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1. Introduction

Youth Initiative for Human Rights (YIHR) conducted qualitative research on topic “Representation of ethnic communities in public administration of Montenegro” in the period from December 2009 to May 2010. The research treats representation of ethnic communities in public administration with the aim of identifying the real state and basic problems in this area and with the aim to contribute to affirmation of minority rights in our society. We wish if this research would be ground for qualitative debate based on accurate data on one of the most sensitive topics in all multiethnic communities. Montenegro is multi-confessional and multiethnic community, where none ethnic group is majority, thus, the issue of representation of all ethnic groups in public administration is especially sensitive issue. On relation of the state towards ethnic communities is formed relation of ethnic communities towards the very state.

The research has been conducted four years after the proclamation of independence, which is adequate deadline for identifying pretensions on the topic of national strategy in the area of multiethnic relations and equality of all citizens and ethnic communities.

YIHR team used several methodology techniques for the need of this research, and the very research had more phases. Firstly, questionnaires with leaders of ethnic communities were drafted, than focus groups with citizens were created – representatives of different ethnic and minority communities. Legal analysis and comparative analysis has been done, and at the end, for the need of the research, Law on free access to information was used, with the aim of collecting data from national institutions and which are relevant for this area.

Importance of involving and proportional representation of minorities in national institutions tells the fact that the questionnaire of the European Commission that was submitted in July 2009 to the Government of Montenegro, required answers on more places on ethnic representation of minorities.

The research was conducted with the support of Foundation Institute for Open Society – Branch in Montenegro (FOSI ROM). The team composed of five members was involved in conduction of the research, recognized experts from the area of human and minority rights and methodology of researching. YIHR had multiple assistance of FOSI ROM.

YIHR is grateful to all who participated in the research and who gave their contribution in resolution of the problem. We shall monitor activities of public administration in this area and implementation of recommendations of the research.

2. Legal analysis

a. International regulations

Long time ago, literature had proclaimed conventional wisdom that taking care on achieving, protecting and improving human rights, but especially minority rights, is the public work of great importance in multiethnic society. Moreover, the level of democracy in society is being judged today on the basis of nature of its relationship towards national minorities. However, it implies wide range of constellations and actions: from the quality of normative framework, over following institutional arrangements and pro-minority policies, to arguments in the area of status of national minorities and interethnic relations. Representatives of authority, representatives of national minority communities, as well and civil society should give their contribution to such efforts in multiethnic societies.

It should be indicated that in developed democratic societies, except human rights that are enjoyed by all citizens, additional minority rights are guaranteed to representatives of national minorities. History of their origin tells they are the consequence of the fact that modern countries are not neutral and honest in ethno-cultural sense, while subjects who sustain such negativities are representatives of national majority. Minority rights, in that sense, represent the mechanism whose function is protection of representatives of minority communities from negative consequences of ethnically biased country. Concretely speaking, while preventing assimilation, minority rights contribute to preservation of identity of all ethno-cultural and religious differences in the very society, while, on the other side, minority rights enable representatives of minority communities to achieve equality. Thus, it means that their regulating and achievement do not produce any damage for representatives of ethnic and confessional majority, nor they represent possible privileges for specific social groups with minority status, but are important instrument for achieving real equality among citizens of different nationality and religion, and also important mechanism for achieving justice in society.

In so far as, modern democratic countries which have multiethnic composition of population should develop and implement such policies that are based on the universal principle of equality of all citizens, respect of human and minority rights, non-discrimination, tolerance, and esteeming differences. One of the main benefits of such policies are stability and peace, social cohesion, and possibility of democratic development, since their absence show comparative social and historic experiences, constantly creating tension in society and potentially leading to conflict. As such, indicated policies firmly contribute to existence and development of good management in modern pluralistic societies that should, at the other hand, rest on principles of equal possibilities and elimination of discrimination.

These standpoints and insights represented valuable framework for two European international organizations – Council of Europe and European Organization for Security and Cooperation (OSCE) – which accessed to development of legal framework that defines position of national minority communities in democratic societies with the aim to preserve identity of their representatives and achieve equal status in a country they live in. There are two major documents of Council of Europe – “Framework Convention for Protection of National Minorities” and “European Chart on Regional and Minority Languages” – having the status of legally binding multilateral instruments, devoted to protection of minorities. On the other hand, three documents of OSCE that are explicitly devoted to minorities – “Recommendations from Hague on the right of national minorities to education”, “Recommendations from Oslo on the right of national minorities to use their native language” and “Recommendations from Lund on effective participation of national minorities in public life” – do not have such binding status but exist as “recommendations” for member states, that is, they have the status of desirable framework for political activities directed towards minority communities. However, major characteristic of mentioned documents is that they are of principle character. Thus, countries which adopt them after the act of ratification are due to develop contained legal principles in national legislation in more details.

Considering the issue of proportional representation of members of ethnic communities in bodies of public authority at all levels, than in national administration, judiciary, public health institutions, and educational system, it should be said that it is constituent part of minority rights related to equality of all citizens in managing public affairs, i.e. their equal possibilities of participating in social life. It is explicitly prescribed by an article of the Framework Convention, while Recommendations from Lund are entirely devoted to it. Namely, Article 15 of the Convention prescribes that the state which ratifies this document has to “create necessary conditions for efficient participation of representatives of national minorities in cultural, social, and economic life and in public affairs, especially those they are dealing with”. In the Resolution of the Committee of Ministers on the implementation of the Framework Convention for the Protection of National Minorities by Montenegro is stated: „In line with the Strategy on Minority Policy adopted in July 2008, the provision of the Constitution on “proportionate representation” of national minorities in public services needs to be made operational, notably by relying on data on the participation of persons belonging to national minorities and by catering for national minorities’ specific training needs to compete better for public posts.“¹

As the normative legal principle of participation of citizens in society, it is very complex and it refers to wide range of matters. Participation in economic and social life refers to accession of representatives of national minorities to adequate housing, health and social protection, labor market, opportunity for employment, access to entrepreneurship. On the other hand, participation in public affairs implies participation of minority representatives in legislative process, in electoral processes, in Government bodies that are dealing with national minorities, than in different consultation bodies, in order to guarantee right to participate in decision making processes.

1 Resolution of the Committee of Ministers on the implementation of the Framework Convention for the Protection of National Minorities is adopted on 14 January 2009.

However, one of results of its implementation should be noticeable in the following: employees in bodies of public authority at all levels, in judiciary, public health and educational system, should be the image of national heterogenic society, that is, representatives of all national communities should be proportionally represented in mentioned areas of public structures. One of the manners for achieving this is the existence of legal basis for improving employment of representatives of national minorities in bodies of national and public administration, which should be followed by adequate measures for implementation. Additionally, attention should be devoted to representation of members of ethnic communities on leading positions, because it happens that their proportional representation in quantitative sense is contributed by employees on positions at lower hierarchic levels. The example of good practice in the policy of employment is giving advantage to those who know and rule the language of minority at the territory they live in, and scholarship of representatives of national minorities for specific professions.

Thus, it is of great importance for countries which want to legitimate themselves as democratic, to respect principles of equal opportunities and equality of all citizens in the process of employment and performing public functions, that is, to take care on national composition of population, and language they use at the territory of the region or the service. Surely, it should not be neglected the following main criteria in the process of employment – those being employed should be adequately trained and competent for efficient performing of their affairs of public importance. At the same time, comprehensive, precise data and statistics are of great importance for assessing and monitoring of ethnic structure of employed persons and proportions which exist, furthermore, positions they have in the hierarch, as well as tendencies in the process of employment in bodies of public authority at all levels, in bodies of public administration, judiciary, public health institutions, and educational system.

As large disproportion between legal principles and resolutions of that argument in practice do not exist for developed democratic countries, experience of transitional countries tells that largest problems exist there. Namely, it is relatively easy to adopt legal framework that shall guarantee minority rights, and right to proportional representation of members of minority communities in bodies of national and public administration, however, difficulties appear in its implementation – from policies that are being implemented in the given area, over institutional arrangements and qualitative statistical monitoring, to results achieved.

b. National legislation

Provisions of Article 79 paragraph 1, items 9 and 10 of the Constitution of Montenegro guarantees to minority population and other national minority communities right to authentic representation in the Parliament of Montenegro and in municipal assemblies in which they represent significant part of population, according to the principle of affirmative action, and the right to proportional representation in public services, bodies of public authority and local government.

Article 25 of Law on minority rights and freedoms prescribes that minorities have right to proportional representation in public services of national authority and local

administration and that competent bodies, in charge of human resources shall look after the representation of members of minorities in accordance with Paragraph 1 of this Article.

Nevertheless, in mentioned Article, as well as in the rest of the provisions of this Law, there is no further legal elaboration of the provision of Article 25, which refers, in the first place on the role of National Councils, and as well as on the type and the manner of cooperation of National Councils with the authority competent for the human resource's issues. From insufficiently precise and elaborated provisions of the Law on Minority Rights and Freedoms the role of National Councils regarding mentioned issue, remain unclear, so is not possible to conclude how big influence the National Councils are having in achieving minority rights on proportionate representation.

Namely, Article 35 of the Law on Minority Rights and Freedoms envisages that the Council shall: represent and act on behalf the relevant minority; submit proposals to state authorities, local self-government bodies and public services in charge of promotion and development of the rights of minorities and persons belonging to them; lodge initiative towards the President of the Republic for refusal to promulgate a legal act by which the rights of minorities and persons belonging to them are violated; participate in planning and establishing of educational and pedagogic institutions; provide an opinion on curricula which reflect specificities of minorities; suggest enrolment of certain number of students at the University of Montenegro; launch initiative for amendment of legislation and other acts that regulate rights of persons belonging to minorities; also perform other activities in accordance with this Law. From the content it self of this Article arises that the Law is not giving clear role to the Council in implementation of the Article 25 of the Law. This is the reason why the amendments of the Law on Minority Rights and Freedoms are needed in the way as described.

Article 117 paragraph 1, indent 9 of Law on civil servants and employees prescribes that Body in charge for human resource performs affairs - monitoring of conducting measures in a view of achieving proportional representation of minority population and other minority national communities in public bodies. Also, Provisions of Article 118 paragraph 2, indent 1 of the Law prescribes that Body in charge for human resources conducts Central human resources record on civil servants and employees and that Central human resources record collects data on characteristics of servants – their name, family name, nationality, mother language, etc.

The Law on Civil Servants and Employees, also, does not elaborate in details the provisions of Article 117, paragraph 1, indent 9, therefore it is needed in this direction to define these legal solutions more precisely through amendments to this Law.

3. Comparative experience – Serbia, Croatia, Bosnia and Herzegovina

a. Common deficiencies of neighboring countries

For countries in the region – Serbia, Croatia, and Bosnia and Herzegovina – it is valuable that, notwithstanding their differences, they have several common moments and characteristics, which largely influence on the issue of proportional representation of minority members in bodies of national and public administration. Firstly, we shall mention they have the same source in Socialist Federative Republic of Yugoslavia, that is, they inherit the same social and political, and legal basis. Further, these are countries, if we compare them to other countries of Middle and South-East Europe, with the belated transition. They also have experiences, truly, for different reasons, post conflict societies, which appeared as consequences of wars at their territories. Except that, the war was the cause of their economic devastation, radical pauperization of people, redefined geopolitical position, and the mistrust of representatives of some minority communities in public institutions appeared.

Considering the issue of formal and legal framework important for minority rights, similarly as in other countries in transition, there are some unfinished legal systems in force containing some European standards. Other importance of the legal framework is the lack of harmonization of regulations – for example, right which is guaranteed; let's say by Framework Convention for Protection of National Minorities of Council of Europe, the law which is related to that area does not have to prescribe it in the spirit of that provision. Additionally, absence of principles of the rule of law conditioned the appearance of the following phenomena: disrespect of provisions by representatives of authority is not occasional case. At the end, we shall mention relatively widespread appearance, and not enough developed awareness of minority representatives that they can use their rights.

On the other hand, these are the countries which are not quite institutionally developed, which has the consequence of mutually unregulated and unfinished rules and institutionalized mechanisms, which opens the space for improvisations, ad hoc access in resolution of problems, specific abuses. Except this, the lack of institutional role is noticeable, which earlier had monopolistic communist party and which democratic political system has not managed to substitute and fulfill wholly. At the same time, it must be known that this is

about centralized countries where relatively modest competencies of local governments exist. Thus, it is understandable that for exercising minority rights in these countries, political will of the current political leadership of the country is still the most important.

b. Distribution of minorities in countries

Relatively large number of representatives of ethnic communities lives in Serbia. According to the last census from 2002, of the whole population in Serbia (without the territory of Kosovo) live almost 83% of Serbs (82,86%). Remaining population are representatives of minority groups – Hungarians (3,91%), Bosniaks (1,82%), Roma (1,44%), Yugoslavians (1,08%), Croatians (0,94%), Montenegrins (0,92%), Albanians (0,82%), Slovaks (0,79%), Vlasi (0,53%), Romanians (0,46%), Macedonians (0,35%), Bulgarians (0,27%), and other numerous smaller minorities, than regionally declared persons and neutral.

It should be mentioned that territorial dispersion of ethnic communities is not equal in Serbia. In Central Serbia (without Kosovo and Vojvodina) 89,48% of overall population are Serbs, while 10,52% are ethnic communities and those who declared as neutral. In Vojvodina, that has the status of Autonomous Province, Serbs represent less than two third of population (65,05%) while representatives of ethnic communities represents 30,57%. Ethnic dispersion is not equal, as well – at the south of Serbia live Albanians, at the south-east of Serbia, near the border with Bulgaria, in two municipalities mostly live Bulgarians, Bosniaks are mostly spread in the region of Sandzak at the south-west of Serbia, and Vlasi are at the east part of Serbia. In Vojvodina mostly live Hungarians, Croatians, Slovaks, Yugoslavs, Romanians, Bunjevci, and Rusyns. Only Roma population lives in significant number at the whole territory of Serbia.

In Croatia, when observed in percents, live the least representatives of ethnic communities. According to official results of the census from 2001, part of representatives of ethnic communities is 7,47%, percentage of Croats is 89,6% while others are nationally neutral and those with declared nationality. The largest ethnic community are Serbs, who make 4,54% of the overall number of population of Croatia, than, Bosniaks (0,5%), Italians and Hungarians (0,4%), Albanians and Slovenians (0,3%), Czechs and Roma (0,2%). It is important to emphasize that all minorities, save in Roma and Albanians, noted relatively large demographic decrease, which is for most ethnic communities the consequence of war events during '90s.

Also, in Croatia, representatives of ethnic communities are not equally territorially dispersed. Most Italians live in Istra, Serbs mostly live in Lika, Kordun, Dalmatinska zagora, Slavonija and Baranja and in urban areas; Hungarians live in Baranja, while Czechs, Slovaks, Rusyns and Ukrainians live in Slavonija. Similarly, as in Serbia, so as in Bosnia and Herzegovina, representatives of Roma population are dispersed the most – they live at the territory of almost entire country and everywhere they represent, numerous, relatively small communities.

National heterogenic of population is most visible in Bosnia and Herzegovina, but, because of the war heritage and specific national and legal order – existence of two entities

– Serbian and Federation of Bosnia and Herzegovina with the constitutionality of people and Distrikt Brcko – their territorial dispersion is not the same. In each entity and canton, namely, one of constitutive people make majority of population – Serbs in Republika Srpska, and Bosniaks, or Croatians, in cantons of Federation of Bosnia and Herzegovina, meaning that two remaining constitutive people are in factual minority status. Consequently, all this together reflects on the issue of proportional representation of constitutional people, Bosniaks, Serbs, and Croatians, in entities and cantons, where they are not majority, same as those who belong to category of classic ethnic communities – Roma, Jewish, Ukrainians...

According to the last census that was conducted in Bosnia and Herzegovina 1991, Bosnia and Herzegovina had 43,47% Bosniaks, who declared themselves as Muslims, than 31,21% of Serbs and 17,38% of Croats, while 5,54% people declared as Yugoslavs. Out of representatives of ethnic communities, who made more than 2% of population according to that census, the most numerous were Montenegrins, Than Roma, Albanians, Ukrainians, Slovenians... During the war in Bosnia and Herzegovina, it has been assessed that about 100, 000 people died and half of the population had to remove whether inside Bosnia and Herzegovina or in any other country. According to data of American agency CIA from 2000, in Bosnia and Herzegovina lived 48% of Bosniaks, 37,1% Serbs, 14,3% Croats, and only 0,6% of others.

c. Notes on the nature of formal and legal framework

After the change of power in Serbia, which was personified by Slobodan Milosevic in 2000, obvious moves were made in a view of improving minority rights. That was related to harmonization of normative framework with European standards, as well as to the plan of development of existing institutions and its implementation. However, there still some specific problems, but not that much in the sphere of legality, as much in the area of development of institutions and in implementation of legislative framework, which is especially visible on the example of accomplishing principles of equal opportunities in a view of participating representatives of ethnic communities in social life.

Considering the issue of international legal documents, important for the question of proportional representation of members of ethnic communities in bodies of public authority at all levels, than in national administration, judiciary, public health institutions, and educational system, it should be said that for 2001, Parliament of the national community Serbia and Montenegro accessed the Framework Convention for Protection of National Minorities of Council of Europe. In that manner, exercising this right has become the part of assumed international obligations of Serbia, which draws with itself the institution of surveillance via regular monitoring of implementation of Framework Convention, thus it opens possibilities, if there are obstacles, not to be implemented, acting at the plan of improving its implementation.

Even the Constitution of the Republic Serbia (from 2006), as the supreme legal act in the Republic Serbia, guarantees members of ethnic communities the right to participate

in managing public affairs under equal conditions as other citizens, and to come at public functions. Besides, it has been additionally prescribed that in employment in public administration, public services, bodies of autonomous province and units of local government should take care on national composition of population and appropriate representation of representatives of national communities (Article 77). Law on Protection of rights and freedoms of national minorities (from 2002), on its side, in provision from Article 21, also prescribes that during employment in public services, including the Police, should take care on national composition of population, appropriate representation and language skill which is being spoken at the territory of the body or service.

Considering competences of local government on minority rights, they have been defined by Article 30 of Law on local government (from 2007), where as the general provision was stated that local government “shall take care on accomplishing, protecting and improving human rights and individual and collective rights of representatives of national minorities and ethnic communities”. On the other hand, Law on national councils of national minorities (from 2009), which is lawfully defined by self regulatory body of ethnic communities in Serbia, in several articles prescribes the institute of participation of minorities in bodies of national and public administration. Thus, national councils, according to Law should participate in managing institutions in the area of culture, education, and informing in the following manners: a) by providing opinion on proposed candidates for members of managing or school board; b) by proposing them; c) by the very appointment of members; d) by providing opinion on candidate for director; e) providing previous consent for its election, that is dismissal; which is all defined by law (Articles 12, 17, 20).

Even Croatia has high quality normative framework for protection of rights of representatives of ethnic communities, and in some matters is different than the Serbian one. Most documents were adopted at the end of 2000, whereas Croatia was exposed to high pressure of international community considering the issue of legal regulation of the status of ethnic communities. It was ratified, among others, above mentioned Framework Convention, at the end of '90s of XX century. Also, their status was defined by specific provisions of the Constitution – for example, principle of equality to representatives of all ethnic communities is guaranteed by Article 15. The same Article prescribes the principle of positive discrimination in favor of ethnic communities.

Unlike Serbia, in Croatian legal system whole segment of minority rights is defined by the special Constitutional law on rights of ethnic communities that was adopted in 1991, and was amended in 2002. Also, Constitutional laws guarantee to representatives of ethnic communities representation in representative bodies at national, regional, and local level, institutionally guaranteed MPs positions (Articles 19, 20) Current electoral legislation prescribes that representatives of ethnic communities have the right to election of mostly minority representatives in Croatian Parliament - Sabor (Law on elections of representatives in Croatian Parliament - Sabor, Articles 15, 16). Members of ethnic communities are guaranteed further representation in executive bodies of local government (Constitutional law, Article 22). Also, members of minorities are prescribed the right to participate in public life

and to manage affairs in local communities via national minority councils, in administrative and judiciary bodies (Article 7, 22). Legislator defined that in exercising the last mentioned right has been taking into account participation of members of ethnic communities in the overall population at the level on which body of national administration or judiciary body was established (Article 22), for which prevailed official results of census. Law on local and regional government prescribes that units of local and regional authority have to develop special plans for reception in service, which would define employment of the needed number of minority members for the sake of achieving representation that is in accordance with the Constitution. As the institution of surveillance of implementing provisions of Constitutional law it has been prescribed that regular annual submitting of report of the Government of the Republic Croatia to Croatian Parliament - Sabor, which includes the part on the cost of means which is provided in the budget for the needs of ethnic communities.

Even the Constitution of Bosnia and Herzegovina explicitly prescribes the principle of non discrimination towards all citizens notwithstanding, among other, nationality (II, 4). Preamble guarantees to constitutive population – Bosniaks, Serbs, and Croatians, exercising all rights and freedoms, and the following Annex I explicitly states, except documents on human rights that shall be implemented in Bosnia and Herzegovina, the Framework Convention for Protection of National Minorities. The Constitution was adopted as the Annex 4 of Dayton Peace Agreement that was signed on December 25, 1995 in Paris. Even units of the province and regional authority – entities and cantons have their Constitutions, which guarantees large autonomy in areas of education, social and health protection. Also, they define the rule that national structure of employees has to be in accordance with the census from 1991.

Except them, minority rights are defined by the Law on protection of rights of representatives of national minorities from 2003, which is devoted to members of those national communities that do not belong to constitutive people. Article 19 says that members of minorities have “the right on representation in bodies of authority and other public services at all levels, proportionally to percentage of their representation among population according to the last census in Bosnia and Herzegovina”. Article 20 prescribes that the manner of providing representation of members of ethnic minorities in executive and judiciary authority, public services, is defined not only by the special law but by regulations of entities, districts, towns, and municipalities.

d. Facts and problems – sub representation of minorities

However, abovementioned processes of Europeization of minority legislation in mentioned countries have not come to an end, yet, especially in the part which is related to creation of assumptions – institutional, human resource, and financial – for their overall and consistent implementation, quality of monitoring and independent evaluation, which should be the task of all levels and types of authority: from executive one to the one that have surveillance in the scope of work. Considering the last mentioned – quality of monitoring and independent evaluation of implementation of minority legislation – firstly, it

should be said that in three former Yugoslav countries exist not only small deficits, especially in the part of ethnically sensitive statistics for specific issues, in this matter should be emphasized that Croatia in that plan went further on. The fact that exact number of representatives of ethnic communities, in national and public administration, is unknown and is justified by the argument that public officers may not be forced on expressing their nationality. However, one should bear in mind that for all surveillance of measures of positive discrimination is necessary to have relevant statistic data.

In the first line, among them are arguments on representation of members of minorities in bodies of public authority at all levels, than in public administration, judiciary, public health institutions and education system – non institution in Serbia and Bosnia and Herzegovina do not have on this reliable and comprehensive data, while situation in Croatia is more favorable. It means that there is something familiar on this issue or for some institutionalized segments and bodies of national and public administration (for example judiciary and prosecution office) or for some regions (Vojvodina in Serbia has advantage in this) or for some local governments (for example at south of Serbia, where Albanians live); in this matter, as sources of data, if efforts of province bodies in Serbia are excepted, usually dominate national nongovernmental, than minority or international institutions and organizations (UNDP, OSCE, CoE). Entirely is spoken, notwithstanding on which part of national and public administration it implied and which territorially includes, on sub representation of members of ethnic communities.

Considering Serbia, until nowadays we probably have most comprehensive data on representation of minorities in Serbia in the Report on Human Development of UNDP from 2005. It explicitly stated appropriate sub representation of minority members in different areas of public life, especially at the high level. Thus, for example, in district courts and prosecution offices in Vojvodina, 76% of judges are Serbs, 5% are Hungarians and Montenegrins, while 3,75% of judges declared as Yugoslavs, 1,25% were Croats. Among prosecutors and deputies are 71% of Serbs, 5,71% of Hungarians, 3% of Montenegrins, and 8,8% Yugoslavs, which does not suit to national structure of population of Vojvodina – sub represented are representatives of most minorities and up to 10% compared with the whole number, even in municipalities where they are majority. Albanians are sub represented in judiciary in Preševo and are not present at court in Bujanovac. Situation is similar, according to documents which were drafted by the Secretariat for regulations, for the need of Executive council of AP Vojvodina, in administration of national minorities, and in structure of employed in public enterprises, than in local governments at the territory of Vojvodina and the province bodies of administration – one number of minority communities is sub represented in bodies of national and public administration.

It is interesting that in Serbian public are at least available data on representation of members of minorities in the police. Truly, establishing multiethnic police at the south of Serbia after the armed incident in 2001 represented very praised move, but according to statements of Albanian political representatives Albanians do not get Officer positions in multiethnic police. Also, there is lack of data considering the issue of representation of

ethnic communities in republic bodies, customs, financial police, public health and education. It should be indicated that to the fact that distribution of sub representation in Serbia is not equal by national communities – Croats, Albanians, and Bosniaks have always been sub represented, which may be interpreted as the consequence of frustrations because of defeat in wars during '90s in the previous century, while highly represented, save in members of majority people, that is Serbs, Yugoslavs, and Montenegrins. As the special category we mention members of Roma community, who are highly sub represented in all segments of national and public administration.

Even in Croatia there is incomplete implementation of the Constitutive law in the part related to representation of members of ethnic communities in national administration and judiciary bodies, the issue of employment of members of ethnic communities, which public authorities openly admit. Thus, let's say, in the Action plan of the Government of the Republic of Croatia for implementation of the Constitutional law on rights of national minorities from June, 2008, explicitly admits that "in some bodies of national administration and judiciary, and in specific units of local administration and local government, satisfying implementation of Article 22, Paragraph 2 and 3 of the Constitutional law has not been achieved in a view of representation of members of ethnic communities". That would be one of reasons for development of the Action plan. Surely, even in Croatia exist ethnic communities that are better represented in national and public administration, let's say Italians in Istra, from Serbs and Roma, who are mostly sub represented.

If we want to say something more concrete on situation in Croatia, we shall mention several data from report on researchers, conducted in 2006 by Serbian Democratic Forum from Zagreb, on representation of minorities in national and public administration. Considering bodies of judiciary authority at the territory of East Slavonia, it is notable an slight sub representation of representatives of Serbian community in judiciary authority in Vukovar (17,6% compared to 32,9% of population), while at the level of the region is notable slight sub representation (19,3% compared to 30,8% of population). On the other hand, in the same region the situation has been established by which representation of minorities in the police is adequate to its representation in population. In the same report, as drastic example of disrespect of this legislative provision was mentioned Benkovac, where about 10% of population is made of members of Serbian ethnic community. However, out of 62 employed policemen in the Police Directorate Benkovac, not anyone of them is Serbian nationality.

In Bosnia and Herzegovina, at the central level of authority structure and their institutions, there no larger problems in proportional representation of three constitutive people, considering that electoral models and the manner of forming authority were ethnically defined. However, sub representation in public administration appears at sub national level of authority units – entities, cantons, and units of local government, in cases when constitutive people are in minority position. That is the case with Bosniaks and Croats in Serbia, Croats and Serbs in cantons with Bosniak population as majority and Bosniaks and Serbs in cantons where Croats are majority. Identically as Serbia and Croatia, members of Roma population are sub represented in all cases.

What has been mentioned is for the favor of facts, at least according to small number of reports of specific nongovernmental expert organizations, that very little has been done on the plan of harmonization of national structure of national and public administration with the census from 1991. Furthermore, in some cases members of ethnic communities are poorly represented in national and public administration than their current participation in population is, but, because of the war and ethnic cleaning, this is smaller than it was in 1991. Thus, it has been said that “public administration is more ethnically cleaned than the community”. In that matter, reports do not state exactly which segment of national and public administration comes in issue. At the same time, in previous period, units of regional and local authority did not undertake any measures for the sake of increasing representation of minorities in public administration.²

² Author of the part Comparative experience is:

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4. Standpoints of ethnic communities leaders

YIHR conducted the questionnaire with leaders of ethnic communities in Montenegro related to their standpoints on representation of members of their ethnic communities in public administration. The questionnaire was submitted to political and NGO leaders and presidents of National minority councils. Out of 30 submitted questionnaires, we received answers of 22 leaders of ethnic communities. Representatives of political parties who declared as Serbs emphasized they had not considered their communities were part of minority and that they were constitutive people in Montenegro. However, YIHR working team decided to spread its research on that community, after all because of standpoints and available data that Serbs are not enough represented in public administration. Moreover, because of the fact that in Montenegro, according to Law on minority rights and freedoms, is basic and functioning National council of Serbs.³

Specific number of representatives of ethnic communities considers that interethnic relations in Montenegro are significantly improved when compared with earlier period, or during '90s.

“When I started to answer this question, I remember events from the beginning of '90s, when representatives of specific nationalistic parties in Montenegro based their propaganda program and activities on opinion that Croats in Tivat will be able to work only as cleaners of windows or street cleaners. I am making connection with the previous question and I claim that situation now is notably different. Prominent cultural values of Croats in Montenegro, as this country heritage more than 80% of cultural values of Boka Kotorska are recognized, the Navy of Boka has been given important role in the folklore milieu of Montenegro and position of my people is significantly of much better quality.”⁴

³ Goran Danilović, Vice president of New Serbian Democracy; Questionnaire from February 10, 2010: Respected, we shall attentively answer your questions previously emphasizing that our standpoint is specific. Our people does not belong to national minority groups or communities, thus, neither we, when speaking on rights of Serbs, do not speak on what the corpus of these rights guarantees in national or foreign legislation or international legislation. We are convinced that Montenegro should be constituted by equal citizens and equal people. Our emphasizing of people as constituents does not have the aim to make citizens senseless, nor to emphasize some previously known, right to self-determination. On contrary, we consider it as fatal for small Montenegro. Our intention is to provide prevention of national democracy and to guarantee universal rights and freedoms, by emphasizing equality and constitutionality of people.

⁴ Andrija Petković, spokesperson of Ministry for information society; Questionnaire from March 10, 2010

However, most people consider that it is far from satisfying level and that lack of confidence among communities is still at the high level.

“Although there were no open conflicts in Montenegro and massive violations of minority rights of an ethnic group over another, as it was in neighborhood, interethnic relationships are characterized by large ethnic distance and there is still more space for improvement of minority rights and in that sense improvement of interethnic relations. Interethnic relations in Montenegro are characterized by lack of mutual familiarity, which is especially related to absence of familiarity of other Albanians, because of language barriers, isolation, etc.”⁵

There is not any institution dealing with analysis of interethnic relations, defining problems, and realization of activities that would influence on improvement of problem. Participants in the research emphasized that although Montenegro is small country, mutual lack of acquaintance is also something that represents barrier towards better interethnic relations for which are mostly responsible national institutions and media that would give their contribution in introducing and connecting people who live in Montenegro.

Representatives of political parties also consider that good interethnic relations are the consequence of heritage and tradition, but less the consequence or result of organized, conceived, careful and attentive national policy.

“Tolerant interethnic relationship exists in Montenegro, before all as the consequence of heritage and mutual knowledge of history, and much less, or not at all as the result of organized, conceived, careful and attentive national policy.”⁶

Nik Gašaj, Counselor of Ombudsman in Montenegro, considers that *“more efforts and deciding steps should be made towards promoting interethnic relations and more consistent exercising of minority rights in accordance with international standards which are included in international law and positive practice of modern democracies. Thus, the manner of treating minorities represents temptation in which most people go for an examination in the area of democracy, human rights and the rule of law. In other words, we have to change the state of human rights in specific segments, not only in formal and legal view, but in reality, while legal provisions have to be implemented in practice, because respecting rights of others, indulging differences, consistent exercising rights of minority people and other ethnic communities, represent important assumptions for provision of stable democracy and interethnic tolerance, at that is, at the same time, of essential importance for development of Montenegro, as democratic and legal state and its accession to European and transatlantic integrations.”⁷*

It is also emphasized that there is distance towards minorities that are characterized by insufficient language skills, especially Albanians and Roma, because of language barrier and isolation.

On question how do they assess position of their community, all representatives of ethnic communities said that it was improved when compared with earlier period, but that there were some segments in which it has to be improved. Representatives of Bosniak

⁵ Genci Nimanbegu, Vice president of New Democratic Force, FORCA; Questionnaire from March 23, 2010

⁶ Goran Danilović, see 3

⁷ Nik Gašaj, President of the Association Malesia, and Counselor of Ombudsman in Podgorica; Questionnaire from February 22, 2010

population emphasized that representation in a view of participation in executive, judiciary power and in decision making institutions is not at satisfying level. One of them said that, according to his opinion, the will of the state for assisting in development of national institutions for minority population does not exist, as well as assistance for establishing media, and institutions that would deal with education, culture, art, tradition, etc. Also, it was emphasized that negative attitude existed and the absence of will for regulation of relations in Councils of minority.

“Lately, there is politization and misinformation of public in this segment, from most responsible people from politics, who inform on allegedly huge means which Councils receive. Namely, out of ignorance or evil intentions politicians identify means that are being given from the budget for financing the work of Council, and which were planned for 2009 in amount of 60,000 EUR at annual level, while the very means were achieved in amount of 34,000 EUR of 54% of means that have been allocated even for the projects of Fund for minorities, which have nothing with means of the Council, even if it’s the Council of Bosniaks”⁸.

Representatives of Roma population also expressed huge discontent because of unemployment and large ethnic distance towards that community.

“RAE population is definitely at the margin of society and a lot of work should be done in all spheres, with this population.”⁹

Exactly that national community is not represented in national and local institutions. One of the causes is lack of human resources. One female representative of Roma population said that she was the only Roma who is being employed in all assemblies in Montenegro.

“Representation is small and insufficient and the cause is lack of human resources of Roma population. There is small number of Roma population who finished high school not to mention those who have the faculty diploma. I think that I am the only representative of Roma in some of assemblies in Montenegro.”¹⁰

Even other communities are not satisfied with representation of their ethnic community in national institutions and bodies of Montenegro. Minority leader emphasize that percentage representation is under all prescribed percentage, guaranteed by the Constitution of Montenegro, and under practice which democratic world is familiar with. Thus, for example, under official statistics in capital city, among employees on the basis of political decisions, there are no representatives of Serbian population in Montenegro, although in this municipality they make more than 26%.

Leaders of Albania also said they were not satisfied by percentage of representation on members of Albanians.

“Problem of sub representation is constantly present, or lack of representation of members of Albanian nationality at court, prosecution offices, specific ministries, some bodies of local government, public services, and other national institutions that are of vital importance for

8 Osman Nurković, President of Executive board of Council of Bosniaks; Questionnaire from February, 3, 2010

9 Veselj Beganaj, President of NGO Roma circle; Questionnaire from January 26, 2010

10 Beriša Nedžmina, employee in the Assembly of the Capital city Podgorica; Questionnaire from February 23, 2010

*exercising human and minority rights. Following facts occur in favor of this, for example: there are no representatives of Albanian population in Podgorica, there are no judges, prosecutors, not any Albanian is employed in Ministry of culture, sport and media, nor there is any deputy of Albanian nationality in Ministry for education, etc.*¹¹

Representatives of ethnic communities emphasized they provided data on representation of minorities in public administration with difficulties, because the very bodies, according to their opinion, do not make enough efforts that data on employees in all institutions should be transparent and available to all people interested in. As the reason for this, they mentioned lack of independency and professionalism in public administration, prejudices, and emphasized ethnic distance.

It also happens that in specific public institutions, employees from minority lines work most marginalized jobs and that it does not manifest real representation, but efforts should be made in order to bring members of minority on decision making positions.

Besides critics towards the state which does not spur employment of minorities in national institutions it was mentioned that all were aware of lack of human resources for specific institutions, but primarily for judiciary. Also, most questioned persons required larger representation in the police, judiciary, prosecution office, and on managing positions, especially in those municipalities where minorities make significant part or where they are majority.

*“Supreme Public Prosecutor’s Office, High Public Prosecutor’s Office, and Basic Public Prosecutor’s Office, employ 33 prosecutors and their deputies, and non of them is from the line of Bosniaks of Muslim ethnic community. If we consider Chamber of Commerce as some specific national body as the example should be emphasized, that out of 55 employees none is from lines of Bosniaks or Muslim ethnic communities. There are lot of such and similar examples and I believe there is no need to mention them, I only use the opportunity to appeal that such situation should be changed, because current situation is concerning.”*¹²

Besides the problem with discrimination, because of ethnic representation, the problem of membership in political party as the precondition for employment and their representation in national institutions was mentioned.

*“I think that essential problem in Montenegro is membership in the party and not the people or the nation as the precondition for representation in national institutions.”*¹³

The level of representation depends on institution and it differs from institution to institution. According to respondents, number of minorities in bodies of local administration Berane and participation of minorities on managing positions is absolutely correct. However, considering Security Center Berane, where 20 managers work, not any of them is from minority lines.

“The example of Security Center Berane, where 20 managers work, and not any if them is from minority lines. Situation is not better even in Security Center Bijelo Polje, and we also believe that situation is not better even in Bar, and in Podgorica. We emphasized these centers as

11 Nik Gašaj , see 7

12 Osman Nurković, see 8

13 Vatroslav Belan, President of the Assembly board of Liberal party in Tivat; Questionnaire from February 23, 2010

*examples because largest number of Bosniaks and Muslims live in these areas, thus the structure of employees should be taken into account.*¹⁴

According to leaders' opinion, the state is poor even in electric-power industry, judiciary, and almost all other institutions whose branches are in Berane, such as post office, customs, inspectorate, etc. Respondents considered that prejudices, stereotypes, godfatherhood and family relation of Orthodox people made impact on such state.

Representatives of ethnic communities called on findings of Ombudsman from 2008, by which representation of all minorities was on dissatisfactory level.

*"It is enough only to take data from Ombudsman's Report for 2008 and 2009, which are only partial review of representation of members of ethnic communities in institutions which gave data, so all this confirms findings."*¹⁵

Compared with other ethnic and minority communities and their representation in national institution most respondents said that Roma population is on the most unenviable position and that majority people has preferential treatment in comparison with others.

*"Surely, remaining ethnic communities are in better position than we, RAE are, because all communities have their representatives in national and local institutions. Our problem is that we are not politically organized. Best indicators are what we have already mentioned, but I shall repeat, there are no examples that any representative of RAE population works in institutions of the system. I think that we can say that we are completely marginalized. Here is an example, several persons have been employed recently in Center for culture of minorities, but not any member of RAE community. Thus, it is obvious that still there is no readiness to adopt us as entities in Montenegro."*¹⁶

Respondents considered that membership in party is one of main problems and criteria of loyalty, which mostly damages ethnic communities which already have their political parties, and because politic and ethnicity are connected in Montenegro. Also, the problem of language barrier exists in Albanian and Roma communities, which may often be the cause for their employment, as well as allegedly lack of knowledge of official language.

*"If a candidate, who applies for the job, educated on Albanian language, it is being considered that they do not fulfill conditions because they allegedly do not know language. Insufficient knowledge of official language largely influences on employment, and young Albanians in that manner, are unable to show they worth."*¹⁷

Participants in the research said that proportional representation of minorities is important in specific ministries in which the policy towards minorities is being created. These are, among all, Ministry for human and minority rights, Ministry for education, Ministry of culture, sport and media.

As one of the causes which are mentioned and for which members of ethnic communities face with barriers through the process of employment, participants mentioned prejudices, ethnic distance, language barriers that are directed towards Roma population and Albanian population and general distrust, intolerance, and discrimination

14 Osman Nurković, see 8

15 Rafet Husović, Minister without portfolio in the Parliament of Montenegro and the President of Bosniak Party; Questionnaire from March 1, 2010

16 Isen Gaši, President of National Council of Roma and Egyptians; Questionnaire from January 26, 2010

17 Tahir Tahiri, President of National Council of Albanians; Questionnaire from February 9, 2010

towards ethnic communities. Also, as the reason was also mentioned lack of human resources, which specific job position requires. Political unsuitability and nepotism are also possible reasons for lack of representation of ethnic communities.

Ferhat Dinosa, Minister for human and minority rights considered that problems representatives of Albanian ethnic community face with are “*specific language and unprofessional human resources*”¹⁸

As the possible manner and recommendation for overcoming problems representatives of ethnic communities face with, representatives of ethnic communities mentioned necessity of adopting legislative act on respect of representation of minorities at all levels. It is important to respect and implement the Constitution and the law in practice, to adopt the law against discrimination, and to promote positive discrimination in a view of promoting democratic society.

It was emphasized that especially more should be invest in education and additional education of ethnic communities, especially of Roma, because in that manner status of Roma community would be improved in the best possible manner.

Media representation of the problem and indicating on disrespect of law from specific institutions and individuals, who do not respect legislative norms, influences on rise of awareness of citizens and institutions on this issue. True political will and efficient measures of affirmative action starting from education and specialization of human resources and introduction of quotas, by the campaign of introducing and diminishing language barriers and ethnic distance. The role of Ministry for human and minority rights has to influence on creation of human resources from the line of minorities, but awareness of minorities that without specific professional education they may not be employed in national institutions should be increased.

Representatives of ethnic communities think that it is important to make the best cut of the state and to come out with accurate data on the current state, national representation, that is imposing of obligations to all national institutions to make and submit data to public on national structure of employees and defining of quotas on necessity of employment of ethnic communities.

Participants think that one of manners for improving the situation is to define responsibility in the case of violation of defined rules and to determine deadline for correcting disbalance with monitoring of the commission that would be composed of representatives of ethnic communities. Adequate antidiscrimination legislation and its implementation with monitoring of international institutions or organizations that are dealing with protection of human rights and freedoms would also be necessary.

*“Fight against discrimination and defense of values of freedom, equality and justice in the society, development of solidarity and pluralistic society of equal chances, protection and affirmation of rights and freedoms of each individual is the fight that shall last, but which we have to start determined once.”*¹⁹

18 Ferhat Dinoša, Minister for human and minority rights; Questionnaire from February 10, 2010

19 Snežana Jonica, Member of Parliament of Montenegro; Questionnaire from March 2, 2010

5. Standpoints of citizens on ethnic representation – method: group interview

Aiming at examining standpoints of citizens on ethnic communities' rights, YIHR conducted three group interviews from 05 – 15 March, 2010. Group interviews took place in Rozaje, Ulcinj and Podgorica. Ten respondents participated in each interviewed group, who were mostly employed in national institutions. Participants of interviews in Rozaje were Bosniak nationality, while participants from Ulcinj were Albanian nationality. In the group interview in Podgorica, participants of Montenegrin, Serbian, Bosniak, Muslim, Croatian, and Roma nationality were represented. Focus groups lasted an hour and 40 minutes.

Principle goal of using the method of group interviews was to examine standpoints and experiences of citizens when ethnic communities' rights come in issue. Selection of methods resulted in the fact of using advantages of discussion, in order to reveal forms and practices of discrimination. In this manner, it was possible to identify institutional mechanisms which impact with their non functionality on discrimination of representatives of ethnic communities in Montenegro. This method also provided understanding of processes through direct experiences of representatives of ethnic and minority communities in order to methodologically understand all key aspects of discrimination in their real social form.

Processing of data which were received by the method of group interview included development of the transcript, and the process of forming open and focused codes, in accordance with the access known as 'Grounded Theory Approach' (Strauss & Corbin, 1998)

a. General assessments

Participants in the focus group assessed that Montenegro relatively has good legislative regulations which defines rights and the status of representatives of ethnic communities. However, they emphasized that the largest problem was non implementation of those legislative regulations in practice. Such real life, besides existent good regulations, stays unregulated by the same or those regulations are being violated. One of participants said:

“Montenegro has an fully correct legislative regulation. However, the problem is its implementation. When we see reports of the Government related to this area, unfortunately, they are based only on counted legislative possibilities of respecting ethnic communities' rights and are not related to practice and implementation of laws.”²⁰

20 Albanian male, unemployed, age group 20-30

Lack of development of institutions is one of the most frequent reasons of why laws are not being implemented in practice, said participants. Heritage from the communist system is being taken into account as well.

“Thus, in essence, there is only one problem and that is that institutions are not enough developed and function in a manner which is inherited from an other system.”²¹

“I think we should start from what Montenegro generally is. We should start from what services we receive from national institutions in health, prison, schools, universities, and than to compare whether these services are at the level of services which receive a citizen in some of our neighboring states, for example Italy, and than see whether citizens have confidence in our institutions, and if any person have employed by the principle of key or the quality.”²²

Participants of the focus group considered that employment should be conducted on the grounds of professionalism and education. However, they noticed that at this level of development of Montenegro, when representation is not adequate, affirmative action should be implemented.

“I do have opinion that people should be employed by percentage. Those quotas are absolutely opposite to something which is the principle of equality of all people. However, in societies which have not developed good level of democracy, these quotas are not that bad. Thus, these quotas would contribute to employment of more than one Albanian out of 80 or 90 employed in Ministry of education.”²³

For poor position and poor representation of representatives of ethnic communities the system and the policy, which are being led in North of Montenegro, where large number of members of minorities live, were criticized by participants. Participants said that double standards are implemented when the north, on one side, the south and the central part of the state on the other, come in issue. Considering investments, they think that north is poor and forgotten. Large number of enterprises was closed and the new ones have not been opened. For that reason, young people leave towns and search for employment in other towns in Montenegro. They usually go to the south and in Podgorica, even out of the state searching for the perspective. They think that the Government, and the persons who have private companies, treat them as the second line citizens.

“I am telling this from my own experience. The company ‘Gornji Ibar’ is destroyed. Those workers went home with 100 EUR per year of work, while workers of ‘Obod’ from Cetinje went home with 500 EUR per year of work. What is that than discrimination? Residents of Rozaje is the poorest nowadays in Montenegro.”²⁴

Participants said that members of ethnic communities on their road to employment in national institutions meet different difficulties and problems. It has been emphasized that they usually were not adopted by members of majority population. Also, economic reasons were mentioned because they themselves can not accept employment in national institution. Before all, if accepting of that job position means leaving their city, where they have resolved the housing issue, in the other usually in Podgorica, where they do not have their apartment and rents are usually high and are higher than the salary.

21 Albanian male, employed in private sector, age group 20-30

22 Albanian male, employed in national institution, age group 30-40

23 Albanian male, employed in private sector, age group 20-30

24 Bosniak male, unemployed, age group 50-60

“Considering possibilities and opportunities for employment of ethnic communities in national institutions, I think they have handicaps. These handicaps are as of technical nature so as of mentality nature. I think that the handicap of mentality nature is more serious than it more damaging. Such mentality form which has just been created is the largest barrier for minorities to employ in national administration. In Ulcinj, Albanians are proportionally represented in local structure of authority so as in national structures of authority which have their entities in Ulcinj. Considering handicaps of technical nature, before all, I think that salaries are small, thus, it is not easy for someone who lives here to work in Podgorica. Furthermore, apartment has to be paid, but, considering how rents are high and considering the amount of salaries, whole salary has to be paid for the rent. I know some examples of people who gave up because of that. Mentality deficiencies are the one that are difficult to adopt by the people who are different. Montenegrin do not accept easily even if somebody wrongly pronounces a word in Montenegrin language, which creates the filling of unwelcome and in that manner it is huge handicap for further progress of people in their career.”²⁵

In order to overcome these mentality deficiencies, on which previous participant spoke, in order for getting job more easily, according to participants’ opinion, representatives of ethnic communities declare themselves as Montenegrins.

“There is dynamic by which specific number of Bosniaks declares themselves as Montenegrins, in order to get job. According to somebody’s name, you can note that some of these people are Bosniaks. If any persons declare themselves as Muslim, Albanian, Serb, Croatian, it does not mean we are different and we do not have the same chances and possibilities. We should all live together.”²⁶

Because they can not find a job and provide existence, Bosniaks from Rozaje often leave their town. Participants said that among them are highly educated persons.

“Large number of educated Bosniaks, even doctors of science, abandoned the place because they could not find employment.”²⁷

Representatives of ethnic communities are not satisfied with representation in public administration. Although they see that legislation framework is relatively good, they think that the state does not do enough in order to provide them equal status in society. Also, they are criticising their leaders stating that they are not working enough in order to make the situation better.

“I am not satisfied with proportional representation of my people in public administration, although it has legislative support and international convention and charters which support these issues and rights of minorities. Also, although I am not satisfied with public administration which have in their hands possibility to contribute to them, I am not satisfied even with my people who do not work on increasing their number but are in position to do that.”²⁸

b. Interethnic relations

Most participants assessed that relationship between ethnic communities are not on satisfying level. There is the opinion that these relations have to be much better. They think that

25 Albanian male, employed in private sector , age group 20-30

26 Bosniak male, employed in national institution, age group 30-40

27 Bosniak female, employed in national institution, age group 50-60

28 Bosniak female, employed in national institution, age group 50-60

representatives of ethnic groups do not know each other and that there is no readiness on tolerance and accepting others as members of the community and society. Thus, an respondent said:

*“What do people know on ethnic communities, on their culture? There, where ethnic communities are majority, I especially think on Albanian, how much representatives of majority are ready to speak Albanian language or much better question is how many of them know to use it. And than such things force minorities not adopting Montenegro as their own country. They feel as an odd being.”*²⁹

As the result of such ignorance occurs creation of prejudices one towards the other. Participants viewed relations between ethnic communities mostly through results of scientific researches of ethnic distance. Consent with these results, they think that ethnic distance is extremely high in Montenegro. According to opinion of large number of participants, largest distance was towards Roma and Albanians.

*“CEDEM’s³⁰ research related to ethnic distance represents these relations the best, according to my opinion. Considering national harmonization in Montenegro, it is usually based on what somebody wants to hear. People have large ethnic distance, primarily towards Roma and Albanians. If we view those nine questions or, I don’t know how many of them are there, and if two quarters of questioned citizens of Montenegro can not imagine an Albanian as the leader of the country, if two thirds of majority of population – Montenegrins can not imagine marriage via relatives with members of other nations, lets say Albanians and Roma, if their own marriage with the member of other nationality can not be imagined by large number of citizens of Montenegro, according to my opinion, these data are shocking. If we deeply go into essence, we shall see that the situation is not the best one. However, man should be more real and see that things are moving, but I deeply think and day after day my standpoint becomes more firm that without including majority in resolution of problems of ethnic communities, we shall not make any progress or we shall not break such ethnic distance.”*³¹

Participants said that the story on multiethnic harmony is not honest and it does not show real state and all this in a view of achieving specific interests. Firstly, requirements Montenegro is facing on its road towards Euro-Atlantic integrations wants to be satisfied. They think that unacceptability of members of ethnic communities causes a lot concern and is exposed towards members of the Parliament.

*“I am not satisfied with these relations, discrimination is very high. I shall start from what the former president of the trade union Radulovic in Niksic told media. He said that he had never heard for the last name Numanovic, nor that it exists in Montenegro. I think that this message clearly and realistically manifests multiethnic harmony in Montenegro. We are aware that all this is an package for the Europe and Euro Atlantic alliance. So, when donations are needed, than multiethnic harmony is something that is being spoken about. Than everything is multi. But, let’s start from these areas where Bosniaks live, and than let’s see if they have any chance.”*³²

Specific number of participants considers that wide social context contributed to creation of prejudices, on which mostly influenced media. Thus, one of female participants said:

29 Albanian male, employed in national institution, age group 30-40

30 Center for democracy and human rights, CEDEM, non governmental organization. See more on <http://cedem.me>, visited on April 19, 2010

31 Albanian male, employed in national institution, age group 30-40

32 Bosniak male, unemployed, age group 40-50

“Media impact is very important. If we see our media we shall see what is happening with specific members. Let’s say Public service contributes to prejudices towards Roma population, because that TV station said that Roma have to increase the level of hygiene. I, as an illiterate person, immediately create prejudice towards Roma.”³³

At the other side, specific number of participants considers that, although not the best, relations among ethnic communities are at satisfying level. It is emphasized that Montenegro is in front of all countries in the region, according to that issue.

“I shall agree with previous opinions that the situation is not the best, but we can also say that even this multiethnic harmony is something that is perhaps nowadays the only positive matter in Montenegro. Perhaps, some historic opportunities imposed that and I simply think that this was the merit of Montenegrin citizens, and not political parties, authority, or any other institution or organization.”³⁴

Participants think that the situation of prejudices and ethnic distance, which significantly destroys multiethnic relations in Montenegro, should be changed. They consider that future job on development of healthy and open society in which every individual shall be integrated and honored on basis of its specifics, have conduct all from institutions via family to individual.

c. Representation

Most participants expressed dissatisfaction with representation of their people in national institutions and bodies. Participants think that most people do not have understanding, especially for relations towards ethnic communities. They say that non representation is inadequate and because of that some basic issues are not being resolved, that are important for citizens who belong to ethnic communities. Thus, an participant said:

“We have only one person of Albanian nationality in Ministry of education, which means that we have only one person in the Ministry who speaks Albanian language. And we know that we have education on two languages in Montenegro, thus, the question is raised whether an person can resolve education on Albanian language. Also, situation is similar with Ministry for culture, where not any Albanian person works.”³⁵

Similar experience tells participant from Rozaje, who thinks that Bosniaks have been excluded from resolution of some issues of education for several years, at the territory where the largest number of Bosniaks live.

“Since I work in education area in Education Office in Berane, where the center of the Office covering the territory where 60% of Bosniaks live, never have happened that any person of Bosniak nationality work in the Office.”³⁶

Participants of Roma nationality emphasized that now exists specific number of educated Roma, thus emphasizing that Roma are not represented because of lack of human

33 Bosniak female, employed in national institution, age group 30-40

34 Serb male, employed in national institution, age group 30-40

35 Albanian male, employed in national institution, age group 30-40

36 Bosniak male, employed in national institution, age group 30-40

resources, does not suit to the real state and only serves as the excuse for such situation. So, an female participant said:

“It can not be said anymore that we do not have professional human resources, but I think that there is no political will for employment of Roma.”³⁷

On the other side, specific number of participants considers that representatives of majority are not enough represented in local bodies. Thus, they emphasize that such state has to be changed.

“Considering that we always complain that we are not represented as ethnic community, I have to say that we have very small percentage of Montenegrins in municipality Ulcinj, who are employed in local bodies. Thus, percentage is not in accordance with percentage in Ulcinj. We complain and with the full right, but at the other hand, we should work so as the level of representation of Montenegrins in Ulcinj be higher.”³⁸

On question to comment representation of their ethnic community in comparison with representation of other ethnic communities, participants mostly said that representatives of other ethnic communities are in much better position than members of their ethnic community.

“I think that only Roma are in worse position than us. All other are in better position than us. Albanians are in far better position than we are. Croatians, also. I do not say they are better but are in far better position that we are. Albanians have education, employment, program on Albanian language, and everything else we do not have.”³⁹

Participants consider that that even the number of MPs is not adequate to number of population, which, according to their opinion, significantly influences on position they have in Montenegrin society.

“There are two MPs from Rozaje. One is in DPS, and the other is from Bosniak Party. There should be three MPs from Rozaje considering the number of citizens who vote on elections.”⁴⁰

Participants consider that there is no political will for members of majority dealing with problems and rights of minorities. Thus, they criticize the fact that in Ministry for minority and human rights does not work any representative of majority ethnic community. There are opinions that, while the situation stays the same and until the policy changes, ethnic communities shall not be adopted and integrated in the society.

d. Discrimination

Political discrimination is most frequent during employment, believe participants in the focus group. They think that somebody can be of any nationality, while he/she may employ in national institution and bodies if they are politically ‘suitable’, or supporter of governing coalition.

“I think that the problem here is not membership in some specific community thus it is discriminated on that grounds. I come from public body and believe me, political membership is in focus. They do not care for any other membership. They shall accept Serb, and Roma, and

37 Roma female, employed in non governmental sector, age group 20-30

38 Albanian male, employed in national institution, age group 30-40

39 Bosniak male, employed in national institution, age group 30-40

40 Bosniak female, employed in national institution, age group 20-30

*Montenegrin, and anybody else, if that person is politically active for DPS and governing coalition.*⁴¹

Such form of discrimination confirmed the research of public opinion, conducted by NGO Center for Democracy and Human Rights.⁴² According to results of the research 64,5% of respondents replied that discrimination in the process of employment exists, on the basis of political membership, while 49,9% of them said that there was discrimination on the basis of nationality during employment.

However, much deeper sources of discrimination were emphasized. One of female participants said:

*“Conditions of education are conditions for later discrimination. If somebody does not have equal opportunity for education, than discrimination will be more emphasized in each step which follows and even when the person search for the job.”*⁴³

Female participant of Roma nationality confirmed that such situation exists, and she said that unless you have equal chances for life always and in all areas, one shall meet discrimination, not only in the process of employment:

*“I am single mother, I feel that discrimination, as the single mother even as a student and when I search for apartment and when I want to find job.”*⁴⁴

According to participants’ opinion, besides political membership, relatives are engaged and friend relations in order to get job safely. Thus, one of participants said:

*“The second place is relative and friends’ relations. Whoever searches for a job position tries to get job position in the manner that shall provide it.”*⁴⁵

Human Resources Administration conducts the practice to control representation of ethnic communities in public administration. Thus, with competitions that are published, option of voluntary declaring of nationality is offered, noting that it may be advantage in making final decisions on which person shall be employed. Although this is good solution, citizens in focus groups expressed negative experiences on this occasion:

*“My wife finished social work. She regularly applies for the competition of the Human Resource Administration. In that advertisements writes mention your nationality if you want because we are obliged to take care on representation in national institutions. And great, each time she says that she is Albanian nationality, they reject her.”*⁴⁶

If we take into account all problems which national administration is dealing with, before all very large number of employees and problems which economy crisis brought, it is very difficult to get the job. Participants think that the situation is the same even for the supporters of governing parties.

*“I have an example, it is about a member of DPS who is not active much, but did not manage to get the job, while 12 people did. I think it is very difficult to find job. Larger problem is if someone has somebody to help them find job, than I who am coming from Muslim community.”*⁴⁷

41 Serb female, employed in national institution, age group 30-40

42 Center for Democracy and Human Rights, <http://cedem.me/index.php?IDSP=1360&jezik=lat>

43 Muslim female, employed in non governmental sector, age group 20-30

44 Roma female, employed in nongovernmental sector, age group 20-30

45 Montenegrin male, employed in national institution, age group 20-30

46 Albanian male, employed in national institution, age group 30-40

47 Muslim, female employed in nongovernmental sector, age group 20-30

6. Statistic data

a. Previous researches

The Office of Protectioner of Human Rights and Freedoms (Ombudsman) conducted the research in 2008 on representation of members of ethnic communities in public administration. Ombudsman required information from all ministries, Supreme Court of Montenegro, Supreme Public Prosecutor's Office of Montenegro, all municipalities in Montenegro, the Capital city Podgorica, and Historic Royal Capital.

Only seven ministries submitted information to Ombudsman and than the following municipalities: Budva, Cetinje, Danilovgrad, Kotor, Mojkovac, Niksic, Plav, Rozaje, Ulcinj, Tivat and Andrijevica.

According to data received, Ombudsman made the conclusion that national structure of specific public administration and bodies of local administration is inadequate and that number of public bodies and bodies of local administration express irresponsible relationship towards this issue and because they did not submit reports, or opinion to Protector of Human Rights and Freedoms on his request, on that issue.

Ombudsman gave recommendation to:

- Public administration and public services in Montenegro, that starting from their competences take care on implementation of constitutional and legislative provisions on representation of ethnic communities in public administration and on enforcement of international obligations in this area.

- Bodies of local government at the territory of Montenegro, that, starting from their own needs, during entering into employment with new employees who fulfill all conditions prescribed for specific job position, especially take into account on employment of members of ethnic communities and other national communities, in order to provide relatively adequate representation of representatives of different national communities in bodies of local administration, proportional to their part in overall number of residents at the territory of units of local administration.

Result of the case: Mentioned bodies are obliged to, after expiration of six months from the day of reception of recommendation; submit report to protector of Human Rights and Freedoms on assumed activities and measures on its exercising.⁴⁸ From Ombudsman's office, YIHR researcher was announced that public administration have not acted by the recommendation, yet.

48 See more on web site of Ombudsman <http://ombudsman.co.me/izvjestaji.php>

b. Data of public administration

On the basis of statements from national officers in media, number of employees in public administration is about 32,000, while number of employees in local services is estimated on about 40,000 employees.

Questionnaire of European Commission sought several times information on representation of members of minorities in public administration and institutions. Answers to those questions were not delivered because, as stated, only 34 bodies put the data on national membership.⁴⁹

Representation of ethnic communities in the Parliament is as follows: Bosniaks – 13,58%, Albanians – 7,41%, Muslims and Croats – 1,23%. Roma do not have their representative in the Parliament.

On the question on representation of female judges and judges as representatives of ethnic communities and women and persons who belong to ethnic communities of other judiciary professions, data were not submitted because data on nationality of judges, employees and servants do not exist. Number of prosecutors, representatives of ethnic communities is 13 or 8,6%.

On the question on percentage of representatives of the police who belong to minorities, data were also not submitted, because competent public administration do not dispose of such data. Police Directorate, in April 2010, employed specific number of members of Roma nationality. This is positive example of employment of members of ethnic communities and it should be followed by other national institutions and bodies.

Human Resources Administration delivered answers to YIHR that on the day of submitting information, were registered 3,462 servants and employees who entered data in Central Human Resource Records, while 1,488 of them declared on the basis of their nationality.⁵⁰ Out of that number, there are 1,55% of Albanians, 0,67% Bosniaks, 4,17% of Serbs, 84,95% Montenegrins, 0,2% Croats, 0,13% of Yugoslavs, 1,55% of Muslims, 5,04% unknown nationality, while 1,68% did not declare themselves.⁵¹

YIHR submitted requests for free access to information to all ministries and municipalities Pljevlja, Kotor, Plav, Bijelo Polje, and Tivat, where significant number of representatives of ethnic communities in Montenegro and it submitted request to Ombudsman's office and required data on national structure of employees.

Answers on national structure submitted only institutions which follow: Ministry of labor and social care, Ministry of education and science, Municipality Plav, Municipality Tivat, and Office of Protector of Human Rights and Freedoms. Other ministries and municipalities did not answer on request for free access of information, or they answered that they did not take records on national structure of employees.

49 Answers on the Questionnaire of European Commission, see at <http://upitnik.gov.me/>

50 Answer of Human Rights Administration on the requirement for free access to information, from January 15, 2010

51 *Ibid*

Ministry of labor and social care: out of overall number of employees there are 1% of Albanians; 89% of Montenegrins; 0,5% of Muslims; 5% of Serbs.⁵²

Ministry of education and science: out of 93 employees, there are 39 Montenegrins, 4 Serbs, one Albanian, one Muslim; three persons did not declare themselves, and 45 unknown.⁵³

Municipality Plav: there are 107 servants and employees in bodies of local government, out of that number there are 74 Bosniaks, 16 Albanians, 7 Montenegrins, 5 Muslims, and 5 Serbs. In public institutions whose establisher was Plav there are 24 employees. Out of that number, there are 16 Bosniaks, 4 Montenegrins, 2 Serbs, and 2 Albanians. Public institutions for utility and constructing activities in Plav have 72 employees. Out of that number, there are 58 Bosniaks, 4 Montenegrins, 3 Serbs, and 7 Albanians.⁵⁴

Municipality Tivat: There are 86 servants and employees in municipality Tivat. Out of that number, there are 30 Montenegrins, 35 Croats, 12 Serbs, 1 Slovenian and 6 employees did not declare themselves.⁵⁵

Office of Protector of Human Rights and Freedoms has 20 employed persons. Out of that number, 67,5% are Montenegrins and Serbs, 25% of Bosniaks, 5% of Albanians, 2,5% of Croats.⁵⁶

52 Answer of Ministry of labor and social care, on the grounds of Law on free access to information, from April 6, 2010

53 Answer of Ministry of education and science, on the grounds of Law on free access to information, from March 31, 2010

54 Answer of Municipality Plav on the grounds of Law on free access to information, from March 29, 2010

55 Answer of Municipality Tivat, on the grounds of Law on free access to information, March 31, 2010

56 Answer of Office of Protector of Human Rights and Freedoms, on the grounds of Law on free access to information, from March 24, 2010

7. Conclusions and recommendations

- Equal access to the right on employment and proportional representation in public administration of all ethnic communities is the indicator of democratic society in all multiethnic societies.

- There are no accurate and complete data on national structure of employees in public administration in Montenegro. National and international regulations and standards oblige Montenegro to provide proportional representation of ethnic communities in public administration and institutions. Recommendations of Ombudsman in this are concerning and are not respected even after two years. YIHR invites public administration to respect recommendations without a delay, which Office of Protector of Human Rights and Freedoms sent and to inform public on it.

- The role of the National Council in the process of achieving the minorities' rights to proportionate representation in state bodies is not precisely defined by the Law on Minority Rights and Freedoms. This is the reason why, the amendments of the Law on Minority Rights and Freedoms are needed, with the goal of straightening the role and more efficient influence of the National Councils in the described direction. The role of the Authority competent for the human resource's management in the process of monitoring of implementation of measures, with the goal of achieving proportionate representation of minority nations and other minority national communities in state bodies is not precisely defined by the Law on civil Servants and Employees, therefore, even in this regard is needed this legal solutions to be more precisely defined through amendments of this Law.

- On the basis of disposable data we have, and standpoints of leaders and citizens, it may be concluded that ethnic structure of employees is not adequate and does not suit to ethnic structure in society. Disbalance is especially emphasized through large number of employed Montenegrins, and very small number of employed Roma in public administration.

- Montenegro did not develop adequate manners for measuring national structure of employees in public administration, thus, these manners have to be developed, and at the same time, measuring should not oppose the standards of human rights. These manners have give wide, precise data, and statistics, that shall be of important significance for assessing and monitoring of ethnic structure of employees and proportions which exist, than positions they have in the hierarchy, and tendencies that are in force in employing in bodies of public authority at all levels, and bodies of national administration, judiciary, public health, and educational system.

- In the Balkan region, Croatia is in front of all countries considering the issue of representation of minorities in public administration. Generally, there is no precise statistics

on ethnic structure of employees in all countries, but it may be spoken on sub representation of minorities. The largest sub representation of minorities in all countries of the region is towards Roma.

- Participants in the research emphasized their discontent with representation of their ethnic communities in public administration and institutions, and indicated on necessity of activities in a view of improvement in this area.

- Participants in the research considered that during employment, political discrimination is being conducted, because as they said, employment is being performed on the basis of political membership in authority structures at national and local level. Employment, according to participants' opinion in the research, has to be conducted on the basis of professionalism and education, but because Montenegro did not achieve sufficient level of democracy it is important to conduct proportional representation and implement measures of affirmative action.

- Participants said that interethnic relationships in Montenegro are at better level than earlier, but they also emphasized that they were not satisfied, assessing them through high ethnic distance and mutual lack of acquaintance. That confirms CEDEM's research on public opinion. On the grounds of opinion of participants, ethnic distance is largest towards Roma and Albanians. The country should conduct the campaign of overcoming ethnic distance through different activities in the following period.

- Current representation of Roma in public administration is absolutely unacceptable. The country has to find manners to integrate fully representatives of Roma nationality in work of public administration. Also, the country has to make additional efforts on providing better conditions for education of representatives of Roma nationality which shall lead to employment when the process of education finishes. The latest example of employment of representatives of Roma by Ministry of human and minority rights and Police Directorate is the example that should be followed by other public administration.

- National competent institutions have to make balanced representation of members of all ethnic communities because such situation leads to increasing the level of distrust of members of ethnic communities in national institutions, which may leave far reaching consequences.

Table of ethnic structure in Montenegro

Nationality	Number of members	Representation in percentage
Montenegrin	267 669	43.16%
Serbs	198 414	31.99%
Bosniaks	48 184	7.77%
Albanians	31 163	5.03%
Muslims	24 625	3.97%
Croats	6 811	1.10%
Roma	2 601	0.42%
Yugoslavians	1 860	0.30%

Source: Monstat, 2003

