoid referring to minorities as groups and even enumerates them. Bosnia and Herzegovina and Montenegro also clearly belong here, and not primarily because of their multinational character, but because of the aspects related to their "genuine" minorities. Serbia deviates somewhat from this pattern, as there is no official enumeration of minorities (only de facto recognition), but due to the recognition of collective rights we included it into this second pattern, which we labeled the *accommodative* model.

(3) The remaining two countries, the Czech Republic and Slovakia, do not fit either of these two patterns. The Czech Republic displays a more consistent combination: a civic definition of the people, and avoidance of references to communities or collective rights, yet an official list of recognized minorities exists. This combination could be labeled the *civic or neutral* pattern. Slovakia is a more equivocal case, as it is inclusive in its definition of the people, but avoids mentioning communities or collective rights just like the followers of the mono- or dominant ethnic pattern, and it has no list of officially recognized minorities apart from the census categories. Due to the tension between the inclusive definition of the people and the reluctance to refer to minorities in collective terms (not occurring in any other case), we decided to include Slovakia into this category too.

***Political representation***

Turning to the domain of minority representation, we are interested in the existence of autonomies and in the aspects related to the contestability of elections for the national parliament.

1. *Territorial autonomy* is exceptional in the region, and there are only two cases: the Serbian province of Vojvodina and Bosnia and Herzegovina. However, Vojvodina is not a territorial autonomy on ethnic grounds, but a multiethnic region with a clear (and growing) Serbian majority. Conversely, Bosnia and Herzegovina is a multinational federation. One of the entities, Republika Srpska is almost homogenously Serbian, and the other, the Federation of Bosnia and Herzegovina, has been divided into cantons mostly along ethnic lines[16] (Wolff et al. 2008).

*Personal or cultural autonomy* is more widespread. Croatia, Hungary, Serbia and Slovenia have all implemented some system of cultural autonomy on a personal basis, with directly elected bodies.[17] Legislation in Montenegro and Bosnia also permits setting up similar systems, but implementation has not reached the level of the above-listed four countries yet. Such elected fora may serve as an autonomous political sphere for the minorities, and function as an additional arena for political competition besides the national and local elections.

2. The other dimension of representation to be analyzed concerns the factors that determine the *contestability of national elections* for minorities. The first component of these rules refers to the conditions of entry, that is, the regulations concerning the *registration of political parties and minority political organizations*.

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

Registering parties is relatively easy in most of the analyzed countries, with some notable exceptions. The most (in)famous case is Bulgaria, where forming political parties organized "on ethnic, racial or religious lines" is prohibited by article 11(4) of the constitution. While this article has been designed against the Turkish minority, the constitutional court eventually decided that the operation of the Movement for Rights and Freedoms (MRF) was not unconstitutional (Hajdinjak 2008). Moreover, after surviving the critical first years of the 1990s, the ban came paradoxically to serve the interests of MRF, at least for a while, as attempts to establish rival organizations have repeatedly failed due to the interdiction (Chukov 2001). However, the ban was applied more consistently for other minorities; the Macedonian minority has been repeatedly denied registration on these grounds (Bochsler 2006).[18]

The Turkish regulations are also very prohibitive. The party law forbids political parties from claiming the existence of minorities based on national, religious, cultural, racial or linguistic differences in the country, the promotion of any culture or language other than the Turkish is defined as a threat to the integrity of the Turkish nation, and the use of any language other than Turkish in the activities of parties is prohibited (Almairac 2006). These restrictions are obviously meant to prevent the formation of Kurdish parties.

Romania has a rather restrictive legislation for minority party entry. Since 2003, a political party can only be registered with signatures from 25,000 persons, and at least 700 signatures are needed from 18 counties and Bucharest. While there is also a possibility of forming "organizations of persons belonging to national minorities," the conditions of registration are not much easier. In the case of "large" minorities (if 15% of the persons who declared to belong to the group at the census exceeds 20,000 persons), 20,000 signatures are needed nationwide, and the territorial coverage is not much less demanding: 300 signatures from at least 15 counties and Bucharest.[19]

Apart from these countries, party registration can only be considered difficult in Slovakia and Serbia: in both cases 10,000 signatures are needed to form new parties. However, while in Slovakia only "mainstream" parties can be formed, which represents a difficult entry condition for minorities, in Serbia a special rule allows minority parties to register with only 1000 signatures. Though the present conditions are obviously more restrictive than the previously required 100 signatures, they are not prohibitive, and even smaller parties succeeded in re-registering after the law entered into force in 2009.

3. Much greater variation can be witnessed in what concerns the *threshold of representation*. In Poland and Serbia *the electoral threshold is not applied* for the parties of national minorities.[20] However, in Poland the rule only refers to organizations of *national* minorities and not to *ethnic* ones or to the speakers of the *regional* language, which represents an instance of differential labeling with policy consequences. Nevertheless, one has to keep in mind that waiving the threshold can only help larger minorities anyway, as the natural threshold of representation still has to be reached.[21] Indeed, in Poland only the Germans were able to take advantage of it, so an extension to the *ethnic* minorities would probably be useless anyway, as they are too small. The situation in Serbia is different. Here more minorities succeeded in gaining representation due to the exemption: Hungarians, Bosnians, Roma and Albanians. Moreover, two different Roma parties gained seats in 2007, and a coalition of two other Hungarian parties only narrowly missed the parliament. This is indicative of the fact that waiving the threshold does not preclude political pluralism within sufficiently large minority groups.

Hungary only adopted eased rules for minority representation in 2011, remediating a default that persisted for more than 20 years, thus, the impact of the regulations can only be assessed in theory. Minority lists do not have to reach the 5% threshold, it suffices if

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

they obtain a number of votes equal to 2/3 of the votes necessary on average for one compensatory seat. However, in the Hungarian mixed electoral system, this number is higher than the ratio of list votes and list seats, because the compensatory list sums not only the votes cast for the list component of the system, but also the unused and surplus votes from the single member districts. Consequently, it will be arguably more difficult for minorities to obtain seats than in Poland or Serbia. If minorities fail to reach this quota, they can still send a minority spokesman to the parliament, who, however, will have no voting rights. The law also contains considerable concessions in what concerns the fielding of minority candidates, however, connected to this there is also a more problematic aspect, as minority organizations cannot run, only the elected national self-governments of the nationalities may field lists. This rule with a slightly corporatist flavor may be problematic because it reinforces the organizations that control the nationality councils.

While the waiving of thresholds only facilitates but does not guarantee minority representation, countries falling into a second category employ *reserved seats* in order to guarantee the presence of minorities in the parliament. This is the case in Croatia, Slovenia, Kosovo and Bosnia.[22] In Slovenia there is one reserved seat for the Hungarian and one for the Italian autochthonous community.[23] In Croatia their number is 8, and in Kosovo 20, and in both cases there is a differentiation according to the size of the minorities. Serbs have 3 seats in Croatia and 10 in Kosovo. Smaller minorities in Croatia have one seat, and even smaller ones have to share one seat with each other. In Kosovo Bosnians have three seats, Turks two and the Gorani community one. The Roma, Ashkali and Egyptians have one seat each, plus one more is given to the strongest of the three communities.

In Bosnia and Herzegovina the scheme of reserved seats is very complex, as it refers not only to the national parliament (House of the People only), but also to the legislatures of the entities. Moreover, with the exception of the national parliament, seats are reserved not only for the constituent nations, but also for the group of "others." The pre-established number of representatives for each group is reached through compensatory seats.

The special rule employed in Montenegro is of a somewhat different kind: five MPs are elected in a special constituency that groups together the polling stations from the areas inhabited by ethnic Albanians. The law also contains some further concessions for the Albanians, who are able to field lists of candidates under easier conditions than mainstream parties. However, despite the lack of terminological differentiation in legislation, these rules are discriminatory, as all the pieces of affirmative action only apply for Albanians, but not for other minorities.[24]

Romania also employs a special arrangement that practically guarantees the representation of minorities in the lower chamber. Although reminiscent of reserved seats, it is better classified as a very generous alternative threshold, as it allows minorities to obtain a single seat with a number of votes equal to 10% of the average number of votes necessary to elect a deputy at the national level. Additionally, minority organizations may field the same candidate in each constituency, while this is not permitted in mainstream parties. Although this means very easy conditions, failed attempts to get represented were also recorded (Alionescu 2004). While this special rule allows even very small communities to get represented, the drawback is that only one MP can be elected this way, which is advantageous for small minorities numbering a few thousands, but not for larger communities like the Roma, who would be arguably better off with a simple waiving of the national electoral threshold. Another serious problem is that the rule, in combination with the extremely prohibitive conditions of new entry, generated an unjustifiable advantage for the minority organizations already in parliament over their intra-ethnic challengers.

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

The largest and best organized minority, the Hungarians, do not need this special rule, as the Democratic Alliance of Hungarians in Romania (DAHR) was always able to pass the 5% threshold so far. However, after the emergence of a challenger party within the Hungarian community, another alternative electoral threshold was introduced in 2008. According to this, parties that finish on the first position in six deputy and three senatorial constituencies simultaneously will accede to parliament regardless of whether they reached the 5% threshold or not. While this rule is framed without any reference to ethnicity, obviously the only party able to take advantage of it is the DAHR (large mainstream parties do not need it, and the electorate of small mainstream parties is not sufficiently concentrated to allow plurality in so many constituencies).

The electoral legislation of the rest of the countries contains no special rules framed with a reference to ethnicity. In Albania, Bulgaria, the Czech Republic, Greece and Slovakia minority organizations can only get represented under the conditions that apply for all electoral competitors. While larger minorities, like the Greeks in Albania, the Turks in Bulgaria and the Hungarians in Slovakia succeed in getting represented even this way, the organizations of smaller minorities do not stand a chance under such conditions if running alone.

Explicit special measures are also absent in Macedonia and Turkey, yet the electoral system of these countries has clearly been designed with an eye on minorities, though with different intentions. After the Ohrid Agreement, Macedonia adopted a new electoral system, which does not contain any references to ethnicity, but facilitates minority representation, as it is very proportional. There are 6 constituencies of 20 members and there is no legal threshold. Consequently, a party can obtain seats if it secures 5% support in one constituency, and the borders of the constituencies were drawn in a favorable way for minority groups.

The Turkish electoral system has been designed with the opposite intended impact. Again, there are no references to ethnicity, but the legal threshold of 10% was meant to keep the Kurdish parties out of parliament. Moreover, party candidatures must conform to a rather demanding scheme of geographical coverage in order to receive seats. However, these prohibitive rules did not achieve their goal, as a considerable number of Kurds run and get elected as independents.

### *Contestability of national elections – assessment*

From the perspective of minority representation, the reviewed electoral rules can be classified not only according to their strength or effectiveness, but also according to their neutrality concerning the different minorities, or different organizations standing for the same minority.

We classified as *strong solutions* those that guarantee the participation of minorities, or very few failed attempts of getting represented occurred: the countries with reserved seats plus Romania. *Weak solutions* are those that offer some help to minorities, but their effectiveness is limited, as in the case of the new Hungarian arrangement. Exemptions from the threshold have been treated as an *intermediate* category, as they are only helpful for larger minorities.

However, if we also take into consideration the fact that electoral arrangements – both special and general – may be applied selectively, the picture becomes more nuanced. Selectivity has two types. First, even the strongest facilitating measure remains imperfect if only some of the minorities may benefit from it. In Poland the threshold exemption only applies to *national* minorities, but not to *ethnic* minorities. Slovenia restricts electoral affirmative action to the *autochthonous* communities, while the Roma and the so-called *recently*

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

*appeared minorities* are denied these rights. The situation is similar in Montenegro, where only Albanians enjoy specially delimited districts. While this type of differential treatment often coincides with differentiation based on the size of minorities, we believe that the two phenomena are not the same.

But selectivity is encountered not only with facilitating electoral rules, but also with restrictive ones, as is the case of the selectively applied ban on ethnic parties in Bulgaria (and in Albania until 2001). The discriminatory differentiation among minorities in this respect seems to be a consequence of the idiosyncrasies of the historical majority–minority relations, and the inability to remedy this infringement of universalistic principles is indicative of the highly path-dependent nature of developments in ethnopolitics.

The second type of selectivity refers to situations which advantage certain organizations of a specific minority against challengers from within the group. This is the situation in Romania, where legislation discriminates between parliamentary and other minority organizations. The new Hungarian rules are also worrisome in this respect, as – in a somewhat corporatist fashion – they only allow the national self-governments to field lists, so the composition of the lists will most likely be determined by the organizations that control these bodies. The ethnic party ban in Bulgaria paradoxically also advantaged the MRF for a while, as it could be invoked against any attempt to register Turkish challenger organizations.

Interestingly, the results can be almost the same with selective restrictive and selective facilitating arrangements, as both may lead to a situation in which some minority organizations are coopted to the national party cartel, while their challengers remain sidelined. Such arrangements serve the interests of majority elites, because the perpetuation of more cooperative minority elites is ensured, and the cooperative minority elites are also better off, as they are safeguarded against challengers. However, both types of selectivity create a serious democracy deficit for the minorities: the principle of equal treatment is being infringed under both types, and under the second type the accountability and responsiveness of minority organizations also become problematic. These problems may result in tensions which in the longer run can spill over into the polity at large too.

## Diversity recognition and minority representation

Having finished the survey and assessment of the manner in which states recognize ethnocultural diversity and regulate minority representation policies, it is time to connect the two dimensions. The emerging relationship is presented in Tables 1 and 2.

One can see in Table 1 that a restrictive institutionalization of ethnicity in national electoral politics only occurs in states that display the *mono- or dominant ethnic* pattern of diversity recognition. Yet not all states displaying this pattern employ electoral discrimination, some contend themselves with a neutral electoral system. The countries that employ a civic self-definition do not institutionalize ethnicity, either to facilitate or to restrict minority representation. On the other hand, most of the cases where ethnicity is institutionalized in electoral politics with facilitating purposes are states that adopt an accommodative strategy toward diversity. However, there is an outlier to this relationship: in Romania, the representation of minorities is facilitated through special arrangements that institutionalize ethnicity despite the fact that the country conveys a mono- or dominant ethnic attitude toward diversity. Moreover, the special arrangement for the parliament is a strong one. Based on Table 1, one can also conclude that the strength of the employed special measures is not related to the attitude of the state toward diversity, though beside Romania all strong electoral arrangements occur in accommodative countries.

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

Table 1. Diversity recognition and political representation at the national level.

| | | Institutionalization of ethnicity concerning representation | | | | |
|---|---|---|---|---|---|---|
| | | Restrictive | | Neutral | Facilitating | |
| | | Selective | Non-selective | | Selective | Non-selective |
| Diversity recognition | Mono- or dominant ethnic | BG | TR | ALB, GR | **RO** | |
| | Civic/neutral | | | CZ, SK | | |
| | Accommodating | | | | **CG, SLO,** PL, *HU* | **BiH, HR, KSV,** MKD[a], SRB |

Notes: Among the facilitating arrangements bold entries indicate strong measures, normal entries intermediate ones, entries in italics weak ones, underlined entries refer to differentiation of representation policy based on the size of the minority.
[a]In Macedonia there are no special electoral solutions for minorities. The electoral system is framed in completely neutral terms, without reference to ethnicity, but one of the cornerstones of the Ohrid Agreement was the intention to ensure proper minority representation.

Table 1 also contains information about the differential or selective application of the electoral arrangements. One can see that systems that contain some discriminative element are almost as frequent as those that treat all minority competitors fairly, and four of the five cases occur in accommodative diversity management regimes. Within the restrictive type, Bulgaria remains the only example since the abolition of the ethnic party ban in Albania in 2001, so selective application is rather a feature of facilitating regimes.

Within the facilitating category, differential treatment leads to democracy deficit, and is indicative of the fact that the minority rights regime is built on the idea of selective cooptation rather than true inclusion, let alone power sharing. It should also be noted that three of the five states where facilitating policies are non-selective are countries whose institutions have been designed with substantial involvement of the international organizations after violent ethnic conflict (Bosnia, Kosovo and Macedonia), and the adoption of minority-friendly legislation in Serbia is also not independent from the Kosovo issue. The last remaining case, Croatia, has a very mixed past record, which includes not only playing with the list of recognized minorities, but also episodes of selective suspension of minority rights (Trifunovska 1999).

Turning now to the relationship between diversity recognition and the autonomous sphere of minorities, the patterns are even clearer than in the case of participation. Table 2 shows that in none of the countries conveying a mono- or dominant ethnic image is any form of

Table 2 . Diversity recognition and autonomy for minorities.

| | | Autonomy | |
|---|---|---|---|
| | | Yes | No |
| Diversity recognition | Mono- or dominant ethnic | — | ALB, BG, GR, RO, TR |
| | Civic/neutral | — | CZ, SK |
| | Accommodating | SRB, HR, HU, SLO, ***BiH***, *CG*, *KSV* (de facto) | PL |

Notes: Bold entries indicate that territorial autonomy on ethnic grounds also exists. Entries with italics indicate equivocal or not fully functional cases of personal or cultural autonomy.

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

autonomy acknowledged, and all four countries with personal autonomies (Hungary, Croatia, Slovenia and Serbia) fall into the accommodative category. Moreover, those countries that are planning to introduce some sort of personal autonomy (Bosnia and Montenegro) are also in this category. The only country where an ethnically based territorial autonomy can be found, Bosnia and Herzegovina, is also accommodative toward its minorities, though only constituent nations can take advantage of territorial autonomy. It is also worth pointing out that the only country which belongs to the accommodative category in what concerns the attitudes toward diversity, but did not institutionalize any autonomy is Poland. For the selective application of autonomy we find a single case: Slovenia restricts the possibility of forming self-governments to the Hungarian and Italian autochthonous communities, while denying the same for the Roma and its "newly emerged minorities."

## Conclusion

The question to be asked at the end of the analysis is whether there is a model of ethnic accommodation characteristic of the region we studied. The sharp answer is definitely not, but there are certainly patterns that could be considered specific for the minority regimes within the Central and Southeast European region. On one hand some states scrupulously exclude ethnicity as the basis of the political community, while others view ethnicity as the ultimate basis of solidarity and cohesion of the political community. However, the last category is split in two: some states seek to maintain a sense of unity of the polity by promoting multiethnic consensus, while others do it by stating the supreme prominence of one ethnic group.

The identified patterns occur in geographically contingent clusters: the least accommodative approaches toward diversity are found in the south-eastern part of the region (i.e. Turkey and Greece, where ethnocultural diversity is not articulated at all at the level of the political system, as well as the borderline cases of Albania and Bulgaria), while the most accommodative approaches are witnessed in former Yugoslav republics. That is, the variation across countries is better described as geographical clustering which cuts across the situation of the countries in respect to EU integration. In the case of states that acceded in 2004 and 2007, different arrangements were found suitable to fulfill the Copenhagen criterion of "respect for and protection of minorities" such as a ban on ethnic parties in Bulgaria and a system of autonomies and reserved seats in Slovenia. Also, the situation in Turkey, which is currently a candidate country, is more similar to that in Greece (EU member since 1981) than to the minority rights regimes of Serbia, Macedonia or Montenegro, which are also candidates for membership.

Clearly, the more generous (and more isomorphic) arrangements implemented by the Yugoslav successor states (including those that still have a long way to go to become EU members) came into being at least partly as a consequence of international community pressure in the aftermath of bloody conflicts. But this type of third party influence should not be equated with EU conditionality generally speaking. Thus, the impact of EU conditionality can be considered only secondary in what concerns both the general approach of states toward diversity and the concrete measures adopted with regard to minority representation.

The analysis has also shown that the manner in which diversity is recognized and registered in the most important legal documents of a state is clearly connected to the concrete policy measures employed in the field of minority representation. In the case of an autonomous political sphere for the minorities, the relationship seems to be one of necessity: only states that adopt an accommodative approach to the management of diversity (an inclusive definition of the people, the acknowledgment of collective rights) are ready to create

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

autonomous political structures for their minorities. Yet, this does not imply that all states that define themselves in an accommodative manner also create self-governing structures for minorities.

The nature of electoral arrangements concerning minorities also shows variation as a function of the general attitude toward diversity, but here the relationship is less clear-cut. Most of the special solutions facilitating minority representation can be found in states that adopt an accommodative diversity-recognition stance, while the states that define themselves in civic terms also tend to keep their electoral regulations neutral. Yet, facilitated minority representation also occurs in countries that convey a mono- or dominant ethnic vision as regards the fundaments of political community, though the more frequent practice in this latter category is to employ restrictions on minority participation or to stick to neutral regulations.

Another important conclusion is that it is not sufficient to classify the electoral arrangements concerning minorities according to their capacity to facilitate representation, as even some of the strongest special arrangements may have some problematic aspects when it comes to the fair treatment of all minority competitors. The occurrence of discriminative differentiations does not depend on the general approach of the state to diversity, as most instances appear in accommodative countries. Selective treatment seems to be the most important tool for states to maintain control over their minorities. The least problematic regimes in this sense are those where there was considerable involvement from the international community.

There seems to be a dividing line between countries willing to embrace the idea of an autonomous political sphere for minorities and those that reject this possibility. While it is not true that autonomy and facilitated representation are incompatible (as Hadden 2005 suggested), the recognition of an autonomous political sphere for minorities is more clearly embedded in an accommodative philosophy about diversity than facilitated representation. The micropolitical tool of facilitated minority representation can be flexibly applied in order to be compatible with both integrative and autonomy-based macropolitical conceptions of diversity management, but the same is not true about autonomous political arenas for the minorities. The only case where autonomy existed but minority representation in the parliament was not granted was Hungary, but new legislation has been passed recently that has remedied this situation. The greater readiness of governments to settle the representation of minorities in the national polity than to allow them an autonomous arena is probably not independent of the fact that – as the high incidence of selective or discriminatory arrangements shows – within the former type of institutions it is easier to maintain a safe control over the minorities.[25] However, it is not true either that the electoral arrangements of countries that do not reject autonomy would be less problematic than that of the states that reject it, as shown by the examples of Hungary and Slovenia.

While in this paper we created an inventory and identified patterns of the regulations concerning diversity recognition and minority representation, many tasks remain to be accomplished by future research. First, beside the formal-legal analysis, the actual results produced by the arrangements in each country should also be compared. More important than the descriptive aspect of representation is its quality, the extent to which minority representatives are able to further the interests of their groups. Second, the evolution in time of minority representation should be studied, as in many of our cases legislation underwent several important changes. Research should ask what has driven these changes, how much can be attributed to factors that are only present in the specific countries, and how much to common factors throughout the regions (e.g. EU conditionality), and were there phenomena of diffusion at work?

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

Finally, we wish to emphasize that while representation is a very important aspect of a minority rights system, no regime should be judged solely on the basis of this dimension. In order to obtain a more comprehensive picture of the situation of minorities in these countries, future research should also link the general attitude toward diversity recognition to the concrete designs employed in other domains of the minority protection regime, most importantly language use, education rights and participation in the public sector.

## Notes

1. Even within the domain of political representation, we are only concerned with positive rights. In the case of representation negative rights encompass all those juridical norms that forbid the authorities to take measures that limit the right to vote, to be elected, etc. on the grounds of belonging to a minority group.
2. We relied on the (mostly unofficial) English translations of the relevant legal documents, except for Hungary and Romania, where we were able to use the originals too (however, the parts quoted in the paper are from the English translations), and corroborated our interpretation with the secondary literature. The sources are listed in Appendix 1.
3. A third and more subtle aspect of contestability is the possibility of accessing the resources necessary for the electoral race, like access to media and public money for electoral campaigns. We limit the analysis to the first two aspects which can be considered direct means to enable or prevent actors from entering competition, while the impact of the third type of rules on an actor's electoral prospects is not of all-or-nothing nature.
4. Special electoral rules are sometimes applied also at the local level. However, here we limit the analysis to regulations concerning the national parliament. This is due not only to lack of space, but also to the fact that local level arrangements can only be assessed by taking into account the local demographics, as even very small minorities have good chances of representation if they live sufficiently concentrated. Such an exercise would be beyond the scope of this paper.
5. Comprehensive comparative tables with the relevant articles of the legislation are available from the authors upon request.
6. The enumeration of the three historical regions does not amount to a reference to ethnic diversity.
7. This enumeration of ethnocultural groups is interesting, as it does not result unequivocally which groups are considered nations and which national minorities.
8. Both countries only recognize religious minorities, based on the Treaty of Lausanne concluded in 1923 (Velivasaki 2010).
9. The Czech Act on the Rights of Members of National Minorities (2001) uses the expression "rights of national minorities" on one single occasion (art. 3 (2)), all other references are to "rights of members of national minorities." Consequently we consider that the Czech lawmaker purposively avoided to refer to communities.
10. In Slovakia there is a law on the usage of minority languages.
11. In case of Romania this refers to representation in the parliament, while in Serbia to the creation of national minority councils.
12. The original list of minorities from the preamble of the 1990 Croatian constitution underwent two important modifications. In 1997 two minorities (Muslims, Slovenes) were deleted, while Germans, Austrians, Ukrainians and Ruthenians added. In 2010 the deleted minorities regained their status, and further 10 groups were added. As a result, the list of 22 minorities from the preamble now conforms to the enumeration from the Electoral Law of 2003.
13. The provisions about the political representation of minorities of the Law on Minority Rights and Freedoms in Montenegro have been declared unconstitutional in 2006 on the grounds of discriminative differentiation which favors only the Albanians.
14. For a list of relevant laws see http://www.minelres.lv/NationalLegislation/Macedonia/macedonia.htm [Accessed January 11, 2012.]
15. In Albania there is also more than one label in use, a differentiation exists between *national* and *ethnolinguistic* minorities (and there are also some unrecognized minorities), but the legal basis of this is unclear. Hungary also used the terms *national and ethnic minorities* until recently, however, the new law passed in late 2011 only uses the term *nationalities.*
16. The issue of territorial autonomy arguably arises also in Kosovo, as the northern parts of its territory can be considered a de facto Serbian autonomy, moreover, the Serbs still use the curriculum

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

elaborated by the education ministry of Serbia (Wolff et al. 2008). However, due to a lack of codification we do not consider it an autonomy.

17. For details on minority self-governments in Croatia see: Petričušić (2004b); on Hungary: Dobos (2007); Eiler and Kovács (2000); on Slovenia: Komac (2002); Korhecz (2002); Petričušić (2004a) and on Serbia: Korhecz (2010).
18. A similar ban had been in effect in Albania until 2001, yet the Unity for Human Rights party, composed primarily of ethnic Greeks, was tolerated and even became part of governing coalitions.
19. These rules were adopted primarily to prevent the registration of new Hungarian and Roma organizations, beside the ones already in parliament. While in the short term they reached their goal, political pluralism gradually unfolded within both minority groups.
20. In Serbia the exemption also applies for the Vojvodina Assembly and the local municipalities.
21. That is, the number of valid votes divided by the number of seats to be distributed. In Poland the implicit or natural threshold is 0.26%, while in Serbia 0.4%.
22. In Croatia, Slovenia and Kosovo the seats are elected in separate, non-territorial constituencies. In the first two cases only the members of the minorities enrolled on the special electoral registers can vote for them, while in Kosovo the total number of votes cast for the parties of each minority is considered the community vote.
23. Slovenia is distinctive because minority members who are registered on the special electoral roll enjoy dual voting: they cast one vote for the mainstream parties and one for the election of their own representative in parliament.
24. See note 13.
25. This does not mean that the institutions of autonomies do not allow any room for maneuver. For instance, in the case of the minority national councils in Serbia the possibility of NGOs to field candidates was perceived by the parties of national minorities as a back-step for mainstream political parties to obtain control of the councils.

## References


Alionescu, Ciprian-Călin. 2004. "Parliamentary Representation of Minorities in Romania." *Southeast European Politics* 5 (1): 60–75.

Almairac, Laure. 2006. "Turkey: A Minority Policy of Systematic Negation (Report)." Vienna: International Helsinki Federation for Human Rights.

Atikcan, Ece Ozlem. 2010. "European Union and Minorities: Different Paths of Europeanization?" *Journal of European Integration* 32 (4): 375–392.

Bartolini, Stefano. 1999. "Collusion, Competition and Democracy Part I." *Journal of Theoretical Politics* 11 (4): 435–470.

Bartolini, Stefano. 2000. "Collusion, Competition and Democracy Part II." *Journal of Theoretical Politics* 12 (1): 33–65.

Bieber, Florian, and Stefan Wolff, eds. 2007. *The Ethnopolitics of Elections*. Abingdon: Routledge.

Bird, Karen. 2013. "Comparing Ethnic Quotas and Ethnic Representation Worldwide." Paper presented at the SCOPES Conference "Ethno-democracy in the heart of Europe: Political mobilization and representation of ethnic groups in Bosnia and Herzegovina in a comparative perspective." Sarajevo, September 23–24, 2013.

Bochsler, Daniel. 2006. "Large-N QCA or Logistic Regression? A Methodological Experiment to Explain Formation of Ethnic Minority Parties." Paper presented at the 1st ECPR Graduate Conference, Essex, September 7–9.

Bochsler, Daniel. 2010. "Electoral Rules and the Representation of Ethnic Minorities in Post-Communist Democracies." *European Yearbook of Minority Issues* 7: 153–180. http://www.eurac.edu/en/research/institutes/imr/activities/Bookseries/Documents/European%20Yearbook%20of%20Minority%20Issues%207%20-%20table%20of%20contents.pdf

Brubaker, Rogers. 1994. "Nationhood and the National Question in the Soviet Union and Post-Soviet Eurasia: An Institutionalist Account." *Theory and Society* 23 (1): 47–78.

Çelik, Ayşe Betül, and Bahar Rumelili. 2006. "Necessary but Not Sufficient: The Role of the EU in Resolving Turkey's Kurdish Question and the Greek-Turkish Conflicts." *European Foreign Affairs Review* 11 (2): 203–222.

Chukov, Vladimir. 2001. *The Movement for Rights and Freedoms. Turk Flagman of Bulgarian Post-Totalitarian Liberalism.* Sofia: Center for Regional and Confessional Studies. http://crcs0.tripod.com/mrfvlad.html


https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

Daskalovski, Zhidas. 2004. "Democratic Consolidation and the 'Stateness' Problem: The Case of Macedonia." *The Global Review of Ethnopolitics* 3 (2): 52–66.
Dobos, Balázs. 2007. "The Development and Functioning of Cultural Autonomy in Hungary." *Ethnopolitics* 6 (3): 451–469.
Eiler, Ferenc, and Nóra Kovács. 2000. "A kisebbségi önkormányzatok rendszere Magyarországon." *Regio* 11 (3): 81–112.
Frowein, Jochen Abr, and Roland Bank. 2001. "The Participation of Minorities in Decision-Making Processes." *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht – Heidelberg Journal of International Law* 61: 1–28. http://www.zaoerv.de/61_2001/vol61.cfm
Gelazis, Nida M. 2004. "The European Union and the Statelessness Problem in the Baltic States." *European Journal of Migration and Law,* 6 (3): 225–242.
Hadden, Tom. 2005. "Integration and Autonomy: Minority Rights and Political Accommodation." In *Power Sharing. New Challenges for Divided Societies*, edited by Ian O'Flynn and David Russell, 30–44. London: Pluto Press.
Hajdinjak, Marko. 2008. "Thou Shalt Not Take the Names Ethnic or Minority, And I Will Bless Thee: Political Participation of Minorities in Bulgaria." In *Political Parties and Minority Participation*, 87–125. Skopje: Friedrich Ebert Stiftung in Macedonia.
Halász, Iván. 2007. "Nemzeti és etnikai kisebbségek és a kisebbségi jogi szabályozások Közép-Európában." *Kisebbségkutatás* 16 (3): 563–585.
Horváth, István. 2001. "Facilitating Conflict Transformation: Implementation of the Recommendations of the OSCE High Commissioner on National Minorities to Romania, 1993–2001." Working paper 8. Hamburg: Institute for Peace Research and Security Policy at the University of Hamburg.
Htun, Mala. 2004. "Is Gender Like Ethnicity? The Political Representation of Identity Groups." *Perspectives on Politics* 2 (3): 439–458.
Kelley, Judith G. 2004. *Ethnic Politics in Europe: The Power of Norms and Incentives.* Princeton and Oxford: Princeton University Press.
Komac, Miran. 2002. "The Protection of Ethnic Minorities in the Republic of Slovenia." In *Slovenia & The European Standards for the Protection of National Minorities*, edited by Miroslav Polzer, Liana Kalčina, and Mitja Žagar, 13–66. Ljubljana: Information and Documentation Centre on the Council of Europe – Institute for Ethnic Studies – Austrian Institute of East and Southeast European Studies.
Korhecz, Tamás. 2002. "Democratic Legitimacy and Election Rules of National Ethnic Minority Bodies and Representatives-Reflections on Legal Solutions in Hungary and Slovenia." *International Journal on Minority and Group Rights* 9 (2): 161–181.
Korhecz, Tamás. 2010. "Magyar autonómia Szerbiában. A programcéltól a hatályos törvényig." *Pro Minoritate* 20 (1): 67–73.
Markusse, Jan D. 2007. "Are National Minorities in the EU Progressing towards the Acquisition of Universal Rights?" *Environment and Planning A* 39 (7): 1601–1617.
McGarry, John, and Brendan O'Leary. 1993. "Introduction: The Macro-Political Regulation of Ethnic Conflict." In *The Politics of Ethnic Conflict Regulation: Case Studies of Protracted Ethnic Conflicts*, edited by John McGarry and Brendan O'Leary, 1–40. London: Routledge.
McGarry, John, Brendan O'Leary, and Richard Simeon. 2008. "Integration or Accommodation?" In *Constitutional Design for Divided Societies: Integration or Accommodation?* edited by Sujit Choudhry, 41–88. Oxford: Oxford University Press.
Meier, Petra. 2009. "Defining Groups Entitled to Reserved Seats in National Legislatures: A Comparative Approach." Paper presented at the annual meeting of the American Political Science Association, Toronto, September 3–6.
Parekh, Bhikhu. 2002. "Reconstituting the Modern State." In *Transnational Democracy. Political Spaces and Border Crossing*, edited by James Anderson, 39–55. London: Routledge.
Petričušić, Antonija. 2004a. "Slovenian Legislative System for Minority Protection: Different Rights for Old and New Minorities." *Noves SL – Revista de Sociolingüística* 5 (3): 1–9.
Petričušić, Antonija. 2004b. "Wind of Change: the Croatian Government's Turn towards a Policy of Ethnic Reconciliation." Bolzano – Bozen: EURAC Research, European Diversity and Autonomy Papers – EDAP 6/2004.
Petričušić, Antonija. 2008. "Nation-Building in Croatia and the Treatment of Minorities: Rights and Wrongs." *L'Europe en formation* 39 (3–4): 135–145.

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

Rechel, Bernd. 2009. "Introduction." In *Minority Rights in Central and Eastern Europe*, edited by Bernd Rechel, 3–16. New York: Routledge.
Reynolds, Andrew. 2005. "Reserved Seats in National Legislatures: A Research Note." *Legislative Studies Quarterly* 30 (2): 301–310.
Sasse, Gwendolyn. 2009. "Tracing the Construction and Effects of EU Conditionality." In *Minority Rights in Central and Eastern Europe*, edited by Bernd Rechel, 17–31. New York: Routledge.
Schimmelfennig, Frank, Stefan Engert, and Heiko Knobel. 2003. "Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey." *JCMS: Journal of Common Market Studies* 41 (3): 495–518.
Schwellnus, Guido, and Frank Schimmelfennig. 2008. *The Adoption, Implementation and Sustainability of Minority Protection Rules in the Context of EU Conditionality. A Comparative Analysis of Ten New Member States in Central and Eastern Europe*. Zürich: Research proposal submitted to the SNSF.
Trifunovska, Snežana. 1999. "Minority Rights in Croatia." *International Journal on Minority and Group Rights* 6 (4): 463–482.
Vasiljević, Snježana. 2004. "The Legal Aspects of the Protection of Minorities in the Process of Stabilization and Association." In *Croatian Accession to the European Union: Institutional Challenges*, edited by Katerina Ott, 249–272. Zagreb: Institute of Public Finance.
Velivasaki, Eleni. 2010. "Accommodating Religious Pluralities: The Case of Greece." Paper presented at the conference Minority Politics in the Europe of Regions, Cluj, June 17–20.
Venice Commission. 2000. "Electoral Law and National Minorities (CDL-INF (2000) 4)." Strasbourg: Council of Europe.
Venice Commission. 2005. "Report on Electoral Rules and Affirmative Action for National Minorities' Participation in Decision-Making Process in European Countries (CDL-AD (2005)009-e)." Strasbourg: Council of Europe.
Wolff, Stefan, Pieter Van Houten, Ana-Maria Anghelea, and Ivana Djuric. 2008. "Minority Rights in the Western Balkans (Report)." Brussels: European Parliament.

## Appendix 1. Legal documents used in the analysis (All sources last accessed August 30, 2012, except where indicated)

***Albania***

The Constitution of the Republic of Albania (1998) – www.km.gov.al/skedaret/1231927768-Constitution%20of%20the%20Republic%20of%20Albania.pdf
Electoral Code of the Republic of Albania (2008) – www.venice.coe.int/docs/2009/CDL(2009)005-e.pdf

***Bosnia and Herzegovina***

The Constitution of Bosnia and Herzegovina (1995, as last amended in 2009) – www.ccbh.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_engl.pdf
Law on Rights of National Minorities – www.unhcr.org/refworld/pdfid/4d2f22532.pdf
Election Law of Bosnia and Herzegovina (2001, as last amended in 2008) – www.izbori.ba/documents/ENG/Law/BH_Election_Law.pdf [January 12, 2012]

***Bulgaria***

Constitution of the Republic of Bulgaria (1991, as last amended in 2008) – www.parliament.bg/en/const
Election Code of Bulgaria (2011) – www.venice.coe.int/docs/2011/CDL-REF(2011)008-e.pdf
Act to Amend and Supplement the Election Code of Bulgaria (2011) – www.venice.coe.int/docs/2011/CDL-REF(2011)030-e.pdf
Political Parties Act (2009) – www.legislationline.org/documents/action/popup/id/15811

***Croatia***

Constitution of the Republic of Croatia (consolidated text) (as of 2010) – www.sabor.hr/fgs.axd?id=17074
Constitutional Act on The Rights of National Minorities in the Republic of Croatia (2002, as last amended in 2010) – www.sabor.hr/Default.aspx?art=2448

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

Act on Election of Representatives to the Croatian Parliament (2003, as last amended in 2010) – www.sabor.hr/Default.aspx?art=2447
Political Parties Act (1993, as last amended in 2006) – www.sabor.hr/Default.aspx?art=38698

***Czech Republic***
Constitution of the Czech Republic (1993, as last amended in 2002) – www.psp.cz/cgi-bin/eng/docs/laws/1993/1.html
Charter of Fundamental Rights and Basic Freedoms (1992) – www.psp.cz/cgi-bin/eng/docs/laws/1993/2.html
Act of Law 247/1995 Coll., on elections to the Parliament of the Czech Republic (1995, as last amended in 2006) – www.psp.cz/cgi-bin/eng/docs/laws/1995/247.html
Act of Law 424/1991 Coll., on Association in Political Parties and Political Movements (1991, as last amended in 2006) – www.psp.cz/cgi-bin/eng/docs/laws/1991/424.html

***Greece***
The Constitution of Greece (1975, as revised in 2001) – www.nis.gr/npimages/docs/Constitution_EN.pdf
Electoral laws 3231/2004 and 3626/2008; www.nsd.uib.no/european_election_database/country/greece/parliamentary_elections.html

***Hungary***
Fundamental Law of Hungary (2011) – www.venice.coe.int/docs/2011/CDL-REF(2011)019-e.pdf
Magyarország Alaptörvénye (2011) – www.kormany.hu/download/0/d9/30000/Alapt%C3%B6rv%C3%A9ny.pdf
2011. évi CCIII. évi törvény Az országgyűlési képviselők választásáról (2011) [Act 203/2011 on the election of the members of parliament] – http://kozlony.magyarorszag.hu/pdf/11526
2011. évi CLXXIX. törvény a nemzetiségek jogairól (2011) [Act 179/2011 on the rights of nationalities] – http://kozlony.magyarorszag.hu/pdf/11286

***Kosovo***
Constitution of the Republic of Kosovo (2008) – www.kushtetutakosoves.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf
Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo (2008) – www.ecoi.net/file_upload/1504_1220511796_law-on-the-protection-and-promotion-of-the-rights-of-communities-and-their-members-in-kosovo.pdf
Law No. 04/L-020 on Amending and Supplementing of the Law No. 03-L-047 on the Protection and Promotion of the Rights of Communities and Their Members in Republic of Kosovo (2011) – www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20amending%20the%20law%20on%20communities.pdf
Law No. 03/L-073 on General Elections in the Republic of Kosovo (2008) – www.assembly-kosova.org/common/docs/ligjet/2008_03-L073_en.pdf

***Macedonia***
Constitution of the Republic of Macedonia (1991) – http://mlrc.org.mk/law/l004.htm
Amendments to the Constitution of the Republic of Macedonia (2001) – http://eudo-citizenship.eu/NationalDB/docs/MAC%20Const%20Amendments%20IV-XVIII%20(English).pdf
Electoral Code of "The Former Yugoslav Republic of Macedonia" (2011) – www.venice.coe.int/docs/2011/CDL-REF(2011)039-e.pdf
Macedonia has no minority protection law, but a list of relevant pieces of legislation can be accessed at www.minelres.lv/NationalLegislation/Macedonia/macedonia.htm

***Montenegro***
The Constitution of the Republic of Montenegro (2007) – www.venice.coe.int/docs/2007/CDL(2007)105-e.pdf
Law on Minority Rights and Freedoms (2006) – www.minoritycentre.org/sites/default/files/law-minority-rights-me.pdf
Law on the Election of Councillors and Representatives of Montenegro (2006) – www.venice.coe.int/docs/2010/CDL-EL(2010)010-e.pdf

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

Law on Political Parties (2004); www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)7_Montenegro_Two_EN.pdf

***Poland***

The Constitution of the Republic of Poland (1997) – www.sejm.gov.pl/prawo/konst/angielski/kon1.htm

Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Languages www.msw.gov.pl/download.php?s=1&id=2327

Act of 12 April 2001 on Elections to the Sejm of the Republic of Poland (2001) – http://legislationline.org/documents/action/popup/id/4543

Act of 27 June 1997 on Political Parties (as amended in 2008) – www.partylaw.leidenuniv.nl/party-law/4e4ab093-1c40-4702-94ff-08e084e5412d.pdf

***Romania***

Constitution of Romania (1991, as amended in 2003) – www.cdep.ro/pls/dic/site.page?id=371

Law No. 35 of 13 March 2008 for the Election to the Chamber of Deputies and the Senate (2008) – http://aceproject.org/ero-en/regions/europe/RO/law-no.-35-of-13-march-2008-for-the-election-to/at_download/file

Law no. 14/2003 on political parties (2003) – www.partylaw.leidenuniv.nl/party-law/4e2d4e07-e470-4396-ba64-08e084e5412d.pdf

***Serbia***

Constitution of the Republic of Serbia (2006) – www.predsednik.rs/mwc/epic/doc/ConstitutionofSerbia.pdf

Law on Protection of Rights and Freedoms of National Minorities (2002) – www.unhcr.org/refworld/country,,NATLEGBOD,,SRB,,4b5d97562,0.html

Törvény a nemzeti kisebbségek nemzeti tanácsairól (2009) – www.vajma.info/docs/torveny_nemzeti_kisebbsegek_n_t.pdf

Law on the Elections of Representatives of the Republic of Serbia (2004) – www.venice.coe.int/docs/2005/CDL-EL(2005)026-e.pdf

The Law on Political Parties (2009) – www.legislationline.org/documents/action/popup/id/15592

***Slovakia***

Constitution of the Slovak Republic (1992, as last amended in 2002) – www.concourt.sk/en/A_ustava/ustava_a.pdf

Act No. 333 of 13 May 2004 on Elections to the National Council of the Slovak Republic (2004) – http://aceproject.org/ero-en/regions/europe/SK/Election_Law_slovakia.pdf

Act No. 85 as of February 4, 2005 on Political Parties and Political Movements (2005) – www.partylaw.leidenuniv.nl/party-law/4d418e39-6a2c-4acb-b4d3-542d5bda7d64.pdf

***Slovenia***

Constitution of Slovenia (1991, as last amended in 2006) – www.us-rs.si/en/about-the-court/legal-basis/

Law on Self-governing Ethnic Communities (1994) – www.ciemen.org/mercator/butlletins/46-15.htm

National Assembly Elections Act (1992, as last amended in 2000) – www.legislationline.org/documents/action/popup/id/3825

Political Parties Act (2005, as last amended in 2007) – www.partylaw.leidenuniv.nl/party-law/4d2ad0ed-0d38-490f-b7ef-34e95bda7d64.pdf

***Turkey***

The Constitution of the Republic of Turkey (1982, as last amended in 2007) – www.servat.unibe.ch/icl/tu00000_.html

Parliamentary Elections Law (1983, as last amended in 1995) – www.legislationline.org/download/action/download/id/1310/file/bbf6e67f60e5492350474eaa9e9a.pdf [January 12, 2012]

Law No. 2820 'On Political Parties' (1983) – (Relevant parts available at: www.usefoundation.org/view/878)

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press

https://doi.org/10.1080/00905992.2014.916660 Published online by Cambridge University Press



**Appendix 2.** Table 3. Summary of the aspects of diversity recognition and of minority representation policies.

| Country | "The people"[a] | Rights[b] | Enumeration[c] | DIVREC[d] | Party registration | Representation | Selectivity[e] | Autonomy |
|---|---|---|---|---|---|---|---|---|
| Albania | E | I | C-G | MDE | (Selective ban until 2001) | No special | Not selective | |
| Bosnia | MI | C | ML | AC | Easy | Strong | Not selective | Territorial (constituent nations); personal foreseen by law |
| Bulgaria | E | I | C-G | MDE | Selectively applied ban on ethnic parties | No special | Selective, incumbent bias | |
| Croatia | I | C | C, EL | AC | Easy | Strong | Not selective | Personal |
| Czech R. | C | I | ML | C | Easy | No special | Not selective | |
| Greece | E | | | MDE | Easy | No special | Not selective | |
| Hungary | I | C | ML | AC | Easy | Weak | Incumbent bias | Personal |
| Kosovo | I | C | C, ML | AC | Easy | Strong | Not selective | de facto |
| Macedonia | I | C | C | AC | Easy | No special, but very proportional system | Not selective | |
| Montenegro | MI | C | C, (ML, EL) | AC | Easy | Strong | Selective | Personal foreseen by law |
| Poland | QC | C | ML | AC | Easy | Intermediate | Selective | |
| Romania | E | I | C-G, PH | MDE | Difficult | Strong | Incumbent bias | |
| Serbia | C | C | C-G, PH | AC | Difficult, but special for minorities | Intermediate | Not selective | Personal |
| Slovakia | I | I | C-G | C | Difficult | No special | Not selective | |
| Slovenia | I | C | C, (ML) | AC | Easy | Strong | Selective | Personal |
| Turkey | E | | | MDE | Non-selective ban on ethnic parties | Prohibitive threshold | Not selective | |

Note: Dashes indicate the absence of references to minority rights, enumeration or autonomy arrangements.
[a]E, Exclusive; QC, quasi-civic; C, civic; I, inclusive and MI, multinational inclusive.
[b]I, Individual and C, collective.
[c]C-G, Only general reference in constitution; C, enumeration in constitution; ML, enumeration in minority law; EL, enumeration in electoral law. Entries in brackets point to enumerations that do not include all the minorities also named in the constitution. PH (*post hoc*) means situations in which there is no enumeration, yet the list of recognized minorities it is clear from their de facto political situation.
[d]The general model of diversity recognition (DIVREC). MDE, Mono- or dominant ethnic; C, civic and AC, accommodative.
[e]Where no facilitating or restrictive measures exists, it is logically impossible to have selective application.