
КОНСТИТУЦИЈАЛЫҚ ЖӘНЕ ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚ КОНСТИТУЦИОННОЕ И МЕЖДУНАРОДНОЕ ПРАВО CONSTITUTIONAL AND INTERNATIONAL LAW

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Trends and challenges for minority protection in Bulgaria

Nowadays the protection of historically formed and new minorities in Bulgaria faces new challenges. They are due not only to the increasing complexity and diversity of our society. Some global phenomena such as migration flows, the economic crisis and growing insecurity contributed a lot to deepening the problem. This article pays attention to the new trends in minorities' protection and the relevant attitude of some societal groups. The conclusions are based on the results of a survey. Some recommendations are elaborated in order strengthening democratic security in Bulgaria and beyond. The maintained thesis is that international stability and security, confidence between states and economic prosperity are important conditions for the establishment of broader rights of minorities. The all-European solution of the problem of guaranteeing effective protection of minority rights is a very complex task. It requires a comprehensive approach and the coordinated efforts of all European states and organizations.

Keywords: minorities, protection, rights, international stability, security, democracy, refugees, migrants, Roma issue, Bulgaria, Europe.

Ne varietatem timeamus!

Prologue

The Balkan peninsula is one of the most ethnically, linguistically and religiously complex area in Europe. The Ottoman rulers in the Balkans were essentially not assimilative; rather multinational without technological and institutional facilities for integrating and unifying. People of the Balkans managed to retain their separate identities and cultures. However, diversity has always created troubles [1; 7].

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While legislation protecting of the rights of persons belonging to minorities has generally become more advanced than in the past, the challenge lies in its implementation. This is a challenge that, in my view, should be embraced by society as a whole. Only integrated and inclusive societies where diversity is embedded, valued and lived can ensure the effective protection of minority rights [2; 37].

Bulgarian landscape

In recent years Bulgaria has become a more and more multicultural society. It has never been a single ethnic state and for long years Bulgarians have lived well with Turks, Armenians, Jews, etc. However, lately the landscape has changed dramatically.

According to the last census (2011) the total Bulgarian population is 7 354 570 persons. According to the last National Statistics Institute's data available towards 31 December 2015 the population is 7 152 784.

It's *ethnic make-up* is as follows:

- ◆Bulgarians – 76.9 %
- ◆Turks – 8.0 %
- ◆Roma – 4.4 %
- ◆Other ethnoses or undefined - 10.6 %

The main *languages spoken* respectively are:

- ◆Bulgarian
- ◆Turkish
- ◆Roma
- ◆Russian
- ◆Armenian
- ◆Hebrew, etc.

Concerning *religious affiliation*, the composition is:

- ◆Orthodox – 59.39 %
- ◆Catholics – 0.66 %
- ◆Protestants – 0.89 %
- ◆Mochammedans – 7.83 % (including Pomacs - islamicised Bulgarians)
- ◆Other – 0.15 %
- ◆No affiliation – 3.69 %
- ◆No self-determination – 5.56 %

Brief analysis

Due to demographic, economic and other reasons the number of ethnic Bulgarians is continually decreasing. Reciprocally, the number of Roma population is increasing. The irmentality is quite different and they tend to live in segregation. The attempt undertaken for integration, education, employment, etc. has failed.

Moreover, Bulgaria is a country lately flooded by refugees and illegal immigrants from Syria, Afghanistan, Iraq, the Arab world, etc. They contributed significantly to the diversified face of Bulgaria, and have not always been welcome by the local inhabitants considering them as potential competitors for work places, a factor for great public funds expenditures, etc.

In addition, traditionally tolerant towards different religions, society seems to become more and more sensitive in a negative way with regard to the expanding dissemination of Islam and other sectarianisms. Different religious groups, sometimes imported, started claiming more rights and space in the Bulgarian realm.

In accordance with the last Bulgarian Constitution of 1991, minorities in Bulgaria are directly protected by the international instruments concerning them. The Constitution recognizes ethnic, linguistic and religious minorities, but not national minorities (one-nation and unitary state). The minorities enjoy respective rights (to study and use their mother language, to profess their religion, etc.) but no rights in public life. The Bulgarian Constitution excludes granting of collective political rights to the different religious and ethnic groups in Bulgaria. Article 11, paragraph 4 prohibits «political parties on an ethnic, racial or religious basis». We have embraced non-discrimination principle: no specific - equal rights. The main road chosen by the Bulgarian law for the protection of the rights of minority groups is the one that guarantees the protection of their individual human rights.

From the point of view of constitutional law, Bulgaria cannot easily accept the term «national minority». The first reason is that it does not conform to the unity of the Bulgarian nation enshrined in the Constitution. The second is linked to the fact that the application of this concept could give rise to misunderstandings because it is not exactly defined in international law. At the same time we insist that Bulgarian national minorities exist in other countries. The last legal recognition - in Albania in October 2017 - is considered as a huge success of Bulgarian diplomacy. Bulgaria is a party-state to the Council of Europe's Framework Convention for National Minorities, but it is ratified with an interpretative declaration that blocks its implementation.

Due attention deserves the Governmental policy towards Roma minority. As other European countries, we had a specific Decade for Roma inclusion - 2005-2015. In the National Roma Integration Strategy 2012-2020 priorities related to healthcare, education, social and housing policy of Roma are underlined. The new Government Program - 2017-2021 is quite favorable to minorities – it proclaims tolerance, non-discrimination, integration. But the practical actions are near to positive discrimination, according to the ma-

jority of the ethnic Bulgarians. We observe raised sensibility in society - Roma minority is considered as a main criminogenic societal segment (despite reliable statistics) that is not always punished. As a result, to be a member of Roma minority group in Bulgaria seems to be rather an advantage, profitable, comfortable belonging. Hence, the numerous successful discrimination cases, initiated by Roma members, as well as cases before the European Court of Human Rights. The role of the Bulgarian Helsinki Committee — a very strong Roma proponent — is quite controversial.

Case study

In October 2017 the Bulgarian Deputy Prime Minister and Chair of the National Council for Cooperation on Ethnic and Integration Issues Valeriy Simeonov was found liable for anti-Roma hate speech as a Member of Parliament before the National Assembly on December 17, 2014. Simeonov is also a leader of the Bulgarian ultranationalist party «National Front for the Salvation of Bulgaria» - part of the coalition «United Patriots», a grouping of ultranationalist parties - a minority partner in the current government.

The statement, which was found by the court in violation of the Bulgarian anti-discrimination law, reads:

«It is an undeniable fact that a large part of the gypsy ethnicity lives outside of any laws, rules and general human norms of behaviour. The laws do not apply to them, taxes and charges are incomprehensible terms, electricity, water, social and health insurance bills have been replaced by the belief that they have only rights, but no obligations and responsibilities. For them, theft and robbery have become a livelihood, violation of the law – a norm of conduct, childbirth – a profitable business at the expense of the state, and the care for their offspring – is teaching minors how to practice begging, prostitution, theft and sale of drugs».

The District Court finds that this speech constitutes harassment within the meaning of the Protection against Discrimination Act, as it «leads to the violation of the dignity of the person and the creation of a hostile, degrading, humiliating and offensive environment, and anyone from the Roma ethnicity may be affected by it, as the statement does not need to apply to the entire Roma community to be perceived as detrimental to the dignity of an individual self-identifying as such». The decision is subject of appeal before the regional court.

Further observations

In Bulgaria, like in the rest of the countries, the so called «new minorities» do exist – e.g. «third gender», non-heterosexual, transgender, LGBT, etc. Bulgarian legislation does not recognize any form of same-sex couples or families yet although this issue is under discussion. However, in my opinion this problem is exaggerated.

What is more important: there is an urgent need to pay due attention to the evolution of the attitude of Bulgarian citizens with regard to the protection of their human rights and the rights of the others [3; 15]. General observations show that the fundamental human rights of different segments of today's population of Bulgaria are often confronted. Sometimes this leads to tension, discriminatory acts, court cases. As a result, the quality of common life is deteriorating. The sense of safety and security is diminishing. The acts of aggression and crime rate between the mentioned groups and the majority are increasing.

The justice system, on the other hand, has not worked efficiently for decades, and this is repeatedly officially recognized. The state institutions are still trying to react (sometimes) to multiplying conflicts on social, economic, ethnic base, using conventional instruments, although it has been proved that they cannot bring peace. At the same time they persistently refuse to use alternatives.

Survey

For the purposes of this study an inquiry was launched in November 2017. The target group was a specialized audience – 100 law students, 4th year, who are assumed to be well informed and to have a built opinion on the subject. Their attitude towards the mentioned problems of the day is explored. The most interesting results will be briefly presented.

Question N 1. Do you think that to the existing minorities in Bulgaria there should be granted:

a/ Equal rights – 95 % consider so.

b/ Fewer rights – 4 % are «pro».

c/ More rights – only 1 %.

Question N 2. Are minorities' rights in conflict with the rights of the others?

The answers are:

a/ Yes, because they receive in practice more rights /privileges/ and this creates inequality and positive discrimination – 62 %.

b/ Yes, because they misuse their rights, disregarding their obligations – 25 %.

c/ Yes, they are used by politicians and this creates tension – 10 %.

d/ Yes, because minorities are still discriminated – 3 %.

Question N 3. Is minorities' integration necessary and possible?

The answers received are quite ambivalent:

a/ Yes, only a homogeneous society could progress – 23 %.

b/ Yes, it is in our common interest – 17 %.

c/ No, integration is not possible because it is not desired by the minorities – 54%.

d/ No, they profit more from being a member of a minority group – 6%.

Question N 4. Are the resources spent for the integration of minorities justified?

The opinions expressed are predominantly negative:

a/ No, because they are not used properly – 45 %.

b/ No, because they are at the expense of the others – 29 %.

c/ No, because they are always politically motivated – 25%.

d/ Yes – 1%.

Question N 5. Should Bulgaria recognize national minorities?

The responds are rather diversified:

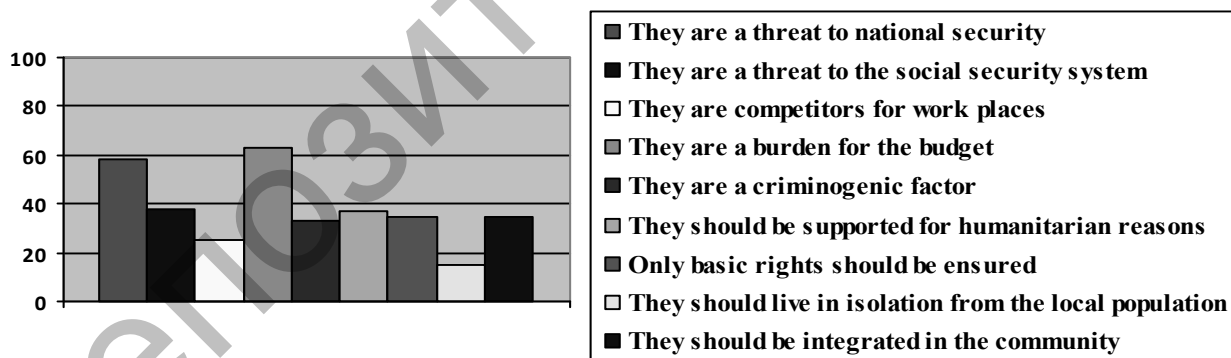
a/ Yes, we have to be more modern and to abandon clichés and stereotypes.

b/ Yes, we could not always deny their existence.

c/ Yes, but their rights should be carefully determined.

d/ I do not see what will change.

e/ No, society is not ready yet.

Question N 6. In relation to refugees and migrants you think that:**Question N 7.** Which are the basic unsolved problems in the relation:

FUNDAMENTAL HUMAN RIGHTS - SPECIFIC RIGHTS OF SEPARATE GROUPS – SECURITY.

The following answers have been received:

- ♦ Specific rights of the separate groups infringe the universality of human rights /HR/.
- ♦ It is impossible all rights of all groups to be simultaneously fully implemented; some limits are necessary.
- ♦ When the specific rights of a given group affect basic HR of the others, a security problem arises.
- ♦ The possession of more rights by a separate group leads to inequality and diminishes security.
- ♦ Some respondents are strongly against the specific rights of minority groups.

Question N 8. What should be changed in law and in practice so that human rights of minorities are ensured?

Very practical and constructive ideas have been launched:

♦The institutions, and mainly the justice system, should start to work properly, especially in relation to hate speech and vulnerable groups.

♦The international and European standards should be closely observed.

♦The education of minorities should be raised.

♦Full integration should be achieved.

Question N 9. Is using of alternative methods for resolving minorities problems appropriate? Which methods?

Here the respondents are again very creative:

a/ Yes – 66 % - dialogue, negotiations, mediation, restorative justice.

b/ No – 20 % - binding decisions are necessary; conventional law gives higher protection.

c/ Other – 14 % - it depends on the situation.

This study is in its' very early stage and will be continued. However, the rather diversified landscape is immediately evident. There is a lot of skepticism, anxiety, fear. Negative attitude prevails, although nuanced and with different arguments. However, positive attitude and compassion towards minorities are also expressed.

Conclusions

There is a trend to polarization, radicalization even of this very specific group — law students — of the Bulgarian society. The numerous incidents between representatives of different groups and the majority of population are a fertile ground for raising sensitivity. There is a need of careful, well-measured policy in today's multicultural Bulgaria.

There are already some grass-root initiatives - e.g. so called «social mediation» between refugees, migrants and local people. Roma and «health» mediators are trained for resolving conflicts in their communities. But these should be institutionalized. Unfortunately, the policy-makers remain behind time.

The protection of the rights of persons belonging to minorities is a process. This process is renewed continuously and can never be considered as fully achieved [4; 211]. Non-respect of minority rights, and human rights in general, comes at the cost of diminished democratic security in Europe. States should engage to embed these rights into the legal, political and social structure of their nations, in order to build open, inclusive, and secure societies.

The challenge is how to preserve and nurture unity in diversity: how one can promote an integrated and inclusive society, while at the same time protecting diversity and supporting individuals to affirm their different ethnic, linguistic, cultural and religious identities [5; 365]. Policies should be developed aimed at promoting understanding and mutual respect amongst citizens, and encouraging active participation of all in the political, social and cultural life. Among these policies, integration strategies play a relevant role and while targeting (recent and less recent) migrant communities, they should also embrace minorities, so as to address the underlying issue of managing diversity and complexity in society. This is a precondition for an effective enjoyment of minority rights and thus for stability and democracy. It is also vital that the authorities engage actively in breaking down stereotypes and reframing debates in the media to dispel narratives which only heighten any «anti-other» sentiment.

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Д. Чанкова

Болгариядағы аз ұлттарды қорғау мәселелері мен заңдылықтары

Қазіргі әлемде Болгариядағы тарихи қалыптасқан және жаңа пайда болған аз ұлттарды қорғау бұрын таныс болмаған мәселелерге тап болды. Бұл ұлғайып отырған қиындықтармен және біздің қоғамымыздың алуан-түрлілігімен байланысты. Көші-қон легі, экономикалық дағдарыс және қауіпсіздікке төнген қауіп-қатерлер секілді кейбір жаһандық құбылыстар мәселені шындап шиеленістіріп жіберді. Мақала аз халықтарды қорғаудың жаңа тенденцияларына және кейбір қоғамдық топтардың оған қарым-қатынасына назар аудартады. Қорытындылар сұрастыру нәтижелеріне негізделген. Кейбір ұсынымдар Болгарияда және одан тыс демократиялық қауіпсіздікті нығайту мақсатында әзірленді. Ұсынылып отырған мақала аз ұлттарға кең құқықтар беру және оны бекіту халықаралық тұрақтылық пен қауіпсіздік, мемлекеттер арасындағы сенім мен экономикалық өркендеу үшін маңызды жағдайлар болып табылады. Аз ұлттардың құқықтарын тиімді қорғауды қамтамасыз ету мәселесін жалпыеуропалық шешу өте күрделі міндет болып табылады. Бұл барлық еуропалық мемлекеттердің және ұйымдардың үйлесімді күш салуын және кешенді әрекет етуін қажет етеді.

Кілт сөздер: аз ұлттар, қорғау, халықаралық тұрақтылық, қауіпсіздік, демократия, босқындар, көшіп-қонушы, сығандар мәселесі, Болгария, Еуропа.

Д. Чанкова

Тенденции и проблемы защиты меньшинств в Болгарии

В современном мире защита исторически сложившихся и новых меньшинств в Болгарии сталкивается с неизвестными ранее проблемами. Это связано не только с возрастающей сложностью и разнообразием нашего общества, некоторые глобальные явления, такие как миграционные потоки, экономический кризис и растущие угрозы безопасности, серьезно образом усугубили проблему. Настоящая статья акцентирует внимание на новых тенденциях в защите меньшинств и соответствующем отношении некоторых общественных групп. Выводы основаны на результатах опроса. Некоторые рекомендации разработаны в целях укрепления демократической безопасности в Болгарии и за ее пределами. Отстаиваемый тезис заключается в том, что международная стабильность и безопасность, доверие между государствами и экономическое процветание являются важными условиями для предоставления и закрепления более широких прав меньшинств. Общеευропейское решение проблемы обеспечения эффективной защиты прав меньшинств является очень сложной задачей. Это требует комплексного подхода и скоординированных усилий всех европейских государств и организаций.

Ключевые слова: меньшинства, защита, права, международная стабильность, безопасность, демократия, беженцы, мигранты, цыганский вопрос, Болгария, Европа.