

Minority protection or state protection?

The remarks of the president of the Venice Commission at a conference on the protection of minorities held in Kolozsvár (Cluj Napoca) weakens the functioning and efficiency of the control mechanisms for the European protection of minorities. The Romanian “model” of minority protection is characterized by regular and everyday conflicts between the majority nation and the national minorities. It can hardly be considered exemplary, and conferences like the one in Kolozsvár – which tries to whitewash the reality – further reduce the chances to find solutions for problems in this area.

On 30 April, the Romanian Ministry of Foreign Affairs and the Babeş-Bolyai University (BBTE) organized a conference – “20 years of Framework Convention for the Protection of National Minorities. 20 years of inter-culturality, cultural diversity, tolerance, integration” – in Kolozsvár, on the 20th anniversary of Romania’s ratification of the Framework Convention for the Protection of National Minorities of the Council of Europe. According to the organizers, the circumstances of the conference, and what prevailed there, illustrates well the minority policy of Romania. While the Romanian Minister of Foreign Affairs declared that the country’s minority policy can serve as a model for other states and stressed that the sense of this policy is the inclusion of the parties concerned in decision making, the advocacy organization of the largest national minority in Romania, the Democratic Alliance of Hungarians in Romania (RMDSZ) was not invited to the conference. Similarly, no invitation was sent to the Romanian Institute for Research on National Minorities (Romania’s state research institute dealing with minority policy), based in Kolozsvár.

Before he received an honorary doctorate from Babeş-Bolyai University, Gianni Buquicchio, the president of the Venice Commission (the advisory board of the Council of Europe (CoE)) declared at the conference that although it was not his task to monitor different countries’ systems for the protection of minorities, he felt that Romania pays particular attention to compliance with the Framework Convention for the Protection of National Minorities as well as with other international documents.

Gianni Buquicchio correctly declared that the protection of minorities is not part of the activity of the Venice Commission, although his other statement - according to which Romania’s compliance with its international obligations is exemplary – raises some

questions. The Council of Europe has two conventions dealing with the protection of national minorities. Both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages were ratified by Romania. The compliance with these conventions is monitored by two committees, set up specifically for this purpose. Consequently, it is an unusual diplomatic solution for the Advisory Committee of the Framework Convention not to attend a conference when the main topic was one supposedly monitored by it, while the president of the Venice Commission – taking over the role of the advisory board – expressed a definite standpoint in a question that did not fall within the restricted sphere of his competence. If the representatives of the Advisory Committee had been present at the conference, they could not have ignored that Romania has delayed for more than a year the submission of reports about the implementation of the Framework Convention and has also undermined several recommendations established during the latest monitoring. Considering the application of the European Charter for Regional or Minority Languages, the situation is even worse. Romania has delayed for three years the submission of a report while the monitoring in this field requires the submission of such a report in every three years.

Unfortunately, the head of the Venice Commission, by praising Romania's policy for the protection of national minorities – especially, by stating that Romanian authorities pay extreme attention to the Framework Convention and respect its applicable standards – weakens the activity of the Council of Europe in the monitoring of the two above-mentioned decisions, and therefore undercuts the work of the Advisory Committee.

In addition, Gianni Buquicchio also ignored the findings of other bodies of the CoE connected with the Romanian protection of minorities. A report of the European Commission against Racism and Intolerance (ECRI) published last year highlights the inconsistent practice of Romanian authorities concerning the use of national symbols, problems in the field of the restitution of church properties and Romania's increasingly conspicuous negative attitude towards the implementation of the convictions of the European Court of Human Rights.

Addressing the conference, Romania's Minister of Foreign Affairs Bogdan Aurescu declared that the CoE's different monitoring reports acknowledged the efficiency of Romania's system for the protection of minorities. The truth, however, is that during the

latest monitoring of the European Charter for Regional or Minority Languages, the Committee of Experts found that out of the 16 areas of responsibilities Romania accepted in the field of administrative language use, only one point was fulfilled regarding the Hungarian language, in the case of two others, the Committee had called on Romania to provide further information, while the rest of the responsibilities had been found to be fulfilled only partially. It is a further interesting detail that Kolozsvár – the city which hosted the conference – itself illustrates the fact that Romania has not fulfilled the call of the Committee of Experts to reduce the 20 percent threshold for language use. As a result, in Kolozsvár, where Hungarians constitute 16 percent of the population, laws regulating bilingualism cannot be enforced. Moreover, the leaders of the city have even refused the installation of bilingual town signs in Kolozsvár, and have tried to obstruct this via the court.

A further point Bogdan Aurescu emphasized at the conference is that ethnic-based territorial autonomy cannot be a good solution for the protection of minorities. The phrase used by the minister – which is also frequently used in the Romanian public discourse – suggests that Hungarians living in Romania demand territorial autonomy based on ethnicity. However, territorial autonomy cannot be “ethnic” since it refers to a certain territory and not ethnicity. Beside this conceptual confusion, it is important to note that in case the minister referred to the institution of territorial autonomy, European examples clearly show that it is an effective tool to handle conflicts and to protect minorities. This has also been recognized lately by the Parliamentary Assembly of the Council of Europe with the adoption of the document entitled Kalmár Report¹ (based on resolutions and recommendations adopted previously by the CoE). Nevertheless, Romania does not pay heed to this report.

Although he was not invited to the conference, the president of the Democratic Alliance of Hungarians in Romania (RMDSZ) Hunor Kelemen wrote a letter to the president of the Venice Commission, outlining to him anomalies in field of national minorities’ rights in Romania. In his letter, the head of the RMDSZ wrote that “this attitude is insulting and anti-democratic, and raises serious questions about the commitment of Romania’s government to dialogue and cooperation with national minorities.” Mr. Kelemen summarized the violations of rights national minorities have suffered in 14 points. The

¹ For details see: Resolution of the Council of Europe on the situation and rights of national minorities.
http://bgazrt.hu/files/NPKI/ET_en.pdf

president of the Szekler National Council (SZNT) Balázs Izsák expressed similar view about the conference and its message, stating that “a lot of nice things were said at this conference, only the truth was missing.” The head of the SZNT handed over a list to the colleague of Bogdan Aurescu and Gianni Buquicchio, listing the ways Romania had violated the regulations of the Framework Convention.

A further fact which proves that the evaluation of the president of the Venice Commission and the Romanian Foreign Minister about the Romanian system of minority protection is incorrect – as pointed out by the two organizations – is that several cases are still unsolved in Romania, moreover, there are serious problems in the enforcement of existing laws:

- Despite the regulations of the Act on Education which entered into force in 2011, no independent Hungarian educational board has been established at the University of Medicine and Pharmacy of Targu Mureş (MOGYE), however this would be compulsory at multicultural universities;
- Despite the language rights laid down in laws, bilingualism is not realized in practice in administrative units in which the ratio of a certain national minority is higher than 20 percent of the population: there are no bilingual signs at the level of local governments, no translation at the meetings of local councils, and the free use of minority languages is not ensured at courts since Romania provides no resources for them;
- Romanian authorities regularly fine local self-governments and private persons who use the Szekler flag which is considered a symbol of the community or the flags of their towns, and even the singing of the Hungarian National Anthem has been fined;
- During the preparation of plans aimed at restructuring public administration they ignore the obligation Romania undertook in international conventions which state that the restructuring must not influence negatively the ratio of a certain minority within an administrative unit;
- the strategy on public order and public safety of Romania’s Ministry of Interior issued for public debate defines movements aimed at demanding ethnic autonomy as a source of danger to public safety;

- the restitution of church and community properties, nationalized during the communist era, has been stopped, and the building of the Székely Mikó High school has been re-nationalized by judicial means.²

After the conference, Gianni Buquicchio confirmed his view on minority questions in an interview, saying that the problem of minorities is becoming less important in Europe. With respect to this, it is important to note that despite the opinion of the head of the Venice Commission, the importance of paying attention to the situation of traditional national minorities has been recognized even by the European People's Party, the party with the largest faction in the European Parliament, which has recently organized an open public hearing on the issue.³ The international experts of the field and the representatives of minority communities who attended the event agreed that there is a huge gap between legal regulations and practical experiences.

We must emphasize that when evaluating the situation of traditional national minorities living on the territory of Romania, aspects should be examined from the perspective of the permanence of the communities concerned, and the preservation and strengthening of their identity.⁴ In this respect, ignoring the opinion and demands of the representatives of these communities is an extremely serious fault. Conferences like the one in Kolozsvár cause justifiable indignation among the members of the communities concerned, since they may serve as reference for governments.

To sum up, we declare that "Romania's protection of minority rights" cannot be characterized as a positive "model", when majority-minority conflicts continue and the government does very little or nothing to find solutions. Conference similar to the one held in Kolozsvár, unfortunately, do not contribute to the appropriate handling of the issue and the settling of outstanding problems in the relations between the majority nation and national minorities.

² See also: The re-nationalization of the Székely Mikó High School of Sepsiszentgyörgy
http://bgazrt.hu/files/NPKI/ELEMZ%C3%89SEK/elemz%C3%A9s_angol_Miko.pdf

³ Public hearing in the EP on the protection of traditional national minorities - See more at:
<http://www.dahr.ro/news/public-hearing-in-the-ep-on-the-protection-of-traditional-national-minorities#sthash.1bifBLTt.dpuf>

⁴ For further aspects see: Is there a "Hungarian issue" in Romania?
http://bgazrt.hu/files/NPKI/ELEMZ%C3%89SEK/Johannis_angol.pdf