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## **THE NATIONAL MINORITY CONSULTATIVE MECHANISMS - THE COUNCILS OF NATIONAL MINORITIES IN BOSNIA AND HERZEGOVINA**

Aleksandar Čorni<sup>1</sup>

### **Abstract**

The article tries to explore the practical application of the soft law, in concrete terms, the documents adopted by the Organization for Security and Co-operation in Europe, referring to the models of participation of national minorities in public life in the case of Bosnia and Herzegovina. The objective of the research was to assess the legal and political grounds for functioning national minority councils as participation and consultative mechanisms, scope of responsibilities and capacities in relation to their effectiveness and impact and to identify relevant good practices on such mechanisms. The political and decision-making structures in Bosnia and Herzegovina demonstrated lack of actual commitment to the realization of the rights of minorities referring to participation in decision-making processes. Bearing in mind formal position within parliaments, visibility, and a significant promotional capacity for presence in the public sphere, the councils on national minorities may represent a significant body and channel for the minority – majority dialogue. However, at the moment, the national minority councils' capacity to ensure participation of national minorities in Bosnian political life and their influence in decision-making process remains insufficient. In general, the consultative mechanisms, within their mandated responsibilities, have had insignificant and minimal impact on the practical, political and legislative segment.

**Keywords:** The OSCE Lund Recommendations, Councils of National Minorities in Bosnia.

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## **Introduction**

National and international systems of national minorities' protection are still significant and intense within universal as well as regional frames on both, bilateral and multilateral bases. This is justified by the recent fact that only in Europe, out of approximately 700 millions of habitants there are at least 100 million (more of 13% of total population) of citizens that belong to some of 250 known national minorities. The dissolution of The Soviet Union, Socialist Yugoslavia and The Czechoslovakia transformed overnight 60 millions of their citizens into ethnic minorities that continue to live beyond the frontiers of their ex federal states (Pan, 1994-1995: 275).

The logic consequence is that minority protection to a great extent evolved at the European continent as in normative as well as in practical manner. One of the pillars of such protection represents institutions of the Organization for Security and Co-operation in Europe (OSCE) and its working principle of consensus between all members of this regional organization. Therefore, the mechanism and practice of the OSCE High Commissionaire on National Minorities<sup>2</sup> passed a set of thematic recommendations<sup>3</sup> that find practical application within national legislatives despite the fact that those documents form an arsenal of so called "soft law"<sup>4</sup>.

The Lund Recommendations on the Effective Participation of National Minorities in Public Life is one of the OSCE High Commissionaire on National Minorities documents which demonstrates its commitments in

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<sup>2</sup> The High Commissioner will provide "early warning" and, as appropriate, "early action" at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgment of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or The Committee of Senior Officials (ODIHR, 2005: 56-41).

<sup>3</sup> The Ljubljana Guidelines on Integration of Diverse Societies 2012; The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations 2008; Recommendations on Policing in Multi-Ethnic Societies 2006; Guidelines on the Use of Minority Languages in the Broadcast Media 2003; The Lund Recommendations on the Effective Participation of National Minorities in Public Life 1999; The Oslo Recommendations regarding the Linguistic Rights of National Minorities 1998; he Hague Recommendations Regarding the Education Rights of National Minorities 1996. Available at <http://www.osce.org/hcnm/66209> (accessed 29 June 2016).

<sup>4</sup> "The soft law" terminology is meant to indicate that the instrument or provision in question is not of itself "law", but its importance within the general framework of international legal development is such that particular attention requires to be paid to it. Soft law is not law. That needs to be emphasized, but a document, for example, does not need to constitute a binding treaty before it can exercise an influence in international politics. (Shaw, 2008: 117-118. See also: Krivokapić, 2004: 180)

promoting national minorities' human rights. The Chapter D. of the Lund Recommendation named "Advisory and Consultative Bodies" suggests:

States should establish advisory or consultative bodies within appropriate institutional frameworks to serve as channels for dialogue between governmental authorities and national minorities. Such bodies might also include special purpose committees for addressing such issues as housing, land, education, language, and culture. The composition of such bodies should reflect their purpose and contribute to more effective communication and advancement of minority interests. These bodies should be able to raise issues with decision makers, prepare recommendations, formulate legislative and other proposals, monitor developments and provide views on proposed governmental decisions that may directly or indirectly affect minorities. Governmental authorities should consult these bodies regularly regarding minority-related legislation and administrative measures in order to contribute to the satisfaction of minority concerns and to the building of confidence. The effective functioning of these bodies will require that they have adequate resources (HCNM, 1999: 10).

Bosnia and Herzegovina, as a complex constitutional state and result of The General Framework Agreement for Peace in Bosnia and Herzegovina, has without limitation accepted direct application of the human rights agreements including the treaties on national minorities such as 1992 European Charter for Regional or Minority Languages and 1994 Framework Convention for the Protection of National Minorities<sup>5</sup> into domestic legislation. Furthermore, Bosnia and Herzegovina has been obliged to invite the United Nations Commission on Human Rights, the OSCE, the United Nations High Commissioner for Human Rights, and other intergovernmental or regional human rights missions or organizations to monitor closely the human rights situation in Bosnia and Herzegovina through the establishment of local offices and the assignment of observers, rapporteurs, or other relevant persons on a permanent or mission-by-mission basis<sup>6</sup>. Consequently, due to abovementioned specific arrangement Bosnia and Herzegovina has indirectly converted non-binding human rights soft law instruments into legally binding rules of domestic legislation. One of those instruments

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<sup>5</sup> The General Framework Agreement for Peace in Bosnia and Herzegovina, Annex IV: Constitution of Bosnia and Herzegovina and additional human rights agreements to be applied in Bosnia and Herzegovina. Available at [http://peacemaker.un.org/sites/peacemaker.un.org/files/BA\\_951121\\_DaytonAgreement.pdf](http://peacemaker.un.org/sites/peacemaker.un.org/files/BA_951121_DaytonAgreement.pdf) (accessed 29 June 2016).

<sup>6</sup> *Ibid.*, Annex VI: Agreement on Human Rights, Article 13.

includes also the Lund Recommendations on advisory and consultative national minorities' bodies.

The article does not have intention to discuss the constitutional framework for the political participation of Bosnian citizens that belong to the category of "Others"<sup>7</sup> nor the issue of the current constitutional crisis deriving from the European Court of Human Rights judgment in the *Sejdić and Finci v. Bosnia and Herzegovina* case<sup>8</sup>. The article would try to bring focus only on specific consultative national minorities mechanisms envisaged by the domestic legislative on national minorities influenced by the OSCE recommendations. Another reason for the research is that national minority councils in Bosnia and Herzegovina are not comparable with the bodies of the same name that exist in the neighboring states of the ex-Yugoslavia (Croatia, Serbia, Monte Negro) because those councils represent the forms of territorial and non-territorial arrangements of national minorities self-governance while councils in Bosnia has only a symbolic advisory role<sup>9</sup>. Finally, considering the fact that Bosnia and Herzegovina is in process of joining the EU membership<sup>10</sup>, The EU Commission as well as The Council of Europe and UN institutions continuously monitor, among the others, the human rights situation on national minorities including the position of national minorities' councils. Those reports constantly ascertain the lack of effectiveness of national minority councils<sup>11</sup>. That is reason why there

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<sup>7</sup> *Ibid.*, Annex IV: Constitution of Bosnia and Herzegovina, Preamble.

<sup>8</sup> The European Court of Human Rights, Case of *Sejdić and Finci v. Bosnia and Herzegovina* (Applications nos. [27996/06](#) and [34836/06](#)), Judgment of 22 December 2009 (Grand Chamber). Available at <http://hudoc.echr.coe.int/eng?i=001-96491> (accessed on 29 June 2016).

<sup>9</sup> See more: Auerbach, Kiran (2011): *Political Participation of National Minorities*. Sarajevo: Analitika – Center for Social Research. Available at <file:///C:/Users/User/Downloads/lzviestaj%203%20-%20Political%20Participation%20of%20National%20Minorities%20-%20ENG.pdf> (accessed on 29 June 2016).

<sup>10</sup> On 15 February 2016 Bosnia and Herzegovina submitted application for EU membership and on 1 June 2015 Stabilization and Association Agreement (SAA) between the EU and BiH entered fully into force.

<sup>11</sup> "The effectiveness and impact of national minority councils at State and Entity level is hindered by insufficient resources and lack of political leverage in decision-making. Politicised appointment procedures also undermine the legitimacy and ability of the councils to operate properly." (European Commission, 2015: 26);

"The Advisory Committee strongly recommends that the authorities amend the provisions governing the membership of the State Council of National Minorities in order to depoliticise appointments and ensure that the members of the Council are genuinely representative of national minorities. It also recommends that the provisions governing the membership of the Federation Council be reviewed to ensure that the Council is manageable in size while remaining duly representative. It urges the authorities to pay increased attention to the proposals put forward by the Councils of National Minorities.

is a need to thoroughly explore the functioning of the such mechanisms having in mind the EU context of national minorities protection standards<sup>12</sup>.

In 2003, the Parliamentary Assembly of Bosnia and Herzegovina (BiH) passed the Act on National Minorities which mandated the establishment at both, state and entity level of Councils of National Minorities. The State-level Council was mandated to “give opinions, advice and proposals to the BiH Parliamentary Assembly on all matters regarding the rights, status and interest of national minorities in BiH”<sup>13</sup>. The State-level Council was eventually established in 2006, but became active only in 2009, whilst replicas of the Council were established at the entity level, in 2007 in the Republika Srpska (RS) and in 2008 in the Federation of BiH. In the Federation of BiH, at the cantonal level the operational council is only the one in Sarajevo Canton<sup>14</sup>.

The article intends to explore practical application of Lund Recommendation in the case of Bosnia and Herzegovina through the assessment of the relevance, effectiveness and impact of the council on national minorities established in this state and to suggest potential measures for the improvement.

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Such proposals should be followed up and any decisions not to take them up should be justified.” (The Council of Europe, 2014: 38-39);

“It is essential that the powers afforded to the councils are appropriate to their status, and that their reports and recommendations are taken fully into account on matters relevant to minorities. Also appointment to the councils should not be unduly influenced by political parties but based on a transparent process to appoint candidates who belong to a national minority and who represent the interests of that minority.” (UN, 2012: 19);

<sup>12</sup> According to the Treaty on European Union 1 (“TEU”), the “Union is founded on the value of respect for human dignity [...], equality [...] and respect for human rights, including the rights of persons belonging to minorities” (Article 2 TEU). OJ 2008/C 115/01. See more at <http://fra.europa.eu/en> (European Union Agency for Fundamental Rights)

<sup>13</sup> The Article 22 of BiH State Act on the Protection of Rights of Person Belonging to National Minorities from 2003 with amendments from 2005 and 2008 (hereinafter BiH State NM Act).

<sup>14</sup> At the cantonal level of the Federation of BiH only four out of ten cantons (Tuzla, Sarajevo, Unsko-sanski and Bosansko-podrinjski) adopted the laws on national minorities that also envisage councils on national minorities but cantonal council on national minority is operative only in Sarajevo Canton.



## **Methodology**

The objective of the research was to assess the legal and political basis for national minority councils as participation mechanisms, scope of responsibilities and capacities in relation to their effectiveness and impact and to identify relevant good practices on such mechanisms.

The scope of the research addressed following issues:

- Do the national minorities councils have clearly defined contexts in which they operate (legislative basis and mandate);
- Are the mandates and operational modalities of the national minorities councils still relevant to the social and institutional contexts today compared to when they were established;
- What role are the national minorities councils perceived to play;
- To what extent are the national minorities councils reflective in their membership of the communities they represent;
- How do the national minorities councils identify the views of the national minorities they represent and how do they provide feedback on their work;
- How active are the national minorities councils in fulfilling their mandated responsibilities (on a national and a local level), and how active are they perceived;
- To what extent have the national minorities councils had an impact on the practical, political and legislative level within their mandated responsibilities, and how is this impact perceived;
- Is government support (political, practical and financial) adequately provided to the national minorities councils to allow them to reasonably fulfil their mandates, and how is this support, especially financial, determined.

Desk research, document review, survey research and analysis were conducted to collect data for this study. In order to obtain views of relevant stakeholders at all levels (state, entities, relevant cantons) throughout BiH a survey research has been conducted addressing relevant respondents (national minorities councils' members, national minorities civil society organizations - non-members of consultative mechanisms, governmental and parliamentary stakeholders at the State, Entity and Cantonal level, Ombudsmen Institution for Protection of Human Rights, representatives of constituent people civil society organizations representing constituent people and political parties. The criteria for choosing respondents were, to receive inputs from both counterparts those that deal with national minorities issues and others that do not have direct contact with national minority issues in order to get as much as possible objective view of national minorities councils.

To collect data, the survey researched used questionnaires and generally, the used data collection methodology has been Questioning: Sampling Respondent – Self-Administered Questioning (mail survey, electronic mail survey) – Interviewing (telephone, face-to face). The questionnaires were designed to provide an opportunity for respondents to openly express their opinion on whether the national minorities councils achieved their stated aim, and what is their opinion regarding the councils work.

## **The relevance, effectiveness and impact of the council on national minorities in Bosnia and Herzegovina**

### **Legal Ground and Context**

At the time of conducting this research (2015) in Bosnia and Herzegovina (hereinafter BiH), four councils on national minorities were established, out of which three were active (BiH state Council, Republika Srpska (hereinafter RS) Council and Sarajevo Canton Council) and one was inactive (Federation of BiH Council due to expiration of the tenure of the first convocation).

The institutional and legislative framework of the consultative mechanisms in BiH is generally defined by the legislation for the protection of national minorities adopted on state, entity (the RS and the Federation of BiH) and partly on the cantonal level (only cantons of Tuzla, Sarajevo, Unsko-sanski and Bosansko-podrinjski in the Federation of BiH out of ten cantons in total in BiH)<sup>15</sup>.

BiH State Act on the Protection of Rights of Person Belonging to National Minorities from 2003<sup>16</sup> (hereinafter BiH State NM Act) prescribes that the BiH Parliamentary Assembly shall establish the BiH Council of National Minorities as a special advisory body that will consist of members of national minorities with the competence to give opinions, advice and proposals to the BiH Parliamentary Assembly on all matters regarding the rights, status and interest of national minorities in BiH. Also, according to the law, the BiH Council of National Minorities may delegate an expert to work with the Constitutional-Legal Committees in both houses, the Joint Committee on Human Rights and other working

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<sup>15</sup> Considering that the Council of National Minorities in Tuzla, Unsko-sanski and Bosansko-podrinjski cantons are inactive this research has focused only on Sarajevo Canton Council on National Minorities.

<sup>16</sup> The Official Gazette of BiH 12 (2003), 6 May 2003, with amendments 76 (2005), 31 October 2005 and 93 (2008), 18 November 2008.

bodies and commissions of the BiH Parliamentary Assembly<sup>17</sup>. According to the law decision on establishing of the BiH Council of National Minorities shall be reached by BiH Parliamentary Assembly within 60 days of the day of entering into force of the law<sup>18</sup>.

The BiH State NM Act has also set a base for establishing consultative mechanisms on entity and cantonal levels of authorities. Under the law, the Parliament of the BiH Federation and the National Assembly of the RS were obliged to establish Councils of National Minorities of the Federation of BiH and of RS with the similar mandate as the BiH Council of National Minorities, whose scope of work and work methods were to be further defined by the Entity regulations<sup>19</sup>.

The Federation of BiH Act on the Protection of Rights of Person Belonging to National Minorities from 2008<sup>20</sup> (hereinafter Federation of BiH NM Act) defines similar scope of competences for Council of National Minorities of the Federation of BiH. The Federation of BiH Council of National Minorities is authorized to monitor the situation and application of regulations, take stance, give proposals and recommendations to the authorities of the Federation about all issues significant for position and exercise of the rights of all national minorities members in the Federation of BiH<sup>21</sup>. At the same time the Council of national minorities is obliged to delegate occasionally its representatives to the Committee for Constitutional Issues, Committee for Human Rights and Freedoms and other committees and working groups of both Houses of Parliament of the Federation of BiH.

The RS has also adopted the Act on the Protection of Rights of Person Belonging to National Minorities from 2004<sup>22</sup> (hereinafter RS NM Act) that envisaged the role of the RS Council of National Minorities to give opinions, advice and proposals to the RS National Assembly and other governmental bodies on all matters regarding the rights, status and interest of national minorities in RS<sup>23</sup>. The RS Council of National Minorities may delegate an expert to work with the Constitutional Issues Committee of the RS National Assembly.

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<sup>17</sup> Articles 21 and 22 of BiH State NM Act.

<sup>18</sup> Article 21 p. 2 of BiH State NM Act.

<sup>19</sup> Article 23 of BiH State NM Act.

<sup>20</sup> The Official Gazette of Federation of BiH 56 (2008), 8 September 2008.

<sup>21</sup> Article 18 of Federation of BiH Act on the Protection of Rights of Person belonging to National Minorities from 2008 (hereinafter Federation of BiH NM Act).

<sup>22</sup> The Official Gazette of RS 02 (2004), 5 January 2004.

<sup>23</sup> Article 17 of RS Act on the Protection of Rights of Person Belonging to National Minorities from 2004 (hereinafter RS NM Act).

In 2011, Canton Sarajevo of the Federation of BiH adopted the Act on the Protection of Rights of Person Belonging to National Minorities<sup>24</sup> (hereinafter Canton Sarajevo NM Act) that prescribed wider competences for the Canton Sarajevo Council of National Minorities comparing to the mandate of the state council. Specifically, the Canton Sarajevo Council of National Minorities received the mandate to propose legislative initiatives e.g. submit draft laws, decisions and other documents from the competences of the Cantonal Assembly, monitor implementation of regulations, take stances, give suggestions and recommendations to the Cantonal authorities about all issues of importance for the position and rights of members of national minorities in the Canton Sarajevo. The Council also delegates its members to be permanent representatives in the Commission for Justice, Human Rights and Civil Liberties, and the Constitutional Issues Commission of the Cantonal Assembly and may occasionally delegate a representative who will participate in the work of other committees and working bodies of the Cantonal Assembly, when discussing human rights situation in the Canton, including rights of members of national minorities, and when considering petitions and complaints of members of national minorities and other issues of importance for the realization of rights and obligations of persons belonging to national minorities<sup>25</sup>.

Having in mind the mentioned provisions in the laws referring to the protection of rights of person belonging to national minorities, it can be concluded that competences of the consultative mechanisms are clearly defined and unified. The councils of national minorities in BiH have primarily role to give opinions, advice and proposals to the legislative bodies (BiH Parliamentary Assembly, the Federation of BiH Parliament, the RS National Assembly and Sarajevo Cantonal Assembly) on all matters regarding rights, status and interest of national minorities. Only Sarajevo Canton Council of National Minorities has been vested with extended competences to submit draft laws (legislative initiative), decisions and other documents within the powers the Cantonal Assembly on issues related to the interests of national minorities in the Canton Sarajevo.

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<sup>24</sup> The Official Gazette of Canton Sarajevo 27 (2011), 24 October 2011.

<sup>25</sup> Article 27 of Canton Sarajevo Act on the Protection of Rights of Person Belonging to National Minorities from 2011 (hereinafter Canton Sarajevo NM Act).

With regard to the procedure of appointment of membership of national minorities' councils, this procedure is not harmonized and unified at all levels of authorities of BiH.

BiH State NM Act stipulates that the BiH Parliamentary Assembly shall establish the BiH Council of National Minorities. Federation of BiH NM Act envisages that upon proposal of the Federal Ministry of Justice, the government of the Federation of BiH shall, within 60 days from the entry into force of the law, invite the associations of members of national minorities to elect their representatives for the Council of National Minorities, complete administrative-technical work related to the first session of the Council and convene inaugural session<sup>26</sup>. According to the RS NM Act, the RS National Assembly shall elect the members of the RS Council of National minorities from the candidate list proposed by the RS Union of National Minorities's Associations<sup>27</sup>. In the Canton Sarajevo the government of the Sarajevo Canton shall, through the Ministry of Justice of the Sarajevo Canton, and not later than 15 days from the date of entry into force of the law, invite by a public invitation associations of members of national minorities which have registered offices in the territory of the Canton, to choose and delegate their representatives to the Council. The implementation of mentioned prescribed mechanisms of appointment of membership has shown difficulties in practice thus far. The method of public invitation for electing members within councils causes problems because each non-governmental organization of national minorities is qualified to apply to the public call and delegate its candidates for position. The practice shows that problem occurs when several organizations of the same national minority delegate several candidates for the membership and when it is not possible to reach a consensus or agreement about one joint candidate. According to the Associations and Foundations Act from 2001 an association may be established by at least three natural or legal persons, and that practically anyone can establish an association. The second problem is that the bodies, which finally decide on the appointment of candidates, do not consist of national minority representatives<sup>28</sup>. It can be concluded that the legislatives bodies

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<sup>26</sup> Article 20 of Federation of BiH NM Act.

<sup>27</sup> Article 17 of RS NM Act.

<sup>28</sup> At the state level Parliamentary Assembly on the proposal of the parliamentary Joint Committee on Human Rights reaches decision on appointment of members to the BiH council. At the Federation of BiH level, Parliament of Federation BiH on the proposal of the Ministry of Justice reaches the decision on appointment of members to the Federation BiH council. At the Sarajevo Canton level, Cantonal Assembly on the proposal of the Ministry of Justice reaches the decision on appointment of members to the Canton Sarajevo council.

(composed of constituent peoples of BiH<sup>29</sup>) decide about the composition of national minorities consultative mechanisms. Ultimately, this fact can potentially raise the question of the legitimacy of the members of national minority councils.

Slightly different situation is in the RS, where the RS National Assembly accepts candidates proposed by RS Union of Associations of National Minorities without any review and limitations. The Union is a centralized national minority non-governmental organization that gathers 34 associations of national minorities registered in RS<sup>30</sup>. Very often, not only in RS but in whole BiH, the associations to some extent also gather persons who do not belong to the particular national minority but persons who are devotees of the culture, tradition or history of that national minority. The representativeness of these associations is therefore questionable and consequently their legitimacy and right to delegate their members to the RS Council of National Minorities. For the same reason the legitimacy of BiH and Federation of BiH councils members that come from non-governmental organizations, which candidate them, is also questionable.

It can be concluded that the procedures of appointment of the members of council on national minorities within BiH Parliamentary Assembly, the Federation of BiH Parliament and Sarajevo Canton Assemble is inadequate and causes unnecessary delays in appointment that, consequently, affect the efficiency of the work of the councils. Public invitation through a public call announced in the newspapers and decisions on appointment brought by the bodies without participation of national minority representatives have a potential for the unnecessary politicization of appointments procedures to the councils and lack of transparency<sup>31</sup>. Also, the legitimacy of the associations that delegate their candidates for the posts within the councils on national minorities<sup>32</sup>

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<sup>29</sup> The constituent peoples in BiH are Bosniaks, Serbs and Croats as it is stated in the preamble of BiH Constitution.

<sup>30</sup> See also webpage of RS National Minorities Union: <http://www.snm.rs.ba/index.php> (accessed on 29 June 2016).

<sup>31</sup> The latest example during the appointment of the new composition of BiH state Council has shown the influence of some political parties present in the Joint Committee on Human Rights when applied more than one candidate on behalf of the Montenegrin and Ukrainian national minorities. The similar situation was during the appointment of Roma representatives within Federation of BiH Council. These influences caused that the appointment of the first composition of Federation BiH Council was completed three years since the adoption of the law and caused one year delay in appointment of the second composition of BiH state Council.

<sup>32</sup> There is no accurate and precise database of the memberships to national minority non-governmental organizations upon which is possible to identify and calculate the real

is questionable as it is explained above. The absence of harmonized procedures for the appointment of the membership at the state, entity and cantonal level does not contribute to the stable work of the councils and causes the situation that the councils' tenure is not synchronized with the tenure of the elected members of the parliaments<sup>33</sup>. All these factors undermine the position and authority of the consultative mechanisms and damage the confidence of national minorities in the capacity of the councils to work effectively to represent the interests of the national minorities in BiH.

Regarding the very status of the consultative mechanisms, the councils of national minorities are defined as the working bodies within legislative bodies (BiH Parliamentary Assembly, the Federation of BiH Parliament, the RS National Assembly and Sarajevo Cantonal Assembly). Within their competences established by law the national minority councils can freely communicate with legislative bodies as well as with other governmental bodies on all matters regarding the rights, status and interest of national minorities with the exception of the BiH State Council that has legal relation only with the BiH Parliamentary Assembly and its working bodies. Beside this communication with other governmental bodies, the councils of national minorities can delegate their members to the other parliamentary working bodies (e.g. constitutional-legal committees, commissions for human rights and freedoms etc.). The major weakness of the possibility to participate in the work of other parliamentary bodies is that national minority members have no rights to vote in these bodies. The current Joint Committee on Human Rights Commissions of the BiH Parliamentary Assembly includes only one person belonging to a national minority, who has only an observer status. The communication between the councils of national minorities and parliamentary bodies, as well other governmental bodies, is very weak, mainly unsuccessful and one-side communication without any concrete results.

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participation of national minorities within those organizations. In addition to this many national minority NGOs also gather the members of the constituent peoples.

<sup>33</sup> In Federation of BiH the present situation is that the mandate of the first convocation composition of the Council of National Minorities expired in December 2013 and until now no procedure was initiated by the Ministry of Justice for the appointment of the new convocation. Also the provisions of the Federation BiH NM Act stipulating that the number of members of the Council shall be determined in a way that on every 1000 members of associations of national minorities one member shall be delegated for the Council of but no national minority may have more than five representatives except Roma who may have up to seven representatives, are not realistic and rational in situation where the people census data are not available yet and heterogeneous structure of the associations.

When it comes to the operating methods, members of the consultative mechanisms are generally well oriented and adequately acquainted with the rules that regulate the method of work of the national minorities' councils. Each council adopted rules of procedure that regulate the work and internal organization of the council, the method of realization of rights and duties of the members of the council, organization of the sessions, the minutes and other issues important for work and realization of tasks of the council of national minorities.

Conclusion: The consultative mechanisms have clearly defined contexts in which they operate (clear legislative basis and mandate). The procedures for the appointment of the membership at the state, entity and cantonal level are not harmonized and are complicated.

### **Scope of Responsibilities and Relevance for Current Social Context**

Although the BiH State NM Act was adopted in 2003, the past decade was not evolutionary in the mandate and the operational modalities of the existing councils on national minorities in BiH. The primary role of the councils remained the same, (giving opinions, advice and proposals on all matters regarding the rights, status and interest of national minorities in BiH). The reasons for this stagnation are primarily rooted in the fact that the majority of time and energy were spent and wasted on establishing and appointment of the memberships of the consultative mechanisms. The first convocation of the BiH State Council of National Minorities took three years, for the Federation of BiH Council three years, the RS Council's first convocation six months and the Canton Sarajevo Council composition one year. The similar dynamics stay during the whole period since the adoption of particular laws until present days.

In this situation the competences given by the laws have never been exploited in their full capacity, thus there were no initiatives for revision and changes of the councils' mandates, neither on the part of the councils of national minorities nor on their governmental counterparts.

Since their establishment, the councils of national minorities retained the same governmental counterparts defined in the laws on national minorities. The extent of the mutual cooperation between councils and institutions is rather modest. In general it can be summarized that contacts were only during the sporadic meeting with the parliamentary management, ministry of justice, ministry of local self-government, sometimes with the presidents of the entities, with the purpose of



exchanging information of courtesy character, mainly held on the initiative of the councils.

Conclusion: It is not possible to fully assess the relevance of the the mandates and operational modalities of the consultative mechanisms to current social and institutional contexts today compared to when they were established due to insufficient capacity of the councils to exercise their current mandate and lack of up-to-date ethnic data on minority population.

### **Perceptions and Expectations**

The most of citizens belonging to national minorities have low perception of the position and role of the councils on national minorities. The national minorities in BiH are mainly organized within their registered associations (NGO)<sup>34</sup>. The activities of these national minorities associations are primarily focused on preservation of their language and cultural heritage (the language courses, traditional folk music and dance, choirs, sometimes social care etc.). The nature of these activities as well as the statutes of these associations allow also the citizens belonging to the consitituent peoples to become the members of these national minorities associations. Also, these associations do not reflect the entire population of national minorities and gather smaller number of citizens belonging to national minorities. Therefore it is not possible to draw a clear line between perception of national minority councils by the persons belonging to national minorities and constituent people, who are members of the national minority associations.

The members of national minorities' associations have rather vague knowledge of the role of councils of national minorities in BiH. The national minority citizens very rarely come in contact with the councils on national minorities. Even the management of associations has modest knowledge about the role and sees the councils as institutions merely formally established by the authorities without practical purpose and benefit for the national minorities. In that way, the national minority citizens do not see the councils on national minorities as being an important vehicle for better social integration. Generally, national

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<sup>34</sup> According to the OSCE Mission in BiH data in RS approximately there are 50 and in Federation of BiH 48 registered non-governmental organizations that gather persons belonging to national minorities. Majority of these NGOs are of Roma provenance. The lack of population census data along with heterogenic structure of membership to associations begs a question: "To what exact extent are national minorities in Bosnia and Herzegovina represented through the associations of citizens?"

minority citizens did not recognize the councils as a tool for improvement and protection of its collective and individual rights.

On the other hand, the members of the councils of national minorities are aware of the competences given to the councils by the laws. But, there is no unified perception among the council members about the institutional potential and role that councils could play in the society nor they have made attempts to increase such potential. Some council members see this mechanism as a tool for the better positioning of national minorities through the constant initiatives and actions on the essential national minority issues. Some members see these institutions as the tools for its own promotion and personal political ambitions through the application of the so called “national key”<sup>35</sup>. Some members are passive and indifferent to the existence of councils because the election and appointment process did not offer some other proactive candidates on behalf of the particular national minority. Another reason for different perception among the members is the very structure of the council. Namely, the composition of councils is consisted of members of national minorities listed in the laws (Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Macedonians, Germans, Poles, Romas, Romanians, Russians, Rusins, Slovaks, Slovenians, Turks, Ukrainians). The interests of these groups are different, the size of the groups is drastically different, specific needs (e.g. of Roma population) and a number of other factors affect the cohesion of councils on national minorities. This results in conclusion that the members have opposite views about the council as a vehicle for better societal integration.

The members of the councils of national minorities have identical opinion with national minority citizens that government authorities established the councils on national minorities under pressure from international community to fulfil international and regional human rights obligations. Considering this the members of the councils of national minorities do not feel and perceive genuine government support for their work.

When it comes to the government representatives it can be concluded that official authorities are rather indifferent to the existence of councils on national minorities. Declaratively, authorities support the councils and see these mechanisms as an important tool and link between national minorities and government institutions for better integration and understanding. However, mentioned declarative support is not

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<sup>35</sup> The state and entity constitutional composition established the mechanism of national balance, meaning that some positions within legislative, executive and judiciary should be equally filled and distributed between all constituent peoples and citizens constitutionally marked as “others” (in fact, national minorities).

corroborated by any concrete steps. The illustration of the declarative support is an example of Federation of BiH government where more than two years since expiration of mandate of the council on national minorities the Federation of BiH Ministry of Justice has not yet initiated procedure of the appointment of the new council membership<sup>36</sup>. Generally, the government institutions are indifferent to the consultative mechanisms and truly do not see particular value of councils on national minorities.

Regarding the constituent people, a general conclusion is that majority of citizens are not informed well about the councils on national minorities and their work. The research attempted to collect views from civil society organizations, academic community, political parties and “common” people. Only civil organizations and persons that deal with general issue of human rights have some knowledge of national minority position in BiH. The constituent people have general perception that the primary role of advisory bodies for national minorities is of a procedural nature. Namely, they understand these bodies as a tool for participation in the decision-making process in a way to articulate and promote the position and interests of the minority when it comes to specific decisions of the legislature.

As a proof of weak perception of the constituent people it could be mentioned here an analysis on national minorities from 2010 presented by NGO The Office for the Human Rights from Tuzla that showed rather discouraging data. That study covered members of state and entity parliaments and showed that only 14 per cent of parliamentarians from RS Assembly were aware about establishment of RS national minority council while 78 per cent of parliamentarians from Federation BiH Parliament were aware about establishment of Federation BiH national minority council. Also, only 33 per cent of RS parliamentarians were aware about the existence BiH state Council.<sup>37</sup>

The council on national minorities may represent a significant body - bearing in mind their formal position within parliaments, potential for visibility, and a significant promotional capacity for presence in the public sphere. However, the current mechanism for ensuring the participation of national minorities in political life and their influence in decision-

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<sup>36</sup> The proof of the declarative support is an example of Federation of BiH Government where more than one year since expiration of mandate of the council on national minorities the Federation of BiH Ministry of Justice has not yet initiated procedure of the appointment of the new council membership.

<sup>37</sup> The Office for Human Rights, 2011: 28. See also <http://www.hrotuzla.org.ba/publikacije/Brosura%20-%20Analiza%20Efikasnosti%20Djelovanja.pdf> (accessed on 29 June 2016).

making process is on its own insufficient. The national minorities are generally not politically represented in the governmental institutions<sup>38</sup> (except at the local level<sup>39</sup>) and there is a lack of the basic institutional support in which the consultative mechanism would completely realize their essential meaning and purpose.

Conclusion: The majority of the citizens belonging to national minorities do not have perception of the role of the consultative mechanisms. There is no unified perception among the council members about the institutional potential and role that councils could play in the society. The government institutions are indifferent to the consultative mechanisms and truly do not see particular value of councils on national minorities. The constituent people are not informed well about the councils on national minorities and their work. The political representatives of constituent people have only general knowledge on national minority position and declarative necessity of improvement that position and perceiving the council on national minorities as a factor of integration in political life.

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<sup>38</sup> The BiH NM Act in the chapter "Participation in the authorities" envisages that members of national minority shall be entitled to the participation in the authorities and other public services at all levels in proportion to the percentage of their participation in the population in line with the latest census in BiH and manner and criteria of electing representatives of national minorities into parliaments, assemblies shall be closely regulated by the Election Act of BiH and the Entities, as well as the Statues and other regulations in cantons, cities and municipalities". So far, there are only BiH Election Act from 2001 provisions that allow very limited participation only at municipality level within local assemblies. There are no procedure prescribed by laws neither bylaws that regulate participation in the authorities at other levels and other public services.

<sup>39</sup> The BiH Election Act envisages for the national minorities guaranteed seats within local municipal assemblies. The tendency of the marginalization of national minorities continued with last Election Law adopted amendments that raised threshold for such participation and reduced the number of the municipalities where national minorities can be elected. The consequence is that 2012 local election brought symbolic number of municipality assemblies with national minority delegates.

## **Representation**

Formally, the configuration of councils on national minorities guarantees that national minorities listed in the law are adequately represented in these advisory bodies<sup>40</sup>. Each national minority has the right to have its members in the consultative mechanism (the exception is the Federation of BiH Council where Roma minority has seven guaranteed seats). Therefore, the composition of the council is mixed, and the councils are composed by representatives of each national minority. Although BiH State NM Act envisages 17 national minorities all councils do not include every minority listed in the Law. The State Council has 17 members, representatives of all national minorities prescribed by the Law. The RS Council has 11 members (Albanian, Czech, Hungarian, Italian, Macedonian, Montenegrin, Pole, Roma, Slovak and Slovenian). The Federation of BiH Council has 16 members (Albanian, Czech, Hungarian, Italian, Macedonian, Montenegrin, Pole, Turk, Slovak, Slovenian and 6 Roma representatives). In Federation of BiH the number of members of the council is determined in a way that on every 1000 members of registered associations of national minorities one member shall be delegated for the council but no national minority may have more than five representatives except Roma who may have up to seven representatives. Considering the fact that membership of the associations are not numerous Federation of BiH Council has only 16 members that represent 11 national minorities. The Sarajevo Canton Council has 17 members (Albanian, Austrian, Montenegrin, Czech, Italian, Jew, Macedonian, German, Palestinian, Pole, Roma, Romanian, Russian, Ruthenian, Syrian, Slovenian and Turk). The Sarajevo Canton Council has representatives of Syrian, Austrian and Palestinian minorities that are not traditional minorities listed in the law. The procedure of appointment allows candidates delegated only by the associations of national minorities to join the councils on national minorities<sup>41</sup>.

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<sup>40</sup> The Article 3 of BiH NM Act prescribes: "A national minority, in terms of this Law, shall be a part of the population-citizens of BiH that does not belong to any of three constituent peoples and it shall include people of the same or similar ethnic origin, same or similar tradition, customs, religion, language, culture, and spirituality and close or related history and other characteristics. BiH shall protect the status and equality of members of national minorities as follows: Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Macedonians, Germans, Poles, Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenians, Turks, Ukrainians and other who meet requirements referred to in Paragraph 1 of this Article."

<sup>41</sup> Article 3 of BiH Parliamentary Decision on Establishment of Council on National Minorities BiH (The Official Gazette of BiH 38 (2006) with amendments from 93 (2008) and 3 (2009); The Article 17 of RS NM Act; The Articles 17 and 20 of Federation of BiH NM Act; The Article 4 of Federation of BiH Parliament Decision on Establishment of

The prescribed mechanisms of appointment of membership have potential to put into questions representativeness of the appointed candidates to the membership of consultative mechanisms. The concerns can be summarized into following:

- the members of council of national minorities can only be the persons delegated by associations of national minorities registered according to the Associations and Foundations Act;
- in the Canton Sarajevo the members of council on national minorities can only be the persons who are at the same time the members of the associations of national minorities that delegate them;
- the bodies who finally decide on appointment of candidates to the membership of council are not consisted of national minority representatives (BiH Parliamentary Assembly-Joint Committee on Human Rights, the Federation of BiH Ministry of Justice);

These concerns potentially can raise a question of the legitimacy of the members of national minority councils. Namely, the bodies that are composed of representatives of constituent peoples decide about the composition of national minorities consultative mechanisms. This creates the room for the politicization and abuse of appointments procedures to the councils and the lack of transparency. On the other hand, in the absence of precise database of the memberships to national minority non-governmental organizations, the representation of associations that gather a minor or insignificant number of persons belonging to national minorities can be questioned. Also, there are areas of BiH where national minorities are not organized into associations<sup>42</sup>. Finally, there is an open question how persons belonging to national minority who are not members of some association can elect their representatives to the councils on national minorities. This leads to the question whether all associations make majority or minority of persons belonging to national minorities? It can be concluded that the consultative mechanisms do not adequately reflect the national minority groups. For the same reasons, there is a realistic possibility that councils of national minorities do not work for all in the national minority group but just for the minor part of the community.

The representativeness is also undermined by the fact that the councils have no effective mechanism for informing national minority citizens about the councils' activities. It is up to the member of particular national

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Council on National Minorities of Federation BiH (Federation of BiH Official Gazette 79 (2009); The Articles 24 and 25 of Sarajevo Canton NM Act.

<sup>42</sup> Considering that in BiH there are approximately 100 associations (NGOs) that gather national minorities it is hardly to expect that these organizations include all national minorities in BiH.

minority how the information will be dispersed among the members of national minority he/she belongs to. Usually, the members inform only the associations of national minority that delegated them to the councils. It leads to the situation that several associations of one national minority do not have quality information about the activity of their representative in the council. Slightly better situation is in the RS where the council forwards all information to the RS Union of Associations of National Minorities that gather majority of registered associations in the RS and leave to the Union to further distribute the information. Considering this the effectiveness and transparency of the consultative mechanisms are rated very low by the associations of national minority. Having in mind that associations do not gather all national minorities it can be concluded that national minority citizens are very poor informed about the activity of their consultative mechanisms.

Conclusion: The consultative mechanisms are not fully reflective in the membership of the communities they represent. The procedures for the appointment raise the question of the representativeness and legitimacy of the councils. The national minority councils hardly identify the views of the national minorities they represent and they provide them poor feedback on their work.

### **Effectiveness**

As it is explained, according to legal framework the councils have advisory function with the exception of the Sarajevo Canton Council that has both an advisory and a legislative initiative function. The existing legal framework is sufficient to fulfil the mandated competencies. Possible obstacles in the legal framework can be caused by the prescribed procedure of appointment of membership to the councils on national minorities. Long procedures of appointment harm the continuity of the work and discourage potential quality individuals from the participation in the councils.

The biggest challenges in fulfilling the mandated competencies of the councils on national minorities are the following:

- Frequency of the councils' sessions is insufficient to ensure continuity of the work;
- The councils' sessions are held in the seats of the parliaments, Sarajevo and Banja Luka, which sometimes prevent members from other cities to attend the sessions. When one member represents one national minority it is questionable whether the quality of representing that minority in the advisory body can be secured. The level of motivation and commitment of the

members is not equal. The members deem that all members do not give the same contribution to the work of the council. The motivation may be increased by some kind of remuneration as it is already in place in BiH state Council. But even compensation for the work does not guarantee appropriate motivation (in BiH state Council despite of monthly remuneration of 300 EUR the attendance of the session is not 100 per cent);

- The lack of interest on the part of authorities for the work and position of national minorities' councils. The council members pointed that authorities remain passive and uninterested in the work of the council. From the side of the governmental institutions there were not any initiatives for the meetings and contacts with the councils. The parliamentary working bodies, parliamentarians, ministries, other governmental bodies do not show interest in activities of these consultative mechanisms. As a result there are no joint activities between councils and authorities which undermines the position of the councils as advisory bodies;
- The capacity of the councils remains very weak. At least a half of the members are not able to meet requirements that nature of the mandated competencies requires. As the content of the mandated competences means monitoring the situation and application of the relevant legislation, taking the stance, giving advices, proposals and recommendations to the authorities, these tasks requires dominantly legal education and skills and good orientation on all aspects of national minorities issues in domestic and international context. The educational and professional structure of the membership is rather heterogenic. The scope of the membership varies from the university professor, engineers, student, actor to the retired persons and housewife. The majority of members do not have knowledge and skills in management, political system, legislative, advocacy and lobbying, work with media etc. Also, some same persons are the members of several councils on national minorities for years. The decisive reason for such structure is the fact that council members come from the milieu of the associations of national minorities. Main activity of the national minority associations is the preservation of cultural heritage and tradition. Therefore the associations usually do not deal with other segments of national minority rights (participation in public life, education, economic and social rights, access to information etc.). Many organizations do not even deal with the protection of the minority language issues. Generally, the work of national minorities association is not targeted to the systematic changes in the society. When it



comes with the fact that membership of the associations in some extent includes the individuals that do not belong to national minorities it is hard to expect that council members will have solid background for the work in the consultative mechanisms;

- The national minority issues are in the shadow of unsolved political relations and tensions between the constituent peoples in BiH;
- The lack of cooperation and coordination between councils on national minorities on state, entity and cantonal level as well as the lack of the knowledge of the best practice of the similar advisor bodies in the region;
- Insufficient financial support for the councils programmatic activities;
- The associations of national minorities do not have full confidence in the membership of the councils, partly due the reasons of questioning the national affiliation of particular members;

Having in mind these factors of limitation the councils on national minorities hardly can play role given by the law and they are able to exercise their mandate only in too very limited extent. Since the very establishment of the councils (at the state level in 2006, the Federation of BiH in 2009, in the RS in 2007) all councils have failed to provide any comments or input into draft laws, nor have been asked by the governmental authorities to do so. The councils have never given any opinions, advice and proposals on any legislative acts to the parliaments and other governmental bodies. The main activities of councils in the past were focused on providing and lobbying before parliamentary bodies for the administrative-technical support (premises, equipment, secretary service, etc.), budget for the councils, remuneration, appointment procedure etc. The council members participated at conferences, debates, forums, and other activities organized by domestic and international organization on national minority issues (OSCE, EU Commission, The Council of Europe, USAID etc.). Some activities included organizing events of cultural character. The councils spent a lot of energy in participating in debates on the implementation of the European Court of Human Rights decision in case *Sejdić and Finci vs. BiH* and the discussions on potential model of the constitutional changes but the views of the BiH state national minority council were ignored.

**Conclusion:** The consultative mechanisms are ineffective in fulfilling their mandated responsibilities.

## **Impact**

The members of national minorities councils assess that their biggest achievement is the fact that the laws on the protection of rights of person belonging to national minorities envisaged the possibility to have advisory bodies within the parliaments. Secondly, as the achievements they see the fact that the councils on national minorities were established on state, entity and partly on cantonal level. Thirdly, the consultative mechanisms are satisfied that they became more visible through this only official institutional form of organizing of national minorities. On the other hand, due the reasons mentioned in Chapter 3.5., the councils on national minorities are aware about that they fulfil mandated responsibilities and competences to very limited extent. Consequently, the impact was not achieved neither on political nor social life in BiH. One member picturesquely explained the reason for the lack of any impact: "The authorities see the councils as another unnecessary tick on the budget". The council members ascertain that the councils has legislative potential for the contribution to better social integration of national minorities but in the absence of the concrete results that integration is still far away from the nowadays.

Governmental authorities declaratively see the changes in better cooperation of all national minorities in BiH as the councils' greatest achievements. From the perspective of national minorities, the communication may exist but there is no cooperation due to the lack of vision and clear objectives on the part of national minorities. It can be concluded that establishment of the councils made national minorities only more visible, at least before the parliamentarian bodies.

One of the reasons for the absence of quality impacts is that the councils lack the capacity to set clear objectives, targets or performance indicators to themselves. The majority of the council members are not sufficiently skilled to define adequate work strategy and methodology because of the lack of the experience in the work in similar bodies and systems. Generally, the councils each year formally adopt annual working plans that envisage symbolic activities from the mandated competences and activities mostly related to the cooperation with associations of national minorities, participation in the activities of other organizations, cooperation with domestic and international organizations on the relevant national minority rights issues, participation in debates and events, informing the public about the activities of the councils and etc. From these planned activities it is hard to identify goals which councils endeavour to achieve.

Conclusion: The consultative mechanisms within their mandated responsibilities have insignificant and weak impact on the practical, political and legislative segment.

### **State support**

In general, the financial support to the councils on national minorities in BiH is very modest and selective. The support is limited only to providing the monthly remuneration for the members of BiH state Council on National Minorities (300 EUR per month) and Sarajevo Canton Council on National Minorities (100 EUR per month). The members of the RS Council on National Minorities and Federation of BiH Council on National Minorities do not receive any remuneration for the work within councils. The Federation of BiH Council does not receive any financial support and members of that council paid running costs (travel expenses, phone bills etc.) from the personal sources.

The funds for this financial support are ensured within the budget of parliaments and their financial services transfer money to the council members. The financing is prescribed and defined by parliaments' internal decision and not by laws. The remunerations are equal for all members and the size of the national minority group is irrelevant. The financial support is not envisaged for the programmatic activities that the councils of national minorities annually plan. Regarding the other material support, parliaments provide premises for the councils' sessions and offer other equipment for organizing other events. In addition, the parliaments' administrative services provide technical support to the councils (taking minutes, administrating web pages, preparing working material for the sessions etc.).

Conclusion: The government provides modest and limited support (political, practical and financial) to the consultative mechanisms which does not allow them to reasonably fulfil their mandates.

### **Main Conclusions, Observations and Recommendations**

In 2003, the Parliamentary Assembly of BiH passed the State NM Act which mandated the establishment at both the State and entity level of Councils of National Minorities. The State-level Council was eventually established in 2006, but became active only in 2009, whilst replicas of the Council were established at the entity level in 2007 in the RS and in 2008 in the Federation of BiH. In the Federation of BiH, at the cantonal level the operative Council is only in Sarajevo Canton.

The implementation of national minority laws adopted on state and entity levels generally remains weak, especially in the fields of culture, education, political participation and is hampered by a lack of coordination among the authorities. That is valid also concerning the implementation of the provisions on the consultative mechanisms and national minority councils do not still effectively play their advisory role.

The primary role of advisory bodies for national minorities is of a consultative nature: the basic aim is to enable participation of national minorities in the decision-making process articulating and promoting the position and interests of the minorities when it comes to specific decisions of the legislature. Their role, by definition, is not decision-making, but their recommendations increase the quality of democratic debate by including different perspectives. Given their formal status, the views of advisory bodies have a stronger position comparing to other actors in the political life (e.g. NGOs), and the legislative bodies should seriously take into account their opinions, and, although the legislative bodies are not obliged to do so, to explain any substantive declination from councils' advice/recommendations regarding specific legal projects and decisions. The practice in BiH proves to be entirely different. The councils on national minorities could be an important mechanism for the participation of national minorities in political decision-making processes, which could result in a better integration of the society. However the integration impact of the councils is hindered for a number of reasons:

- lack of logistical support to the national minority councils,
- internal problems in terms of their capacity, representativeness, legitimacy and operability,
- insufficient political mobilization of national minorities,
- poor communication with the communities they represent,
- their views being ignored by decision-making structures,
- unsolved political relations and tensions between the constituent peoples in BiH,
- the politicisation of appointments procedures,
- lack of interest displayed in their work by the governmental authorities and the constituent people (Bosniaks, Croats and Serbs).

For all these reasons these advisory bodies are only a form without real and practical content. The political and decision-making structures in BiH show no true commitment to the realization of the rights of minorities to participate in decision-making processes. Bearing in mind formal position within parliaments, visibility, and a significant promotional capacity for presence in the public sphere, the councils on national minorities may represent significant body and channel for the minority –

majority dialogue. However, at the moment, the national minority councils' capacity to ensure participation of national minorities in political life and their influence in decision-making process remains insufficient. There is a lack of the basic institutional structure support in which the consultative mechanism would completely realize their essential meaning and purpose (the state and entity laws do not oblige the institutions of the legislative and executive authorities to mandatorily ask for advisory bodies' opinions in making decisions related to national minorities' matters). In general, the consultative mechanisms had insignificant and weak impact on the practical, political and legislative level within their mandated responsibilities. The national minority councils are the more important mechanism for ensuring participation of the national minorities in decision making as the national minorities are generally not politically represented in the governmental institutions.

It can be concluded that Lund Recommendations on the Effective Participation of National Minorities in Public Life has not come into practice in BiH when it comes to the issue of Advisory and Consultative Bodies.

Possible following recommendation might positively change BiH practice:

- Introduce legal obligation for parliament bodies to providing reasoning in writing when national minorities councils' recommendations are not taken into consideration.
- Provide substantial financial funds within annual state/entities budgets for the national minorities councils' work.
- Introduce legal obligation for parliaments and other governmental bodies to ask national minorities councils' for opinion in deciding on issues that affect national minorities.
- Redefine the process of electing of national minorities councils' members that shall provide credible representativeness. Possible option could be organizing the election on state, entity levels that would include voters – citizens belonging to national minorities who would be registered in special voters register designed only for election of national minorities councils' members. This election could follow general election so as to mandate national minorities councils' members is in line with the new convocation of legislative bodies.
- Provide regular orientation training workshops for national minorities councils' members (advocacy, legislative process, monitoring)