

The Protection of Minority Rights in Albania through EU's Enlargement Conditionality

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The European Union (EU) plays the most important role in the promotion of minority rights in Albania through its enlargement conditionality. In the direction of minority rights protection, Albania can be considered a Janus-faced candidate state. On the one hand, the Albanian authorities have been reviewing much of their domestic laws, regulation, and structures to comply with the EU standards. On the other hand, the implementation of this ambitious legal framework, which is vital for ensuring the guarantee of minority rights, is still far from being materialized. Policy implementation in Albania has been deficient because of political polarization and a lack of political will. The effectiveness of EU conditionality depends on the domestic political class that shape or instrumentalise norms according to its interests. As a result, the materialisation of EU norms in the form of reforms or new legislations has helped Albania to proceed with its EU accession but does not help alleviate the living conditions of national minorities. EU needs to address the real exigencies of Albania's domestic politics in order for the effects of its conditionality to become visible in the Albanian citizens' everyday life.

EU's Minority Protection System Lacks Uniform Standards

The rights of persons belonging to minorities are an integral part of fundamental rights, which not only are at the heart of European Union (EU) founded values but at the same time constitute an essential element in EU's enlargement process. In the area of minority protection, the EU has adopted a two-fold approach with both an internal (member states) and external dimension (candidate and potential candidate countries). In the domestic realm, the commitment of Member States to minority protection derives from the Treaty of Lisbon which for the first time introduced the term "persons belonging to minorities" into EU's primary law. Article 2 of the [Treaty of the European Union \(TEU\)](#) explicitly refers to the rights of minorities by stating that "the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the primacy of law and respect for human rights, including the rights of persons belonging to minorities". In addition, Article 21 of the [Charter of Fundamental Rights of the European Union](#) underlines that membership of a national minority is one of the grounds on which it is prohibited to discriminate a person. Even though all Member States have the obligation to guarantee minorities the full enjoyment of their rights, on the ground minorities still face institutionalized discrimination and are the subject of derogatory stereotypes. Even their acquired rights are often curtailed or selectively applied.

The very problematic situation in the area of minority rights protection is recognized by the [European Parliament Resolution on Minimum Standards for Minorities in the EU](#), adopted on November 2018. The Resolution reveals the inconsistencies of EU's minority protection system. High discrepancies exist across the different member states when it comes to the recognition of minorities and to the respect of their rights. Therefore, the EU policy over minorities seems to be at an early stage of development since Brussels is not yet in a position to offer a model of uniform minority protection standards to all EU

- The EU protection system does not guarantee minorities the full enjoyment of their rights.
- The EU has not mechanisms to assess states' commitments undertaken under the Copenhagen criteria once they become member states.
- The EU still lacks effective tools to monitor and enforce the respect of minority rights.
- There is no common EU standard for minority rights in the EU, nor a common understanding of who can be considered a person belonging to a minority.
- The EU has not established an organ at EU level for the recognition and protection of minorities in the EU.
- Not all EU member states have ratified the Framework Convention for the Protection of National Minorities (FCNM) and the Language Charter.
- The EU has not adopted a common framework of minimum standards for the protection of minorities.

Source: The EP Resolution on Minimum Standards for Minorities in the EU.

Albania's efforts to protect the rights of minorities lacks a clear integrative perspective since the all process has been seen only as an obligation necessary for the country to proceed with its EU membership and not as a necessity of the Albanian society to correspond to the tendencies and challenges of diversity management of the twenty-first century. The EU is usually applying the tactic of "stick and carrots" where the stick is related to minority protection issues and the carrot Albania's EU prospects. However, any decision adopted under these tactics lacks real political will and sufficient societal support hindering the real progress on the ground. The ideal progress should be to a large extent oriented towards the improvement of minority conditions in all spheres of their life.

It is therefore imperative for the EU, and for the credibility of its external actions, not to use double standards when it comes to minority rights, whether inside or outside its borders. The EU should take more actions in order to better protect minorities' rights through the adoption of common rules that will be incorporated into a relevant directive.

Member States. The absence of specific internal minority standards raises doubts about the credibility and the contribution of EU in the protection of minorities abroad, especially in the countries of Western Balkans that aspire to become member states. The EU has left itself open to accusations of applying double standards when is asking from Western Balkan states to sign the European Charter for Regional or Minority Languages as a condition to proceed further with their accession process, when at the same time many EU member states remain absent from the Charter. This has put in question the credibility of EU conditionality.

This is not to say that the efforts undertaken by the EU in regards to the protection of minority rights through the enlargement process constitute a failed mission; on the contrary, the positive role of EU incentives towards the protection of minorities is bearing significant fruits, such as the improvement of national legal frameworks. However, the inconsistency between the EU's internal and external actions has increased the reluctance of candidate and potential candidate countries' governments to work sufficiently towards the implementation of reforms in the field of minority protection. EU's failure to achieve coherence between what it wants to do at home affects negatively its capacity to convince others to obey the rules it would like to apply abroad. As a result,

The Protection of Minority Rights in the Western Balkans: EU Membership Condition

The EU enlargement strategy towards the Western Balkans is portrayed by the conditions for accession to the European family. In this context, the protection and

respect of human rights and fundamental freedoms, part of which are minority rights, has been formulated as a political criterion for membership. The standard of minority rights protection is enclosed in the first Copenhagen criteria which makes a clear reference to the "respect for and protection of the minority rights". Under this political criterion, Western Balkan countries are subject to conditionality in relation to minority policies taking on the obligation to harmonize their legislation to the *acquis communautaire*. The aspiring member states should adopt specific minority protection standards formulated in EU's enlargement policy, the stabilisation and association process and the tools and instruments provided.

Lack of coherence in Brussels' approach towards minorities in the Western Balkans

Indeed, minority protection is an EU priority in the enlargement process but Brussels' approach towards the treatment of minorities and the rights allocated to them lacks clarity, coherence, and continuity. The EU has not

managed to formulate a uniform mechanism with specific minority protection standards that should be followed by each candidate and potential candidate member state. On the contrary, minority-related priorities have been framed in a very broad way based on the imposition of standards provided by regional and international law as well as on some vague criteria that in some way reflect the domestic demands of some minority groups in each Western Balkan country. This is very much reflected in the Enlargement Strategy Documents through the years. In the first documents of the Enlargement Strategy, the European Commission (EC) does not refer to specific rights for people belonging to minorities but to a "spirit of tolerance towards minorities" and to the obligation of aspiring member countries to "take appropriate measures to protect persons who may be subject to discrimination, hostility or violence" ([Enlargement Strategy and Main Challenges 2007-2008](#), p.6). The policy train over minority protection was set in motion in the name of the region's stability and security with EC leaving behind the most important dimension of the issue, that of its social context.

The next couple of years, the security dimension of minority rights protection prevailed over its social dimension. In the 2008 Enlargement Strategy, the EC says that "dialogue among political forces in the Western Balkans and the spirit of compromise are still insufficient, including on ethnic-related issues" ([Enlargement Strategy and Main Challenges 2008-2009](#), p.3) addressing minorities again only under security-related bases. It took EC many years to refer to the social dimension of minority rights. This came as a result of the economic crisis which affected negatively the social welfare in the enlargement countries. It seems that social and economic developments on the ground made Brussels adopt a more social-centric approach to the issue concerning the rise of nationalism, populism and hate speech in the region. It was then, when the EC recognized the very problematic situation of minorities in the Western Balkans by stating that "vulnerable groups, including minorities, have been particularly affected by the economic crisis" making a special reference to the discriminatory policies as well as to the very bad living conditions of Roma minority ([Enlargement Strategy and Main Challenges 2010-2011](#), p.7). But, even then Brussels was not in a position to provide aspiring member states with concrete measures and recommendations in order to tackle the problem. Therefore, the 2011 Enlargement Strategy proposed a new approach in the chapters of the judiciary and fundamental rights prioritizing reforms in this area with the aim to tackle instances of institutional, structural or systematic manifestation of ethnicity discrimination.

In the 2012 Enlargement Strategy, the European Commission abandoned somehow the vague approach and general terms and referred to minorities in a more explicit way by stating that “the rights of persons belonging to minorities are key issues in most enlargement countries” ([Enlargement Strategy and Main Challenges 2012-2013](#), p.5). And it goes even further by saying that “general societal attitudes to vulnerable groups such as ethnic minorities remain a common problem in the Western Balkans”. The inclusion of the word “societal” adds one other dimension that should exist in every process trying to fix minority-majority relations. Having in mind that the fixing of this relationship, as well as the social inclusion of minorities, depends on policy implementation, the following enlargement strategy put a special emphasis on the gap that exist between legislation in paper and the actual implementation on the ground by saying that “all countries of the Western Balkans need to undertake further reforms to ensure that protection of the rights of persons belonging to minorities are respected in practice, not just enshrined in law” ([Enlargement Strategy and Main Challenges 2013-2014](#), p. 2). Even though the strong declarations towards minority protection, this approach limited “by design” accountability venues led to the non-state compliance with minority protection standards.

In the 2014 EU Enlargement Strategy, the EC admitted that there was no a dramatic change in the situation of minorities in the area by stating that “there is a need to better protect the rights of persons belonging to minorities and to tackle discrimination” admitting that the treatment of minorities continued to be a problem in the region. Therefore, for the first time, the EC rendered a number of issues that should be addressed by the aspiring member states such as “the use of minority languages, the access to education and minorities’ political representation”, while it pointed out the necessity “the Roma inclusion to become a national priority backed by strong political will at all levels” ([Enlargement Strategy and Main Challenges 2014-2015](#), p. 14 and 15). In this way, the EC highlighted the importance of minority rights considering it as a fundamental value at the heart of the EU’s accession process.

In the next couple of years, the enlargement policy remained at the back burner of EU’s politics, reflecting the Union’s internal economic, political and ideological agonies. As a result, no progress was seen in regards to the EU’s approach towards the protection of minorities. More pressing internal and external issues diverted the EU’s attention from minorities. In the 2015 Enlargement Strategy, the EC dedicated only four sentences to

Weaknesses of the EU approach in the Western Balkans

- EU's approach towards minority protection in the Western Balkans lacks clarity, coherence, and continuity.
- The EU has not managed to formulate a uniform mechanism with specific minority protection standards that should be followed by each candidate and potential candidate member state.
- Minority related priorities have been framed in a very broad way based on the imposition of standards provided by regional and international law as well as on some vague criteria that in some way reflect the domestic demands of some minority groups in each country.
- There is no country-specific progress monitoring and reporting mechanism.
- There is no transparency on the implementation of the commitment undertaken by Western Balkan governments.
- Lack of visibility and poor communication of the results achieved.

minorities by saying that “there is a need to better protect minorities, in particular Roma. Roma in the Western Balkans continue to be the victim of racism, discrimination and social exclusion and most Roma live in deep poverty, lacking sufficient access to healthcare, education, and training, housing and employment” ([EU Enlargement Strategy 2015](#), p. 6 and 7). The 2016 Communication on Enlargement Policy did not make any reference to the protection of minority rights, a need broadly mentioned in previous enlargement strategies. The 2016 Communication made a reference only to Roma condition by saying that “the situation of Roma in the Western Balkans remains broadly unchanged and these people continue to be the victims of discrimination and social inclusion” ([2016 Communication on EU Enlargement Policy](#), p. 4).

The last Enlargement Strategy Document does not go further. The EU just repeats itself by saying that “decisive efforts are needed to protect minorities and fight discrimination, notably against the Roma – for whom social inclusion should be more robustly promoted” ([2018 EU Enlargement Strategy](#), p. 4 and 5). In all last enlargement documents, the EC appears to repeat itself with regard to the minority protection priorities. This repetition could be a sign of stagnation, indicating that the existing EU approach does not go beyond the rhetoric of “promoting and protecting minority rights”. The existing strategy lacks effective tools and benchmarks on how to monitor and measure candidate and potential candidate states’ obligations to comply with fundamental human rights standards on minority protection something that undermines the effective implementation of priorities and actor’s commitment in regards to the respect of minority rights.

[The Declaration of Western Balkan Partners on Roma Integration within the EU Enlargement Process](#) signed in July 2019 as part of the Berlin Process, EU’s complementary approach for the stabilization and development of the region, came to cover the existing gaps, at least for Roma minority. Through the adoption of this regional declaration, the Western Balkan countries Prime Ministers materialized their commitments to speed up Roma integration. The Declaration envisages the achievement of specifically defined objectives in the area of employment, housing, education, health care, documentation and the fight against discrimination. It also establishes benchmarks and sets the basic principles necessary to achieve the set targets, including internal coordination, the adoption of budgeting standards related to Roma integration, the establishment of monitoring and reporting mechanisms as well as the inclusion of Roma communities in the policy formulation. This step which puts Roma at the heart of EU’s minority protection system is particularly timely as it helped to assuage in some way the disappointment created by the severe living conditions of Roma in the Western Balkans. With this commitment, the EU and Western Balkan countries managed to keep somehow the momentum.

However, these are only declaration-type provisions leaving states a wide margin of discretion in the implementation of declared objectives. The sustainability of the process and the ground implementation of targets stemming from it will depend on the existence of a political will and social preconditions which influence the attitudes of policymakers. This calls for a well-designed planning and strategy to make visible the ground impact. Western Balkan countries and Brussels should bring this initiative to the citizens by placing EU’s policy on minority protection in the local socio-economic and political context in an effort to fix its inherent limitations and shortcomings. The EU needs a new and more comprehensive approach to better support Western Balkan countries in line with the new on-ground requirements.

In the absence of its own standards, the EU is using minority protection standards developed by the Council of Europe (CoE) in order to measure the progress made with regard to

minority protection through the enlargement process. CoE is involved in minority rights monitoring through the reporting system established under the [Framework Convention for the Protection of National Minorities \(FCNM\)](#), which contains a number of significant principles. FCNM declares in Article 1 that "the protection of minority rights is an integral part of human rights international protection". The principle of self-identification is guaranteed in Article 3 in addition to the clarification that "every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such". Furthermore, the provisions of this legally binding instrument contain minority specific standards that contracting parties are obliged to implement nationally through the adoption of appropriate legislative and administrative measures.

These principles/standards include:

- the prohibition of discrimination (article 4). Contracting parties are obliged to promote the equal treatment of persons belonging to minorities in all spheres of their life.
- the protection of the cultural, linguistic and religious identity (article 5) as well as the promotion of tolerance and intercultural dialogue (article 6). Contracting parties should create the necessary conditions for the maintenance of the identity of minorities avoiding any action that could lead to forced assimilation (article 16).
- the freedom of expression, freedom of peaceful assembly, freedom of association as well as the freedom of thought conscience and religion (articles 7 and 8). Contracting parties should ensure that minorities are enjoying the right to manifest their religion and to establish religious organizations.
- the use of and access to media (article 9). Through this provision, the contracting parties should take the necessary measures to facilitate access to the media for persons belonging to national minorities; while at the same time should not hinder the creation and the use of printed media by the minorities.
- the linguistic rights and freedoms (articles 10 and 11). Contracting parties should recognize to minorities the right to use their languages in private and in public life, in education, media and official contacts as well as the right to use names and topographical indications.
- the educational rights (articles 12, 13 and 14). The contracting parties should ensure that the framework of their education systems is allowing minorities to learn their language as well as to be instructed in their language at all educational levels.
- the right to effective participation and representation (article 15). Under this provision, the contracting parties should ensure the participation of minorities in all aspects of public life as well as in central and local administration.
- The trans-frontier cooperation (articles 17 and 18). Contracting parties should not obstruct the cooperation of minorities with persons living in other states with which they share an ethnic, cultural, linguistic or religious identity. On the contrary, this kind of cooperation should be encouraged.

Since the applicability of the above provisions depends on the discretion of the contracting states, an Advisory Committee was set up to monitor FCNM implantation. Its mission is to examine the reports submitted by the states and to evaluate the adequacy of measures taken by them in order to align domestic standards with FCNM standards and prepare finally an opinion on these measures. The European Commission is also using this mechanism in order to reflect the priorities in the successive progress reports in the form of minority protection requirements that target countries had to accomplish. The ratification of the FCNM and compliance with its provisions and standards are essential requirements for the (potential) candidate states to proceed with their EU membership.

The examination of the last progress reports reveals that most of the Western Balkan countries have established the legal framework for adequate minority protection, but are not automatically fulfilling their obligations in this regards in practice. Therefore, we cannot speak yet about institutionalized and applied minority protection system in the region or about effectively implemented standards. This stagnation in the implementation phase could be attributed to the different post-conflict legacies in the region, the varied political sensitivities around the issue, the lack of political willingness to take minority rights issues seriously, the weak human rights bodies and monitoring mechanisms at national level, the lack of structures and venues to represent minorities at national institutions, the weak capacity of minority grass-roots organizations and the too much competition among members of different minority communities. The recognition of minorities and the available data on their size still remains a huge problem because of the politicisation processes involved in census taking. The majority of tensions have been created in regards to the language rights which are considered as the most sensitive issues in minority protection debates, while the recognition of educational rights continues to be the most problematic aspect since these rights are the one that states are less generous to promote.

Albania's Obligations and Progress towards the Protection of Minorities

Albania has signed and ratified the two main European documents regarding minority rights: the [European Convention on Human Rights \(ECHR\)](#) and the [Framework Convention for the Protection of National Minorities \(FCNM\)](#). Albania's commitments under the FCNM were formulated as short term priorities in the country's [2006](#) and [2008 European Partnerships](#). The catalogue of priorities set out in both documents contains: a) the adoption of a comprehensive legislation on minorities, b) the provision of reliable statistical data, c) the use of the minority language, d) the provision for minority language education, e) the minorities' access to media, and f) the implementation of the national strategy for the Roma minority. All these core issues lie in the heart of the assessment of the European Commission (EC), reflected in the successive progress reports in the form of requirements that Albania has to accomplish in order to proceed with its EU membership. As evidenced by the evaluation and comparison of the EC's progress reports of the last seven years, Albania is a compliant student, neither the best in the Balkan class nor the worst.

Minority Rights Protection Levels



*Minority Law Implementation:
Key Priority for Opening Accession Negotiations in October*

Foremost among the key areas identified by the EC was the adoption of a comprehensive legislation on national minorities,

seen as a crucial requirement for the strengthening of the minority protection regime in Albania ([Albania 2012 Progress Report](#), p. 21). The issue of the uncompleted legal framework for the protection of minorities was also reflected in the [First](#) (2003), [Second](#) (2008) and [Third Opinion](#) (2012) of the Advisory Committee of the Framework Convention for the Protection of National Minorities (FCNM). The Albanian authorities recognized that this issue needed a special focus and put the enhancement of the legislative framework as a priority in [Albania's 2007-2013 National Strategy for Development and Integration](#). However, for a long time, the issue remained at the back burner of Albanian politics with EC's progress reports repeating themselves with regards to the lack of progress in addressing this key priority ([Albania 2016 Progress Report](#), p.68). Even though the persistent international pressure, it took Albanian authorities more than ten years to adopt the law on national minorities, a delay indicative of the different governments' reluctance to take the political risk of addressing issues of national interest.

Tirana set the train in motion in 2017, but the train has not reached its final destination yet. Albania needs to adopt the secondary legislation, to establish the necessary mechanisms and to revise the existing relevant legislation as necessary steps to ensure the implementation in practice of the all principles and rights enshrined in the framework law ([Albania 2019 Progress Report](#), p.30). The delay in the adoption of this secondary legislation is indicative of how slowly Albanian train is going towards the development of a comprehensive minority protection regime. In the light of the absence of these legal acts which are necessary for the implementation of the law, the prospects for opening the accession negotiations in October 2019 will become significantly more distant. The respect for minority rights is one of the key five priorities the EU has set on Albania in order to open accession negotiations. Therefore, the country's authorities should advance fast towards this direction, if Albania does not want to derail from the aim to open negotiations in October.

*Reliable Statistical Data:
Crucial for the Design of Minority Policy*

The lack of reliable data on the minority population in Albania and the wide variation in statistics relating to the number of persons belonging to national minorities are among the most criticized areas in all progress reports and

opinions of the Advisory Committee of the FCNM. The population census has been a contest for legitimacy and power, where the question of ethnicity on the census form represents a figure showing how much the majority "owns" its nation-state or, respectively, how much power – and hence rights – the minorities have or should "rightfully" claim. As a result, the population census has been highly politicised. The disagreements on how the national minority registration should be organized have led to the boycott of the all process by many minorities or to the non-inclusion of ethnicity question in census forms by the national authorities. In the [2001 Population and Housing Census](#), the first one after the fall of communism, the Albanian authorities did not include the declaration of nationality, fearing political implications of the inclusion of ethnic affiliation in the questionnaire.

The second [Population and Housing Census held in 2011](#) included optional questions on ethnic origin but its reliability was put in question because of government's decision

to introduce a fine for an incorrect reply to the question on ethnic origin, in conjunction with the reliance on the data included in the civil registry, a tactic that led to the boycott of the census as well as to the contestation of its results by minority representatives. Under these developments, the 1989 Population and Housing Census remains the only one with reliable information on the numerical size of the national minority population in Albania. European Commission continues to require updated reliable figures in regards to the number of minorities in order to know the country's profile and plan reasonably the allocation of EU's development funds. Therefore, censuses are important, because they both serve as the country's image abroad and determine where the money goes. The importance of the issue is also reflected in the intense public debate on methodology and timing not confined within the relevant statistical institutions, but extended to the broader political scene.

The existence of reliable data on the minority population is really important in Albania where the enjoyment of important minority rights is linked to their size in each local government unit. For example, national minorities can use their mother tongue in the communication with public authorities only in the local government units where their number is 20 percent of the unit's total population ([Law \(96/2017\) on the Protection of National Minorities](#), Article 15). Therefore, information that does not reflect the reality on the ground could exclude some minority groups from enjoying their rights. The equitation is becoming even more complex if we take into consideration the new administrative and territorial division of Albania which created mixed and larger municipalities where the minority threshold of the 20 percent of the total local population is very difficult if not impossible to be met. There is an urgent need for Albanian authorities not only to collect these data but also to base their collection on people's free self-identification of affiliation with a national minority. This will be the biggest challenge for Albania in the next population census planned to be held in 2020. The 2020 census provide Albania with an important opportunity to clarify the statistical situation of its national minorities. In order to succeed with this mission, Albanian authorities should adopt the new census law as soon as possible and repeal the provisions that introduce fines for "incorrect" answers to the question on ethnic affiliation avoiding any action that could pressure the free choices of people. The disentanglement of the technical and bureaucratic aspects of the process from purely political and nation-building endeavors and the processing of data in accordance with EU standards are really necessary. The census-taking process must be seen only as a bureaucratic act necessary for planning and development purposes. The lack of statistical information on minorities could hamper seriously the monitoring and the design of policy and practices in relation to them.

*Greek Minority Rights:
A Basket of Problems that Complicates Albania's EU Membership*

discourse between the Albanian government and the Greek minority. Greek minority representatives claim that Albania is repressing Greek rights through the adoption of measures that could artificially reduce the real size of their population, while Albania claims that these rights are respected in accordance with international norms. In fact, the Greek minority has become a barometer of Athens-Tirana relations further complicating Albania's EU accession process.

The accurate number of minorities and the demographic constitution of minority regions has always been the apple of

The safeguard of the Greek minority rights constitutes a significant foreign policy objective of Greece. The newly established government of New Democracy (ND) has directly connected the question of Greek minority rights with Greece's support for Albania's European perspective. Athens has said Albania's EU aspirations may be compromised if Tirana fails to protect minority rights, encouraging speculations the new government to block Albania's start of accession negotiations in October. The new Prime Minister of Greece, Kyriakos Mitsotakis made clear that the opening of EU accession negotiations will depend on the respect of the Greek minority's property rights as well as on the Albanian government's willingness to abolish in practice the so-called minority zones. It seems that the new government will wait for concrete actions from Tirana towards this direction to give the green light in October.

If Athens is not convinced, it will reject the opening of accession negotiations with Albania following the example of other Member States such as the Netherlands and France which have declared to do the same depending on the progress made in the five key priority areas. In case Albania manage to get the green light in October, Greek minority rights will not stop being a headache for Tirana since Athens may find more beneficial to promote the minority rights during the negotiation of Chapter 23 (Judiciary and Fundamental Rights). The chapter negotiation process will create the necessary room for corrections or improvements in parts of the legislation or practices that according to Greece goes against the interests of the Greek minority. With the new EU approach of opening Chapters 23 and 24 (Justice, Freedom, and Security) at the beginning of accession negotiations, the pace of Albania's accession process will primarily depend on the implementation of the action plans for these chapters as well as on building the necessary administrative capacity to apply the *acquis*. Any disagreement about the Greek minority rights between Athens and Tirana could prolong Albania's accession process.

*The Use of Minority Languages:
the most Sensitive Issue in Minority Protection Debates*

Albania belongs to the category of "laggards" when it comes to the protection of linguistic rights, falling far behind the other Western Balkan countries since it is the only country

of the region, member of the Council of Europe (CoE), which has not signed the [European Charter for Regional and Minority Languages](#). The reluctance of Albania to sign the main European document that protects and promote regional and minority languages in Europe has to do with the very problematic situation regarding the use of minority languages on the ground. All opinions of the Advisory Committee of FCNM and EC's progress reports identifies a number of shortcomings in relation to the right of national minorities in Albania to communicate with governmental officials and bodies in their own languages as well as in relation to the use of minority languages for the display of traditional local names, street names and other topographical indications. For a long time, there were no formal provisions governing the use of minority languages. Albanian authorities tried to face the problem with a number of agreements that were signed between the central and local governments enabling some minority groups to use their language in specific circumstances. However, these agreements were vague; their legal force was unclear and allowed local authorities too much discretion in addressing the issues in question ([Third Opinion of the Advisory Committee for the FCNM](#), p.23). As a result, the right of minorities to use or receive information in their languages is not available for all recognized minorities ([Albania 2013 Progress Report](#), p.45).

The adoption of the minority law in 2017 came to cover this gap but again the picture is mixed. On one hand, the legislation recognizes the rights of minorities to use their languages. On the other hand, it restricts this right in the local units where the number of minorities is 20 percent of the unit's total population. In addition, the law links the exercise of linguistic rights to relevant already existed legislation or administrative decisions, leaving the implementation of law in the goodwill of local authorities. As a result, the linguistic right is recognized only in three municipalities where the threshold of 20 percent can be met – the municipality of Dropull and Finiq inhabited by the Greek minority and the municipality of Pustec inhabited by the Macedonian minority ([Fourth Opinion of the Advisory Committee for the FCNM](#), p. 24). In this context, minorities whose members live in substantial numbers outside of their traditional territories such as capital cities do not have access to language rights.

Under the current conditions, the Albanian government is unlikely to be able to ensure the effective enjoyment of language rights outside of minority inhabited areas. The general tone of Albania's policy on the use of minority languages implies a sort of constraints that indicates a fear that "a further step" in minority language protection would jeopardize the country's cohesion. In the creation of language policy, there is always controversy and a lack of consensus which in addition to the lack of political will have fuelled the minority distrust in Albania. It's up to the Albanian government to build trustful relations with its minorities through Albania's adherence to the European Charter for Regional and Minority Languages as the only effective tool to preserve all minority languages and safeguard their existence in the long run. The process of ensuring the linguistic right of minorities is critical to the advancement of minority rights overall and human rights generally.

A Sort of Constraints in the Recognition of Educational Rights

The Albanian legislation recognizes the right to learn the minority language to all national minorities through the operation of schools and classes where the mother tongue, history, and culture of the country of origin are taught. However, Albanian authorities are still not in a position to offer minority language education to all nine officially recognized minorities, especially to those numerically smaller ([Fourth Opinion of the Advisory Committee of the FCNM](#), p.30). The reasons vary from the political ones, such as the non-existence of a political will at both central and local level, to the more technical ones, such as the lack of teaching staff, school facilities, and textbooks in minority languages. The provision of education in minority languages is a complex issue. It consists of a political process that requires a political will and progressive approach by the respective governments, as well as of a technical one that requires the establishment of mechanisms to ensure the compliance with the related legislation. Nevertheless, the glass remains half-full rather than half-empty when it comes to Albania's capacities to provide education in minority languages.

Until the adoption of the new law on minority protection, the functioning of schools or classes teaching in minority languages was allowed only in "the former minority zones". With the new law, this practice is abandoned and the establishment of minority schools is allowed "in local self-governing units where minorities live traditionally or in substantial numbers". However, it is still to be seen how this provision will function in practice. Its implementation depends on the [Council of Ministers Decision No. 561](#) which conditions the opening of minority language classes to a number of criteria, including the threshold of no less than 15 students per class. The risk this provision to become non-

operational in the regions where minority populations are less concentrated is significantly high, narrowing the functionality of minority classes in the areas where minority populations are most concentrated keeping in place the “communist-era minority zones”. So far, public schools teaching in Greek and Macedonian languages exist in the districts of Gjirokastër, Sarandë, Delvinë, and Korçë. Greek and Macedonian minorities, compared to the other officially recognized minorities, are the most privileged. However, both groups are not satisfied with the current situation and are constantly requesting the opening of new minority classes outside the minority zones. Their requests together with the requests of the Serbian and Aromanian minorities were rejected by the Albanian government on the basis of not matching the required criteria. As a result, apart from teaching in the Greek and Macedonian languages, and to a limited extent the Romani language, currently no teaching in other minority languages exist in Albania ([Fourth Opinion of the Advisory Committee of the FCNM](#), p.30).

The requests of minorities for education in their languages are the ones that states are less generous to promote. While the Albanian government is not against the provision of minority education, there is a tendency to put this issue in a nationalist and patriotic gear to reap benefits in the domestic political competition. This is very common when it comes to the requests of the Greek minority with Tirana trying to deal with this issue in a very measured way, recognizing the importance of not angering the Albanian electorate by seeming too lenient (there is a growing impression among Albanians that Tirana should not accommodate the requests of Greek minority if Athens is not respecting the rights of Albanian immigrants living in Greece to learn their mother tongue), while not upsetting Albania’s western allies who are strongly pressuring Albania to make progress towards the protection of minorities. The efforts of Albania to preserve this difficult equilibrium are visible in the new law for the protection of minorities where authorities have set out a large catalogue of rights but at the same time have put their implementation under several conditions, satisfying both the domestic and international audiences. This tactic of political calculations has in some way diverted the political will. The Albanian political class considers that the adoption of radical changes and progressive reforms in the field of minority education will have a high political cost.

Albania is cooperating at a bilateral level in order to face the practical problems emerged in the field of minority education such as the inadequate supply of textbooks in minority languages. One example of this constructive approach is the Tirana-Athens joint agreement that allows Greek minority children to have free of charge access in school textbooks. Albania and Greece have also re-engaged in a dialogue on other key educational issues, by reinstating the long-dormant committees of experts regarding the revision of school textbooks. In the agenda of the committee is the examination of the way that history, literature, geography, culture, and economy are presented at school textbooks in both countries, in an effort to keep them in line with the spirit of UNESCO and the Council of Europe. An agreement on the issue could result in the proper review of school textbooks which will be profitable for both Albania and Greece as well as for the Greek minority in Albania. Yet, the existence of a minority law and the bilateral cooperation alone are no salve for the resolution of all existing problems in the field of minority education. The picture of minority language education emerged from the last years is still quite worrying. Only a determined and consistent approach, with a great manifestation of political will would renew momentum, while the strategic clarity will create the conditions for developing trust-based minority-government relations, a parameter necessary for the implementation of radical reforms that will ensure and increase the access to the right of education.

Minorities' Access to Media: A Manifestation of Democratic Maturity

Ensuring minorities' access to media is an essential aspect in preserving and strengthening their cultural identity as well as their political, social and cultural development. In this context,

the Albanian legislation guarantees the right to the freedom of expression and envisages the access to both print and electronic media in minority language. Albania has made considerable efforts to increase the access of national minorities to radio and television programs in their language. In September 2017, the public broadcaster started to offer programs in five minority languages on RTSH2, a channel dedicated to national minorities ([Albania 2018 Progress Report](#), p. 31). This is a positive step forward, but shortcomings remain regarding the duration and the content of programs broadcasted which do not respond to the interests, the needs and the real problems of national minorities.

The Albanian media has not shown any interest in promoting minorities and the values they represent as a bridge of cooperation between Albania and their kin-states ([Second Opinion of the Advisory Committee of the FCNM](#), p.21). On the contrary, the polarisation of media and the poor professional standards of journalists have contributed to the politicization of minority issues, strengthening the prejudices among them and hampering the access to diverse viewpoints and accurate information. This worrisome situation on the ground demands that Albania proceed with measures to introduce the nurturing and protection of a congruent "media culture" with European standards. Albanian political class should not underestimate the effects that media cacophony could have on the minority-majority relations as well as on the relations between Albania and the minorities' kin-states. The limited number of minority press, which is mainly depending on findings from abroad and from international grants, doesn't help in dealing with media's cacophony. The increase of minority voices through the creation of their own media will constitute an important element of progress. The creation of necessary conditions that will allow national minorities to create their own media and to use media services without discrimination will be the next crucial test of whether the Albanian political class can further advance the access of minorities to media. Any advancement towards this direction will constitute a manifestation of democratic maturity.

Progress in the Field of Legislative and Institutional Protection against Discrimination

The compliance with the [European Convention on Human Rights \(ECHR\)](#) constitutes an essential requirement of the [EU-Albania Stabilization and Association Agreement \(SAA\)](#) signed in 2006. Even

though minority rights are not directly mentioned, the Convention contains a non-discriminatory clause, in which the denial of minority rights under certain circumstances, may qualify as discrimination prohibited by it. The legislative and institutional protection against discrimination was part of the package of reforms pushed by the European Commission (EC) in Albania. The adoption, in February 2010, of the [Law on Protection from Discrimination](#) that is aligned with 4 European Directives in the field of non-discrimination, brought Albania in line with Brussels' executive requirements. The Law provides protection and prohibits discrimination, in particular on racial, ethnic, national or religious grounds in the field of employment, health care, education, welfare, access to services and housing, and establishes legal jurisdiction in procedures alleging breaches of its provisions. However, the main issue in Albania is not the lack of quality laws, but rather their very implementation. As such, the gap between the rights awarded by the law and those effectively enjoyed is negatively affecting the country's social

cohesion. To deal with this, the Albanian authorities were faced with the additional task of tackling social exclusion and discrimination through better policy implementation and institutional enforcement.

In this context, the authorities appointed, in April 2010, [the Commissioner for Protection from Discrimination \(CDP\)](#) with the aim to establish this institution as an effective mechanism for the transposition, implementation, and enforcement of the anti-discrimination law. The Commissioner has been empowered, together with the courts, to examine complaints from individuals, conduct administrative investigations, impose sanctions, and represent the complaints before judicial bodies in civil cases ([Second Opinion of the Advisory Committee of the FCNM](#), p, 13). The Commissioner can also make recommendations to the specific authorities for the adoption of new laws as well as the reform of the existing legislation. The Commissioner for the Protection from Discrimination and the [Ombudsman](#) continue to play an active role in raising awareness of the rights belonging to minorities and in seeking solutions to their outstanding problems. Two sets of challenges lie on the road ahead for the two institutions. The effective implementation of their recommendations by the public administration which for now remains at not satisfactory levels and the strengthening of their capacities to handle the cases of minority rights violations ([Albania 2019 Progress Report](#), p 8.).

Discrimination is not generally seen to be a major problem in Albanian society today. However, there are some complaints, by persons belonging to national minorities, of discrimination in a number of different fields ranging from employment, to access to basic facilities, education, housing, social services and access to land distribution schemes. In 2018, the CDP handled an increased number of cases of alleged discrimination (205 cases handled in 2018, against 173 cases in 2017), out of which 179 complaints and eight ex-officio. During 2018 were reviewed 43 cases of alleged discrimination on racial grounds. In only 6 cases it was found a discriminatory attitude ([CDP 2018 Annual Report](#), p. 38). There are high possibilities this number not to reflect the real situation on the ground since a considerable number of persons belonging to minorities, especially those living in rural and remote areas, are not aware of the existence of this body and are not in a position to benefit from the new avenues opened by the Commissioner. It is very indicative the fact that the official website of the CDP has not been translated into the languages of the officially recognized minorities. Roma and Egyptian minorities are not well informed about the legal mechanisms that protect them from any kind of discrimination, while the structured discrimination which refers to a whole group or community continue to exist in high levels against these two minority groups. The Albanian government is the only player in increasing CDP's visibility, functionality, and efficiency. The operation of local branches in Shkoder and Korca seems to be the right step towards this direction.

*Roma and Egyptians:
the most Marginalized and Socially Excluded Minorities in Albania*

The situation of the Roma and Egyptian minorities remains an unresolved and urgent problem in Albania ([Third](#)

[Opinion of the Advisory Committee of FCNM](#), p.2). They continue to be the most marginalized and socially excluded minority groups facing frequent discrimination, particularly on access to education, employment, housing, health and civil registration ([Albania 2016 Progress Report](#), p.68). The 2019 European Commission Progress Report offers a clear image of the situation and living conditions of Roma and Egyptian minorities in Albania.

Facts about the Living Conditions of Roma and Egyptians based on the 2019 Progress Report	
Education	In recent years, there has been a positive overall trend in Albania in the field of education. This is particularly the case with regard to compulsory education enrolment of Roma children aged 7-15 years (currently at 66%) and compulsory education completion (43%) by Roma. However, the gap between Roma/Egyptians and other non-Roma children living in the same areas remains significant. Segregation in schools continues to exist. Albania continues to have one of the lowest completion rates of compulsory education in the region (44%)
Employment	The overall employment and labor force participation of Roma remains very low (over 56% of economically active working-age Roma are unemployed). Informal employment among Roma accounts for 62% of total Roma employment.
Housing	The Roma live largely in informal settlements characterized by unsafe and unhealthy conditions with poor sanitation and water supply. Albania is still the country with the region's lowest rate of access to piped water (46%) and electricity (84%) by the Roma population. A new Law on Social Housing was approved by the Parliament on May 2018, which addresses shortcomings in the field of housing and forced eviction. The law requires a quota of 5% of housing to be reserved for the most vulnerable members of the Roma and Egyptian communities. In 2018, there were 424 Roma families that benefited from projects to improve housing conditions (508 in 2017).
Health	Health insurance coverage for Roma in Albania remains low and gaps persist between Roma and the majority population. Most unemployed Roma and Egyptians have difficulties accessing healthcare due to complicated procedures for obtaining health cards.
Civil Registry	Roma and Egyptians face direct and indirect barriers in accessing public services, stemming from eligibility, criteria they cannot comply with, lack of information or understanding of administrative procedures, as well as stigma and frequent discrimination attitude from the majority population. Legal amendments to the country's civil registration law in October 2018 have allowed the registration of a considerable number of unregistered children. Civil registration for Roma has improved but further efforts are needed, particularly to ease the transfer of registration between municipalities and ensure registration of children born abroad who are at risk of statelessness.

The improvement of living conditions of Roma and Egyptians minorities remains Albania's major challenge ahead in order to fulfil one of the key priorities on the protection of human rights. Prioritising the tackling of the severe economic and social conditions of Roma and Egyptians, Albanian authorities adopted, in December 2015, "[the National Action Plan for the Integration of Roma and Egyptians 2016-2020](#)". This document of the Albanian government includes specific policies aiming to increase access of Roma and Egyptian minorities to social services through the elimination of barriers and to ensure inclusive education, civil registration and access to rights, better health, increased welfare through formal employment as well as improvement of the housing situation and social care.

National Action Plan for the integration of Roma and Egyptians 2016 – 2020		
Policy Area	Strategic Goals	Policy Objectives
Equal access to civil registration and justice	To facilitate opportunities for the equal use of civil registration services and justice for Roma and Egyptians. Goal: By the end of 2020, 100% of the Roma and Egyptian community members will have full access in the civil registry service.	Objective 1: To provide legal aid for the reflection of data in real time in the civil registrar of the Roma and Egyptian communities in order to solve the problems that hinder their full access in the civil registry service. Objective 2: To strengthen the capacities for identification of Roma and Egyptians at risk of trafficking and refer, protect and re-integrate the trafficked cases.
Education and promoting intercultural dialogue.	Roma and Egyptians are eligible to full access and inclusion in qualitative education without being subject to discrimination and segregation. Goal: By the end of 2020, 70% more boys and girls of the Roma and	Objective 1: More Roma and Egyptian boys and girls that complete all levels of education. Objective 2: To promote intercultural dialogue and mutual understanding through school-based community development. Objective 3: To strengthen the cooperation of school with social services, in order to address

	Egyptian communities complete all levels of education and 100% complete pre-school education.	cases of Roma and Egyptian children with socio-economic problems. Objective 4: To value and promote the recognition of the Roma and Egyptian identities as an integral part of Albanian cultural heritage.
Employment and Vocational Education and Training (VET)	To provide equal opportunities for formal employment for Roma and Egyptians. Goal: 80% more Roma and Egyptian men and women participating in VET and active employment programs will be integrated in the labour market by the end of the year 2020.	Objective 1: To integrate Roma and Egyptians in the labour market through VET and active employment programs. Objective 2: To promote (social) entrepreneurship and self-employment of Roma and Egyptians. Objective 3: To build capacities and improve the performance of the NES and VET system staff for the integration of Roma and Egyptians in the labour market.
Healthcare	To ensure accessible, affordable and equitable healthcare to Roma and Egyptians. Goal: 100% of Roma and Egyptian community members will be able to use the mainstream healthcare services by the end of 2020.	Objective 1: To increase the number of Roma and Egyptians using the mainstream healthcare services. Objective 2: To improve healthcare information and promotion on the available healthcare services for Roma and Egyptians
Housing and urban integration	To improve housing conditions for Roma and Egyptians. Goal: 80% of Roma and Egyptian families that have initiated legalisation procedures will have successfully completed them by the end of 2020	Objective 1: To improve mechanisms for facilitating legalisation procedures for Roma and Egyptian families. Objective 2: More Roma and Egyptian families included in the direct and indirect housing programmes.
Social protection	To increase access to social protection programs for Roma and Egyptian community members. Goal: 65% of Roma and Egyptian community members will be included in social protection programs by the end of 2020.	Objective 1: To improve inclusion to social protection programs for Roma and Egyptian community members. Objective 2: To promote/prepare reintegration programs focusing on strengthening the family and reintegration at work. Objective 3: To integrate families staying at the Emergency Transitory Centre into society.

The Albanian authorities have established an electronic data collection system, ROMALB, used by local governments to monitor the implementation of policies included in the Action Plan. While operational, this mechanism has fallen short of strengthening the implementation of policies but has allowed authorities to have an idea of the progress made in each strategic goal. One other innovation of this strategic plan is the commitment of the Albanian state to allocate public funding for its implementation. It is estimated that its implementation necessitates expenditures of almost 56 million euro, of which 55 percent to be provided by the state, and the remaining part to be secured by foreign donors. However, heavy reliance on external funding can undermine the authorities' ownership of the implementation process. Non-legally binding forms of state intervention such as this action plan has led to some civil society actors becoming centrally involved in the implementation process. This is not a negative development, but social society organizations' increased dependence on EU and UN funding leads to "self-restraint" with regards to their role as "watchdogs" of government compliance with action plan's obligations.

The implementation of strategic goals that will improve the situation of Roma and Egyptian minorities is one of the conditions that Albania must meet on its path towards EU integration. The Berlin Process and the new enlargement strategy are providing a well deserved and necessary attention to the Roma minority. The most important political development in this direction is the adoption of the "[Declaration of Western Balkan Partners on Roma Integration within the EU Enlargement Process](#)" which aims to

find solutions on Roma's economic and social problems. Albania has signed the declaration which adds new obligation on government's agenda. Albanian government should focus its work on meeting the objectives derived from both the Action Plan for the Integration of Roma and Egyptian Minorities and the Declaration on Roma Integration within the EU Enlargement Process. The delay in the formation of implementing mechanisms is raising questions about the delivery of the commitments undertaken in the framework of both non-legally binding documents.

The Objectives of the Declaration of Roma Integration within the EU Enlargement Process	
Employment	Increase the employment rate of Roma in the public sector to the rate proportional of the participation of Roma in the overall population; Increase the employment rate among Roma to at least 25%;
Housing	Wherever possible, legalize all informal settlements where Roma live; or provide permanent, decent, affordable and desegregated housing for Roma currently living in informal settlements that cannot be legalized for justified reasons;
Education	Increase the enrolment and completion rate of Roma in primary education to 90% and the enrolment and completion rate of Roma in secondary education to 50%;
Health	Ensure universal health insurance coverage among Roma of at least 95% or to the rate equal to the rest of the population;
Civil Registry	Ensure all Roma are registered in the civil registries;
Non-discrimination	Strengthen the government structures to protect against discrimination and establish a specific sub-division for non-discrimination of Roma within the formal non-discrimination bodies to process complaints by Roma, provide legal support to alleged victims and identify discrimination schemes, including institutional and hidden discrimination;

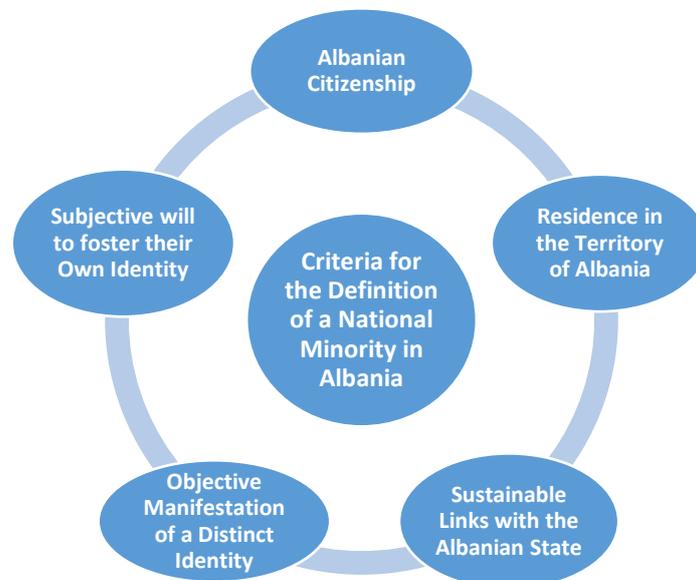
Looking at the assessment of the progress reports, both progress and a lack of such have been recorded in Albania, as far as the minority rights are concerned. The overall reform of the minority protection system is still considered incomplete. The comparison of the opinion reports reveals the progress in this sector, which is limited to some legislative changes or improvements in infrastructure but not to substantive issues such as the provision of minority language education or the use of minorities' languages. The general opinion is that Albania has demonstrated a steady commitment to protecting minority rights but the reforms in this sector are shadowed by the lack of political willingness: the law is often ignored by policy-makers. It seems that EU political conditionality could not lead reforms in Albania without a domestic environment ready to find consensus in country's domestic problems, while the weak institutional performance of state structures constitute the main obstacle for deepening country's reform tendency.

As a rule, each Commission progress report on Albania is followed by two contrasting political statements. On one hand, the government solemnly declares that the report "*will form the working program of the government for the next years*", claiming also that the Commission has recognized its achievements over the past years. On the other hand, the opposition "*greet the progress report as a realistic picture of the government's failure*", but does not go any further in living up to the natural role of a political opposition that has a responsibility to ensure the accountability of the government and overall good governance. This attitude leads to the conclusion that Albanian political elite has followed Albania's orientation towards Europe not because of idealistic motives but they use the integration into EU as their strong card to cling to power. Albania's transition has been marked by an ongoing and destructive struggle for power between opposed and uncompromising political forces which has militated against the patterns of democratization. Thus, it is difficult for the state to reach the level of democracy existed in the western world. All of this suggests that the establishment of the minority protection system in Albania has a long way to go in order to function properly and according to international standards.

The Law on the Protection of National Minorities: A Janus-faced Law

In October 2017, the Albanian Parliament adopted the [Law \(96/2017\) on the Protection of National Minorities](#), which now constitutes the basic law that regulates the status and the rights of national minorities in the Republic of Albania. The adoption of this law indicates a substantive policy shift in the process of policy making over the issue of minority rights. Until 2017 there was not a specific legal framework dealing with the minority protection in Albania. Minority rights were laid down in the different laws of the country's legal system allowing different insufficiencies in the recognition process as well as in the implementation of minority rights standards. The clarification of Albania's policy position vis-a-vis minorities and the incorporation of European minority standards in the domestic legal system necessitated specific address. The Albanian authorities responded to this necessity through the adoption of a law that regulates both the status of national minorities and their rights.

For the first time in Albania's history, this law includes a minority definition which excludes inconsistencies in the legal criteria required for the recognition of minority status. Under this definition, the Albanian legislation recognizes nine national minorities, the Greeks, Macedonians, Aromanians, Roma, Serbs, and Montenegrins, previously recognized in practice but without any legal cover, adding Bosnian, Bulgarian and Egyptian minorities for the first time. The new Law not only includes a legal definition and lists the groups that enjoy the status of a national minority but it also stipulates the procedure for future recognitions regulating the question over the minorities' status. Moreover, the law abolishes the division between the categories "national minorities" (a status enjoyed previously by the Greek, Macedonian, Montenegrin and Serb minority) and "linguistic minorities" (a status enjoyed previously by Roma and Aromanian minority), a differentiation considered by the Advisory Committee for the FCNM as a problematic one that could lead to differentiated treatment in the enjoyment of certain rights for one group compared to the others. The new law includes all minority groups into one category, that of national minorities, excluding any discrimination on the basis of their status.



The Advisory Committee of the Framework Convention for the Protection of National Minorities (FCNM) regards as problematic the criterion of citizenship. It considers that such a step is not in line with the current efforts aimed at developing a more nuanced approach to the use of the citizenship criterion in the protection of national minorities. The Advisory Committee indeed considers that while citizenship may be a legitimate requirement in fields such as representation in Parliament, the general application of this criterion nevertheless remains problematic in relation to the guarantees associated with other important fields covered by the Framework Convention, such as non-discrimination and equality, as well as certain cultural and linguistic rights.

The new law introduces also the principle of self-identification. Article 6 not only recognizes the right of every person to declare their belonging to a national minority but at the same time it allows every person belonging to a national minority to freely choose to be treated or not to be treated as such adding both identification and declaration dimension to the process. It remains to see how this provision will be implemented in practice. Albania has a very problematic past regarding the application of the self-identification principle mainly through the practice of mandatory recording of people's ethnicity on birth certificates, a practice abandoned in 2011, and the pressure to persons in the census of 2011 to answer the question on ethnic origin in accordance with the data registered in the civil registry. The Albanian authorities introduced a fine for an incorrect reply to the question of ethnic origin fearing an artificial increase of the Greek minority in the south owing to the mobilisation of Albanian nationals of ethnic background residing permanently in Greece. The big question is whether the Albanian government can survive the challenges ahead, including the organization of the 2020 census without any intervention or pressure that could impact the choice of the persons to declare freely their origin. The collection of reliable data based on the right of self-identification is a significant aspect of the Law (Article 7) since the recognition of important minority rights are conditioned with a demographic threshold or with a substantial number of minorities living in a specific area.

One other positive aspect of the new law is the fact that it formally does away with the abandoned concept of "national minority zones". The territorial restrictions of minority protection are of great importance in Albania because of the communist legacy which limits the enjoyment of minority rights in areas where minorities live more concentrated. The Albanian government rejects any kind of such restrictions but in the second opinion on Albania the Advisory Committee for the FCNM recognized the de facto existence of "minority zones" by stating that "in Albania has been identified that persons belonging to national minorities who are no longer living in a minority zone cannot claim the same rights as those living in such zones". The new law deals with these restrictions by stating that national minorities may exercise the rights and enjoy the freedoms guaranteed by the Law over the entire territory of the Republic of Albania (Article 5).

However, the risk the two important minority rights, the right to education and the right to use minority language, to remain territorially restricted is particularly high because of the threshold of 20 percent that should be calculated with respect to the population of each of the 61 municipalities. This provision constitutes an insurmountable barrier for effective access to language and educational rights especially if we take into consideration that population belonging to the same national minority has been divided into two territorial units as the result of the last territorial administration. As a consequence, persons belonging to national minorities living in such amalgamated local governments units will not be in a position to access their educational and language

rights since the threshold of 20 percent is not met ([Third Opinion of the Advisory Committee of the FCNM](#), p.24). The Law leaves the implementation details of these provisions to the Council of Ministers who according to Article 23 has the obligation to approve all additional legal acts.

The dependence of the implementation of the law on the Council of Minister's decisions as well as on relevant sectoral legislation is considered as a significant disadvantage because it impedes the self-execution of its norms and delays the direct implementation of the rights enshrined in the law. In twelve segments of the law, the implementation of its provisions depends on the adoption of relevant decisions by the Council of Ministers, while the implementation of one article depends on legislative acts approved by the Central Election Commission (CEC). As of August 2019 (almost two years after the Law entered into force), the Council of Ministers has adopted only six bylaws, far behind the goal the law has set in Article 23 (six months from the entry into force of the law). This delay has been seen with a great concern by the European Commission which asked from Albania to "swiftly adopt the full package of the related secondary legislation" ([Albania 2019 Progress Report](#), p.30). The non-adoption of the secondary legislation leaves many segments of the law ineffective, putting on ice a number of important minority rights (see the table below).

	Provisions of the Law that Depends on Secondary or Sectoral Legislation	Secondary Legislation Adopted
1. X	Article 4, Point 3: The requests for the recognition of national minorities should be examined by an ad hoc Committee, set up by the Ministry responsible for the internal affairs. The structure and functions of this Committee, as well as the procedures for the examination of the requests should be established by a decision of the Council of Ministers.	The Council of Ministers has not adopted any decision in regards to this specific provision yet.
2. X	Article 7, Point 2: The criteria, documentation, and the respective procedures concerning the collection of data on the identification of persons belonging to national minorities should be approved with a decision of the Council of Ministers, upon the proposal of the Minister responsible for internal affairs.	The Council of Ministers has not adopted any decision in regards to this specific provision yet.
3. ✓	Article 11, Point 3: Measures and appropriate policies to ensure the participation of national minorities in the public, cultural, social and economic life should be approved with a decision of the Council of Ministers, upon approval of the Ministers responsible for the abovementioned areas.	In July 2019 , the Council of Ministers adopted Decision No. 462 that defines the measures and policies necessary for the participation of national minorities in Albania's public, cultural, social and economic life. The decision guarantee equal participation of national minorities and calls the Ministry of Culture to take the necessary measures for the participation of minorities in the cultural life and for the protection of cultural heritage through the funding of specific projects.
4. ✓	Article 12, Point 3: Strategies, programs, and action plans that will create the necessary conditions for the national minorities to maintain and develop their distinctive identity should be approved by a decision of the Council of Ministers, upon a proposal of the Ministers responsible for education and culture.	In July 2019 , the Council of Ministers adopted Decision No. 463 defining the strategies, the programs and actions plan that will create the necessary conditions for the preservation and development of the cultural heritage of national minorities as well as of their linguistic, cultural and religious identity. The decision clarifies that the Ministry of Culture and the Ministry of Education are responsible for the development of the necessary strategies for the protection of the identity of national minorities in full consultation with members of the minorities and their representatives.
5. X	Article 13, Point 3: In local government units inhabited traditionally or in substantial numbers by persons belonging to national minorities, if there is adequate request, persons belonging to national minorities shall be ensured possibilities	The Council of Minister[s] decision which would specify the criteria for determining the local self-governing units where national minority schools could be set-up, the "substantial number" and "adequate requests" has not been adopted yet . The lack of this secondary

	to learn or be taught in the minority language. The criteria to define the local government unit, the substantial number and adequate request should be established by a decision of the Council of Ministers, upon the proposal of the Ministers responsible for education and local issues.	legislation blocks the establishing of classes teaching minority languages.
6. ✓	Article 13, Point 4: Adequate measures in the fields of education and scientific research to foster knowledge of culture, history, language and religious belief of the national minority and of the majority, in accordance to the respective legislation in force in the education field, should be approved by a decision of the Council of Ministers, upon the proposal of the Minister responsible for education, in accordance to the respective legislation in the education field.	In September 2018 , the Council of Ministers adopted Decision No. 562 that stipulates the necessary measures in the field of education and scientific research aiming at fostering the recognition of the culture, history, language and religious faith of national minorities. The decision is asking from public higher education institutions to include in their activities the teaching, recognition, research and promotion of the culture, history, language and religion of national minorities. The funding of these activities will be covered by the budget of the institutions that will take respective initiatives.
7. ✓	Article 13, Point 5: Adequate measures to create opportunities and conditions for provision with textbooks, initial training, training and further professional development of teachers, as well as creation and functioning of classes in the language of the national minorities should be approved by a decision of the Council of Ministers, upon the proposal of the Minister responsible for education, in accordance to the respective legislation in the field of education.	In September 2018 , the Council of Ministers adopted Decision No. 561 to regulate the establishment and functioning of classes in the language of national minorities, the provision of students with school texts as well as the continuous professional development of teachers. According to the Decision, the initiative for the functioning of classes could be obtained by a) the relevant local self-government unit, b) the relevant local education unit and c) the community of the zone where the classes are to be established. For the class to be functional, the number of students shouldn't be less than 15. Textbooks are provided by the state and teachers' training is financed by the state budget.
8. ✗	Article 15, Point 4: In local government units where persons belonging to national minorities compose more than 20 percent of the general number of the population of this unit, they shall have the right to receive information on the progress of the electoral process, in addition to the Albanian language, in the minority language. Information given in the language of the minorities on the progress of the electoral process shall be regulated by acts approved by the Central Election Commission (CEC).	The Central Election Commission has not issued any legal act to regulate the provision of information in minority language on the progress of electoral process, even though local elections were held in Albania in June 2019. However, one month before the elections, the CEC and the Committee on National Minorities signed a cooperation agreement with the aim to communicate and exchange data regarding local governments units where national minorities constitute more than 20 percent of the total number of the population as well as to inform national minorities of the electoral process of June 2019 through the production of informative, educational and awareness-raising material translated in the languages of the national minorities.
9. ✗	Article 15, Point 6: The modalities of using the minority language should be regulated by a decision of the Council of Ministers, upon the proposal of the Ministers responsible for the internal affairs and local issues.	The Council of Ministers has not adopted any decision in regards to this specific provision yet.
10. ✓	Article 18, Point 2: The organization, functioning and salary level of the members of the Committee for the National Minorities and of the administrative staff shall be established by a decision of the Council of Ministers, upon the proposal of the Prime Minister.	In December 2018 , the Council of Ministers adopted Decision No. 726 that regulates the organization and the functioning of the Committee on National Minorities. The decision defines the status of the Committee as a legal public body that will be under the auspice of the Prime Minister. Its mission is to protect and promote the rights of minorities and its competences cover all territory of the Albanian Republic. The internal organization and the structure of the Committee should be approved by the Prime Minister in accordance with the legislation for the organization and functioning of public administration. It seems that the Committee will be a body highly controlled by the Prime Minister Office.
11.	Article 20, Point 4: The selection of the Chairperson, Deputy-Chairperson, and members of the Committee on National Minorities is carried out through an independent, transparent	In May 2019 , the Council of Ministers adopted Decision No. 286 that regulates the process for the selection of the Chairperson, the Deputy-Chairperson and of the Members of the Committee on National

✓	and comprehensive process. Procedures and rules for the development of this process shall be regulated by a decision of the Council of Ministers, proposed by the Prime Minister.	Minorities. The selection process should be inclusive, independent and transparent. The candidates for the Chairperson and Deputy-Chairperson position must belong to a national minority group and fulfil a number of other requirements. The decision does not clarify what will happen if the candidates that belong to minorities does not fulfil the criteria for their selection. Persons belonging to national minorities can apply for members of the Committee individually or minority organization can recommend candidates.
12. X	Article 21, Point 3: A fund is set up for the national minorities in order to support initiatives and projects aiming to protect the rights of national minorities and preserve and promote the distinct cultural, ethnic, linguistic, traditional and religious identity of national minorities. Criteria to support such initiatives and projects, finance selection criteria and administration of the fund for national minorities shall be established by a decision of the Council of Ministers.	The Council of Ministers has not adopted any decision in regards to this specific provision yet.

From the above table, we can draw the conclusion that the Law on the Protection of National Minorities is a Janus-faced law. On the one hand, legislators have clearly stipulated the minority rights avoiding vague formulations. On the other hand, they have put the implementation of these rights under the control of the Council of Ministers. It is in the hands of the Albanian government to show the necessary sensibility by avoiding the adoption of any legal act that could lead to the restriction of the rights recognized by the law. Many foresee that if the future Council of Minister's decisions narrow a number of minority rights, it will pose a great danger for the minority protection regime in Albania and the achievements it has made during the last years. In such a case, the spectre of placing Albania among the countries with weak – or even failed – minority protection regimes will, unfortunately, be a scenario that cannot be excluded and a visible danger for country's future.

The Committee on National Minorities: Still in Uncharted Institutional Waters

To translate legislation's provisions and government's political promises into action requires effective administration mechanisms, independent bodies and strong institutional performance of state structures. Albania still finds itself with few functioning independent institutions and bodies. This is also the case of the Committee on National Minorities, which still function in uncharted institutional waters.

The Albanian authorities set up the Committee in 2004 with the task to make recommendations to improve the protection of the country's minorities. Even though the Committee has existed in the Albanian order for more than 10 years, it has not managed to assert itself in the Albanian institutional landscape, mainly because of its very puzzling nature. On the one hand, it is a governmental body under the auspice of the Prime Minister; on the other, it represents the interests of minorities. This mixed structure and nature made the body vulnerable to political interference, resulting in its full control by the executive and in its transformation from a body for the protection of minorities to an organ detrimental to the dialogue between the authorities and minorities. However, this very problematic past does not diminish the importance of its existence. On the contrary, it calls for its transformation to a real representative body for national minorities.

The new law for the protection of minorities provides for the establishment of a new Committee, which will be composed of representatives from all recognized minorities.

This body will be established as a consultative organ responsible for making recommendations on draft legislation, policies and programs related to minority rights. It will monitor the implementation of legislation and state policies on national minorities with the obligation to submit periodic reports to the Assembly analyzing the situation of minorities on the ground. Even though the Committee was incorporated in the new law, its operation seems to be based on the same model elaborated at its inception which overemphasizes the role of the Prime Minister and the Council of Ministers in shaping and influencing the functioning of the body. It still continues to be a governmental body answering directly to the office of the Prime Minister. The Prime Minister approves the structure and appoints the members of the Committee, its chairman and deputy chairman. The Council of Ministers regulates the process of selection, the organization and the operation of the members of the Committee including the administrative personnel attached to it.

One very significant segment of the new law is the provision that recognizes the Committee's competence to finance initiatives and projects relevant for minority protection through the Fund for National Minorities. But again the Council of Ministers is defining the criteria for supporting the initiatives and projects, the selection criteria for financing as well as the criteria for the management of the Fund. The delay of the Council of Ministers to adopt the respective secondary legislation has not allowed the new Committee to be commenced. It is to be seen if the new Committee will be fully functional which represent a formidable challenge. Other major challenges ahead include the:

- The insufficient political commitment that could delay its commencement.
- The running of an independent and transparent procedure for the selection and appointment of the members of the Committee.
- The effective representation of all nine officially recognized national minorities in an equal way and the balanced composition of the Committee.
- The establishment of an independent body in a position to speak in the name of national minorities interests.
- The exercise of the competences of the Committee without any political interference.
- The high competition among members of different minorities inside the Committee.
- The independent financial viability of the Committee.

Minority protection Systems in the Western Balkan countries

In regards to the conformity of national legislation with international and regional obligations, the Western Balkan states can be broadly divided into two categories. Given the transformation speed of international obligations into national legislations, Bosnia Herzegovina (BiH), Serbia and Montenegro could be sorted into a category of "frontrunners". It took their authorities less than three years to formulate and adopt legislation dedicated to national minorities since the adoption of the Framework Convention for the Protection of National Minorities (FCNM). The other three countries, Albania, Kosovo and North Macedonia belong to the second category of the "laggards". The authorities of Kosovo and North Macedonia delayed significantly (7 and 11 years respectively) to adopt a law that regulates the status and the rights of their minorities. Albania is trailing at a considerable distance from its neighbours. Even though Albanian

authorities had ratified the FCNM since 1999, it took them more than 15 years to adopt a comprehensive law on national minorities based on the FCNM's provisions and the recommendations of the Advisory Committee. But, when assessing Albania's sluggishness towards this direction we must be born in mind the fact that the size of the minority population in Albania is smaller compared to other Western Balkan countries and the peaceful minority-majority coexistence does not put in risk country's stability. Therefore, both internal and external pressure for the adoption of a minority law in Albania was smaller compared to the other countries. However, this is not a justification for Albanian authorities delay.

Domestic legislation dedicated to the protection of minorities is in place in all Western Balkan countries. However, the assessment of six countries reveals that despite decades of efforts that have dramatically improved the legal infrastructures, the compliance with international and regional minority protection and non-discrimination standards remain challenging in all countries. When it comes to the respect of minority rights, some states are more generous, like Kosovo that despite the delay in the adoption of the legislation it has the friendliest and most ambitious legislation in terms of the official use of minority languages, while other states are less generous to promote education and linguistic rights like BiH and Montenegro. All Western Balkan countries, except Kosovo, are using citizenship as a criterion in the definition of a minority. This provision is an issue of concern in the area of minority recognition since it could exclude persons, whose citizenship has not been confirmed, from enjoying their rights. One other common problem and at the same time a challenge for the Western Balkan states is the provision of reliable statistical data on the number and the socio-economic condition of minorities, which are essential for the development of effective minority policies.

The majority of promising practices undertaken by the governments in the concerning areas have not brought results. Current international and regional monitoring instrument overly rely on the "good will" of governments and lack powers to scrutinise them. As a result, there is a lack of follow-up progress or actions taken by the governments after decisions and recommendations have been issued. Therefore, the non-existence of political will among governments to address minority rights violations remains a key challenge in the area. In addition, the under-representation of minority groups and the high competition among them reduce the ability of minorities to pressures governments towards the recognition of their rights, while the self-silencing effect of civil society involved in the representation of minorities and the weak institutional performance of state structures poses a challenge for the entire national minority protection regimes in the Western Balkans.

	Albania	BiH	Montenegro	North Macedonia	Serbia	Kosovo
National Legislation Framework	The law on the Protection of National Minorities adopted in 2017	The Law on the Rights of National Minorities adopted in 2003	The Law on Minority Rights and Freedoms adopted in 2006	The 2001 Ohrid Framework Agreement and the Law on the Promotion and Protection of the Members of Communities (less than 20%) adopted in 2008	The law on the Protection of Rights and Freedoms of National Minorities adopted in 2002	The Law on the Protection and Promotion of the Rights of Communities and their Members adopted in 2011

Framework Convention for the Protection of National Minorities (FCNM)	State Party to the Convention since 1999	State Party to the Convention since 2000	State Party to the Convention since 2006	State Party to the Convention since 1997	State Party to the Convention since 2001	Specific monitoring arrangement in conformity with the 2004 Agreement between UNMIK and the Council of Europe.
Number of Recognized Minorities	Nine (9) National Minorities	Seventeen (17) National Minorities		Six (6) National Minorities	Nineteen (19) National Minorities	Seven (7) Communities
Citizenship criterion in the definition of a minority	Yes	Yes	Yes	Yes	Yes	No
Updated figures on the size of minorities	The data of the 2011 census cannot be considered reliable because of the boycott from the Greek and other minorities.	The 2013 census did not provide reliable updated information on the ethnic composition of the population.	The 2011 census figures do not provide an accurate indication of the number of persons belonging to national minorities.	The reliability of the 2011 census results is widely viewed as doubtful for a variety of reasons.	The 2011 census was boycotted by the Albanian minority and Roma were underrepresented.	The data on population composition are not fully representative because the 2011 census did not take place in the North and was partly boycotted from Serbs in the South.
Use of minority languages	A threshold of 20% that should be calculated with respect to the population of each of the 61 municipalities. The use of minority languages is regulated by a Council of Ministers' Decision.	A threshold of 33% of the municipality population to be composed of persons belonging to national minorities.	In the local self-government units, in which members of minority nations and other minority communities constitute a majority or at least 5% of the population, according to the results of the last two consecutive censuses.	Any language spoken by at least 20% of the country's population is an official language – Albanian language. Any person living in a unit of local self-government in which at least 20% of the population speaks an official language other than Macedonian may use any official language to communicate with the regional office.	Local government units shall equally introduce the official use of the language and script of a national minority where the percentage of minorities in comparison to the total number of population on its territory reaches 15% in accordance with the results of the last census.	Albanian and Serbian are both official languages. Turkish, Bosnian and Roma languages can have the status of official languages at the municipal level or will be in official use at all levels as provided by Law on the Use of Languages .
Minority Language Education	Minority schools are allowed in local self-governing units where minorities live traditionally or in substantial	Children belonging to a national minority must form 33% of the	Minorities and their members shall have the right to education in their own	With respect to primary and secondary education, instruction should be	National minority councils are given overall responsibility for the education of persons belonging to national	Communities can receive public education at all levels in one of the official languages.

	numbers. The opening of minority language classes is conditioned to a number of criteria, including the threshold of no less than 15 students per class.	population of the school concerned for the school to be obliged to provide teaching in the minority language.	language and to adequate representation of their own language in general and vocational education, depending on the number of pupils and financial possibilities of Montenegro.	provided in the students' native languages. University-level education is provided in languages spoken by at least 20% of the population of North Macedonia, on the basis of specific agreements.	minorities in their mother tongue. In order to exercise this right a minimum number of pupils may be prescribed, where the number may be less than the minimum number of pupils prescribed by the law in respect of ensuring the appropriate forms of tuition and education.	Communities are entitled to pre-school, primary, secondary public education in their own language. The Government establishes reasonable thresholds for establishing classes in community languages.
Institutions or bodies representing minorities	The Committee on National Minorities	The Councils of National Minorities at state and entity levels.	Minority Councils	The Agency for the Fulfilment of the Rights of Communities	The Federal Council for National Minorities and the National Councils of National Minorities	The Community Consultative Council
Ratification of the European Charter for Regional or Minority Languages	Albanian has not signed the Charter. In 2019, Albanian authorities and the CoE met to identify the provisions of the Charter which Albania could sign and ratify.	The Charter was ratified in 2010 and entered in force in 2011.	The Charter was ratified and entered in force in 2006.	North Macedonia signed the charter in 1996 but has not ratified it yet.	The Charter was ratified and entered in force in 2006.	Kosovo is not member of the Council of Europe.

Conclusion

The timely completion of priorities in the field of minority protection, which are still at an early stage, will determine the speed and the steadfastness of the entire process. The area of human rights, including the protection of minorities, is of critical importance to furthering Albania's accession process. Albania demonstrates sincerity and commitment to progress on this crucial sector, and this should be further encouraged through EU support to safeguard the process and to address difficulties that may arise from its outstanding obligations. Albania must develop the capacity to tackle these serious issues through a democratic rule of law and fundamental rights-based approach to the protection of minorities in the country's legal system. The country faces significant structural and institutional problems and will normally take time until all issues are sufficiently addressed. Despite its deep-rooted problems, Albania will try to stick to its commitments as designated by the EU, but without strong external assistance, it is quite unlikely it will succeed. The ball is not only in Albania's court. The EU has also its own responsibilities to take minority protection to the next level through the development of a comprehensive and consistent EU approach to minorities that will increase Brussels' credibility in the eyes of candidate and potential candidate states. In addition, the EU should take up its responsibilities to ensuring that candidate and potential candidate states comply more effectively with their obligations when it comes to the protection of minorities. This is a game played in two different courts and a fair game will benefit all sides.