

The Legal Position of National Minorities and the Formation of State in Years'20

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Abstract

Albania came out of World War I in an economic – political difficult situation. State institutions lack of consolidation and the difficult living conditions in which was the population, adding even more the future uncertainty of this small state. Furthermore, Albania is not yet recognized by other states and the League of Nations as an independent state with full and equal rights. This small state during the years 20 ' occupied an area of 27,539. 10 km² and had a population of 803 959 inhabitants. As belonged to the territorial organization and administrative division, it was divided in 9 prefectures, 31 sub-prefectures and 80 provinces. Its population belonged to three different religious faiths: Muslim, Catholic and Orthodox. The number of residents who claimed to belong to the religion of Islam was about 529,694, and those who belonged to the Orthodox religion were 168 215 and those who belonged to the Catholic religion were 96,050¹. But related to the ethnic composition of the population, the Albanian state is presented as homogeneous where national minorities occupied a small percentage, no more than 10%. The small presence of minority in Albanian territory probably was also one of the reasons that explain the reason for the lack of labor conflicts with ethnic character. Minorities that were identified as non-Albanian minorities were divided into ethno-cultural and national minorities. In the first group were included Rom and Vlachs, while on the second group were included: Montenegrin minorities, Macedonian and Greek national minorities.

Introduction

Vlach or Arumanian ethno – cultural minority, had an early presence in the Albanian territory. Members of this minority speak as their first language that of the country in which they were located even if among their members of the group Vlach language was used constantly. They were concentrated notably in southeastern and middle of Albania.

Rom minority was distributed in different parts of the territory, mainly concentrated in central Albania and south. Nomadic, way of life emigrated from one region to another was one of the reasons not only for the registration but also their integration.

National minorities were concentrated mainly in the border areas of Albania or such, in the north, east and south.

Macedonian national minority was concentrated mainly in the area of Prespa. This area extended in the southeastern corner of Albania, bordering with neighboring countries, Greece and Macedonia. During the years 20' Macedonian national minority had not the minority status of the Albanian legislation.

The Montenegrin national minority was concentrated in the north of Albania, mainly in the north of Shkodra, in the municipality Gruemeri-Vrake. According to the data in Vrake were 1855 inhabitants concentrated in 150 houses, which belonged to the Montenegrin minority. ²

¹ Teki Selenica, ALBANIA IN 1923, TIRANA Printing House "Tirana", 1923, p.7.

² Ministry of Foreign Affairs, on schools slavish of Shkodra in the village of Vrake MFA, archive 1922 files 164, p. 13.

Greek national minority was concentrated in the southern part of Albania, notably in the prefectures of Gjirokastra, Korca and Vlora. According to official data, the number of people Greek – speaker reached in 16,000 residents. ¹The considerable concentration of the Greek minority in the border area would lead to an international collision between Albania and Greece.

Greek-Albanian debate in the Conference of Ambassadors on the Greek minority in Albania

The issue of minorities in Albania will be treated for the first time in the Conference of Ambassadors held at Versailles after the First World War. During the conference Greece sought to annex the Albania southern territories by exploiting the presence of the Greek minority. The Greek delegation headed by Prime Minister Eleftheros Venizelos, in his presentation submitted the requirements and the claims. With his intervention he operated with all the sorts of theories, not only strategic but also historical and linguistic. These theses were accompanied by statistical data which is presented as authentic. So according to Greek party claims in these territories there were about 150,000 Greek. For the determination of this population the Greek party took as basis the religious affiliation, which was that of the Orthodox religion. In the territory of southern Albania there were about 290,000 inhabitants, of these 117,000 inhabitants belonged to the Orthodox religion and the rest belonged to the Islamic religion². It was clear that this kind of reasoning was incorrect since only this element can not suffice to define the national identity of a nation. So, for the definition of a national minority it was necessary that its members, display ethnic characteristics, cultural, religious and linguistic separate from the rest of the population. Taking as a basis these data in the definition of national minorities, then in the Albanian territories lived a Greek population many times smaller than was claimed by the Greek delegation. Also, another element that the Greek delegation was using to achieve his goals was the presence of many Greek schools in the territory of Albania. This aspect is explained by the fact that during the five centuries occupation by the Ottoman Empire, the Albanian intellectuals had been unable to open the schools in the Albanian language. This kind of policy pursued by the Turkish authorities had forced many families to send their children to Greek schools that were opened in the Albanian territory.

During his intervention at the Conference of Ambassadors, the Albanian delegation rejected the topic submitted by The Greek party counterparts in determining the nationality of a nation based only on religion. The Albanian party highlight the fact that the population of these areas regardless the religious affiliation, had the same habits and spiritual feelings like all the other part of Albania. Spoken language, despite the presence of The Greek schools was the same as the language of all Albanians in the south as well as in the north. ³ Regarding the attendance of The Greek schools and the lack of them in the Albanian language, the Albanian delegation, rejected the claim that they were proof of Greece-isation of these regions. This was explained by the prohibitive measures that had taken the Ottoman Empire, in Albanian schools during the occupation years. Greek-Albanian debate in Greece about the claims on the territories of southern Albania will last for some time. Claims of Greece will be thrown down by the Conference of Ambassadors and Albania will be able to form its independent state. Albanian delegation by his part is committed to guarantee all the rights, which civilized countries gave to minorities who were in their territory. Moreover, these guarantees would be strengthened by the admission of Albania to the League of Nations.

The system of minorities' protection in the League of Nations

League of Nations created by the big winning powers on April 28, 1919 and entered into force in January of the next year. US President Woodrow Wilson, who was the initiator of this international organization, reached to introduce in the founding treaty a paragraph on the basis of which the new states as a condition for recognition of their independence had to devote themselves to guarantee equality of treatment against national or racial minorities. US President himself will impose later this paragraph even to the states that could join in the future the League of Nations. These obligations were seen with dissatisfaction from Small countries, from the moment that was asked to sign treaties for the protection of minorities. They protested against what they called a limitation of Independence, which was born as a result of the different treatment that was done to the larger countries. Objections raised by the so-called "small Countries" on the protection of minority rights, was passed forcing Member States to maintain a standard approach to any kind of prohibition against racial discrimination,

¹Ministry of Foreign Affairs, Statement hat made the representative of Albania on October 2, 1921, MFA 1921 File 91, p.241.

²Beqir Meta, Minorities and National Construction in Albania(1912-1924), Albanological Studies Center, Institute of History, Tirana, 2013, p.242.

³EnverBytyci, Albanians, Serbs and Greeks, Printing house "Koha", Tirana, 2005. p.80,

linguistic or religious. ¹ Were also adopted some measures that intended the preservation of national identity and values of particular groups, assimilation against any danger that may come as a result of boundary changes.

The difficulty of adopting these measures was that some of these countries were connected between them with special treaties, other non-binding promises, others still at large by any agreement. Pretty much almost all European countries were involved in its territories minority groups. Special significance had League Resolution of 21 September 1922, in which it was claimed that, besides recognition of the minorities right to be protected from any form of oppression, was emphasized even the duty of the members of these groups to collaborate as loyal subjects of the state where they resided. The resolution also would guarantee the new territorial change set by the Peace Conference of 1919, which provided an extension of the territory of Serbia, Romania and Greece and determination borders of Poland and Czechoslovakia. These agreements have created a large number of groups that for the cultural traditions, linguistic and religious, were in a minority position, which should be protected by the signing of the treaties of minorities, between great allied powers and losers countries of the war. In general terms, the new regime provided that the protection of minority rights by these treaties must be concentrated on: equality before the law with respect to civil and political rights, freedom of religion, and the right of minorities' members to use their language, the right to have their religious and educational institutions. It was also including the right to develop teaching in the mother tongue of minorities in areas where minorities constitute a considerable number.

² International protection of minorities pointed out the principle of non-discrimination, which essentially guarantees to the minority members to equally enjoy civil and political rights by members of the majority population. On the principle of non-discrimination is also expressed the Permanent Court of International Justice. It argued that the aim of this principle was the eventual prevention of unequal treatment and no guarantee of a regime for which derived a privileged treatment. Observing the Court's position was understood that the provisions on the rights of persons who belonged to minority groups had a negative character, because they were confined to the prohibition of all forms of discrimination. Also, the international protection of minorities, provided that members of minorities should enjoy equal rights in the establishment, control and management of institutions to their religious and cultural sites, schools and other educational institutions, with the right to use their own language and practicing religion freely. It was the duty of the member states of the League of Nations, which, through their intervention to make possible the realization of these rights. Such an interpretation was noted in the case when, in those parts of the territory, where minorities constitute a majority of the population, the state should ensure the development of teaching in minority languages and a fair division of public funds in order to achieve those rights. Provisions of treaties concluded, at that time, had as its object the minority members and non minorities. The views seemed clear from the attitude of the Allied Powers, which were seeking to guarantee a minority political autonomy, thus avoiding at any cost the establishment of a state within a state.

The international system created by the League of Nations went further, as provided the existence of a "minority regime" even when, without specific treaties, were implemented the rights of minorities. In other words, it was this international body, which for the first time was trying to ensure minorities a real status, internationally recognized. League exercised the function of guaranteeing through a practice of reviewing the petitions. These petitions can be presented on behalf of minorities when these claimed that they were violating their rights. Complaints were addressed to the General Secretary of the League of Nations, and in case they were considered acceptable, the Council of the League raised an ad hoc Committee on Minorities, which aimed a peaceful resolution of the issue. ³ In those cases where the efforts for a peaceful resolution of the issue between the League and the state against which allegedly had violated the rights provided in treaty failed, to the Council was recognized the right to refer the matter for consideration before the Permanent Court of International Justice. A case in point has been the review by the Court on the issue of minority schools in Albania. It was about the decision taken by the Albanian government belonging to the nationalization of private schools, including those of the Greek language, the Greek minority in the south of the country.

Court intended to give a solution to these issues, trying on the one hand, to ensure minorities certain rights, in order to preserve the personality and on the other to achieve these rights, minorities should not be opposing the state which was part. In the framework of the League of Nations tried to create a system of guarantees. It is important to underline that treaties concluded during this period constituted a step towards the protection of minorities and recognition of human rights.

¹Catello Avenia, Tutela internazionale delle minoranze, p.12, <http://www.altalex.com/documents/news/2012/07/12/tutela-internazionale-delle-minoranze>

²Mimoza Agalliu, International Protection of Minorities, p.11, Printing house "Marin Barleti", 2013.

³Mimoza Agalliu, International Protection of Minorities, p.12, Printing House "Marin Barleti", 2013.

Their fundamental importance lay in the fact that the public international law had not only its object relations between countries, but also maintaining the guarantee of rights, even though in a limited way.

For the first time the international community was aware for individuals, who lived without a normal law protection, and that they seek additional guarantees for the enjoyment and exercise of their fundamental rights by an international organization, because their defense systems by national internal systems may not be enough.

This system, which in a first glance seemed quite coherent and liberal, failed for more political reasons than legal. This is because the various treaties asked commitments mainly to defeated states in the First World War and tried to exempt from these commitments to the League of Nations.

It was necessary the universalization of approved rules. Obligations in the field of minorities were not included in the League Status, but were charged only the countries associated with these obligations in the peace treaties.

Despite these achievements, the international law does not provide an effective protection against minorities. Firstly was not offered a collective legal protection, but only one individual protection of those people that enjoyed the minority status.

Another negative aspect was the fact that the international protection system formed for minorities provided only negative type measures, namely general prohibitions or obligations. Such measures could have been the adoption of the principle of non-discrimination and affirmative obligation of States to implement the principle of equality.

We should also remember that the League of Nations was an initiative of US President Wilson, but unfortunately the United States of America did not become a member of this international organization. The main purpose of the League of Nations was to maintain international peace and security, but also a member states were obliged to resolve conflicts through an arbitrary or addressing the Council or Assembly, disputes that may arise between them.¹ Also, to avoid conflict, was foreseen the commitment to not use force at least until the third month from the moment of publication of the report issued by the body. For these reasons the problems of minorities were in the second plan.

After the end of World War I and the creation of a truly international regime thanks to the League of Nations, there was not a binding legal definition and universally accepted about the concept of minority. Permanent Court of International Justice of the League of Nations, in an advisory decision on July 31, 1930, regarding the issue raised by the Bulgarian-Greek community, to give a definition.

It was defined as: a collective of people who lived in a state or locality, who had a race, a religion, a language and its traditions, united by the identification of her race, religion, language and tradition in a sense of solidarity, in order to preserve their traditions, their forms of worship, to guarantee the education and upbringing of their children, according to the sentiments and traditions of their race and that are mutually supported.²

In other words, that a group of persons must be considered and benefited from minority status should have possessed some national, ethnic and linguistic features. Also the terms like ethnic, linguistic and religious should be treated as a sub-category of national minority, which includes in itself the nation element of the foregoing characteristics. Preservation of these features require a form of collective residence, which create an identity and somehow showed a sense of solidarity among the members of the group against the stock leading to linguistic, religious or cultural assimilation. The right of identity in itself presupposed, on one hand the action of the members of minority group finalized for recognition of their rights and the preservation of identity, on the other the stock prohibition of the States that lead to genocide and ethnic cleansing.

¹Catello Avenia, Tutela internazionale delle minoranze, p.11, <http://www.altalex.com/documents/news/2012/07/12/tutela-internazionale-delle-minoranze>.

²Fulvio Suran, Fabrizio Somma, Ricerche sociali, Centro di Ricerche Storiche di Rovigo, p. 12, http://www.crsrv.org/pdf/ricerche_sociali/Ricerche_sociali_17.pdf

Albania and its commitment taken by the League of Nations

Albania was accepted as a member state of the League of Nations on December 17, 1920, being recognized by the international community as sovereign and independent state. League of Nations for its part, requested to the new member to take commitments in respect of the rights of national minorities and to report to the League for their position. An important step in this direction was the Declaration on the Protection of Minorities in Albania, signed by Fan Noli, as representatives of the Albanian government, in the session of the Council of the League of Nations on October 21, 1921. This statement consisting of 7 articles will be named as a fundamental law in Albania. Consequently, any law, regulation or official letter would not be contrary to this document, otherwise they will lose force. Also, Article 2 provided that Albanian citizens will be guaranteed full protection of their life and freedom, regardless of nationality, language, race and religion. All citizens shall have the right to freely practice their religion and faith, with the condition that it was not conflicted with public tranquility and traditions. This article was important because of the country emphasized secularism stating that every Albanian citizen was given the right to change religion. As belonging to civil and political rights they are regulated by Article 4. So, all Albanian nationals were equal before the law and shall enjoy all civil and political rights without distinction of race, language or religion.

For political rights in Albania will apply a system of choice, taking into account the rights of the minorities, of race, religion and language. Civil rights had to do with the fact that Albanian nationals of any language will not be put any constriction in the free use of their language as private relations, trade, and the issues that would have to do with religion and media. ¹ After emphasized the full equality of the persons belonging to minorities with other Albanian nationals, they were engaged to periodically inform the League of Nations and vowing that he would be kept in mind its recommendations, stating that "As belonging to public education, the Government will give in the cities of the regions where they lived a significant part and citizens with a language other than the official language, adequate facilities to ensure that teaching in primary schools must be given to the children of these Albanian citizens in their mother tongue².

Art. 5 recognizes to the Albanian citizens the right which belonged to minorities, to direct and control, with their incomes, or to create in the future, charities, religious, social and medical, while guaranteeing the right to freely use their own language and to practice their religion freely.

Albanian government is committed to, within six months by stipulation of this statement, to represent the Council of the League of Nations a detailed report about the state of religious communities, churches, monasteries, schools and companies that belonged to minority. Also, the Albanian Government will take into consideration all orders that the League of Nations would give on this issue.

The statement gave a special importance to the development of teaching in the mother tongue of minorities. So art. 6 provided that in the cities or regions where they lived in a considerable number of Albanian nationals, who do not speak the official language, the Albanian state would create special facilities to ensure that children of these citizens, in the primary schools must be given tuition in the language of their own mother tongue. This declaration did not prohibit the Albanian government to put in these schools the teaching of the Albanian language as mandatory. According to art. 7 this statement for the protection of minorities, had international character and will be put under the control of the League of Nations. Accordingly the statement can not be changed without the consent of the majority of the Council of Nations. ³

To the Council was recognized the right to give suggestions to the improvement and achievement of the objectives set by the Declaration. The system of minorities' protection provides that if a state between Albania and other members of the League of Nations, will arise doubts on the implementation of these articles, this will undoubtedly be called as a dispute of an international character by the League of Nations Statute.

¹Archive of the MFA, protection of minorities in Albania, Declaration that has made the representative of Albania on October 2, 1921, p 250.

² Luan Omari, *The issue of national minorities*, Printing House "Guttenberg", Tirana, 2014, p.50.

³Archive of the MFA, protection of minorities in Albania, Declaration that has made the representative of Albania on 2 October 1921, file, 99, p.251.

The statute provides that, any dispute which had the basic rights of the minorities, would be sent at the request of the other party, for review before the Permanent International Court. Albania's commitment to the League of Nations for the protection of minorities was a sign of its willingness to the improvement of the internal legislation, regarding the equality of the Albanian citizens regardless of race, language or religion.

Improvement of the internal legislation

During years 20 'Albania was engaged in the difficult way to the consolidation of the state and its administrative bodies. Despite the difficulties encountered during this important process, the Albanian state showed a special devotion towards equality of Albanian nationals. Important was art. 110, Chapter III dedicated the rights of citizens, drawn up by the Enlarged Statute of Lushnja. This article provided that all, with no citizenship change were equal before the law and enjoy equal number of civil rights, except exceptions provided by law. ¹

Albanian state had a special importance for the political representation of all citizens that belonged to different religions. In the territories of Albania in the years' were present three religions: Islamic religion to which belonged 70% of the population, the Orthodox religion to which belonged 20% of the population and 10% of the Catholic population. ²

From the data it is clear that the majority of the population belonged to the Islamic religion. Albanian government during political elections tried to guarantee proportional representation of all religious faiths in the Albanian parliament. This was an important step that the government was taking in the modernization of the Albanian society, which must accept religious diversity and focus on the formation of a secular and modern country.

Under the supervision of the League of Nations Albanian government gave a special importance to the education in the mother tongue of children who belonged to minority. As mentioned above, in southern Albania was concentrated a Greek-speaking Orthodox population, whose number reached to 16,000 residents. In this area counted 36 Greek minority schools, 2614 students, 49 teachers, 190 churches and 13 monasteries. ³All Greek minority schools were financed by the Albanian state. Local administrations and judicial authorities had no right to intervene and prevent minorities to speak and write their language. Also, in northern Albania, the city of Shkodra had two schools in which the teaching was done in Slavic languages per 1800 inhabitants with Montenegrin nationality. Albanian population during the years 20 ' was estimated at approximately a little more than 800,000 inhabitants and the Ministry of Education operated 500 schools for Albanian-speaking population. By comparing the number of Greek and Slavic schools with the Albanian ones, in proportion to the population in Albania, had more Greek and Slavic schools than Albanian. There was no other state that had full teaching rights of the minorities. As belonging to schools funding from the Albanian state, there was an exception from the Catholic community in Shkoder, whose elementary schools were not funded by the Catholic Archdiocese of Shkodra. Despite the fact that Albania was a country with a weak economy and an administration not well consolidated, its government seriously committed to fulfill the commitments that had taken membership in the League of Nations. Minorities present in the territory of Albania created possibilities in order for them to freely express their national identity and culture.

Conclusions

The end of the First World War left serious consequences not only for the Albanian state economy but also for the population that is within the territory. Despite these difficulties the government was located in building a legal state to ensure equality of sub-countries, without distinction of race, language or religion, before the law. Indicators for the good will of the Albanian government in this direction were the concern that it took before the League of Nations, at the moment when Albania was admitted as a member state of this international organization. Albania to the ethnic composition was a homogeneous state, where minorities constitute a small part of the population, not more than 10%. Despite the presence of a small minority, Albanian state approves a series of acts and laws that will allow these subjects to freely express their cultural identity. Such were the laws which guaranteed civil and political rights of minorities. So article 110 provided that all invariably citizenship was equal before the law and enjoy the equal civil rights. Special importance had the school fund from the Albanian state, where to the childrens who belonged to minority groups were created necessary conditions to learn the mother tongue.

¹AleksLuarasi, Legal acts about the history of the state and of law in Albania, Printing House "Luarasi", Tirana, 1999, P.79

² MFA Archive, year 1922, file 102, p.129.

³ MFA Archive, year 1922, file 102, p.131.

Teaching in the mother tongue was a very important aspect after giving the minority the opportunity to present in the Albanian lands the legacy on future generations, own culture, traditions and customs. Also, the announcement of Albania as a secular state guarantees for three religious communities, Islamic, Orthodox and Catholics to exercise their religion freely in harmony with each other. All the policies undertaken by the Albanian government during the years 20 'make possible that the present minority in the country must live in harmony the rest of the population and express freely their cultural identity.

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