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## Nationality, protection of ethnic minorities and transition to democracy: the case of Slovenia – II.

Ethnic Minorities and Immigrants\*\*

### *Introduction*

There are several interesting developments regarding ethnic relations in Central and Eastern Europe, especially after the dismantling of some former multinational (multi-ethnic) states.

Slovenia is a specific case in this context. Traditionally, it had a good record on protection of ethnic minorities already as the former Yugoslav (socialist) republic. The protection and social position of ethnic minorities in the former Yugoslavia were often cited as positive examples that in spite of some problems by far exceeded the highest international standards, and Slovenia was considered the champion in this context. The Constitution of the Republic of Slovenia (1991) followed these positive traditions and tried to translate them into a new social situation.

This article examines some main elements of the protection of ethnic minorities in Slovenia and the situation of different categories of immigrants. It presents that Slovenia follows current developments, trends and international standards of protection of ethnic minorities, and also sets some higher standards.

### *Protection of ethnic/national minorities and immigrants*

Almost all modern constitutions define states as one-nation- states, although the ethnically plural structure of their population does not correspond to the traditional concept of (one)nation-states.<sup>1</sup> It is very seldom that constitutions of

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<sup>1</sup> As noted in the first part of my contribution (»Nationality, Protection of Ethnic Minorities and Transition to Democracy: The Case of Slovenia (I) – Nationality and Citizenship«), the concept of the »(one)nation-state« perceives a modern states as a state of a certain nation and a specific mean or even the only mechanism that can realize certain national interests of nations as specific ethnic communities. Although the population of modern states is ethnically plural

states recognize the existence of ethnic pluralism, and only a few of these constitutions establish specific legal arrangements for different types of distinct ethnic communities. Following developments in international law,<sup>2</sup> some constitutions recognize the existence of ethnic minorities and provide certain (special) minority rights. Special rights of ethnic minorities should assure the existence and development of ethnic minorities, their distinct language, culture and identity, establishment and functioning of their own associations and organizations, and their participation in the process of decision-making within the political system.<sup>3</sup>

If we compared international law with constitutions and national legislation, concepts of protection of minorities in international documents are often more elaborated; also, international standards of protection of minorities are usually higher than standards in constitutions and/or national legislation of most modern nation-states. (E.g. BARON, 1985; BROLMANN, LEFEBER, ZIECK, eds., 1992; THORNBERRY, 1990; WHITAKER, ed., 1984) The reluctance of governments of some modern states that at least subconsciously still perceive their countries as ethnically homogenous »one-nation-states«, has often slowed or even blocked further development of the protection and rights of minorities in international law. Due to the reluctance and opposition of these states, it is rather unlikely that already existing international standards of protection of minorities will be translated into national legislation of these states anytime soon.

Article 1 of the proposal for the Additional Protocol to the European Convention on Human Rights for the Protection of Human Rights and Fundamental Freedoms, concerning National Minorities and their Members defines a *national minority* as »a group of persons in a state who (a) reside on the territory of that state and are citizens thereof, (b) maintain long standing, firm and lasting ties with that state, (c) display distinctive ethnic, cultural, religious or linguistic characteristics, (d) are sufficiently representative, although smaller in number than the rest of the population of that state or of a region of that state, (e) are motivated by a concern to preserve their culture, their traditions, their religion or their language.« (Report on an additional protocol on the rights of minorities to the European Convention on Human Rights, 1993: 4–5)

Following the practice in international law, constitutions and national legislation guarantee specific legal status and protection only to *traditional typical*

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and mixed in reality, »one-nation-states« are still perceived as ethnically homogenous entities. Nation-states are also the basis of the international community that can be defined as the international community of nation-states. (More see, e.g.: DEUTCH, 1970: 22–24; MACARTNEY, 1934: 192–211; SETON-WATSON, 1977)

<sup>2</sup> The Peace Treaties of Westphalia of 1648 marked the beginning of modern development of rights of religious and ethnic minorities: these treaties introduced the principle of freedom of conscience and religion and the obligation of states to grant toleration and self-government to distinct (Catholic or Protestant) religious communities. (BARON, 1985: 3)

<sup>3</sup> Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities (A/RES/47/135) urges states to »protect the existence and national or ethnic, cultural and religious identity of minorities within their respective territories« and »encourage conditions for the promotion of that identity« by the adoption of »appropriate legislative and other measures«. (Article 1) Members of »national or ethnic, religious and linguistic minorities« should »have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and public, freely and without interference or any form of discrimination«; they should »have the right to participate effectively in cultural, religious, social, economic and public life. »Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or regions in which they live, in a manner not incompatible with national legislation.« They »have the right to establish and maintain their own associations.« They should also »have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other states to whom they are related by national or ethnic, religious or linguistic ties.« (Article 2)

*national (ethnic) minorities*. These minorities could be defined as a *part of the nation that as a specific (distinct) and formed ethnic community (group) lives in a territory outside the borders of its nation-state*. Members of certain ethnic minorities are *citizens of a state where they live*. Such a situation is usually a consequence of a *specific historical (political) development* of a certain region. As an additional criterion, the *autochthonous settlement* of such an ethnic minority is usually required. (PETRIČ, 1977: 89–104) In this context, constitutions and most international documents provide (only) for protection and rights of persons, individuals belonging to ethnic minorities. There are only a few international documents and constitutions that explicitly define rights of minorities also as collective rights of these distinct ethnic communities.<sup>4</sup>

If at least a few constitutions and legal systems provide different arrangements and mechanisms of protection and participation of traditional ethnic minorities (e.g. PALLEY, 1982: 6–19; ŽAGAR, 1992a), there is practically no protection for (new) immigrants and immigrant communities. These immigrants came to countries of their current residence relatively recently, although in some cases two, three or more generations ago; they are usually not citizens of a country of their current residence, and therefore do not have rights based on citizenship of this country.<sup>5</sup> As individuals immigrants without a citizenship have a legal status of aliens or resident aliens, and they enjoy basic human rights that belong to any person regardless of citizenship; as distinct communities their existence is legally not recognized at all. There are a few developments in different international documents (e.g. EC/EU, ILO) and law that are establishing at least some basic protection and social security of migrant workers. Although there is a belief that a protection similar to that of traditional ethnic/national minorities should be provided for immigrants and immigrant communities as new ethnic minorities, it is very unlikely that such a development is possible soon due to objections of most nation-states.<sup>6</sup> A problem in this context is also they usually live scattered in the territory of the state of immigration; additionally, in larger economic centers there are often members of several diverse immigrant communities with their specific (sometimes conflicting) cultures, needs and interests.

If an immigrant became a citizen of a state of immigration (where he/she resides) by naturalization, he/she as an individual acquires usually all rights that the constitution and legislation of a certain state provide and guarantee to its citizens. As mentioned, states do not recognize officially the existence of distinct immigrant communities and do not provide any special mechanisms for protection of these communities and their members; the fact that an individual becomes a citizen changes nothing in this context. Nevertheless, immigrants with citizenship have all political rights; they can participate in the political process, and try to

<sup>4</sup> E.g. Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities (A/RES/47/135) adopted by the General Assembly of the United Nations on December 18th, 1992 defines rights of persons belonging to minorities mostly as individual rights, although it stresses that »(p)ersons belonging to minorities may exercise their rights, including those set forth with the present Declaration, individually as well as in community with other members of their group, without any discrimination.« (Article 3/1.) The Constitution of the Republic of Slovenia of 1991 (discussed later in this text) is one of a few national documents that guarantees rights of minorities both as individual and collective rights.

<sup>5</sup> This means that they do not have rights of citizens and especially political rights; thereby, they are basically excluded from political life. They can get these rights only if they become citizens of a country of their residence, which in some cases is extremely difficult.

<sup>6</sup> See e.g. Community and Ethnic Relations in Europe: Final Report of the Community Relations Project of the Council of Europe, Council of Europe / Conseil de l'Europe, MG-CR(91) 1 final E.

influence decisions important for the preservation and development of the distinct identity, culture and life of their immigrant communities.<sup>7</sup>

### *Protection of ethnic/national minorities in the Constitution of the Republic of Slovenia*

The Constitution of the Republic of Slovenia was adopted by its parliament in December 1991.<sup>8</sup> This happened after the independence of the republic had already been achieved in the practice, a few days before the already announced official international recognition of independence and sovereignty of Slovenia by the EC took place.<sup>9</sup> The adoption of the constitution followed the process of its drafting that took more than two years,<sup>10</sup> in which all the important issues – including protection of ethnic minorities in Slovenia – were discussed.<sup>11</sup>

Based on principles proclaimed by the Declaration on Intents of the Assembly of the Republic of Slovenia and the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, the consensus was reached that the level of the protection of ethnic minorities should not have decreased in comparison with the level of protection of ethnic minorities guaranteed by the amended Constitution of the Republic of Slovenia of 1974. In this context, the »positive concept of protection of ethnic minorities« was enacted by the Constitution of the Republic of Slovenia of 1991 to a large extent.<sup>12</sup> The Constitution recognizes also dual nature of (special) rights of ethnic minorities. They are

<sup>7</sup> In cases of some international integrations, there are some attempts to create a special legal regime for citizens of members states who live in other member states; in this context, they should have the right to participate in local elections and in elections of their local/regional representatives at the level of the international integration (e.g. European Union). (E.g. MEEHAN, 1993)

<sup>8</sup> The Constitution of the Republic of Slovenia of December 23, 1991, Official Gazette of the Republic of Slovenia, No. 33/1991. The official english translation: Constitution of the Republic of Slovenia, Časopisni zavod Uradni list Republike Slovenije, Ljubljana 1992.

<sup>9</sup> The adoption of the Basic Constitutional Charter and proclamation of independence and sovereignty of Slovenia on June 25th, 1991 triggered the intervention of the federal army (Yugoslav People's Army) in Slovenia. This was the beginning of the »Ten Days War« in which the federal army failed to take over international border crossings (that were after 1974 controlled by a republic police) due to the successful resistance of Slovenia. This war was followed by the Brioni Agreement (signed on July 7th, 1991) that provided for a six-month period in which the future arrangements in the former Yugoslavia were to be negotiated. Based on the decision of the Presidency of the SFRY the last federal soldier left Slovenia on October 26th, 1991. On January 15th, 1992 the EC countries officially recognized the independence and sovereignty of Slovenia after the six-month period expired and no viable solution was achieved by negotiations.

<sup>10</sup> In a way, this process started in 1989 with the activities on amending of the Constitution of the (Socialist) Republic of Slovenia of 1974 in 1989–1991.

<sup>11</sup> Different concepts of the protection of ethnic minorities were presented and advocated in the Constitutional Commission of the assembly/parliament in the process of drafting. Some members claimed that every kind of special protection of ethnic minorities is incompatible with the main basic principle (of liberal democracy) of equality before law, others suggested to implement an absolute reciprocity taking into consideration the position and rights of Slovene minorities in the neighboring countries, while some advocated that (at least) all existing rights of ethnic minorities, their protection and special position should have been guaranteed constitutionally.

<sup>12</sup> The »positive concept« was developed as a theoretical concept based on the classification of human rights into rights of »positive« and »negative status.« The rights of »negative status« entitle their subjects to the protection of the state in cases these rights are violated by the someone else. The rights of »positive status« entitle their subjects to demand certain action from the state to realize them. Taking into account this division, the »positive concept of protection of ethnic minorities and their members« means a special obligation of the state to act in order to assure the realization of special rights of ethnic minorities and their members. The »positive concept« in the constitution and legislation: (i) establishes minorities (as distinct communities) and their members (as individuals) as active and equal subjects in a plural society and its political system, and provides for their participation and decisive role in political decision-making; (ii) requires active role of a state in protection and realization of (special) rights of minorities. The very fact that the state would not act would establish

defined as collective and individual rights of »autochthonous ethnic communities and their members.« As collective rights they belong to ethnic minorities as distinct communities; as individual rights they belong to every member of a certain ethnic minority. Concerning their nature, some of the rights are realized mostly as collective rights while others are realized mostly as individual rights.<sup>13</sup>

The Constitution of the Republic of Slovenia of 1991 followed the mentioned common practice and provided only for protection of autochthonous traditional national minorities. Taking into account the initiatives of the representatives of ethnic minorities in the Constitutional Commission, the constitution replaced the term »ethnic/national minority« with the term »ethnic community« to avoid the possible negative connotations of the use of the term »minority«.<sup>14</sup> (ŽAGAR, 1992: 8)

There are several provisions of the Constitution of the Republic of Slovenia of 1991 that are important for the protection of ethnic minorities.<sup>15</sup> Article 5 provides the constitutional framework of the »positive concept« of the protection of minorities by declaring the active role of the Slovene state in the protection and realization of rights of Italian and Hungarian autochthonous ethnic communities in Slovenia. This article defines also the active role of Slovenia in attending to the welfare of Slovene autochthonous minorities (in the neighboring countries), emigrants and migrant workers, and in promoting their contacts with homeland. Slovene (Slovenian) is declared the official language, but Article 11 enacts that also Italian and Hungarian shall be official languages in those areas where Italian and Hungarian ethnic communities reside.

The main general and special provisions regarding protection and special rights of ethnic minorities are located in Part II. of the Constitution entitled »Human Rights and Fundamental Freedoms«. Besides general provisions on equality before law (Article 14), profession of national allegiance (Article 61), the right to use one's own language and script in official dealings and proceedings (Article 62), the Constitution prohibits and incriminates »[a]ll incitement to ethnic, racial, religious or other discrimination, as well as the inflaming of ethnic, racial, religious or other hatred or intolerance« (Article 63).

Article 64 regulates special rights of autochthonous Italian and Hungarian ethnic communities in Slovenia explicitly stating that they belong to ethnic communities (as collective subjects) and their members (as individuals). They shall have right to use their language and national symbols, to foster economic, cultural, scientific and research activities, their mass media and publishing, and to establish organizations in order to preserve their national identity. Regarding their educational rights, they are entitled to education and schooling in their own languages which includes planning and developing their own curriculae. Statutes shall deter-

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a violation of the constitution and law by the state and its moral and legal responsibility for consequences. (ŽAGAR, 1992: 10-11)

<sup>13</sup> E.g.: The right to education in the language of minorities belongs simultaneously to both – to a certain ethnic minority as a distinctive community and to every individual member of such a minority. By establishing of an appropriate educational system this right would be realized as a collective right of a certain minority; by giving the possibility to attend a bi-lingual school or educational program and/or a school or educational program in the language of a minority such a right would be realized as an individual right of every member of a certain minority.

<sup>14</sup> The term »minority« in everyday's language often refers not only to the quantitative but also to qualitative characteristics of a certain phenomenon. The term »ethnic community« in the constitution is politically more neutral, and in a way underlines active and equal social role and position of these communities. For the same reason, the former Yugoslav and Slovene constitutions (of 1974) and official political practice used the term »nationalities« to replace the term »ethnic minorities.«

<sup>15</sup> For the text of these constitutional provisions see: Appendix I.



mine where and how special rights of minorities shall be realized and guaranteed, and also areas in which bilingual education shall be compulsory. The two communities have enjoy the right to foster their contact with their wider ethnic communities and with Italy or Hungary respectively. The Slovene state has the duty to financially and morally support and encourage the implementation of these special rights.

Political participation of both communities at local and national level is guaranteed by the Constitution. In this context, the constitution provides a *minority veto* as an additional mechanism of the protection of minorities in the process of decision-making within political system. (LIJPHART, 1984: 29-30, 35-36, 198-191) Article 64 further states that Italian and Hungarian ethnic communities are guaranteed the right »to establish autonomous organizations in order to give effect to their rights«. At the request of the autochthonous ethnic communities, these organizations may be authorized by the state to carry out specific functions within the jurisdiction of the state; in such cases the state should provide necessary means and resources.

The Constitution enacts also that all special rights of autochthonous Italian and Hungarian community are guaranteed regardless of the number of members of these two minorities.

Article 65 of the Constitution of the Republic of Slovenia of 1991 states that »[t]he status and special rights of Gypsy communities in Slovenia shall be such as are determined by statute.«<sup>16</sup> Roma/Gypsies are considered autochthonous ethnic communities (minorities) in Slovenia, although they have no mother state to exercise special connections with it. The specific way of regulation of the status and special status of Roma/Gypsy communities in the Constitution is conditioned by their specific situation and status.<sup>17</sup> The special statute shall establish an adequate protection and status of Roma/Gypsies and their communities in Slovenia; it has to be drafted and adopted with a direct participation of their representatives to assure regulation that will correspond to their actual situation, interests, needs and wishes.

Article 80 in the Section A. »The National Assembly« of Part IV. »The Administration of the State« guarantees that autochthonous Italian and Hungarian communities shall always be represented directly by one deputy each in the

<sup>16</sup> The Roma - Gypsy communities live autochthonously in different parts of Slovenia (most of them in the Prekmurje and in the Dolenjska region). Some of them still live traditionally as travelers and travelling craftsmen (especially in the Dolenjska region and some families also in other parts of Slovenia); some of them have changed their style of living and live in the permanent settlements (mostly in Prekmurje). Their economic and social situation is often very difficult, and there are many social problems (unemployment, breaking of the law, etc.). There are some problems especially with the travelling families and their integration in a certain local community, where Roma (because of their specific way of living) are seen as unwanted invaders who disturb the normal life of the local community. It was an important development when the rights of Roma were included for the first time in the Slovene constitution by Amendment LXVII (67) in 1989, and the Constitution of the Republic of Slovenia of 1991 basically adopted the same text.

<sup>17</sup> Roma/Gypsy communities are relatively small (see: Appendix II.) and very dispersed in the territory of Slovenia; their way of life and settlement makes their situation very different from other autochthonous ethnic minorities. There is a little or almost no sense of common identity among the members of their communities and not much has been done to develop and promote their specific culture; the level of the education among the members of Roma ethnic communities is low, and yet in the last twenty years there have been some attempts to include their language and culture in the educational programs in primary schools in the local communities where they live. Many problems concerning the education of Roma children were connected with the fact that they didn't speak Slovene language, and that they were not traditionally socialized in a way that would be compatible with the one in schools. There are hardly any forms of cultural, social and political integration of this community, and also some of the existing (mostly cultural) associations find it difficult to cooperate; etc. (e.g.: *Romi na Slovenskem*, 1991)

National Assembly – a House of Representatives in the republic parliament. This provision actually establishes direct representation and political participation of these minorities in the legislative process at the national level.

### Immigrants and immigrant communities

Members of other former »Yugoslav nations and nationalities« mostly came to Slovenia as economic immigrants from less developed parts of the former Yugoslavia after World War II, and represent some 10% of population of Slovenia. Some of them were to stay temporarily to economically support their families still living in the republic of their origin, but most of them settled in Slovenia where they also brought or founded their families. As mentioned, most of them who had a permanent residency in Slovenia applied for Slovene citizenship (by naturalization) and were given it in a special procedure on the basis of Article 40 of the Law on Citizenship.

As Slovene citizens they enjoy all constitutionally provided human rights and freedoms, among them political rights with the right to assembly and association<sup>18</sup> which enables them to establish organizations and cultural in order to prevent, foster and develop their ethnic culture. They also enjoy the right to use their language and script, express and develop their specific ethnic culture; they may freely express their ethnic identity (but should not be forced to do so), and this should not be any factor of their discrimination.<sup>19</sup>

On the other hand, the Constitution of the Republic of Slovenia of 1991 did not establish any special individual or collective rights of immigrants and their communities. Special rights and protection are guaranteed only to autochthonous typical ethnic minorities. This is in accordance with general practice in the world. The status and position of immigrants in Slovenia is actually better taking into account that most of them became citizens of Slovenia.

Citizens of the former Yugoslavia and other foreigners who live in Slovenia and are not Slovene citizens, because they did not apply for citizenship or did not fulfill required conditions for naturalization, are in their legal status aliens. If they acquire a permission for permanent residency they may become resident aliens in accordance with law. They enjoy all the rights that the Constitution and legislation provide for foreigners – including the right to cultural association as one of their individual rights.

### Conclusion

If we compared the (special) rights and protection of ethnic minorities and immigrants in the Constitution of the Republic of Slovenia of 1991 with international standards and other constitutions, we may conclude that it follows the highest existing standards and even exceeds them with regard to special rights and protection of autochthonous ethnic minorities.

Nevertheless, there may be a few issues and problems that should be addressed in this context.

<sup>18</sup> See: Article 42 of the Constitution of the Republic of Slovenia of 1991.

<sup>19</sup> See Articles 14, 61 and 62 of the Constitution of the Republic of Slovenia of 1991.

Constitutional standards need to be translated into laws to be fully applicable, which will take some time. Taking into account economic and social problems in Slovenia and the rise of xenophobia in the world, social conditions may not be the most favorable to actually realize and maybe develop existing level of protection. Some problems in relations with neighboring countries may also have a negative effect, as they strengthen those who advocate the principle of reciprocity in protection of minorities – which would in the case of Slovenia mean lower standards of protection of minorities in Slovenia.

In addition to the already mentioned problems of Roma, the factors mentioned in these general remarks will influence also the work on the special statute on the status and special rights of Roma/Gypsy communities in Slovenia.

In the context of protection of autochthonous ethnic minorities in Slovenia, we shall add that there are also some other very small autochthonous minorities in Slovenia, e.g. some autochthonous Croats and Serbs, Germans, Austrians, Jews, Vallach, etc. Although the number of members of these communities is very small (all together a few hundreds) and partly because of that, there will be a need to assure their existence, preservation and development of their culture.

With regard to the problem of immigrants who became Slovene citizens, one could expect that there will be some demands to introduce some special collective rights to preserve and promote their specific cultures and assure their direct political participation. Taking into account general social conditions in Slovenia it is not very likely that such requests will be accepted.

There is no doubt that immigrants and distinct immigrant communities in many ways resemble traditional ethnic minorities (that often emerged as a consequence of migrations themselves). But observing from the global perspective it is not likely that similar level of protection will be developed for immigrants. The existing international standards and level of their protection are rather low, and states are rather reluctant to implement even these standards. (E.g. COSTA-LASCOUX, 1990) It is rather unlikely that even some existing standards and solutions in the protection of traditional ethnic minorities will be applied to protect immigrants and their communities; taking into account some recent developments, practice of states, and growing xenophobia in several countries one might fear that the situation and protection of immigrants in these countries might even worsen.

At the end, we shall stress that *ethnic policy* always has its internal and external dimensions that condition its formulation. In its *internal dimension* ethnic policy is extremely important for democratic development of modern ethnically plural societies. Ethnic tolerance and high level of protection of ethnic minorities are elements of social stability and contribute to strengthening of social pluralism as a precondition of democracy. In its *external dimension* ethnic policy influences *bilateral relations* with neighboring countries with regard to protection of traditional ethnic minorities and also immigrant communities; in this context states often use the principle of reciprocity; states use the issue of protection of ethnic minorities (and also immigrants) in other countries to strengthen their position in negotiations. On the other hand, ethnic policy has its *global dimension* which determines the position and treatment of a certain state in the international community. Ethnic policy and protection of minorities are still considered to be internal affairs of each states, other states and the international community might address these issues and request the implementation and/or fulfillment of certain



minimal standards in the context of human rights.<sup>20</sup> These issues may become an important criterion for the international recognition of individual states,<sup>21</sup> and they will be present also in negotiations on succession of the former Yugoslavia.

Protection of ethnic minorities will be also an issue that will be present in the bilateral relations of Slovenia with its neighbor states – lately especially with Italy.

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<sup>20</sup> Severe violations of these rights and mistreating of ethnic minorities and immigrants have sometimes provoked critical reactions and condemnation of a certain state by different international fora and other states; there has often been some pressure by media and international public to react in such cases, but very seldom some concrete diplomatic and political actions of the international community have been taken. In a few cases, continuing and severe violations of rights of minorities provoked the international community to actually intervene in a certain state in order to prevent further violations. Such a collective international intervention coordinated by the UN took place regardless of the opposition of the government of the respective state (e.g. no-fly zone in Iraq); these actions were described as the «(international) humanitarian intervention» which is a rather new and contradictory concept in international law.

<sup>21</sup> The issue of the protection of ethnic minorities was stressed by the international community in the case of the Yugoslav crisis. The satisfactory level of the constitutional/legal protection of ethnic minorities was put up by the European Community (on the basis of the report of the international expert consultative commission led by Badinter) as one of the main preconditions to recognize officially the independence of newly established states – former Yugoslav republics. This position and criterion was supported officially also by the U.S. government, and was applied in the context of the formal international recognition of the independence of the former republics of the Soviet Union.

## Appendix I: CONSTITUTIONAL STATUS OF THE ETHNIC MINORITIES IN SLOVENIA

*The basic constitutional charter on the independence and sovereignty of the Republic of Slovenia* of June 25, 1991 (Official Gazette of the Republic of Slovenia, No. 33/1991. The official english translation: Constitution of the Republic of Slovenia, Časopisni zavod Uradni list Republike Slovenije, Ljubljana 1992.)

### III.

In accordance with the Constitution of the Republic of Slovenia (1974 with amendments) and with international agreements binding upon it from time to time, the Republic of Slovenia guarantees the protection of the human rights and fundamental freedoms of all persons within the territory of the Republic of Slovenia, irrespective of nationality and without any discrimination whatsoever.

Italian and Hungarian ethnic communities and persons thereof living in the Republic of Slovenia are guaranteed all rights under the Constitution of the Republic of Slovenia and all rights recognized by international agreements binding on the Republic from time to time.

*Selected articles of the Constitution of the Republic of Slovenia* of December 23, 1991 (Official Gazette of the Republic of Slovenia, No. 33/1991. The official english translation: Constitution of the Republic of Slovenia, Časopisni zavod Uradni list Republike Slovenije, Ljubljana 1992.)

#### Article 5

Within its own territory, Slovenia shall protect human rights and fundamental freedoms. It shall uphold and guarantee the right of autochthonous Italian and Hungarian ethnic communities. It shall attend to the welfare of the autochthonous Slovenian minorities in neighbouring countries and of Slovenian emigrants and migrant workers abroad and shall promote their contacts with their homeland. It shall assist the preservation of natural and cultural heritage of Slovenia in harmony with the creation of opportunities for the development of civilized society and cultural life in Slovenia.

Slovenians not holding Slovenian citizenship shall enjoy special rights and privileges in Slovenia. The nature and extent of those rights and privileges shall be determined by statute.

#### Article 11

The official language of Slovenia shall be Slovenian. In those areas where Italian and Hungarian ethnic communities reside, the official language shall also be Italian or Hungarian.

#### Article 14 (Equality before the Law)

In Slovenia each individual shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other beliefs, financial status, birth, education, social status or whatever other personal circumstance. All persons shall be equal before the law.

#### Article 61 (Profession of National Allegiance)

Each person shall be entitled to freely identify with his national grouping or ethnic community, to foster and give expression to his culture and to use his own language and script.

#### Article 62 (The Right to the Use of Language and Script)

In order to give effect to his rights and obligations, and in all dealings with State bodies and other bodies having official functions, each person shall have the right to use his own language and script in such a manner as shall be determined by the statute.

*Article 63 (Prohibition against Incitement to Discrimination and to Intolerance and Prohibition against Incitement to Violence and War)*

All incitement to ethnic, racial, religious or other discrimination, as well as the inflaming of ethnic, racial, religious or other hatred or intolerance, shall be unconstitutional.

All incitement to violence or to war shall be unconstitutional.

*Article 64 (Special Rights of the Autochthonous Italian and Hungarian Ethnic Communities in Slovenia)*

The autochthonous Italian and Hungarian ethnic communities and their members shall be guaranteed the right to freely use their national symbols and, in order to preserve their national identity, the rights to establish organizations, to foster economic, cultural, scientific and research activities, as well as activities associated with the mass media and publishing. These two ethnic communities shall have, consistent with statute, the right to education and schooling in their own languages, as well as the right to plan and develop their own curriculae. The State shall determine by statute those geographical areas in which bilingual education shall be compulsory. The Italian and Hungarian ethnic communities and their members shall enjoy the right to foster contacts with the wider Italian and Hungarian communities living outside Slovenia, and with Italy and Hungary respectively. Slovenia shall give financial support and encouragement to the implementation of these rights.

In those areas where Italian and Hungarian ethnic communities live, their members shall be entitled to establish autonomous organizations in order to give effect to their rights. At the request of the Italian and Hungarian ethnic communities, the State may authorize their respective autonomous organizations to carry out specific functions which are presently within the jurisdiction of the State, and the State shall ensure the provision of the means for those functions to be effected.

The Italian and Hungarian ethnic communities shall be directly represented at the local level and shall also be represented in the National Assembly.

The status of Italian and Hungarian ethnic communities and the manner in which their rights may be exercised in those areas where the two ethnic communities live, shall be determined by statute. In addition, the obligation of self-governing communities which represent the two ethnic communities to promote the exercise of their rights, together with the rights of the members of two ethnic communities living outside their autochthonous areas, shall be determined by statute. The rights of both ethnic communities and of their members shall be guaranteed without regard for the numerical strength of either community.

Statutes, regulations and other legislative enactments which exclusively affect the exercise of specific rights enjoyed by the Italian or Hungarian ethnic communities under this Constitution, or affecting the status of these communities, may not be enacted without the consent of the ethnic community or communities affected.

*Article 65 (The Status and Special Rights of Gypsy Communities in Slovenia)*

The status and special rights of Gypsy communities in Slovenia shall be such as are determined by statute.

*Article 80 (Composition and Election of the National Assembly)*

The National Assembly shall consist of 90 Deputies, representing the citizens of Slovenia. Deputies must be directly effected by secret ballot on the basis of an universal, adult franchise.

The Italian and Hungarian ethnic communities shall always be entitled to elect one Deputy each to the National Assembly.

The electoral system shall be regulated by statute passed by the National Assembly by a two-thirds majority of all elected Deputies casting their votes in favour of the same.

Appendix II: Table – Ethnic structure of the population in the territory of the Republic of Slovenia according to censuses (Data: Statistični zavod SFR Jugoslavije / Statistical Bureau of the SFRY and Statistični zavod Republike Slovenije / Statistical Bureau of the Republic of Slovenia)

Population / Year	1953	1961	1971	1981	1991
Slovenes	1415448 (96,52%)	1522248	1624029	1712445	1727018 (87,84%)
Italians	854 (0,75%)	3072	3001	2187	3064 (0,16%)
Hungarians	11019 (0,75%)	10498	9785	9496	8503 (0,43%)
Roma (Gypsies)	1663 (0,12%)	158	977	1435	2293 (0,12%)
Austrians	289 (0,12%)	254	278	180	199 (0,01%)
Germans	1617 (0,11%)	732	422	380	546 (0,06%)
Jews	15	21	72	9	37
Croats	17978 (1,23%)	31429	42182	55625	54212 (2,76%)
Serbs	11225 (0,77%)	13609	20521	42182	47911 (2,44%)
Albanians	169 (0,01%)	282	1281	1985	3629 (0,18%)
Montenegrins	1356 (0,09%)	1384	1978	3217	4396 (0,22%)
Macedonians	640 (0,04%)	1009	1613	3288	4432 (0,23%)
Muslims	1617 (0,11%)	465	3231	13425	26842 (1,37%)
Yugoslavs	• •	2784	6744	26263	12307 (0,63%)
Undeclared	• •	•	3073	2975	9011 (0,46%)
Regional identity	• •	•	2705	4018	5254 (0,27%)
Others	*** ***	***	***	***	*** ***
Unknown or unclear	211 (0,01%)	1154	2964	10635	53545 (2,72%)
Σ TOTAL	1466425 (100,00%)	1591523	1727137	1891864	1965986 (100,00%)