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University of Edinburgh, School of Law
The Europeanisation of Citizenship in the Successor States of the Former Yugoslavia
(CITSEE)

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Diaspora Politics and Post-Territorial Citizenship in Croatia, Serbia and Macedonia

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Abstract

How has the conception of the “nation” evolved in the countries of former Yugoslavia? After one of the most brutal civil wars on European soil - a war focused on the acquisition and ethnic cleansing of territories - this key feature of the Westphalian nation-state is going through important transformations. By looking at the citizenship policies of Croatia, Serbia and Macedonia, we argue that a new form of post-territorial citizenship is emerging, centred around the inclusion of “diasporas” and the re-configuration of the nation as “global”. Far from being the expression of a post-national or cosmopolitan conception of belonging, post-territorial citizenship establishes itself as a new principle of inclusion and exclusion based on ethno-cultural categorizations that transcend the traditional, territorial referent.

Keywords: Post-territorial Citizenship, Diaspora, Transnationalism, Croatia, Serbia, Macedonia

Introduction

How has the conception of the “nation” evolved in the countries of former Yugoslavia?³ After one of the most brutal civil wars on European soil - a war focused on the acquisition and ethnic cleansing of *territories*, the importance of this key feature of the Westphalian nation-state is, paradoxically, vanishing. Soon after the independence of Croatia, and during the past decade in the cases of Serbia and Macedonia, these states began building a conception of national belonging that is increasingly disconnected from the people’s presence on the national territory: citizenship is largely distributed amongst the “diaspora,” ministries and governmental agencies are dedicated to the relation with the co-ethnics abroad (who more often than not hold citizenship of their kin-state without residing on its territory), and citizens abroad are increasingly included in votes for parliamentary and presidential elections.

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In parallel, under the pressure of international institutions such as the European Union, the United Nations and the Organization for the Security and Cooperation in Europe, post-conflict states such as Croatia, Bosnia-Herzegovina (BiH), Kosovo and Macedonia have been encouraged to adopt inclusive legislation in regards to ethnic minorities. Are we therefore witnessing a progressive move towards new forms of inclusion, and maybe even forms of cosmopolitanism in the Balkans?

Yet nothing is further from the truth. Although people drew away from the nationalist parties in the 2010 parliamentary elections in B.-H., and despite the rapprochement between Serbia and Croatia, the post-Yugoslav ethnic politics is as divisive as ever. In that respect, it seems puzzling that many nationalist movements of the post-Yugoslav states would be so keen on promoting a diasporic, de-territorialized conception of the nation, which grants rights and privileges to “nationals” abroad, while their rhetoric is still centred around the necessity of fighting for homelands as ethnically homogeneous *territories*.

In this paper, we argue that this is only an apparent contradiction. Indeed, rather than the traditional division between “ethnic” and “civic” conceptions of political communities, we suggest that what is at stake in the post-Yugoslav space is a struggle between two forms of “ethnic” political programs of community: a territorial one and a *post-territorial* one. The territorial program of arranging ethnic communities is reminiscent of former Yugoslavia’s arrangements and is currently being reinforced by international organization’s influence in those countries. On the other hand we find relatively new form of ethnic nationalism which could be defined as “*post-territorial* nationalism,” in which the nation is conceived of as a “global” ethnic nation, irrespective of the people’s actual presence on the territory. Our paper deals with the deployment of this second form of *post-territorial* nationalism, through the specific angle of citizenship.

The paper is organized as follows. In the first section, we define the notion of post-territorial citizenship in the context of the current literature on citizenship and nationalism, detailing its characteristics and the mechanisms by which practices of power articulate a complex relationship between belonging and territory. In the subsequent sections, we analyze the cases of Croatia, Serbia and Macedonia to explore how these forms of post-territorial citizenship are translated into practice, and how they are either confronted to or uneasily coexist with forms of traditional, territorial, multi-ethnicism.

From “Post-national” to “Post-territorial” Citizenship ?

Taking its cues from the debates on post-national and diaspora politics, the main argument of the paper is that *post-territorial*, rather than post-national, citizenship is a concept that best explains the contemporary forms of nation-belonging displayed in Croatia, Serbia and Macedonia.

Despite the divide between the “ethnic” (Herderian) and “civic” (Renanian or Mazzinian) understandings of the nation, traditional forms of nationalism share

common assumptions about the necessary bundling of identities (nations), borders (territory) and orders (the state). From the “primordialist” positions that assumed a pre-modern ethnic essence of nations (Smith A. 1979) to the modernists positing nations as the product of modern capitalism (Anderson 1991, Gellner 1983), scholars agree that the nationalist enterprises have mostly been about defending, expanding, recovering or imagining the nation’s territory (Kastoryano 2007). Even when the nation was conceived in ethnic terms, such as in Italy, Germany, or Israel, the goal was always to “territorialize” it or “populate the land” (Kimmerling 1983, Joppke 2003). Nationalities of the Soviet Union, even if conceived in ethnic terms, also had to be territorialized in order to be recognized as such⁴. Throughout the 20th century, whether civic or ethnic, nations were to be *territorialized*.

While the institution of citizenship existed long before the establishment of nation-states, its territorialization has been a central aspect in order to delimit the borders of the “new” national populations. That the coincidence between territories and citizenries has been a political project can be witnessed in the struggle of young nation-states against previous forms of non-territorial citizenship (such as the principle of perpetual allegiance) or in the long battle against dual-citizenship, as sanctioned in national laws and international agreements (Koslowski 2001, Faist 2001)

The proliferation of dual citizenship as well as the emergence of diasporas and transnational communities has been conceived as an alternative, emancipatory model both to this bundling (Cohen 1996), but also to exclusionary aspects of national citizenship, due to the processes of hybridization and *mélange* diasporas represent (Clifford 1994 , Gilroy 1994). When the literature on transnationalism emerged in the 1990s, many saw these new social groups as potential challengers or successors to the model of the nation-state (Basch, Glick Schiller, et al. 1995, Tölölyan 1991). The prevalence of multiple allegiances and overlapping identities illustrated the unbundling of territory and identifications on a global scale (Appadurai 1991). Contrary to the long tradition found in the sociology of immigration, migrants were not to be understood in relation to their successful or failed “assimilation” or “integration” in the host society, but as new forms of “transnational communities” emerging across territorial borders and questioning the Westphalian model of territorialized communities (Guarnizo and Smith M. 1998 , Portes 1995).

In terms of citizenship, “post-nationalists” and “cosmopolitanists” reflected upon the ways in which diasporas pushed the boundaries of national(ist) citizenship, particularly in relation to the diffusion of international human rights norms (Benhabib 2006, Jacobson 1996 , Soysal 1994, 1996). Seyla Benhabib argues that the “transnationalization” of migration has made new forms of local, post-national citizenship possible because in “today’s world the civil and social rights of migrants, aliens and denizens are increasingly protected by international human rights documents” (Benhabib 2007:19). Even those skeptical of the possibility of

⁴ See the interesting history of the Jewish autonomous region Birobidhzan in Levin (1990)

“postnational” citizenship have shared similar faith in the migrant and diasporas to bring about more inclusive forms of belonging. Engin Isin argues that the object of his book *Being Political* (2002) “was to write histories of citizenship from the point of view of its alterities in the sense of recovering those solidaristic, agonistic and alienating moments of reversal and transvaluation, where strangers and outsiders constituted themselves as citizens or insiders and in so doing altered the ways of being political. [...] Being political provokes acts of speaking against injustice and vocalizing grievances as equal beings” (Isin 2002:277). Thus for Isin, just as Benhabib, the “diaspora” or the “transnational community” is the historical lens through which change will take place.

In simplified terms, for most of these authors, the assumption is that the exclusionary aspect of national politics is necessarily linked, in some form, to its territorial character. As a logical corollary, de-territorialized politics must necessarily be cosmopolitan or post-national. The main point of our paper is to argue that this assumption is misleading, and in fact de-territorialized politics can also present exclusionary aspects. Politics can be *both transnational and exclusive*, and in our three cases, i.e. Croatia, Serbia and Macedonia, they are to a large extent.

The thrust of our argument is that along the traditional, territorialized understanding of national citizenship, a new form of citizenship is emerging. The move towards post-territorial forms of formalized belonging is connected, in complex ways, to the modifications of the function and the role of state institutions, in particular under the influence of neo-liberal principles of management (Sassen 2006). Our argument regarding post-territorial citizenship is new, but draws on important work that has shown the various ways in which nationalism is becoming transnational (Kastoryano 2007, Glick Schiller and Fouron 1999) and how diasporas are increasingly incorporated in government policies (Østergaard-Nielsen 2003, Levitt and de la Dehesa 2003, Gamlen 2009, Kunz 2010, Smith R. 2003, Varadarajan 2010). Our argument can be surprising only if we remain stuck in forms of methodological nationalism or territorialism (Agnew 2009, Wimmer and Glick-Schiller 2003). Indeed, far from being a historical universal, the organization of sovereign power in a territorial form is relatively recent, just as much as the idea of territorially delimited societies (Donzelot 1994). The characteristic of this new form of post-territorial citizenship is to abandon the territorial referent as the main criterion for inclusion and exclusion from citizenship, focusing instead on ethno-cultural markers of identity, irrespective of the place of residence. If the territorial type of citizenship can also be rooted in an ethnic conception of the nation, it advocates inclusion and attribution of equal rights and privileges to ethnic groups or “communities” cohabiting on the same territorial unit. Post-territorial citizenship, is equally based on ethno-cultural criteria, but advocates the opposite stance, giving rights and privileges to co-ethnics living outside the territory, while excluding non-majority ethnicities present on the territory. In what follows, we outline the way in which post-territorial citizenship works in relation to territorial citizenship and the

ways in which it redefines the principles of inclusion and exclusion of populations from the citizenry.

Yugoslavia: A federation of territorialized ethnic nations

The advantage of comparing three post-Yugoslav countries is that it enables us to outline the specificity of the cases against the background of their shared history within the Socialist Federal Republic of Yugoslavia (SFRY). In this brief section, we do not provide a full account of the ethnic and national organizations within the federation, but outline practices in the fields of citizenship, ethnic recognition, minority rights and practices towards emigration that provide insights for the three cases we analyze.

As was common among Communist states⁵, Yugoslavia's conception of citizenship was closely tied to the ethnic understandings of the nation, based on blood. Thus the citizenship of the Federal People's Republic of Yugoslavia (FPRY) – to become the Socialist Federation of Republics of Yugoslavia (SFRY) in 1963 – was first defined by belonging to a particular nation (*narod*), which itself belonged to the federation. Nations themselves were *territorialized* as constitutive peoples of one of the six republics inside the Federation. Consequently, Yugoslav citizens enjoyed a parallel, dual citizenship: one of the federation, and one of the republics. While initially there were some distinctions of status between citizens and non-citizens of the republics, the 1974 constitution provided that “a citizen of a republic on the territory of another republic has the same rights and obligations as the citizens of that republic.”⁶ Citizens of Yugoslavia rarely bothered to change citizenship when they moved within the federation (Ragazzi and Štiks 2009). So while every citizen could officially declare a (voluntary) “ethnic” affiliation⁷, every republic was the republic of one or more constitutive nations. Every citizen thus had a republican citizenship in addition to the federal one, but the republican citizenship, when it came to rights and duties, was practically irrelevant within Yugoslavia (Štiks 2006).

In terms of minority rights, the Yugoslav system had an elaborate hierarchical recognition of collective rights: Yugoslav nations in their republic (*Narodi Jugoslavije*)⁸, the national minorities or “nationalities” (*narodnosti*), the Yugoslav nations outside their own republics and the ethnic groups. “Nations” were entitled to a Republic. Nationalities were essentially minorities of neighbouring countries. Yet the symbolic difference in hierarchical status between *nations* and *nationalities* was such that even when a minority in another republic, a “nation” remained such. “For this reason, Serbs in Croatia were not considered a national minority, but rather a nation, which was always mentioned along with the Croat one in all symbolic

⁵ Brubaker (1996) has convincingly explored this aspect.

⁶ Art. 249 of the 1974 Constitution of Yugoslavia

⁷ Unlike the USSR it was not printed on identification documents, but was present in other administrative registers

⁸ These were: Serbs, Croats, Slovenes, Macedonians, Montenegrins and Muslims

sections of the constitution" (Burrai 2008:7-8). At the bottom, "ethnic groups" (*etničke grupe*) were groups without a republic or a homeland outside of Yugoslavia, such as the Roma or the Vlachs. For example, the Croatian constitution of 1974 defined the Socialist Republic "as a national state of the Croatian people, *state of the Serbian people in Croatia* [emphasis added] and state of nationalities living on its territory" (art. 1). The territorialization of diverse ethnic groups, organized through the complex hierarchical system of *narodi*, *narodnosti* and *etničke grupe* could function through the idea of the federation, a territorializing principle through which each member of these diverse groups enjoyed - at least formally - equal rights within a territorial space.

The principle underpinning exclusionary practices after the establishment of the Yugoslav communist after 1946 was ideological, not ethnic. During the early years of the regime up until the 1960s, a quasi-Stalinist organization of the state had led to a complete closure of the border; emigration was made illegal and any contact with nationals abroad was controlled (Ragazzi, 2009). The government main concern was that of the "enemies of the state": former regime cadres and militaries, political adversaries, religious sympathizers, nationalist nostalgics and more broadly anti-communists of all sorts. These were mostly dealt through a territorial set of "solutions", but mostly consisting in rooting out the "internal enemy" by banning it and monitoring it while abroad. Former military opponents who had fled abroad were deprived of citizenship⁹; similarly the law on citizenship was amended in 1948 to exclude all citizens of German ethnicity residing abroad from Yugoslav citizenship on the basis of their "disloyal conduct toward the national and state interests of the peoples of FPRY"¹⁰. Yet the relationship with populations abroad was not only exclusionary. Only one official channel maintained a depoliticized, folkloric and equally controlled relationship with organizations considered as friendly to the regime through institutions called "Matica iseljenika" (Emigration Foundations). Each republic had one, and catered to emigrants whose roots were in the republic's territory, regardless of ethnicity (Ragazzi, 2009). Finally, with the reforms of 1965, with the progressive opening of the border and the implementation of guest-worker programs, large numbers of Yugoslav citizens were sent "temporarily abroad" as guest-workers, a term that emphasized the naturally territorial organization of the relationship between the state and its population (Baskin 1986).

In sum, the Yugoslav state was based on a territorialized ethnic conception of the nation, and had solved the problem of ethnic homogeneity through the institutional mechanism of the federation, but this entailed a distant relationship with populations abroad. This organization was dramatically questioned by the

⁹ "Law on the Deprivation of Citizenship for Officers and Non-Commissioned Officers of the Former Yugoslav Army Who do not Want to Return to the Homeland, and for the Members of Military Forces Who Have Served the Enemy and Have Defected Abroad" *Official Gazette of the FPRY* 86/1948 and 22/1962.

¹⁰ *Official Gazette of the FPRY* 105/1948.

dissolution of the Socialist Yugoslavia and the emergence of independent republics. In what follows, we focus on three republics of Yugoslavia that have developed policies towards their populations abroad, and analyze these state practices in light of the emergence of forms of post-territorial citizenship.

Croatia, the paragon of post-territorial citizenship

Croatia provides one of the most striking examples of a radical shift towards post-territorial citizenship, within the context of unprecedented policies towards its “diaspora” during the 1990s. Although the EU and other international organizations has exerted substantial pressure on Croatia concerning this issue, the last constitutional changes of June 2010 have not contested the legitimacy of the expatriate representation of the nation and of the body politic.¹¹

Citizenship

In terms of citizenship, the major change in post-Yugoslav Croatia did not occur along the division between “renanian” (*jus soli*) and “herderian” (*jus sanguinis*) conceptions of citizenship, but at the level of the referent geography of the nation – that is, from a territorial to a post-territorial conception. With the Croatian Declaration of Independence of 25 June 1991, a new citizenship law was approved,¹² changing the relation between the “nation” and “territory”. The law was conceived on the basis of two principles: legal continuity with citizenship of the Socialist Republic of Croatia, and Croatian ethnicity (Omejec 1998:99)

By law, all possessors of the former Croatian republican citizenship became citizens of the new state, making all other residents *aliens* overnight, regardless of the duration of their residency in Croatia. Their naturalization was then regulated by article 8 of the Law on Croatian Citizenship, which required five years of registered residence in Croatia, provided that the following conditions were met: no foreign citizenship or proof of release from a previous citizenship; *proficiency* in the Croatian language and *Latin* script; *conduct* that reflects an attachment to the customs and legal system of the Republic of Croatia; and, finally, acceptance of *the Croatian culture*. These supplementary criteria made the territorial element in the attribution of citizenship irrelevant.

Croatian ethnic origin was usually determined through any official document released by SFRY or republican authorities in which one was declared to be ethnically Croat. The law facilitated the naturalization of emigrants and their descendents who accepted the Croatian legal system, customs and culture, even if they did not match the criteria defined in article 8 (Article 12). Moreover, it allowed

¹¹ On the most recent constitutional changes, see http://www.glas-slavonije.hr/vijest.asp?rub=1&ID_VIJESTI=126240 [visited 21/06/2010]

¹² *Official Gazette of the Republic of Croatia* 53/1991; modifications and amendments in *Official Gazette of the Republic of Croatia* 28/92.

ethnic Croats without previous or current residence in Croatia to obtain Croatian nationality by declaration through article 16.

This affected the historical “diaspora” in the US, Canada and Argentina, but also and predominantly Croats from neighbouring Bosnia and Herzegovina. Despite being one of the “constitutive peoples” of the Republic of Bosnia and Herzegovina, they were considered potential Croatian citizens in “diaspora” and included in the legislative provisions. Indeed, article 16 facilitated the naturalization of ethnic Croats living in the “near abroad” (former Yugoslav republics), especially for those in Bosnia-Herzegovina, while article 11 facilitated the naturalization of the Croatian ethnic emigrants and their descendents, even if they did not satisfy the conditions stated in article 8 regarding proficiency in the Croatian language.

While the new law included previously ostracized Croats abroad, it abruptly excluded from citizenship all citizens of other Yugoslav republics. Citizens who had lived in Croatia since childhood but had not been entered in the official register of the Republic of Croatia were automatically excluded; many of them were ethnic Serbs.

Those with less than five years of registered residence and those who were unable to prove that they had been released from foreign citizenship (i.e. previous republican citizenship) were put in a particularly difficult position. In a context in which Croatia was at war with the Yugoslav Federation it was virtually impossible to satisfy this condition. Only aliens born in the territory, spouses, emigrants and those whose citizenship was in Croatia’s interest did not have to prove release from their previous citizenship under the naturalization procedure.

The ethnic, post-territorial features of the 1991 Citizenship Law were confirmed in the transitional provisions, which determined the initial citizenry of Croatia and enabled ethnic Croats who were registered but did not possess Croatian republic-level citizenship to get citizenship by issuing a written statement to the police (see art. 30, para. 2).

Since legal continuity with previous citizenship in the Socialist Republic of Croatia was used to determine the initial citizenry of the newly independent state, the Republican Registrar’s Office was supposed to issue certificates on Croatian citizenship. However, problems arose if the person was registered but his or her republican citizenship was not Croatian, or if no republican citizenship was officially recorded. The former were considered aliens and had to apply for naturalization, whereas the latter were sent to police agencies to have their citizenship determined, or were allowed to register as Croatian citizens – according to art. 30, para. 2 – provided they could prove Croat ethnic origins (UNHCR 1997).

For Serbs or other non-Croats who had remained in Croatia, the exclusion was not only symbolic; it had a direct impact on everyday life. Individuals could lose their jobs under the Employment Law for Foreigners, which regulated work for the new non-citizens, requiring them to obtain a work permit. Work permits could be issued to foreigners only if they had specific qualifications that were deemed

necessary and could not be filled by Croatian citizens. Thus, ethnic discrimination in the workplace was enabled on a massive scale (Human Rights Watch 1995:15).

The citizenship status of Croatia's Serb minority in the Krajina region was even more problematic.¹³ After the Croatian Serb militia, in conjunction with the Yugoslav federal army, took control of almost one third of Croatia's territory in 1991, the citizenship status of the ethnic Serb population living there remained unresolved for almost a decade. Croatian Serb refugees who fled or were forced to leave Krajina during and after the Croatian military takeover in 1995 were in a particularly difficult situation. They were all legally Croatian citizens but did not possess a certificate of Croatian citizenship (*domovnica*) and so could not claim all of the rights due to a Croatian citizen.

In Croatia, citizenship regulation embodied the post-territorial exclusionary logic of nationalism. This logic was mirrored in the modalities of political representation.

Political representation

The Constitution of 1990 guaranteed the right to vote for all Croatian citizens regardless of residential status (Croatia 1998 [1991]). Although the Croatian Democratic Union (*Hrvatska Demokratska Zajednica* – HDZ) had advocated for a diaspora ballot since 1990, it was only in 1995 that a new law included, for the first time, the right to vote for Croats residing outside of the borders of Croatia¹⁴. The law set up a fixed number of representatives for the parliament, elected on a separate electoral unit and on a separate electoral list. The electoral corpus of Croatia was increased by about 10%, and the “diaspora” was thus awarded 12 seats in the Sabor (Bajruši 2007, Salay, Duich, et al. 1996:iii).

The 1995 elections were to be organized early to capitalize on the victory of the Flash and Storm operations, which resulted in the forced reintegration of the separatist provinces of Krajina and Western Slavonia (Eastern Slavonia was reintegrated peacefully in 1998). The granting of voting rights to the “HDZ-sympathetic” diaspora was a move to further consolidate the party's power in parliament. Although the turnout was rather low (109,389 of 398,839 voters registered abroad, 27.4%) all twelve seats went to the HDZ (Kasapović 1996:270). The system was criticized, on the basis that the mandate on the ‘diaspora’ list represented fewer people than the average seat (Kasapović 1999, Mecanović 1999).

In 1999, after heated debates, the electoral system was changed¹⁵. From a fixed number of seats, the law proposed proportional representation based on voter turnout. This again gave the HDZ six seats out of six in the 2000 elections. Although

¹³ See, reports on the issue published in Dika, Helton & Omejec 1998 and also the report on Croatia in Imeri 2006.

¹⁴ *Official Gazette of the Republic of Croatia* 68/1995, (Odluka o proglašenju Zakona o izmjenama i dopunama zakona o izborima zastupnika u Sabor Republike Hrvatske)

¹⁵ *Official Gazette of the Republic of Croatia*, 116/1999

the HDZ lost overall, the SDP-HSLS coalition (led by Ivica Račan and Stipe Mesić) obtained 47 percent of the votes instead of the 50.7 percent majority they would have won without the diaspora seats. Moreover, the extra seats made the HDZ leaders in the parliament in terms of single party representation.

The diaspora constituency continued to make and break candidates. In the presidential campaign of 2005, despite the low turnout (19%) the diaspora vote both prevented the election of Stipe Mesić (HNS) in the first round, and allowed the HDZ candidate Jadranka Kosor to dispute the second round instead of Boris Mikšić, who would have qualified instead (*Izbori 2005 - Arhiva*). The political importance of the vote was even higher in 2007, when it provided the HDZ with the necessary extra seats to form a government (*Izbori 2007 - Rezultati*).

Clearly, Croatia's "diasporic" citizenship policy is part of a process of inclusion of ethnic Croats. However, this post-territorial citizenship policy, far from the cosmopolitan, post-national ideals advocated by some authors, results in the exclusion from citizenship of non-Croats present on the territory, as well as for Croatian citizens of Serb origin who lived in the rebel Krajina region and who left or were expelled from Croatia during the war. The close entanglement of these two features was directly addressed in the debates linked to the question of the right to vote and to be represented in Parliament. As one member of the Sabor, elected on the diaspora ticket explained "We [Croats from the Diaspora] helped create the free Croatia in many ways, and today we have only twelve members of parliament. [...] On the other hand, no one mentions the members of parliament representing the national minorities, the majority of which, [...] have at least advocated for the aggression [i.e. the war] against the Republic of Croatia"¹⁶ This common argument was in stark contrast with reality. In fact, since Croatia's independence, the HDZ's policies reduced the importance of minority representation.

The 1992 law on the rights of national minorities¹⁷, passed under pressure from the European Community, granted 13 out of 138 seats to minorities in the Croatian Sabor. Since the law allowed only minorities representing more than 8% of the population to be represented, Serbs took all thirteen seats. The representation of minorities was calculated on the basis of the 1991 Yugoslav census¹⁸. Yet in 1995, the new law stated that minority representation was postponed until a new census was done, which prevented minorities from being represented¹⁹ (Burrai 2008:13).

¹⁶ Ministarstvo povratka i useljeničtva. "Zastupnički portret: Ivan Nogalo" *Bilten ministarstva povratka i useljeničtva*, no. 27, April 1998. p. 9

¹⁷ Constitutional Law on Human Rights and freedoms and on the Rights of Ethnic and National Communities or Minorities [Ustavni zakon o ljudskim pravima i slobodama i opravima etničkih i nacionalnih zajednica ili manjina u Republici Hrvatskoj, NN65/1991, and amendments NN 27/1992], hereinafter Constitutional Law. (UZEM)

¹⁸ *Official Gazette of the Republic of Croatia* 34/1992. art. 21-51, amended text

¹⁹ Art. 10, "Zakon o izborima zastupnika u Sabor Republike Hrvatske" [Law on the Election of the Representatives to the Sabor of the Republic of Croatia], *Official Gazette of the Republic of Croatia*

Moreover, participation in elections was made harder and non-ethnic Croats were openly discriminated against. While registration was facilitated for 300,000 out-of-country ethnic Croat voters, 200,000 primarily ethnic Serb voters (5% of the potential electorate) who had fled the country in 1995 were excluded from the ballot (OSCE 1997:3). The new law of 1999 further restricted minority representation, and Serbs only obtained one representative at the Sabor.

In the 2000 parliamentary election, the attribution of minority seats “diluted” the representation of the Serb population by allowing other minorities to be represented. One seat was allocated for Serbs, Italians, Hungarians, Czechs and Slovaks together with “others” (Austrians, Germans, Ukrainians, Ruthenians and Jews) (OSCE 2000:3). The electoral procedure created further discriminations between the internally displaced “expellees” and “displaced persons” (OSCE / ODHIR 2000:6-7).

However, this progressive reduction of minority representation was reversed with the end of the Tuđman era and the election of Stipe Mesić and the left-wing Račan-led government. In 2000, a new Constitutional Law on National Minorities increased representation of minorities in the Sabor.

Thus the reintegration of Serbs into political representation was linked to legal issues of citizenship and representation, as well as to the reversal of policies that displaced the minority from Croatia’s territory.

Conclusion

The case of Croatia illustrates how the transnationalisation of ethnic nationalism is expressed through the deployment of citizenship as the main device of inclusion/exclusion, along with institutional arrangements. The highpoint of the purely exclusionary logic was reached during the 1990s, and began to decline with the ousting of the HDZ from power in 2000²⁰. The centre-left coalition, with the support of the EU and other international organizations, did not respond with a shift to a civic understanding of citizenship, but rather by refocusing the political sphere on territorial borders, and through the pluralist inclusion of the excluded communities: mostly the Serb minority. Yet while minority rights and political representation increased in subsequent years, in parallel with attempts at reducing the weight of the diaspora in the Croatian political life – the principle of inclusion of co-ethnics abroad, as well as their entitlement to participate in political life, remains unchallenged to this date. This suggests that the transnational understanding of the “Croatian nation” has become part of the unquestioned, commonly shared assumption of Croatian political life. The *Strategy on relations of the Republic of Croatia with the Croats outside of the Republic of Croatia* published in May 2011 only confirms

22/1992; art. 16 “Zakon o izborima zastupnika u hrvatski državni Sabor” [Law on the Election of the Representatives to the Croatian State Sabor], *Official Gazette of the Republic of Croatia* 116/1999

²⁰ For a broader analysis of Croatia’s citizenship strategies, see Štikš 2010

this direction by the establishment of a “CRO card” and a legal status of “Croat without Croatian citizenship”, entitling its holder to certain social and economic rights. (Koska 2012, forthcoming)

Serbia: de facto post-territorial citizenship

The post-socialist Federal Republic of Yugoslavia, then State Union of Serbia and Montenegro (SUSM), and then the Republic of Serbia followed a different path than Croatia in the immediate aftermath of the fall of Yugoslavia. In fact, from 1991 up until 2000, and especially after the 1996 law on citizenship, Belgrade continued the Yugoslav tradition of a territorial conception of political belonging. Citizenship laws were strict for all citizens who were not included in the new citizenship *ex lege*: this included Yugoslavs/Serbs abroad, ethnic Serbian refugees from other post-Yugoslav republics, as well as national minorities present on the territory controlled by Belgrade. The strict criteria of inclusion loosened up only progressively for the diaspora and for minorities and ethnic Serbian refugees, due to pressure from expatriate organizations and international organizations respectively. Yet while the laws broadened belonging for both co-ethnics and minorities in theory, a strong push towards the ethnicization of the state took place in practice.

Contrarily to Croatia, the Serbian government took interest in its diaspora only very recently. The specific dynamics of the Serbian/Yugoslav transnational political field, which provide explanatory elements to the territorial stance of the Milosevic government, go beyond the reach of this paper. Several elements however point to the fact that contrary to the dominant position of Tudjman and the HDZ in the Croatian transnational political field, the fragmented Serbian transnational political field was considered to be more favourable to parties either at the right of Milosevic (Seselj's Srpska Radikalna Stranka, SRS) or at the centre (which would favour the future pro-Western coalition).²¹

Citizenship

The politics of the progressive inclusion of ethnic Serbs abroad in the political body are to be analyzed in close relation to the exclusion of non-Serb minorities throughout two distinct periods: the 1990s and 2000s.

The first period, running from the dissolution of the SFRY up until the ousting of Milosevic in 2000, is characterized by a double exclusionary logic: the exclusion of ethnic Serbian refugees and expellees, but also the more violent exclusion of non-Serbian ethnic minorities (Albanians primarily, and to a lesser degree Hungarians from Vojvodina, Muslims from Sandzak and other smaller groups). After 1991 citizenship was still governed by the 1979 Law on Citizenship of the Socialist Republic of Serbia, but in 1996 a new citizenship law was passed²², converting *ex lege*

²¹ See Garding (2010)

²² Zakon o jugoslovenskom državljanstvu, Službeni list SRJ, br. 33/96, July 19, 1996

all citizens of SFRY who held the citizenship of the Republic of Serbia or of the Republic of Montenegro on 27 April 1992 into citizens of the newly founded Federation of Yugoslavia. (art. 46) (Rava 2010:8).

The law kept a strong territorial understanding of the Federation's citizenship. Emigrants from the federation could claim Yugoslav citizenship, but they needed to prove permanent residency (art 12. para. 1), in addition to clear military obligations. In contrast to the position for ethnic Croats, it was a rather difficult task for Yugoslav non-residents to obtain citizenship. This quickly became a pressing matter for ethnic Serbian refugees from BiH or Croatia, who for a long time were considered second-rank citizens (Imeri 2006:280). But it also meant that Yugoslavs abroad did not obtain the same benefits as their Croatian counterparts, whether facilitation of citizenship, voting rights, or representation in parliament. Nenad Rava suggests that the government had two goals: put pressure on the ethnic Serbian refugees who had fled the war from Croatia and Bosnia-Herzegovina to return, and resettle these refugees in Kosovo and Vojvodina (two Serbian provinces with strong ethnic minorities, respectively Albanian and Hungarian) in order to reshuffle the ethnic balance there. In fact, the "Law on Limiting Undesirable Migratory Movements, Program of Tasks and Measures for Faster Development and Slowing Down of Unfavourable Migration Movements in Municipalities of Novi Pazar, Tutin, Sjenica and Prijepolje from 1987 until 1990"²³ had a similar goal, namely to prevent regions such as Sandzak to become dominantly Muslim. Although migration was not prohibited, it was made impossible to register and receive administrative services.

If non-resident ethnic Serbs faced an uncertain legal situation, the tragic fate of Kosovar Albanians is well known. Although the 1990 Constitution of Serbia embraced all ethnic communities in theory²⁴, Kosovo Albanians were deprived of their basic human rights and citizenship in practice. While "legally citizens of the FRY, de facto they were stateless" (Krasniqi 2010:8).

By the end of the 1990s, more than 850,000 Kosovar Albanians had fled or were deported, which led to the NATO intervention in 1999 (Krasniqi 2010:8-9). The post-conflict era opened an ambiguous legal situation for Kosovo residents: those born before 1999 were still officially FRY citizens but the others, unable to register in FRY's administrative bodies, became de facto stateless. The only link to the Belgrade authorities remained the passport, which Kosovo Albanians continued to use and demand to travel abroad (Krasniqi 2010:11). Apart from the case of Kosovo, the discrimination against non-ethnic Serbs was therefore much more a matter of state practices than formal legislative provisions.

The removal of Milosevic from power in 2000 marked a sharp change in the politics of citizenship and belonging in Serbia, both for the diaspora and ethnic minorities. In 2000, the 1996 law was slightly amended to allow dual citizenship, thus

²³ Official Gazette of Serbia, no. 28, 25 July 1987. The law is no longer in force (International Crisis Group 2005:41)

²⁴ 'The Republic of Serbia is a democratic State of all citizens living within it, founded upon the freedoms and rights of man and citizen, the rule of law, and social justice' (art. 1).

encouraging the return of the diaspora for the reconstruction of the country²⁵. The law remained in place until 2004, after the dissolution of the State Union of Serbia and Montenegro. Under the impulse of diaspora organizations and the ministry for the diaspora itself, a new Law on the Citizenship of the Republic of Serbia was passed, bearing many similarities with the Croatian one regarding the diaspora²⁶. This time, through articles 18, and 23, ethnic Serbs were granted a privileged access to citizenship, regardless of their status of residence. Emigrants, defined as “person[s] that emigrate[s] from the Republic of Serbia with intention to reside permanently abroad” as defined by article 18, “can be admitted to citizenship of the Republic of Serbia if they are 18 and if they are not deprived of working capacity and if they submit a written statement that they consider the Republic of Serbia their own state.” Article 23 facilitated citizenship for refugees and expellees: “A person born in another republic of former Social Federal Republic of Yugoslavia who had citizenship of that republic or is citizen of another state created in the territory of former SFRY, who residing in the territory of the Republic of Serbia as a refugee, expatriate or displaced person or who exiled abroad, can be admitted to citizenship of the Republic of Serbia” (Rava 2010:17). The *Law on Diaspora and Serbs in the Region*, passed in 2009, confirmed this post-territorial ethnic understanding of the nation²⁷.

Political representation

Only since 2004 are Serb citizens abroad allowed to vote for parliamentary and presidential elections, thanks to amendments to the Law on the Election of Representatives (2000) and to the *Law on Election the President of the Republic of Serbia*. The turnout so far has however been very low. Press articles indicate that of the tens of thousands Serbian immigrants in Chicago, only 258 were registered on the voters’ list for the 2008 presidential election (Garding 2010:18). The blame is usually put on lack of administrative capacity and lack of information for potential voters abroad. The vote of Serbs abroad has therefore not significantly impacted Serbia’s party politics. It is currently discussed whether the diaspora should be represented through a specific constituency, as is the case in Croatia and Macedonia.

However, in terms of rights attributed to minority ethnic groups, the post-2000 legal dispositions allowed for increased recognition of non-Serbian minorities,

²⁵ The amended articles were arts 47 and 28, which allowed for the acquisition of Yugoslav without the necessary release from previous citizenship Official Gazette of FR Yugoslavia, 9/2001. See (Rava 2010:10).

²⁶ Sl. Glasnik RS, br. 135/2004, went into force 24/12/2004 and was implemented 27/2/2005 (Imeri 2006:278). It was amended in 2007 as 90/2007

²⁷ Art. 2 of the Law clearly distinguishes two categories of diasporic Serbs: citizens of the Republic of Serbia who live abroad (regardless of their ethnicity), and members of Serb people, both from the Republic of Serbia and from the region, who emigrated, as well as their descendents. ‘Serbs from the region’ refers here to ethnic Serbs who live in the republics of Slovenia, Croatia, Bosnia-Herzegovina, Montenegro, Romania, Albania, and Hungary.

which was among the key elements of the reform agenda of the Democratic Opposition of Serbia (DOS)²⁸ government in 2000.

The first measure was the creation of a Ministry for National and Ethnic Communities in late 2000. The Law on the Protection of the Rights and Freedoms of National Minorities²⁹, passed in 2002, set the legal framework for the recognition of minority rights (Bieber 2005:135). It eliminated the distinction between nations, nationalities and ethnic groups inherited from the Yugoslav era, and gave minorities the right to preserve their language, culture and national identity; to receive education in their mother tongue until high school; to use their national symbols; to obtain public information in their languages; and to have appropriate representation in the public sector. The law also established a right to self-government in terms of language, use of alphabet education (until high school), information and culture in municipalities where the minority constitutes more than 15% of the population (Huszka 2007:2).

Yet the electoral system does not provide for formal representation of minorities in the parliament. The 1990 constitution and the 2000 electoral law actually established a republic-wide electoral unit with a 5% threshold, disadvantaging smaller ethnic groups. Despite this, minority parties from the Bosniak and Hungarian minority entered the government on several occasions. Minorities only reached serious positions in government following the 2000 change of power, with the nomination of Rasim Ljajić, the president of the Sandzak Democratic Party, as Minister for National and Ethnic Minorities, as well as the nomination of the president of the Alliance of Vojvodina Hungarians, Jozsef Kasza, as one of the deputy prime ministers (Bieber 2005:139).

Yet several forms of discrimination remain. As an International Crisis Group report argued in 2005, several legal and practical dispositions introduced before 2000 are vague enough to allow arbitrary practices of power and discrimination between ethnic groups in Serbia. These include the Regulation on Special Conditions for the Sale of Real Estate, which was meant to prevent Serbs from selling to Albanians, or to Bosniaks. This provision expired in Serbia, but remained valid in Kosovo (at least until 2005)³⁰. There is also the Law on the Proclamation of Undeveloped Areas of Serbia until 2005³¹, which favoured ethnic Serb villages over Muslim dominated ones in Sandzak or finally the Law on Space Environmental Planning until 2010³², which ignores again the region of Sandzak for development projects.

²⁸ The Democratic Opposition of Serbia

²⁹ Zakon o zastiti prava i sloboda manjina 2002

³⁰ Official Gazette of Serbia, no. 33, 22 July 1989, with amendments in Official Gazette of Serbia no. 42, 28 September 1989, and further additions to the act published in Official Gazette of Serbia no. 22, 18 April 1991 (International Crisis Group 2005:45).

³¹ Official Gazette of Serbia, no. 53, 28 December 1995.

Conclusion

In contrast with the Croatian case, the evolution of the Serbian codifications and practices of nationhood throughout the past decade has been marked by a strong discrepancy between formal, legal arrangement and state practices. During the 1990s, while based on a formally inclusive understanding of citizenship, state practices violated the human rights of the minorities they were supposed to protect (Kosovo but also Vojvodina, Sandzak). The “diaspora” was considered hostile to the government, and the question of refugees was manipulated to pursue goals of ethnic balancing in various regions of Serbia. Thus, contrary to the nationalism of the HDZ in Croatia, the logic of Milosevic’s SPS was deeply embedded in a territorial understanding of nationalism, which promoted territorial expansion to “Serb lands” in Serbia’s “near abroad” but not the development of transnational ties with the ethnic Diaspora. In the post-Milosevic era, two apparently contradictory tendencies emerged: post-territorial nationalism through the extension of citizenship rights for the diaspora and the creation of dedicated institutions, alongside the extension of rights to minorities and their inclusion in political life³³.

Macedonia: balancing between territorial inclusiveness and post-territorial nationalism

The aftermath of the ethnic conflict in Macedonia, has produced a compromise between the post-territorial citizenship nationalism of the VMRO-DPMNE³⁴ and the consociational nature of the Ohrid Agreement. The move from a pre-2001 conception of the “Macedonian people” in purely post-territorial ethnic terms towards more inclusive criteria, under the pressure of ethnic Albanian political actors the international community, (notably the EU) has given birth – *de jure* – to a unique, both *post-territorial* and *inclusive* definition of the nation and citizenship. This change is however concomitant with numerous attempts, instigated by the governing right-wing VMRO-DPMNE, to build stronger links with Macedonian émigré communities, understood, *in practice*, predominantly in ethnic terms.

Citizenship

In sharp contrast with the situation in Croatia and Serbia, the “Macedonian diaspora” as defined by the state includes both ethnic Macedonians and other minorities from the Republic of Macedonia residing abroad, as well as ethnic Macedonian minorities in neighbouring countries. This atypical situation can be understood in light of Macedonia’s history during the past two decades.

³³ More research in the specific evolution of the citizenship laws and the development of diasporic institutions needs probably to be done in order to make sense of the apparently contradictory evolution.

³⁴ The Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity is a right wing, nationalist party in the Republic of Macedonia.

With the independence, about 90% of the adult population acquired the new citizenship automatically (Spaskovska 2010:9). In its 1991 version, the Article 49 of the Constitution formulated the premises for a special relationship with Macedonians abroad³⁵. The Greek government raised concerns about this provision, however, and it was amended in 1992, to specify that “the Republic will not interfere in the sovereign rights of other states or in their internal affairs.”³⁶

Similarly to Croatia and Serbia, the new Macedonian state initially defined the community of ethnic Macedonians as the only “nation” of the state of Macedonia, as enshrined in the preamble of the Constitution³⁷. This downgraded Albanians, among others, from the status they enjoyed in Yugoslavia of *narodnost* (on the basis of which they had an almost equal standing with other *narodi* of Yugoslavia) to the one of a minority. This resulted in the boycott of the 1991 referendum for independence by the Albanians parties, and the organization of a parallel referendum in 1992 for Albanian autonomy (Spaskovska 2010:9).

The 1992 Act on Citizenship³⁸ did not improve the interethnic tensions, as its transitional provisions allowed for citizens of other SFRY republican citizenship to acquire Macedonian citizenship, provided they could prove 15 years of cumulative residence, and possessed a permanent source of income (Article 26) (Spaskovska 2010:10). This was seen at the time as a way to control migrations that had taken place within the SFRY, and particularly of ethnic Albanians from Kosovo.³⁹ The 15-year residence condition was judged unacceptable by ethnic Albanians, since many had not registered their change of residence when moving to Macedonia from another Yugoslav Republic before 1990⁴⁰ (Petruševska 1998:177). Many Albanian and Roma ethnics were forced to go through the regular naturalization procedure, pay a higher administrative fee, and more importantly pass a language test that allowed for highly arbitrary decisions (Spaskovska 2010:10, Petruševska 1998:171).

The law contained at least two ways for emigrants from Macedonia abroad to bypass the residency requirement: through Article 8 (naturalization of first

³⁵ Constitution of the Republic of Macedonia, available at www.sobranie.mk, [accessed 15/06/2010]

³⁶ See Amendment II to the Constitution, promulgated and coming into force on 6 January 1992, available at www.sobranie.mk, [accessed 15/06/2010]

³⁷ “One of the principal points of contestation was the Preamble of the Macedonian Constitution stating ‘the historical fact that Macedonia is established as a national state of the Macedonian people, in which full equality as citizens and permanent coexistence with the Macedonian people is provided for Albanians, Turks, Vlachs, Roma and other nationalities living in the Republic of Macedonia.’” (Spaskovska 2010:9 note 10)

³⁸ Official Gazette of the Republic of Macedonia nr. 67/92, of 12 November 1992, unofficial English translation available at www.legislationline.org/documents/action/popup/id.5652 [accessed 15/06/2010]

³⁹ It is worth noting that the 15-year residence condition had been voted through an amendment submitted by the right-wing VMRO-DPMNE, as the original government proposal had been limited to 5 years.

⁴⁰ Abdula Aliu, PDP, stenographs of the discussions at the second continuation of the 50th session of the Parliamentary Assembly, 6 July 2000, p.36.

generation emigrants) and through Article 11 (national interest of the state). The provisions of the 1992 law, in contrast with other post-Yugoslav republics, enabled emigrants from Macedonia from any ethnicity to acquire citizenship.

The right-wing and left-wing parties were divided on whether all ethnic Macedonians living abroad should be given facilitated access to citizenship.⁴¹ Right wing parties (notably the VMRO-DPMNE) argued for the necessity to counter-balance the neglect of SFRY for émigrés⁴², for the need to unify a nation still “divided” by geography, and for the need to counter balance the demographic rise of ethnic Albanians.⁴³ Left-wing parties (notably the SDSM⁴⁴) claimed that facilitating Macedonian citizenship would be discriminatory and would be seen as irredentism by the neighbouring Bulgaria and Greece.⁴⁵ In February 2004, as a consequence of the 2001 ethnic war and the subsequent Ohrid Framework Agreement, a Law for Amending and Supplementing the Law on Citizenship was passed, bringing about three important changes; it reduced the residency requirement for naturalization, opened a new opportunity for naturalization of former non-slav residents and modified the definition of the “diaspora”. It now included all citizens of the Republic who had emigrated to another state to the exception of their kin country⁴⁶ Although inclusive in some regards, this provision reinforced the ethnic definition of Macedonian emigrants, since it meant that minorities who had emigrated to their kin-state (Macedonian-Albanians in Albania or, more importantly, Macedonian Turks in Turkey) could not obtain citizenship easily. The new law was harshly criticized by the right-wing opposition VMRO-DPMNE, and to a lesser extent by the Liberal-Democratic Party, as well as by Macedonian Turks who had been forcibly expelled to their kin state in the 1950s (Imeri 2006:198).

Political representation

While some legal provisions permitted a symbolic inclusion of Macedonians abroad, only in 2008⁴⁷ did the diaspora obtain the right to vote in presidential and

⁴¹ Stenographs of the discussions at the second, third and fourth continuation of the 41st session of the Parliamentary Assembly, 12 August, 22 October and 27 October 1992.

⁴² See Vladimir Golubovski, VMRO-DPMNE, stenographs of the discussions at the second continuation of the 41st session of the Parliamentary Assembly, 12 August 1992, II/7

⁴³ Ratka Dimitrova, VMRO-DPMNE, stenographs of the discussions at the second continuation of the 41st session of the Parliamentary Assembly, 12 August 1992, V/3

⁴⁴ Social Democratic Union of Macedonia, left-wing party.

⁴⁵ See Ljubomir Frckovski, SDSM, stenographs of the discussions at the second continuation of the 41st session of the Parliamentary Assembly, 12 August 1992, IV/6

⁴⁶ Official Gazette of the Republic of Macedonia nr. 08/04, of 23 February 2004, unofficial English translation available at www.legislationline.org/documents/action/popup/id.8238 [accessed 15/06/2010]

⁴⁷ Ukaz za proglašavanje na Zakonot za izmenuvanje i dopolnuvanje na Izborniot zakonik [Promulgation declaring the Law on the amendment and completion of the Electoral code], No. 07-4743/1, 29 October 2008, Skopje

parliamentary elections. It also received a dedicated constituency in parliament, composed of three MPs out of a total of 123.

The law raised criticism, both in the diaspora and domestically. The diaspora argued that three MPs was insufficient, in addition to doubts about the practicality of the vote (outdated electoral lists, difficulties registering, scarcity of diplomatic representation, unnecessary costs, risks of forgery, etc).⁴⁸ Others claimed that elected MPs risked being right-wing supporters at the disposition of VMRO-DPMNE or that the Law was a purely symbolic gesture towards the diaspora, forgotten by Yugoslav's communist party, of whom the SDSM party is labeled to be the heir.⁴⁹ Thus the centrist LDP proposed an amendment, so that citizens with double nationality could not be elected as MPs, which in practice eliminated most of the Macedonian citizens residing abroad.⁵⁰ Supporters of the Law argued that allowing the diaspora to vote would be "the highest democratic act"⁵¹ and that this would "send a message that Macedonia is their country."⁵² Parliamentary discussions also gave way to large discrepancies in the estimation of the diaspora's size, using it as a tool of political rhetoric. The right-wing VMRO-DPMNE (together with the World Macedonian Congress) had initially wished at least 10 MPs to be elected by the diaspora.⁵³

The three elected diaspora representatives in the parliamentary elections of 2011 were from the VMRO-DPMNE-led coalition, but the turnout was relatively low. Not only are Macedonian diplomatic representations scarce, but the diaspora was probably discouraged to vote by its perceived limited representation. Despite this, agreement by political parties both ethnic Albanian and ethnic Macedonian shows the shared perception that a closer political involvement of the diaspora is needed and legitimate. As far as the political inclusion of minorities is concerned, despite the initially tolerant (albeit ethnic Macedonian-centred) understanding of the nation

⁴⁸ See Venice Commission and OSCE/ODIHR, 2007, Joint Opinion on the Draft Working Text Amending the Election Code of "the Former Yugoslav Republic of Macedonia", Opinion No. 413/2006, CDL-AD(2007)012; and Venice Commission and OSCE/ODIHR, 2009, Joint Opinion on the Electoral Code of "the Former Yugoslav Republic of Macedonia" as revised on 29 October 2008, Opinion No. 509/2008, CDL-AD(2009)032.

⁴⁹ Jovan Manasievski, Roza Topuzova Karevska, LDP, stenographs of the discussions at the second continuation of the 27th session of the Parliamentary Assembly, 27 October 2008, 27-2/15, 17, 18

⁵⁰ Jovan Manasievski, LPD, stenographs of the discussions at the third continuation of the 27th session of the Parliamentary Assembly, 28 October 2008, 27-3/1

⁵¹ Mihajlo Manevski, Minister of Justice, VMRO-DPMNE, stenographs of the discussions at the second continuation of the 27th session of the Parliamentary Assembly, 27 October 2008, 27-2/12, available at www.sobranie.mk (author's translation)

⁵² This predominantly symbolic weight is accentuated by the fact that 3 MPs out of 123 would normally not be enough to weigh in Parliament. Ivica Gjorgjevski, VMRO, stenographs of the discussions at the second continuation of the 27th session of the Parliamentary Assembly, 27 October 2008, 27-2/18.

⁵³ From an author's interview with an MP from VMRO-DPMNE, Toronto, June 2010. Also see Australian Macedonian Weekly, "DUI podnese 1760 amandmani za izborniot zakonik" [DUI submitted 1760 amendments to the Electoral Code], 4 March 2008

presented in the preamble of the 1991 constitution, the interethnic strife of 2001 and the subsequent Ohrid Framework Agreement pushed it firmly towards a *de facto* consociational system.⁵⁴ In comparison to the HDZ policies in Croatia, or the SPS practices in Serbia, the newly independent state of Macedonia provided for the recognition of ethnic minorities.⁵⁵ Bilingualism, for instance, was allowed in local government and applied in many official documents⁵⁶, and education was performed in Albanian and Turkish in elementary and high schools where these minorities were present (Ortakovski 2001:28).

The political representation of non-ethnic Macedonian parties was possible through the electoral system, which switched in 1998 from a majority system to a mixed, constituency-based proportional system. Electoral alliances went beyond ethnic divides: in 1998, the VMRO-DPMNE, an ethnic Macedonian nationalist party, formed a coalition with the Albanian nationalist party DPA, with the latter holding prominent positions in government (Ortakovski 2001:30).

Yet the position of minority did not satisfy most Albanian organizations (Chivvis 2008:144). Mimicking Ibrahim Rugova's movement in Kosovo, some parallel institutions were set up, such as the symbolic Albanian-language university in Tetovo in 1994. (Ortakovski 2001:34). Key demands included the reform of the constitution, greater representation of ethnic Albanians in the civil service, state-funded university education in Albanian language, greater use of Albanian language in public institutions, and decentralization of state power (Daskalovski 2002:14). Tensions rose till they erupted in an ethnic conflict from January to August 2001 between the Macedonian army and police and the Albanian guerrilla called Albanian National Army (ANA). Following international pressure, an agreement substantially revised the position of the Albanian community in the country's institutions (Balalovska 2006:19).

The constitution's preamble was also changed. The difference between the Macedonian people and the "other nationalities" was removed, and all ethnic groups enjoyed the status of "people", marking a symbolic - but also very concrete - change in the conception of the Macedonian nation: from a majority/minority relation to the question of representation of communities. The Law on Election of Members of Parliament in 2002 removed the 5% threshold for representation and therefore increased the number of political parties representing smaller ethnic formations (Balalovska 2006:20-21). The Committee for Interethnic Relations was reformed, matching the number the Albanian representatives with the Macedonian ones (seven – and one member for the other ethnic groups including Turks, Vlachs, Roma, Serbs and Bosniaks) (Balalovska 2006:21). Finally, new parliamentary procedures for the

⁵⁴ See Daskalovski 2002.

⁵⁵ See <http://faq.macedonia.org/information/ethnic.makeup.html> [accessed 20/06/2010]

⁵⁶ The Law on Local Self-Government (part XIV: Official use of the languages in the units of local self-government) is quoted from *Sluzben vesnik na Republika Makedonija*, no. 52/95.] (Ortakovski 2001:28). See also the Law on Personal Identity Cards and the Law on Registries of Births, Deaths and Marriages can be found in *Sluzben vesnik na Republika Makedonija*, no. 8/95 (Ortakovski 2001:28)

reform of laws relating to the rights of members of non-majority communities⁵⁷ and the Constitution, the Civil Service Law (requiring proportional representation in the civil service) and other re-balancing procedures brought the ethnic Macedonian and ethnic Albanian communities on a more equal footing (Balalovska 2006:23).

While ethnic Albanian participation in Macedonia's political life has undisputedly increased, a number of issues currently remain unresolved, such as the use of the Albanian language in Parliamentary procedures or the proper functioning of Committee for Interethnic Relations. In addition, in terms of the relations of the state with its emigrants, ethnic Albanians are sparsely present. Representatives of ethnic Albanian parties did not contribute much to Parliamentary discussions on the diaspora vote and contacts with ethnic Albanians abroad are made through the ethnic Albanian parties rather than through state institutions.⁵⁸ The inclusive multi-ethnic Macedonian nation, particularly when it comes to diaspora relations, is still pending.

Conclusion

While the nationalist right-wing parties – strongly linked to the emigration historically – might have wished for the development of a post-territorial arrangement of citizenship, the reality of the political situation forced the development of a hybrid form of post-territorial understanding of citizenship. Despite some examples that have shown a symbolic inclusion of ethnic Macedonians abroad, such as the vote in the 1991 independence referendum by non-citizen ethnic Macedonians, the Macedonian citizenship regime is the only one of the three which does not allow for ethnic Macedonians to automatically acquire citizenship (Danforth 1995: 100). The legal definition of the “diaspora” is rather restrictive (one generation maximum and excluding ethnic Macedonians from outside of the Republic of Macedonia) and includes all ethnic groups from the Macedonian territory. Only the provision excluding minorities who reside in their kin-state (Albanians in Albania, Turks in Turkey) shows a form of discrimination on an ethnic basis.

As for Croatia and Serbia, the transnational nature of the Macedonian nation – even its multiethnic conception – has become an unquestioned aspect of Macedonian political life. The *de jure* inclusivity of the post-territorial conception of citizenship should however not hide its *de facto* ethnicization, closer to the Croatian and Serbian cases. For, in practice, the understanding of the Macedonian diaspora and of the transnational Macedonian nation, remains focused on ethnicity, despite efforts to change this conception since 2001. The effective inclusion of communities within the Republic of Macedonia is coupled with practical and symbolic inclusion of Macedonian co-ethnics abroad, although perhaps not yet to the extent of Serbia and

⁵⁷ This is the requirement of a two-thirds majority vote of the total number of MPs, within which there must be a majority of the votes of the total number of MPs who belong to the communities not in the majority, used for the vote and amendment of any laws relating to the rights of members of communities.

⁵⁸ From an interview with a DUI representative, Skopje, December 2009

even less of Croatia. There are therefore two conceptions of the Macedonian people, one albeit nascent, at home, and one, persistent, abroad.

Conclusion

The comparison of these three cases leads to several conclusions. First, policies of inclusion of the diaspora in civic, cultural and political citizenship were often closely tied to the exclusion of minorities in the three countries we analyzed; the very same laws and related practices that included the former, explicitly or implicitly excluded the latter. Therefore the diasporic practices of citizenship and belonging appear as powerful techniques of managing alterity and difference. Far from being the progressive logic promised by postnational theorists, diasporic citizenship promotes othering and exclusion.

Christian Joppke understands diaspora citizenship policies in the framework of the de-ethnicization and re-ethnicization of citizenship (Joppke 2003:430). However he disregards the idea that diasporic citizenship leads to new, deterritorialized conceptions of the nation. Diasporic citizenship is the main feature of a *new* form of post-territorial nationalism. This paper illustrated how the diasporic question marks the uneasy coexistence between two competing modalities of nationalism.

On the one hand the politics of citizenship and belonging are rooted in an old-fashioned, Zionist-like desire to create the conditions for return, for the occupation of the land and “filling-up” of the territory through physical bodies, resulting in the forced departure and prevention of return of the unwanted – a nationalist logic in the most territorialized, disciplinary, bounded sense. Yet on the other hand, in the case of citizenship and political representation, we find a logic of symbolic inclusion of those abroad in which their dispersion is celebrated. They are considered legitimate and deserve representation (as was the official discourse of Israel until the 1990s). The nation and its location is redefined *in spite of* territorial borders instead of *within* territorial borders.

Diaspora politics, in terms of the history of citizenship, seem to follow the same path as the progressive extension of citizenship rights from a privileged few to larger sections of the population. In the same fashion as voting was granted to certain constituencies instrumentally (the poor, women, younger voters), the nationalist policies of Croatia, Serbia or Macedonia have extended the right to vote and to be elected to the diaspora for circumstantial reasons.

Yet what are the longer-term effects of these policies, particularly concerning the location of politics and the location of the voters? Recent developments in the three states we analyzed bring a few clues. The recent push towards the European Union has progressively imposed the need to move towards forms of territorializing multi-ethnic pluralism. Yet while the Macedonian state was the first to adopt a non-ethnic understanding of its diaspora, other examples show that the very notion of “diaspora” is open to contention. In fact, even in the Croatian case, Croatian Serbs

who did not return after the war are increasingly claiming their right to the “diaspora” vote. If the contestation of ethnic transnational practices of citizenship does not focus on their *transnational* nature (as the left wing parties have traditionally done, calling for a re-territorialization of the criteria of belonging) but on their *ethnic* aspect, then a progressive transnationalization of the boundaries of belonging and political representation may develop, rather than a simple re-territorialization of ethnic politics.

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