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**National minority groups in post-
Lisbon Europe: the presence of
Europeanisation and transnational
human rights in one policy field**

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National minority groups in post-Lisbon Europe: the presence of Europeanisation and transnational human rights in one policy field

This working paper explores the role of some recent components under the European Union legal and political aegis and its coexistence with the CoE, here approached as a potential advancement of the protection, promotion and preservation of national minority groups in European Union member states.

Although the European Union has been slow in the development of clear competences on minority rights, several considerations pertinent to national minorities can be depicted across the European Union frameworks. The European Union treaty is committed to the safe guard of human rights and the respect for minorities in its 'values article' which are applicable under Community Action.

This basis is further accompanied by other policy functions which stimulate action on the promotion and preservation of minority identities, in particular in the fields of language and culture. Such policies are prescribed in different degrees of European Union competences and modes of implementation, ranging between formal legal effects and informal political consequences, generating varied forms of Europeanization. At the same time, nearly all European Union member states are bound by additional transnational regulations on human and minority rights, such as those developed by the Council of Europe. This level of transnational human rights is gradually also becoming embodied into European Union structures, while already embodied by most European states' constitutions. By taking account of some developments under each process, their interaction, but also coexistence, this paper aims to identify how Europeanization and transnational forces can help to construct and sustain a policy field, namely a national minority policy.

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I. INTRODUCTION EU COMING TO TERMS WITH (NATIONAL) MINORITY RIGHTS

Coming to terms with minority rights has figured an essential milestone in international cooperation and among international organizations. Although the European Union (EU) has been slow in the development of competences on minority rights, the EU treaties now contain the safe guard of human rights and the respect for minorities as values which need to be respected and applied under Community Action¹. This development is further supplemented by other policy functions which stimulate the promotion and preservation of minority identities. These policies are prescribed in different forms of EU competences and modes of implementation, ranging between informal political consequences and more formal legal effects, following the logic of enumerated powers². At the same time, nearly all EU member states (MS) are bound by additional transnational regulations on human and minority rights, such as those developed by the Council of Europe (CoE). This level of transnational human rights is gradually also becoming embodied into EU structures, while already an integral part of most European states' constitutions³. By taking account of some developments under each process and their interaction, this paper aims to identify how Europeanisation and transnational forces can help to construct and sustain a policy field, namely a national minority policy.

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the respect for minorities as values which need to be respected and applied under Community Action⁴. This development is further supplemented by other policy functions which stimulate the promotion and preservation of minority identities. These policies are prescribed in different forms of EU competences and modes of implementation, ranging between informal political consequences and more formal legal effects, following the logic of enumerated powers⁵. At the same time, nearly all EU member states (MS) are bound by additional transnational regulations on human and minority rights, such as those developed by the Council of Europe (CoE). This level of transnational human rights is gradually also becoming embodied into EU structures, while already an integral part of most European states' constitutions⁶. By taking account of some developments under each process and their interaction, this paper aims to identify how Europeanisation and transnational forces can help to construct and sustain a policy field, namely a national minority policy.

In order to do so, the discussion draws on selected EU treaty contents which touch upon the protection, preservation and promotion of national minority groups. The Lisbon Treaty (LTEU) is a crucial milestone in this evaluation, in which Europeanisation and transnational human rights converge in a new fashion, visible primarily in affirmed cooperative structures in the area of general human rights. As such, the paper determines that both processes are also increasingly present in emerging instruments which could serve national minority groups in Europe. A Europeanisation of the policy field can be depicted as an independent force in which one, or several, *sui generis* EU policy or legislative modes are at play, which is primarily evident in the areas of preservation and promotion. While an exclusive EU mode in the regulation of protection is largely informed by



additional transnational forces, it is influenced especially through European (CoE) human rights law understandings, principles and ways of doing things.

The EU has developed in (minimum) three ways which can be taken as relevant for the protection, preservation or promotion of national minority groups and their identities. A first connection arises in own non-discrimination legislation and human rights foundations. The area of non-discrimination consists of a detailed EU secondary law with binding effects upon the MS⁷, listing grounds such as ethnic, racial and now also national minority membership⁸. At the same time, human rights have been embedded into the treaties as general advising principles of any EU action, which are profiling a solid ground for the European Court of Justice (ECJ) to link human rights to other EU actions. A second EU dimension stems from the diversity principle as enshrined in the EU treaties since the 1990's⁹. This serves a parameter for developing a number of softer approaches in order to regulate EU culture and language policies. And thirdly, the practical consequence at the outset of the EU regional policy and the economic assistance attached to this policy domain is also likely to provide new opportunities for national minority across different European regions¹⁰. More links between the EU and national minority groups can be made at the outset of other EU policies and legal clauses; in particular within the ambits of the recent EU citizenship discourses¹¹ or in the context of EU enlargement strategies¹². This paper will however not attempt to address such a full possible scenario by taking account of all EU resources that bear importance for the accommodation of national minority groups in EU MS. Instead, the focus ahead is on how national policies can become diffused by discussing the three evolvments above as potential variables of Europeanisation and how

this coexists with wider transnational forces in the field of human rights.

The CoE is an inevitable resource in an exploration of European human and minority rights approaches. It contains a larger experience and resources than the EU, on which a transnational impact on human rights practices can be evaluated. In order to discuss such potential impact in this paper, a special focus is on selected clauses that have bound the EU to some CoE understandings. There are a few instances of this interaction throughout the past decade. One of the most recent ones is enshrined in the LTEU (Article 6 (2) LTEU)¹³ through which the EU acceded to the European Convention on Human Rights (ECHR)¹⁴, which by no means constitutes an extension of the EU legal human rights situation¹⁵. The arguments here figure around the way that universal human rights can supplement EU approaches, as a comparable set of human rights are not necessarily constructed and adapted to the particular EU market and economic functions, but move beyond this by integrating consensual universal understandings applicable to all individuals¹⁶. Likewise, links between the EU and the CoE have also been developed through looser cooperation, in particular through the assistance of the Framework Convention for the Protection of National Minorities (FCNM)¹⁷ to the EU. In order to draw up own minority mechanisms and monitor the implementation of the Copenhagen minority criteria, the EU relied on the FCNM minority expertise, without acceding to the document. A third example arises with the Fundamental Rights Agency (FRA)¹⁸, which coordinates its activities in a close synergy with both the EU and the CoE in its evaluations of European human rights situations¹⁹, in particular since the ECHR made its entrance as an important backdrop in the EU human rights context. By using some of the



basic ideas from transnational human rights focusing on how international human rights can affect domestic human rights situations²⁰, I look at how the above human and minority rights entrance into the EU structures can figure relevant in the promotion of constructive approaches to accommodating policies on national minority groups.

Fundamentally, both branches are concerned with conceptualizing and mapping the degree of domestic implications and consequences exerted by either supranational developments or the emergence of norms and regulations through transnational links. Despite the acknowledgement of each process as present sources in shaping domestic changes²¹, fewer studies attempt to synch them in a given policy area. In an attempt to do that in this paper, I take stock of current rights and standards applicable to national minority groups and in particular the recent developments initiated under the auspices of the LTEU. This will help to demonstrate some records in which supranational and transnational sources do interact and can affect a policy area towards a more inclusive and equality based model for national minority groups. Such linkage is here exemplified under the following four points:

- 1) Europeanisation causes new obligations and opens new opportunities for its MS through EU law and policy, in which a number of potential resources for national minority groups arise, ranging along the lines of protection, preservation and promotion, although to a varied degree.
- 2) The transnational flow of human rights between states addresses the individual scope of rights through fixed provisions which trigger new support both at the supranational and national level.
- 3) When bridged, they contribute with new content on rights, principles and policy

mechanisms, such as legal clarifications and broadened policy options.

- 4) The EU and the CoE can and should become more intertwined in the field of human and national minority rights, by bringing together significant contents embedded in their institutional logics.

II. CLARIFYING NATIONAL MINORITY GROUPS

Europe is home to many minority types. This number of different minorities is steadily growing, especially as ‘new minorities’²² take form at the outset of globalisation and changed migration patterns. It is therefore important to make a conceptual delineation here, by contouring what type of minority this paper looks at.

*‘A group numerically inferior to the rest of the population of a state, in a non-dominant position, well-defined and historically established on the territory of the state, whose members – being nationals of the state – possess ethnic, religious, linguistic or cultural characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion, or language’*²³

Based on the definition above, this research applies the European historical notion ‘national minority group’. Like any minority group, national minority rights consist of individual human rights, but requesting a plus of special rights (Malloy, 2005: 20). This category of special rights can be viewed in terms of rights which are accorded to people as ‘collectivities’ or ‘groups’. It is this last content which differentiates human rights provisions and minority rights provisions.



The term national minority has in fact had the main impact upon the drafting of the key European minority instruments developed by the CoE²⁴, the Organization for Security and Cooperation Europe (OSCE)²⁵ and now also increasingly the EU²⁶. At the outset from the definition above, national minorities differ from ‘new’ minorities by possessing a historical linkage and presence within a specified territory in Europe, where they might have enjoyed a sovereign state and/or independency at some historical point, but that have been territorially refashioned due to state break-ups and/or territorial re-drawls²⁷. The vulnerability has compelled states and international organizations that these groups should be protected, in which some of the key rights imply protection against discrimination, while assistance to preserve and promote minority culture and language have increasingly been embraced as additional landmarks in minority rights provisions. Thus, preservation and promotion of culture and language strike at the heart of the survival of national minority groups, while the traditional notion on protection reiterates the necessity of instruments on non-discrimination and equality. Kinga Gál suggests that for minorities:

*‘A ban on discrimination does not in itself represent a solution to the problems arising from their minority situation; the aim is for them to have a say in decisions that affect their lives, and to autonomously exercise their cultural, educational and linguistic rights’*²⁸.

As such, this paper views the necessary minority criteria as a combination of rights and principles in which protection, preservation and promotion converge. Such tri-partite combination involves (but is not limited to) elements of non-discrimination legislation; access to judicial enforcement; mechanisms which foster activities on the preservation of

language, cultural traditions and practices; but also resources which enable political and societal participation in order to promote the ‘distinct’ elements and to develop the established territory to reflect the above mentioned means.

III. NEW LEGAL AND POLITICAL PROCESS IN EUROPE

In order to discuss the considerations above, namely how the meeting of the two processes in one particular policy area can contribute to new considerations of a European national minority policy, the paper starts by mapping out some general developments that have emerged along the lines of European integration and transnational mobility of human rights.

How and in what way the EU matters is today an integral part across many disciplines, constituting a vital source for explaining developments in national politics²⁹. The interest in capturing the effects of the EU at the national level became increasingly inevitable as the EU speeded up both the range and the intensity of measures with repercussions in national policy making and legislation with, marking a distinction to other forms and modes of ‘international cooperation’³⁰. What differentiates an EU membership from membership of other international organizations can to some extent be captured by the notion of *supranationalism*³¹. That is, the key difference figures in the EU competence basis which enables the EU to perform selected acts where the EU’s competence is exclusive and produces direct effects and supremacy over domestic legislation, instigating enforcement and judicial capacities which are rarely observed in other state-to-state interactions³².



At the same time, there are also substantial amounts of EU policy areas that remain under the auspices known as ‘intergovernmental’, in which the EU plays a supportive role and/or a coordinator³³. But under both the supranational and intergovernmental scenario, a sovereign control of many domestic domains is increasingly refurbished at the outset of EU policies and legislation³⁴, where the first instance signifies a compliance of direct adaptational pressure, while the latter type of change takes place in absence of any direct form of pressure but is rather shaped through ongoing strategies of learning and/or best practice instances³⁵. It is at the outset of this very dynamic that the Europeanisation concept has developed, loaded with multiple notions which can serve to describe the interplay between the EU and the MS and to capture the resultant effects of such complex interplay³⁶. In an attempt to capture the role of the varied developments, Claudio Radaelli entails that Europeanisation research deters processes which apply to features across governance, institutionalisation and discourse³⁷. As such, it is held that the EU can matter as a ‘conditioning’ factor in more than just the strictly legal circumstances, by also affecting areas which are not loaded with any clear models on compliance³⁸. To this background, change, new opportunities and reconfigurations can be expected across varied fields linking up to national minority groups.

European and international politics are at the same time increasingly characterized by transnational modes of interactions, rooted in intensified cross-national activities and international cooperation. Although this notion remains blurred and loaded with multiple applications to different phenomena in times of globalisation³⁹, the core ideas behind transnationalism build on the existence of

multiple ties and interaction which links people or institutions across borders⁴⁰. In human rights studies, transnationalism is commonly applied as a form of interaction which arose between states and individuals as a consequence of standardised human rights provisions⁴¹, aiming at reform or change. This type of transnational activation has been profiled as a powerful mode which triggers cross-border interaction through a new sense of obligation and adherence⁴². International and regional human rights documents resemble such *rule-setters* that provide guidelines upon which a transnational interaction can be activated. Such intriguing mobility of standardized human rights principles, consisting of hard and soft jurisprudence⁴³ across and between states, does not necessarily only cause changes in human rights performances, but they also fuel conceptualizations that merit important beyond the contours of human rights⁴⁴. In this paper, the CoE resembles the human rights source which offers detailed legal instruments and mechanisms that can activate transnational action, under the guidance of human rights principles. Legally speaking, the immediate post-war human rights standardization in international law inspired the CoE towards the installation of equivalent human rights instruments and institutional structures to fit as best as possible the regional ‘European’ circumstances⁴⁵. To this end, the CoE created the ECHR as part of its overall European human rights law development. Although the ECHR is limited to the individualistic human rights, it enables a few links through which the ECHR can be interpreted in favour of minority rights, primarily through Article 14⁴⁶ and Protocol 12⁴⁷. A few decades later, the CoE also created the minority specific FCNM, devoted specifically to the protection of national minorities in the CoE region⁴⁸. Although given a legal status, the FCNM does not invoke judicial enforcement in



front of the ECtHR like the ECHR, but rests rather on a ‘soft- law jurisprudence’ consisting of opinions, monitoring, state visits, public reports and dialogue⁴⁹. This is in particular envisaged by the detailed programme-based provisions; dealing with a specific national minority policy out of which state parties can choose what to apply to their national minority contexts. It is thus dependent on a cooperative structure, in which political commitments resemble a key decisive factor. In fact, the FCNM introductory article stipulates that: ‘*The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation*’ (Article 1 FCNM).

It has been suggested that both the supranational and the transnational elements, and the way that they engage states into new innovations across nearly all policy domains warrants important in order to explain changes which emerge with these structures⁵⁰. Such evaluation has recently also gained effect in the studies on marginal groups, by taking stock of overlapping legal systems⁵¹ and political structures. Some of the key novelties and opportunities unfolded for marginal groups in Europe can be exemplified with the extension of rights and provisions into national law and policy which are first negotiated in supranational or through transnational settings. In legal terms, such evolutions lead to the fact that national minority groups appear across different legal systems, along domestic and international lines, in which now also a third system is increasingly seen, namely the supranational features⁵². Politically speaking, even in the absence of judicial enforcement capacities, the political commitments at the supranational or transnational level help to add value to existing

standards and norms, marking an obligation just by the mere fact that norms are negotiated at this level in the first place.

IV. THE EU AND NATIONAL MINORITY GROUPS: THE THREE P’S

A *sui generis* EU minority policy with clear provisions has been marked by ambiguity ever since the creation of the Union. Within the ambits of the economic and internal market structures which were negotiated into shared frameworks back in 1957, national minorities have not figured within either EU primary law or the common policy goals. The first periods remained marked by one faceted form of interaction and competence evolution, where regulative developments were primarily centred on the development of a common and internal market⁵³. As such, the EU possessed very little regulative mechanisms for controlling the situation of national minorities within the MS.

It lasted a few decades and treaty amendments before the EU competence structures reached a certain level of intensity with new repercussions at the national level. Today, increasingly more matters of common and national interests are slowly, but also inevitably, influenced or already under the aegis of EU decision-making and policy regulation⁵⁴. With the introduction of the Treaty of Maastricht (1992), some significant EU ambits entered the competence structures that could be extended to national minority groups. As aforementioned, this moment is often considered in terms of ‘*de-economisation*’⁵⁵ of EU integration, as it introduced new scopes of EU competences on non-economic features, enhancing a political integration process, which opened up new links to minority relevant elements. From this moment on, notice was taken on securing the regulation



of for instance social policy in the EU MS. In this same time period, the EU committed itself to the preservation of cultural and linguistic diversity. The new diversity rhetoric echoed in the treaty which created the European Union in 1992, gave the EU some softer competences on culture and language policy. The cultural policy which ensued furnished the EU with a supportive mechanism of national efforts in their respect for national and regional diversity (former Article 128 TEC, today Article 167 LTEU). In the same vein, important institutional concern was expressed for the safeguards of European linguistic diversity, calling upon commitments in order to protect the lesser spoken and/or endangered languages as a part of European heritage⁵⁶. To use Bruno De Witte's words, among the EU constitutional resources pertinent to national minorities, the *diversity acquis* and the resultant cultural or linguistic initiatives are important contents for the EU in its ambitions to move ahead with an EU *sui generis* minority policy⁵⁷. The above content marks an ambit relevant for preservation and promotion.

With the LTEU, the protective dimension of minority groups can be seen from a new perspective, in particular as the very term *national minority* appears for the first time in EU primary law (see for instance Article 21 of the Charter). Article 2 LTEU added the respect for '*the rights of persons belonging to minorities*' to the list of the EU founding values. An EU value normally binds the EU institutions to take these values into consideration when acting within community law⁵⁸, which is reaffirmed by affirmative measures in Article 7 LTEU, disclosing that a breach of any of the fundamental principles by a state may lead to a suspension of some of the treaty rights (see Article 7 LTEU). It is for the first time that such connection is established in EU primary law, by

referring to members belonging to minorities. Through the LTEU, the protection of national minority groups can be claimed to have been advanced with the Charter of Fundamental Rights (the Charter), in particular as the Charter gained a legal status, constituting an equally binding character on EU institutions as the EU treaties (see Article 6 LTEU). Such extension is in particular evident with the Charter linkage to the ECHR. The key content is disclosed in the anti-discrimination legislation, which added '*national minority*' as a new ground on which discrimination is prohibited within EU action (see Article 21 of the Charter). This article draws on the same content disclosed in Article 14 ECHR, stipulating the same type of ground for prohibiting discrimination. This explicit reference to membership of a national minority furnishes the European Court of Justice (ECJ), the guardian of the EU treaties and their legal compliance, with an important ground to judge on minority related matters, when EU law is invoked versus discrimination. Despite the complex legal status in terms of precedence over national legislation⁵⁹, the Charter can be taken as a 'catalogue' covering the unique EU understanding on human rights, including a few instances on minority rights, which can be applied for judicial matters of a protective nature when EU activities are pursued.

In sum, for the aspects of protection of minorities in general, the picture has sobered through the extension of EU values to include the word minority (Article 2 LTEU), safeguarded by Article 7 LTEU, and the Charter's explicit choice of the term '*national minority*'. This latter content of protection is of particular relevance in judicial enforcement matters, under the aegis of the ECJ.

But the accommodation of national minority demands or rights cannot be fulfilled through an application of only models on



protection⁶⁰. As noted earlier, banning discrimination will not solve the problems arising from their minority situation, as the aim is often to have a say in decisions that affect their lives, and to autonomously exercise their cultural, educational and linguistic rights⁶¹. EU culture and language policies appear in the Community basis under the aegis on the preservation of Europe's heritage and cultural and regional diversity. The mode of tools that were adopted for the objectives under 'diversity' of cultural and linguistic mottos are of a clear soft policy nature, which is closely related to the very reading of the Article wordings describing the objectives of related policy areas. For instance, when objectives are described, the EU is supposed to '*support and supplement the MS*' in the undertakings in these fields, where the goal is not one of legal harmonization in this pursuit (see Article 167 TFEU). In the field of culture, EU's role is advanced in paragraph 4 Article 167, disclosing that the 'Union shall take cultural aspects into account in its actions under the provisions of the Treaties, in particular in order to respect and to promote the diversity of its cultures' (Article 167 (4) TFEU). This same endeavour is reaffirmed in Article 22 of the Charter, which in a way reiterates that the Union shall respect cultural, religious and linguistic diversity. Article 2 LTEU also again reaffirms that cultural and linguistic diversity are an EU value.

The EU endeavour to attribute tools in the fields of culture based in the treaty basis (Article 167 LTEU), can and frequently has been considered as a relevant EU mechanism which can benefit national minority groups⁶². This has so far led to the installation of new activities and programmes on either a periodical or an ad-hoc basis. *Stricto sensu* programmes directed at minorities appear at an ad hoc basis under the financial schemes, such as the Ariane

programme⁶³, which was intended to support books and readings on minority culture, while institutional initiatives have provided financial incentives for minority language preservation and documentation through inter alia the set up of centres such as the Mercator⁶⁴ and the EBLUL⁶⁵, dedicated to particular tasks which feed into the preservation dimension of minority languages. The fact that most of these initiatives include financial contributions assists in meeting the financial burden which is often the case in many states.

The functioning of EU regional policy accompanied by programmes which have developed to help decrease regional disparities, coupled with the aims to ensure territorial cohesion (Article 3 LTEU), provide for further regulative measures that touch upon national minority groups, although indirectly. That is, the word minority does not figure in the EU treaty content concerned with territorial cohesion or regional policy (see Articles 174-178 TFEU). Nonetheless, the objectives of the regional policy list a number of conditions which entitle regions to benefit from the policy incentives which relies heavily on financial assistance. Article 174 TFEU discloses that: '*Among the regions concerned, particular importance shall be paid to rural areas, areas affected by industrial transition and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with low population density and island, cross-border and mountain regions*' (Article 174 TFEU). National minority groups which are settled in border regions have taken part in inter alia Interreg programmes, concerned in particular with promoting cross-border, transnational and interregional cooperation⁶⁶. The financial aspect of such policy initiatives creates an important incentive for the development of common strategies



among national minority groups themselves, giving ample space to promote identity related features through economic activities.

The brief overview above resembles just some abstract views on how the EU enters the dimensions of protection, promotion and preservation national minority groups. Although many of the tools are not exclusive, the overview above demonstrates that there is a mixed basis within the EU structures which could figure into an assessment of Europeanisation effects through empirical studies. It opens up for a broad application of Europeanisation, given that the EU basis pursues a few clear legal clauses relevant for the protective dimensions, while supplemented by a policy content that enables new ways of interaction and activities relevant for preservation and promotion. This latter content is largely a result of indirectly fashioned mechanisms which are created for common approaches on cultural, linguistic and regional matters. When taken together, the EU approach which operates across the three policy areas, can produce a combination of legal, political and symbolic consequences, allowing for advancement in the national policy orientation concerning national minorities. At the same time, the way that national minority groups organize their activities within EU structures are also likely to produce new so called 'Europeanized' potentials.

V. SYNERGY BETWEEN EUROPEANISATION AND TRANSNATIONAL HUMAN RIGHTS

A. Europeanisation

Without devoting too much time on clearing up the terminology behind the Europeanisation concept, this paper uses a broad fashion of Europeanisation applicable to the study of causality between supranational and national (including sub-national) levels, covering both formal and informal policy areas and the changes that follow due to this interaction. The concept of Europeanisation has also evolved along the spectrum of increasing number of EU competences and the consequent domestic change. It was first during the 1990's that the concept was prescribed a vertical dimension, warranted by concerns of understanding domestic implications and adaptation to EU integration⁶⁷. In the same vein, Europeanisation was acknowledged to trigger multiple effects, ranging across legal, political, and social affairs⁶⁸. In any case, it is the EU which serves the driving source of change, today acknowledged to be taking place across a vast number of domestic political processes and policies, where final outcome and effects can be traced back to some source emanating from the EU⁶⁹.

Recently, Europeanisation effects are also acknowledged in policy domains on which the EU has no established competence⁷⁰, a clear model for prescription or any provision of guidance. That is, areas upon which the EU has no form of prescription which it can apply in the interaction with the MS, be it hard forms which commonly consist of regulation, directives or resolutions or the softer versions which are exercised through recommendation, institutional opinions or guidelines⁷¹. Instead, an increasing value is credited to instruments which do not mention one particular end goal, but do nonetheless shape it. In fact, this last mentioned indirect form of effects has encouraged a range of theoretical⁷², methodological⁷³ but also vast



empirical research⁷⁴ among Europeanisation scholars.

Not long ago, a cautious entrance of sociological aspects has made its way into the otherwise 'EU politics centred' focus of EU implications in Europeanisation research. With this, Europeanisation saw an application in disciplines beyond international relations and political science⁷⁵. Following what emerged as the 'second generation' wave in EU integration studies⁷⁶, the present study is also inspired by these shifts that encouraged sociological attention and arrows onto the EU studies. What united this front of scholars was that one cannot understand European dynamics without factoring in the Europeanisation of social interaction writ large⁷⁷, in particular as EU competences were evolving to such extent that both formal and informal factors were being addressed. With this, the study of Europeanisation also came to encompass the expansion of social interactions at the European level and how it interacts with issues such as class, social mobility, ethnicity or even space⁷⁸. This shift promotes a new thinking on Europeanisation effects, contrasting to the otherwise conventional literature on Europeanisation, by assuming the significance of factors beyond hard-law as useful entry-points in measuring causality.

Such Europeanisation which is not necessarily confined to the role of formal interactions as an explanation for domestic change also raises new explanation potentials, in which the notion of 'misfit'⁷⁹ is not necessarily a given condition or variable of change. That is, sociological EU voices assume that adaptation, adjustment and changes can take place even in the absence of a misfit between EU and domestic policy. Featherstone added insights to this dimension by claiming that Europeanisation resembles 'domestic adaptation to the pressure

emanating directly or indirectly from EU membership'. Claudio Radaelli also views Europeanisation broadly, holding that 'the patterns of adaptation can be more complex than as a simple reaction to the acquis requirements and or what is directly oriented from Brussels'⁸⁰. By reviewing the mechanism of Europeanisation, Radaelli is one of the scholars who hold that next to adaptational pressure emerging from common policy prescriptions, softer versions of mechanisms which serve as framing tools need to be integrated in Europeanisation research agendas. This last potential set of mechanisms also addresses a so called 'minimalist' form of regulations and directives, but also socialization⁸¹.

This provides us with a form of Europeanisation concerned with varied indicators that emerge from EU legal and policy structures. While a hard binding form of legislation is adopted to regulate the typical supranational policy areas, other policy areas are performed with a less formal character, relying on the power of support, recommendation, guidelines and opinions⁸². As such, there is an ample space which could allow for learning processes and socialization as ways of Europeanisation. That is, while the EU sets forth new legal and policy initiatives which demand direct accountability, EU integration has also culminated, often unintentionally, into the creation of opportunities which affects and sometimes transforms social interactions, encourage cross-border co-existence and shape identities, even when such outcomes are not a primary aim. This broad fashion can add important dimensions to the study of national minority groups belonging to the EU. With this broad understanding, where the EU can be framed as a process of institutionalization (but also socialization) which enters the domestic



setting through an EU linkage and either affects or shapes domestic areas ranging from politics, legislation new rules and understandings, it can be assumed to link to national minorities as much as it links to other policy areas.

B. Europeanisation of policies for national minority groups

Having acknowledged that Europeanisation can be identified across a variety of domestic lines in which both formal and informal structures are located, I move on to the way that this could matter in the field of national minority groups.

Hitherto, the clearest (and most researched) Europeanisation instances of ‘minority rights’ are observed in recent EU enlargement contexts. The causal relationship between the EU and consequent reforms in the new MS minority protections is defined upon EU conditionality which included minority protection as an element within the spectre of conditions for membership⁸³. The resultant streamline in domestic minority protection within the accession countries and the emergence of minority rights in the EU-speak, established perhaps the main explicit nexus between Europeanisation and (national) minority rights.

Next to the enlargement driven Europeanisation, how EU matters and affects national minority groups paused. A potential Europeanisation in this field remained limited to the political arrows of direct conditionality, largely informed by the rationalistic paradigms, instigating that the key driving forces which make national governments ready to adopt EU rules and undergo change of national structures, is driven by the gains that are promised by this action⁸⁴. But potentials arising from other EU

regulations and structures and their prospective to cause Europeanisation of national minority groups are up to date far less determined. While some studies have raised the significance of different clusters in EU legal frameworks as potential resources for minorities⁸⁵, the nature of such tools is far less developed and how it could fit the three dimensions of national minority groups.

Tove Malloy opened up some of these latter concerns, by raising the attention on how discourses of integration and Europeanisation promote new development politics, making national minorities active participants in designing regional strategies for development policies in the regions which they inhabit⁸⁶. But this study is not located within the theoretical contours available under the Europeanisation paradigm. There are further studies that look at the role of EU integration exerted upon different minority groups as a consequence of different EU policy fields. Evangelia Psychogiopolou looks at the role of regional economic processes in minority inhabited areas. The author concludes that although there is no direct link between minorities and EU regional policy, examples such as the creation of ‘euro-regions’ are increasingly making an entrance into the EU-speak on minority policy⁸⁷. In areas where national minority identity remains significant, it is anticipated that the emergence of such supranational policies will have an implicit importance and rationale. This can help breed for the establishment of new interactions, as actors are brought together into EU driven activities which aim at fostering cultural and linguistic diversity, very often for the first time (in particular majority and minority segments, or minorities across borders). McGarry *et al* have examined whether EU integration helps to defuse the *minority problem*, taking a notice on EU’s ability to replace ‘unitarism’; through the



erosion of borders; established political spaces beyond the state and with the rise of minority rights '*regimes*' beyond the state level⁸⁸. Will Kymlicka can also be located in this debate, where he considers that national minority communities across Europe are increasingly directing themselves towards the supranational space by making use of new channels and innovations which are available beyond state structures⁸⁹. In sum, EU integration extends to the minority field by unfolding possible policy mechanisms on development, cooperation, and economic opportunities but also through policies driven by the diversity rhetoric, as expressed under the goals of EU language and culture policies.

As presented above, unexamined potentials of national minority policy remain largely confined to policy frameworks which rely on loose forms of regulation. Such informal type of regulation is in particular the norm of EU's ambitions to foster cultural and linguistic diversity. Gabriel Toggenburg suggests that EU culture and language policies provide such new normative yardsticks on which Europe's national minorities can build⁹⁰. But national minorities can also become part of other wider discourses prompted by EU policies around the content and meaning of national/ethnic identity, diversity as well as citizenship debates⁹¹. Most of these policies are in fact carriers of the fundamental EU ideas on human rights, combined by the efforts to ensure equality⁹². While such EU clusters and their goals are not aimed at national minority groups, they do unintentionally contribute to the strengthening of important elements by involving national minorities into new modes of cooperation and organization. Arguably, EU integration unfolds a new front of opportunities which here assists in reframing persistent minority issues, which exist at the level of institution, practices and norms.

At the outset of the discussion above, it is primarily along the EU developments initiated between the Maastricht and the present post-Lisbon EU that the links between the EU and national minority groups have emerged. What Gabriel Toggenburg chooses to term a '*de-economization*' moment of European integration⁹³, lends support to a conceptualization of Europeanisation to fit the policy area in focus. A significant input here can be given to the recent attention on social arrows in Europeanisation research, by stretching the boundaries of the actual departure point of Europeanisation. This highlights new patterns that matter for national minority groups, by enabling new access, flexible use of approaches and instruments and non-formal significance. Thus, the potentials in EU culture, language and regional policies can involve framing of new ideas, bringing new principles into domestic policy debates, pressure to reform legislation and even enforcement to introduce new regulations and rules. As Europeanisation has become loaded with such dimensions throughout its life span, it is herewith likely to figure relevant in formulating new national minority conditions which stretch across the dimensions of protection, preservation and promotion.

C. Influence of transnational human rights on national minority groups

The application of transnational ideas to the field of human rights is largely manifested in the subfield of international relations throughout the past decades, as a source emanating from universal understandings of human rights norms and principles⁹⁴. Initially, the branch developed through studies focusing on the role of transnational NGO's and activists as powerful



actors pressuring either governments or IO's to develop formal procedures for investigating human rights situations in domestic settings⁹⁵. The spread of human rights on a transnational basis normally corresponds to the activation of transnational forces united around the goal of promoting human rights articulations across borders⁹⁶. In practice it is taken as an important component which enables new political activity operating through transnational links and forums and having the ability to cause change, in this case, using human rights understandings as the course of change to affect this same policy domain. Increasingly, the codification and standardization of similar universal rights into international and regional documents and treaties have also become acknowledged as significant sources of domestic human rights reform and change⁹⁷. In the following discussion, I view transnational human rights as an expansion of human rights standards in Europe, upheld by the creation and application of collective instruments which can modify, legalize and institutionalize shared approaches.

Although the key definition has mainly been used to explore the how international organizations can help to improve human rights records at the domestic level⁹⁸, there is also a strong potential of side-effects arising from the transnational mobility of human rights' standards. That is, transnational human rights forces can also lead to other adjustments, expressed via new modes of articulations, moral obligation, but also political behaviour. A consequence can be reproduction and reformulations of a particular policy area, which become decisive in domestic settings⁹⁹. One such example has been observed in a study on the incorporation of guest workers in European states, where it was determined that the concurrent rise of human rights awareness affected the ongoing shifts which some

European states made in the basic organizing principles of (state) membership¹⁰⁰. Yasmin Soysal claimed that it was the emerging norm and logic of personhood which superseded the traditional logic of national citizenship in several European states¹⁰¹. This has been explained in terms of shifts in traditional state-centred area of individual rights and obligations towards a more universalistic plane, transcending the boundaries of particular nation-states and their definitions of citizenship. This same study also concluded that the dialectical tension between national citizenship and universal human rights played an increasingly important role in shifted naturalisation policies which ensued¹⁰². Just as the role of guest workers was altered by becoming for the first time an established branch in both EU and international law, enjoying categories specifically constructed for them, paralleled categorization can be drawn to national minority groups, where the national legal environment experiences new inputs as an embedded factor of global tendencies.

Such transnational flows of human rights understandings have been drastically facilitated in times of globalisation, but it has also turned into a powerful force¹⁰³. In areas of human rights (including minority rights), it is increasingly argued that it is becoming difficult for states to discount resultant '*pressure*', emanating from international bodies and their standardized documents¹⁰⁴, even through non-binding measures. This is here viewed in a European context and in relation to the emergence of international/regional treaties and conventions on human rights (including minority rights). Although the conditions and consequences of impact can be multiple, one central point is the role of the principles and norms produced by legal and political instruments, which in this case resembles an interest in how European human rights norms



are understood once reaching the domestic level. The very existence of international frameworks which contracts states into new regulation serves an additional important instrument, by bringing a different kind of ‘campaigning’ and ‘pressure’, which warrants new sense of obligations. In contrast to Europeanisation, where an EU link figures the key source, transnational human rights cut across both the supranational, national and subnational level in an unfixed manner, thus having various starting point, directions and outcomes.

Both the ECHR and the FCNM were developed under the seeds of an international legal environment whose *raison d’être* is the protection of human rights. Now, both instruments have made an entrance into EU law and policy making. While the ECHR constitutes a legal cross-fertilization with EU human rights law¹⁰⁵, the FCNM has served more as a source of inspiration. The FCNM made an entrance into the EU-speak on minorities as a form of guidance. It served an important benchmark assisting with EU minority indicators as drawing up the own EU conditionality in the Copenhagen document¹⁰⁶. This very interaction has even been argued to have contributed to the process of European integration dedicated to the protection of human rights¹⁰⁷. Thus, the interaction in the field of human rights and minority rights (although to a lesser extent), provides for perhaps the best example of an emerging synergy between the two EU and the CoE, tuning both legal principles, but also understandings. The longer experience of the CoE can add new impetus and break new ground within the EU in the area of both human and minority rights. Today, the two organizations have entered an even closer cooperative structure through the LTEU, in particular with the EU accession to the ECHR (Article 6 (2) LTEU).

As much as Europeanisation can be divided into a process which combines both formal and informal processes of effects, transnational human rights can also generate comparable twofold effects. While a so called formal process most often involves compliance with legally binding rights schemes, it is as much contributing to increased awareness among domestic actors on the implementation of legal regulations. Thus, it also resembles a mixture of political and moral obligations. In this context, as stated by Fernand de Varennes who considers language rights as an integral part of human rights, non-legally binding documents reflect a generalized consensus as to what are the human rights of minorities and on the standards that are applicable in the area of language¹⁰⁸.

This latter source of ‘rights’ thus raises attention to the role of rules, norms, practices and other meanings that are produced through transnational interaction and diffusion. Thus an international human rights discourse can generate binding effects although there is no *formal* obligation or enforceable rules. But by setting norms, framing discourses and engineering legal categories and legitimating models, they also enjoy obligations on states to take action. Such developments also contribute to the establishment of new relations and contacts, where ideas are shared at a new level. Widely supported notions and ideas which are circulating in such transnational arenas, can also inspire and foster new domestic developments. As for instance multiculturalism and cultural diversity are believed to influence policies which help foster diversity by taking notice on the role of cultures and languages in Europe¹⁰⁹, they also contribute to the down-sizing of hostile policy recommendations.



D. Europeanisation, transnational human rights and national minority groups

As one of the primary aims of this paper was to capture how the interaction can help to clarify a policy field in which Europeanisation and transnationalisation interact through politics and legislation, the potential novelty and possibilities for national minority groups will be discussed next. The two levels converge primarily in the context of human rights, with ambitions to strengthen and bring coherence to the overall European human rights protection. But this convergence in the field of human rights also seems to add new dynamics to the protection of national minority groups.

Minority rights have figured important parameters in international law and cooperation, calling upon specific modes of regulation. The processes outlined in this paper fall into such a branch of ‘non-state’ oriented political, legal and societal ways of accommodation, however, this time dictated through combined forces which rely on either a supranational or a transnational logic whose *raison d'être* is human rights protection. Such interactions warrant new opportunities to Europeanize areas of concern for national minority groups. Through the EU, new types of policies have been able to flourish with new potentials for national minorities. The diversity clauses in EU treaties have inspired programmes and projects through which national minority groups have become participants of joint integration ideas and policy goals, thus entering the supranational structures as participants¹¹⁰. Europeanisation of national minority groups through hard law application is weaker and less clear, grounded in the fact that the EU lacks both minority rights and a minority

catalogue on which it could build its own competences, prescribe rules and judge state implementation. Instead, such type of Europeanisation needs to be viewed through the lens of ECJ case law, the implementation of anti-discrimination legislation but also in relation to wider human rights breaches. This last option can sober up further with the emergence of transnational human rights become integrated into the EU legal and political structures.

Moreover, the integration dynamic which contours most EU policies seem to bring additional possibilities. With the so called sociological turn in EU studies, the materialist implications of European integration and Europeanisation are being extended, by attaching a relevance to a range of new factors as potential explanation factors. This scenery has in particular been advanced between the Maastricht EU and the current Lisbon EU, which resembles a period which embedded new approaches on culture, language and regional development and cooperation, reaching new groups of people. This recent shifts in the study on Europeanisation can clearly benefit long-term strategies on marginal groups, by taking account of minimal competence structures and translate them into useful strategies. Such initiatives can also prepare the EU for a better cooperation with transnational forces.

The transnational emergence of human rights into EU primary law strengthens the protectionist dimension, viewed at the outset of human rights clarifications and legal extensions. This is envisaged through the accession to the ECHR as stipulated in Article 6 (2) in the LTEU, but also in the Charter, which naturally moves the EU human rights realm one step closer to the CoE and its European human rights law. Although the links are grounded in coming to terms with a common ground in ensuring



universal (individual) human rights standards in Europe, a closer look at the content shows that there are also important parameters unfolded for the protection of national minority groups in this linkage. This is in particular so with the specific reference to ‘*membership of a national minority*’ as a new basis for non-discrimination in the EU (Article 21 (1) Charter). It has often been argued that this particular wording finds its source in Article 14 of the ECHR and not in EU law¹¹¹. Although the Charter’s status is somewhat complex, it is by no means a new source that binds the EU institutions (Article 6(1)).

But the form of transnational human rights looked at here can also enter the EU realm more horizontally and indirectly, by for instance breaking down and removing barriers, where Europeanisation in turn can take over. This can be paralleled to Soysals study on citizenship issues of guest workers in Europe, where she brings in the role played by universal human rights as a source which helped to harmonize the naturalization processes in European countries¹¹², in which EU law later took over through own citizenship laws and regulations. The EU has a well developed legal and political structure to make new standards roll once they have entered the EU frameworks. The evolving natures of administrative, political and juridical mechanisms at the EU level are important parameters which can facilitate the emergence and absorption of such rights. Thus, where transnational processes end in EU settings, Europeanisation processes can take over, by internalizing particular norms, understandings and/or legislative pieces, through the employment of supranational instruments and logics. In other words, Europeanisation can make international features more operational and valuable by applying own mechanisms to translate international understandings into an EU context. Related to this, both processes can be

said to depart from a basis fabricated upon human rights values or an inherited equality, where it is very seldom that norms concerning human and minority rights will be rejected, as exemplified by Risse *et al.*¹¹³ on several occasions throughout their study covering diversified states at different continents. It is very unlikely that a human rights norm would be openly rejected by an EU MS, which are at the same time bound by the EU *acquis* and its basic values.

This paper did not examine the evolutionary progress in detail, but it rather looked for identifying new processes and practices which relate to the modes of Europeanisation and transnational human rights in conditioning one policy field through their particular political and legal structures and the increased interaction between them. Thus, relevant practices here can move along the spectrum of being either EU-made, deriving from international human rights structures or through an interaction between the two levels. This latter aspect is becoming increasingly established, as EU policy and law is closely informed international standards and norms. This brief overview has provided a few examples on how the two forces interplay, sometimes overlap and also go hand in hand in this particular policy area.

VI. CONCLUSION

At the outset of the discussions above and the overview of the different tools, it is evident that approaches to national minority groups are increasingly subjected to both EU ‘supranational’ efforts but also to mechanisms starting from transnational human rights. This can be viewed in terms of a ‘triangle’ of interaction, where a vertical Europeanisation downloads certain characteristics to the MS, while there is at the same time a horizontal and



cross-cutting transnationalisation of related characteristics. Returning to the four points enumerated at the beginning in this paper, I conclude with some insights on each.

Europeanisation appears to be advancing new possibilities inherited in EU policy making, where formal hard law provisions are often supplemented by less formal rules in tandem with the emergence of social arrows into the Europeanisation research agenda. This opens up for new aspects in policy fields on culture, language and regional development, which has very often been excluded from explanations concerned with how the EU matters in minority relations and for national minorities. This latter content can also be viewed as *'minimal'* policy versions in this context, labelled as non-minority oriented resources, nevertheless sustained through political distribution which moves along the subsidiary principles, providing for a new type of EU policy implementation.

In those instances where Europeanisation refers to less formal processes and takes an account of sociological features, it instead appears to shift elements such as modes of diffusion, attitudes and identification. Among some of the listed measures in this paper, the 'competition' for funding of minority aspects is an important element, for which internal organizing is crucial, leading to new dialogues and cooperation both between minority and majority but also within minorities themselves. This exercise often influences the establishment of new cooperative structures, which can also mean new processes of diffusion of meanings, marking new styles of Europeanisation politics at the minority level. The EU should take use of this particular nature in order to generate more influence in the field of minorities, but also extend parts of its informal and unintended mechanisms. This does not mean that formal EU

competences should be neglected as potential forms of Europeanizing national minority policies, but it is still too early to evaluate the role of the recent competences delivered with the LTEU and the Charter. But more importantly, there is also no space for such sort of debate in this paper.

Transnational human rights forces contribute to this scenario through increased legal clarifications and a consensual awareness. This contribution is undoubtedly rooted in the longer tradition of systematic provisions constructed under the realm of a human rights *raison d'être*, on which EU law is less developed, in comparison to the CoE. The ECHR and the FCNM have been looked at as two instances which have made a contribution by stepping into the EU human and minority rights context. Their ability to generate more inclusive and equality based systems in the area of national minority groups can also be noted in the EU ambits. The supplementing nature of these instruments to the EU management of both human and minority rights can affect the direction of the very locus and extend some meanings. Although the ECHR does not address minority rights *per se*, it has become a common point of reference in the EU legal context. Moreover, some of its provisions, such as respect for private life and family, freedom of thought, freedom of assembly and association and in particular the principles of non-discrimination can become crucial landmarks in EU provisions on protection, extending the scope of the same principles in the Charter. With regards to the FCNM, the monitoring process on the implementation of the FCNM in the accession countries shortly before enlargement became a *fait accompli*, led to an increased awareness of obligations *vis a vis* minorities, perhaps for the first time ever in EU history. As such, it served a parameter which supplemented in the



first place the formal Europeanisation of the Copenhagen criteria, but it raised a new awareness in the EU internal momentum on the role of national minorities. Related to the FCNM progression, additional effects can be created along the actual implementation of the provisions, where in fact the transnational mode of operation inserts new understandings, leaving imprints on ‘how’, but also ‘why’. In areas where there are no clear legal obligations, comments and monitoring turn into important strategies, sometimes producing better long-term effects than the actual implementation. In this same vein, the FCNM can be considered to create a non-controversial ground, underpinned by the human rights understanding, for communication of *different* political and social actors. It is this access that is relevant here, since it is not only the state level, but also subsequent levels that are part-takers.

Europeanisation and transnational human rights were applied in order to understand parts of the European legal and political, in which links to three aspects of national minority groups have been looked for, namely: protection, preservation and promotion. It is increasingly apparent that *sui generis* EU effects are primarily reserved to the two last aspects, largely confined to political and soft

instruments, while protection is being largely shaped at the outset of both EU factors and transnational human rights, thus rather considered a *European* approach, and less so an exclusive EU one. By bringing together the two branches into one policy area it can be shown that their meeting can become very blurred, where clear divisions between EU versus European (or international) sources are increasingly overlapping and cross-cutting, caused by cross-fertilization of different instruments. This is in particular confined to EU human rights legislation, which is largely constructed at the outset of transnational influences, in which the MS and European human rights law retain much of the control. But this does not undermine the actual potentials in the policy field under investigation, as minority rights are best dealt with through international cooperation. The fusion which has been observed here creates possibilities in such a sense that it ‘detaches’ large segments of people from strict state rules and structures, by bringing them into a new sort of ‘*space*’ and set of rules. Yet this remains a task for empirical investigation of specific national minority groups through detailed qualitative case studies, by taking stock of some of the recommendations presented in this brief paper.

Footnotes

¹ Article 2 LTEU: ‘The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail’. (OJ C 115/13)

² Craig, P.P. and de Burca, G. , *EU law: Text, Cases, and Materials*. 5th ed. (Oxford: Oxford University Press, 2011) p.74.

³ Article 6 (2-3) LTEU: 2. “The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union’s competences as defined in the Treaties. 3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and



Fundamental Freedoms and as they result from the constitutional traditions common to the Member states, shall constitute general principles as the Union's law". (OJ C 115/13)

⁴ Article 2 LTEU: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail". (OJ C 115/13)

⁵ Craig, P. P. and de Búrca, G. , *EU law: Text, Cases, and Materials*. 5th ed. (Oxford: Oxford University Press, 2011). p.74.

⁶ Article 6 (2-3) LTEU: 2. "The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties. 3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member states, shall constitute general principles as the Union's law". (OJ C 115/13)

⁷ European Council Directive 2000/43/EC of June 29 2000; implementing the principle of equal treatment between persons irrespective of racial and ethnic origin. (OJ L 180/22)

⁸ See the Charter of Fundamental Rights, Article 21 on non-discrimination (OJ C 364/1)

⁹ Article 167 TFEU: "The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore": Article 167 TFEU (4): "The Union shall take cultural aspects into account in its action under other provisions of the Treaties, in particular in order to respect and to promote the diversity of its cultures": Article 22, the Charter: "The Union shall respect cultural, religious and linguistic diversity".

¹⁰ Keating, M. and McGarry, J. (eds.), *European Integration and the Nationalities Question* (London: Routledge, 2006), p. 9

¹¹ Topidi, K., . (2010). *EU Law, Minorities and Enlargement* (Antwerp: Intersentia,2010) pp . 87-91.

¹² Sasse, G. , "The politics of conditionality: the norm of minority protection during and beyond EU accession", *Journal of European Public Policy* 15 (2008), 842-860.

¹³ Article 6 (2) LTEU discloses that the 'Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties'.

¹⁴ Council of Europe (CoE), Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), as amended by protocols No. 11 and No. 14 (adopted 4 November 1950, entry into force 3 September 1953) ETS 5, Rome.

¹⁵ Voßkuhle, A. , *Protection of Human Rights in the European Union. Multilevel Cooperation on Human Rights between the European Constitutional Courts*. Conference paper: "Human Rights – Global Culture – International Institutions" Our Common Future, Hannover, November 4, 2010. p. 3

¹⁶ Weiß, W. , "Human Rights in the EU: Rethinking the Role of the European Convention on Human Rights After Lisbon", *European Constitutional Law Review* 7 (2011), p. 64.

¹⁷ Council of Europe (CoE), Framework Convention for the Protection of National Minorities (adopted 10 November 1994, entry into force 1 February 1998), ETS 157, Strasbourg, 1995

¹⁸ See Council Regulation establishing a European Union Agency for Fundamental Rights. OJ 22/02/2007 L53, Doc. (EC) 168/2007

¹⁹ Toggenburg, G., "The role of the new EU Fundamental Rights Agency: Debating the 'sex of angels' or improving Europe's human right performance?", *European Law Review*. 3 (2008), p. 391



- ²⁰ See Risse, T., Ropp, S. C. and Sikkink, K. , *The power of human rights: International norms and domestic change* (Cambridge: Cambridge University Press , 1999) ; see also Soysal, Y.N. , *Limits of citizenship: Migrants and post-national membership in Europe* (Chicago: University of Chicago Press, 1994).
- ²¹ See Keck, M, E. and Sikkink, K. (1998). *Activists Beyond Borders* (Ithaca: Cornell University Press, 1998) ; see also Caporaso, J. Cowles, M. G., & Risse, T. (2001) *Transforming Europe: Europeanization and Domestic Change* (Ithaca: Cornell University Press, 2001).
- ²² New minorities often refers to recent waves of immigrants, migrants and refugees residing in Europe, thus rather falling into the scope of legislation and policy dealing with migration issues.
- ²³ Jackson Preece, J., *National Minorities and the European Nation-States System* (Oxford: Clarendon Press, 1998), p. 28.
- ²⁴ Council of Europe (CoE), Framework Convention for the Protection of National Minorities (adopted 10 November 1994, entry into force 1 February 1998), ETS 157, Strasbourg, 1995
- ²⁵ Such as the Hague Recommendations on the Education Rights of National Minorities (1996), the Oslo Recommendations on the Linguistic Rights of National Minorities (1998), or the Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999) etc.
- ²⁶ The Charter of Fundamental Rights of the European Union (2000) – Article 21 discloses that any discrimination based on membership of a *national minority* shall be prohibited (emphasis added)
- ²⁷ Some examples of such national minority groups are: the Germans in southern Denmark; the Hungarians in Romania and Slovakia; the Poles in Lithuania; the Austrians in Italy; the Finns in Sweden etc.
- ²⁸ Gál, K. and Hicks, D. , “The European Parliament Intergroup for Traditional Minorities, National Communities and Languages, 2009-2014”, *Europäisches Journal für Minderheitenfragen* 3 (2010), p. 240
- ²⁹ Ladrech, R. , *Europeanisation and National Politics* (Basingstoke: Palgrave Macmillan, 2010), p. 11.
- ³⁰ Radaelli, C.M. (2002), “The domestic impact of European Union public policy: notes on concepts, methods, and the challenge of empirical research”, *Politique Européenne* 1 (2002), p. 5.
- ³¹ Eilstrup-Sangiovanni, M. , *Debates on European Integration: A Reader* (Basingstoke: Palgrave Macmillan, 2006), p. 335.
- ³² See Craig, P.P. and de Burca, G. , *EU law: Text, Cases, and Materials*. 5th ed. (Oxford: Oxford University Press, 2011), p.73.
- ³³ Radaelli, C. M. , “Policy Transfer in the European Union: Institutional Isomorphism as a source of Legitimacy”, *Governance* 13 (2000), p. 16.
- ³⁴ Ladrech, R., *Europeanisation and National Politics* (Basingstoke: Palgrave Macmillan, 2010), p. 9.
- ³⁵ Börzel, T. A, & Risse, T. , “Conceptualizing the Domestic Impact of Europe”. In: Featherstone, K. and Radaelli, C. M. (eds), *The politics of Europeanisation* (Oxford: Oxford University Press, 2003), p. 58.
- ³⁶ Ladrech, R. , *Europeanisation and National Politics* (Basingstoke: Palgrave Macmillan, 2010), p. 11.
- ³⁷ See Radaelli, C.M., “Whither Europeanisation? Concept stretching and substantive Change”, *European Integration online Papers* 4 (2000); see also Radaelli, C.M., “Europeanisation: solution or Problem?”, *European Integration online Papers* 8 (2004).
- ³⁸ Ladrech, R., *Europeanisation and National Politics* (Basingstoke: Palgrave Macmillan, 2010), p. 35; see also Haverland, M. , “Does the EU cause domestic developments? The problem of case selection in Europeanisation research”. *European Integration online Papers*. 9 (2005), p. 2.
- ³⁹ Vertovec, S. , “Conceiving and Researching Transnationalism”, *Ethnic and Racial Studies* 22 (1999), p. 1.
- ⁴⁰ Vertovec, S. , “Conceiving and Researching Transnationalism”, *Ethnic and Racial Studies* 22 (1999), p. 2.
- ⁴¹ Keck, M, E. and Sikkink, K. , *Activists Beyond Borders* (Ithaca: Cornell University Press, 1998), p. 7.
- ⁴² Risse, T, Ropp, S, C & Sikkink, K. , *The power of human rights: International norms and domestic change* (Cambridge: Cambridge University Press, 1999), p. 5.
- ⁴³ Lantschner, E. Marko. J. and Petricusic, A. (eds.), *European Integration and its Effects on Minority Protection in South Eastern Europe* (Baden-Baden: Nomos, 2008), p. 54.



⁴⁴ See Soysal, Y.N. , *Limits of citizenship: Migrants and post-national membership in Europe* (Chicago: University of Chicago Press, 1994) ; see also Benhabib, S. , *The claims of culture*, (Princeton, NJ: Princeton University Press, 2002); see also Föllesdahl, A., “Can rights make citizens? From international human rights to transnational citizenship. Issues for Citizenship in a Globalised World”, *CÉRIUM Annual Conference*; 2008-04-04.

⁴⁵ Voßkuhle, A. , *Protection of Human Rights in the European Union. Multilevel Cooperation on Human Rights between the European Constitutional Courts*. Conference paper: “Human Rights – Global Culture – International Institutions” Our Common Future, Hannover, November 4, 2010.p. 2

⁴⁶ Article 14 ECHR: ‘The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a *national minority*, property, birth or other status’. (emphasis added)

⁴⁷ Council of Europe (CoE), Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, on anti-discrimination (4 November), ETS 177, Rome, 2000.

⁴⁸ Hofmann, R. , ‘The Framework Convention for the Protection of National Minorities: An introduction’. In: Weller, Marc (ed.). *The Rights of Minorities: A Commentary on the European Framework Convention for the Protection of National Minorities*, (Oxford: Oxford University Press, 2005), p. 5.

⁴⁹ Hoffman, R. and Friberg, E. , “The enlarged EU and the Council of Europe: Transfer of Standards and the Quest for Future Cooperation in Minority Protection”, In: Toggenburg, G. (ed.). *Minority Protection and the enlarged European Union: The way forward*,(Budapest: Local Government and Public Service Reform Initiative,2004), pp. 130-138.

⁵⁰ Hale, T. and Held, D. , *Handbook of Transnational Governance: Institutions and Innovations*. 1st ed.(Cambridge: Polity Press, 2011), p 37.

⁵¹ Toggenburg, G. , *Minority Protection and the enlarged European Union: The way forward*. (Budapest: Local Government and Public Service Reform Initiative, 2004) p. 4; Toggenburg, G. (2008); see also “The Protection of Minorities at the EU-level: a Tightrope Walk Between (Ethnic) Diversity and (Territorial) Subsidiarity?” In: Lantschner, E. Marko. J and Petricusic, A. (eds). *European Integration and its Effects on Minority Protection in South Eastern Europe* (Baden-Baden: Nomos), p. 83

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⁵⁵ Term borrowed from Gabriel Toggenburg, which he uses to describe the post-Maastricht European integration, in which some primary links to minorities emerged in EU legal and political frameworks. With de-economization, he also refers to the completion of the Single market and the creation of the EU at the beginning of a decade which stands for a de-economisation of European integration. See: G. Toggenburg, “A Rough Orientation Through a Delicate Relationship: The European Union’s Endeavours for (its) Minorities”, *European Integration online Papers* 4 (2000), 2.

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