



**Accountability and political
representation of national
minorities: a forgotten link?
Evidence from Romania**

Andreea Cârstocea

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One of the dilemmas posed by descriptive representation is whether it might generate an excessive focus on who the representative is, rather than on what s/he does, thus foregoing the importance of substantive representation. As such, various scholars have argued that descriptive representation needs an accountability mechanism to ensure that the representative does indeed pursue the interests of the minority group s/he represents. In this respect, most academic analyses agree that elections represent the most important mechanism of accountability. By making use of evidence from Romania, I argue that elections are a necessary but not sufficient condition for accountability, and that further mechanisms are needed to ensure the adequate representation of the interests of national minorities. The argument applies in particular to small, geographically dispersed minorities, which – as shown by evidence from Romania – face the highest challenges in holding to account their representatives. To do so, I first unravel the concept of political accountability as defined in the academic literature, then assess the accountability mechanisms (or lack thereof) embedded in the arrangements for descriptive representation of national minorities in Romania, and finally discuss their practical consequences for the representation of these groups. I conclude that due to ineffective vertical and horizontal accountability mechanisms, political representation of small national minorities in Romania remains ‘captured’ by a closed circle of political elites, so that presently it is extremely difficult for their constituencies to remove them from leadership should they so desire.

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I. INTRODUCTION

In most European countries, the political representation of national minorities is carried out by means of descriptive representation, whereby minority groups are represented in national or federal Parliaments (or county or local councils) by members of these groups themselves, making use of various preferential electoral arrangements.¹ The underlying general idea behind descriptive representation is that a descriptive representative – as member of the respective group and sharing the group’s

characteristics, in other words being ‘like’ those represented – is in the best position to pursue the group’s interests. The implicit assumption for providing special measures for the descriptive representation of national minorities appears to be that ‘an increase in the number of representatives from historically disadvantaged groups can contribute to the substantive representation of these groups’.² Indeed, academic literature appears to be in general agreement concerning the positive value of descriptive representation, with authors such as



Anne Phillips providing a range of justifications in its favour; among the justifications she provides are the role model argument (members of historically disadvantaged groups benefit from seeing members of their group in positions of power), the justice argument (descriptive representatives are necessary as compensation of past injustices), the ‘overlooked interests’ argument (descriptive representatives can contribute to putting on the political agenda minority interests ignored by the majority), and the ‘revitalized democracy’ argument (diverse representation is necessary for increased political participation and legitimacy of democratic institutions).³

Interestingly, despite the existence of Europe-wide legal instruments and recommendations which refer directly to the issue of minority participation and representation,⁴ the normative literature on the descriptive representation of national minorities in Europe is conspicuously modest, with the overwhelming majority of studies on the subject of descriptive representation focusing on the descriptive representation of women and blacks in the U.S. While there are clear contextual differences between the representation of national minorities in Europe and the representation of women and blacks in the U.S., the insights offered by the existing literature on the descriptive representation of the latter can be usefully employed in debating the dilemmas and difficulties generated by descriptive representation of national minorities in Europe.

One of the points of contention in the academic literature on descriptive representation is whether the mere presence of descriptive representatives in legislatures is sufficient for the adequate pursuit of that minority community’s interests. More specifically, the dilemma posed by descriptive representation is whether it generates an excessive focus on *who* the representative is, rather than on *what* s/he does, thus foregoing the importance of substantive representation (which arguably represents the most important factor in electing the representatives of majority populations). As such, Suzanne Dovi argues that one of the main

theoretical problems facing proponents of descriptive representation lies in the apparent incompatibility between the politics of presence and accountability.⁵ This argument is also developed by scholars such as Hanna Pitkin, Iris Marion Young, or Jane Mansbridge, who argue that there is no direct correlation between *who* a descriptive representative is and *what* s/he does: ‘the best descriptive representative is not necessarily the best representative for activity or government’.⁶ Even closer to the argument of this paper, Melissa Williams contends that descriptive representation needs an accountability mechanism to ensure that the representative does indeed pursue the interests of the marginalised group s/he represents; in her view, elections appear as the most important mechanisms of accountability in this respect.⁷ Indeed, this is in line with the predominant perspectives in the general literature on accountability.

By making use of evidence from Romania, this paper will argue that elections are a necessary but not sufficient condition for accountability, and that further mechanisms are needed to ensure the adequate representation of the interests of national minorities. The argument applies in particular to small, geographically dispersed minorities, which – as shown by evidence from Romania – face the highest challenges in holding to account their representatives. To do so, the paper will first attempt to unravel the concept of political accountability as defined in the academic literature, and will then assess the accountability mechanisms (or lack thereof) embedded in the arrangements for descriptive representation of small national minorities in Romania, and will discuss their practical consequences for the representation of these groups.⁸ The study will conclude that elections do not constitute a sufficiently effective mechanism of accountability, and that in the absence of other vertical or horizontal accountability mechanisms, political representation of small national minorities in Romania remains ‘captured’ by a closed circle of political elites, so that it is virtually impossible for their



constituencies to remove them from leadership should they so desire.

II. REPRESENTATION AND THE PARTICULAR RELEVANCE OF DEMOCRATIC LINKAGES FOR NATIONAL MINORITIES

As mentioned above, most of the literature on the subject of accountability focuses on elections as the principal mechanism through which citizens can ensure that their representatives act in their best interest. As such, provided that elections are free, fair, and regular, it is generally assumed that the elected will pursue those policies that most benefit and reflect the interests of their constituencies. In this respect, two predominant understandings of representation are prevalent: the ‘mandate’ view sees elections as the vehicle through which citizens select those policies they want implemented and delegate representatives to carry them out. The other, opposing view, is that the representative is a ‘trustee’ of the citizens’ interests, and that once elected they should be free to exercise their best judgement as to what policies are in the best interest of the citizens; in this understanding of representation, elections serve the role of ‘holding to account’ representatives for their actions, citizens wielding the power to remove from office those they deem have acted in their detriment. While either view of representation has its own proponents, Hanna Pitkin approaches this classic debate by stating that the mandate vs. independence controversy poses a logically insoluble puzzle, since it asks us to choose between two elements that are both component parts of representation, one representing the initiation of the act of representation, and the other its termination.⁹ For the purposes of this paper, what should be taken from this debate is the existence of a necessary link between the representative and the represented, as one of the fundamental conditions of representation; more to the point, this paper will focus on the ways in

which members of national minorities are able to hold to account their representatives, and thus ‘terminate’ the act of representation, should they become unhappy with their elected representative.

This link between the electorate and their representative is fundamental as, according to Andrew Roberts, it is the defining marker of a democracy. He argues that the quality of a democracy is equivalent to the degree to which citizens control their rulers, or alternatively to the strength of linkages between the citizens and their representatives, understood as the power to sanction incumbents, the power to select new officials, and the power to petition the government in between elections.¹⁰ In this context, the importance of accountability for democratic systems becomes therefore clear, with elections playing a central role in its operationalisation. But despite the overwhelming academic focus on elections, they are not the only mechanism for accountability that can be employed to ensure the strength of the links between the represented and their representatives; other mechanisms for increased accountability include for instance the activities of civil society, the input of opposition groups, and free access to information, as a facilitator of transparency.

Arguably, these additional mechanisms for improving the accountability of leaders towards their constituencies are even more relevant in the case of national minorities, and their importance should not be disregarded. By most definitions, national minorities are ethno-cultural groups finding themselves in a non-dominant position, and as such their interests can be easily ignored, overlooked, or even discarded by legislators. The role of minority representatives is crucial to the promotion of the interests of their minority communities, and the need for strong links between the represented and the representative is even more important for national minority groups. Elections are obviously a fundamental element in holding minority representatives accountable to their constituencies, but, as evidence shows, they may not be a sufficient condition.



Indeed, the fact that many minority communities are small or geographically dispersed complicates the issue of interest representation and accountability, especially in the case of representatives to national parliaments. Moreover, where electoral arrangements allow for open electoral registers, these complicate the issue of accountability even further, as in such a case votes may come in an important proportion from outside the minority community. Will Kymlicka for instance argues against open electoral registers, claiming that it is not clear in what sense these would promote representation, as the representative is not necessarily accountable to the group, and may be simply ignoring its interests.¹¹ He argues instead in favour of closed electoral registers, claiming that such a system increases accountability, as the representative is authorised and held accountable by the respective minority group.¹²

For these reasons, this paper argues that in the case of national minorities additional, complementary mechanisms of accountability are needed to ensure that minority representatives are accountable to their constituencies, and are thus incentivised to develop and maintain strong links to their communities. The literature on the subject of political accountability offers some clues as to the types of accountability mechanisms that could contribute to improving democratic linkages between minority representatives and the communities they represent.

III. DEFINING ACCOUNTABILITY

A classic definition of accountability is that offered by Manin, Przeworski, and Stokes, who maintain that governments are accountable if voters can discern whether these are ‘acting in their interest and [can] sanction them appropriately, so that those incumbents who act in the best interests of citizens win reelections, and those who do not lose them’.¹³ Jon Marie Moncrieffe acknowledges the fact that elections are indeed key to securing accountability within representative democracies, but stresses that

other institutional mechanisms are needed to give the electorate an influence on policy making.¹⁴

For the purposes of this paper, a broad definition of political accountability will be employed, along the lines proposed by Jonathan Fox, who defined it as limiting the use and sanctioning the abuse of political power.¹⁵ This definition does not restrict the understanding of accountability as dependent on elections, and allows for the conceptualisation of a broader spectrum of actors and mechanisms as bearing a potential effect on the levels of accountability in a society. Moreover, again following Jonathan Fox, who draws attention to the distinction between individual and institutional accountability, this paper will focus exclusively on the latter. Rather than focusing on corruption (as indicative of individual failure), institutional accountability concentrates more generally on institutional performance and thus seeks to address systemic flaws.¹⁶ For this reason, the analysis of the political representation of small minorities in Romania will be carried out by focusing exclusively on legal and institutional arrangements, and not on individual situations, which may very well however constitute the subject of future research.

A fundamental distinction that helps clarify the meaning of political accountability is that between vertical and horizontal accountability. Vertical accountability refers to the power relations between citizens and the elected, as manifested through regular, free and fair elections; in addition, civil society and mass-media can hold to account (through articulating social demands, regular news coverage, etc) elected representatives.¹⁷ Horizontal accountability on the other hand refers to the system of checks and balances within the state, in the absence of which the minimum conditions for democracy can remain weak or incomplete.¹⁸ These systems of accountability do not exist independently, but complement and sustain each other; the corollary to this is that where institutions of horizontal accountability are weak, they have the potential to undermine vertical accountability



(e.g. inadequate election oversight bodies can permit less-than-democratic elections, thus allowing a break in the link between citizens and representatives).¹⁹

It should be noted that this conceptual distinction between horizontal and vertical accountability (and their relationship) is not without its critics. According to some scholars, accountability cannot be horizontal, as a horizontal relationship assumes the equality of the institutions concerned, which in turn means that they cannot exercise answerability or accountability towards one another. As such, a 'horizontal' relationship would not be understood as accountability, but rather as a 'relationship, exchange, or influence',²⁰ taking the argument even further, other scholars maintain that in order to preserve its analytic and heuristic value, accountability should be conceived only vertically.²¹

For the purposes of the analysis developed in this paper however, both the distinction between horizontal and vertical accountability and the relevance of their interplay will be maintained, as it will most helpfully shed light on the functioning of the mechanisms for representation of national minorities in Romania. Indeed, if anything, the Romanian case analysed here is an additional argument in support of scholars who favour conceptualising accountability as a system wherein we can distinguish both a vertical and a horizontal dimension in an interdependent relationship.

IV. TRANSPARENCY AND ACCOUNTABILITY

Discourses about political accountability usually refer to transparency as a crucial condition for achieving accountability, without however offering much evidence in this respect.²² Indeed, there are research studies pointing to the negative effects of transparency on policymaking²³ or to the potential conflict between excessive transparency and the need for governments to be competent decision-makers.²⁴ The ambivalence concerning the effectiveness of

transparency as a tool to increase accountability may stem from two factors: first, the readiness with which elites readily offer more transparency in response to requests for more accountability (as if monitoring and reporting would represent the cure for all ills)²⁵ and second from a lack of clarity of what transparency actually means.

Jonathan Fox helpfully distinguishes between 'opaque' or 'fuzzy' transparency and 'clear' transparency, respectively. Opaque transparency refers to the information disseminated by public bodies which cannot be meaningfully used by members of the public, either because the data is released only nominally and does not in fact reveal how institutions reach their decisions, or what the results of their decisions are, or because the information is not reliable.²⁶ Clear transparency on the other hand implies the release of meaningful, reliable information concerning the functioning and decision-making of a public body.

It is perhaps this understanding of transparency as 'clear', meaningful release of information, that scholars refer to when they argue that transparency is crucial for accountability. Clear transparency is considered to have the potential to stem corrupt practices, allowing the electorate a more accurate perception of government policy.²⁷ In the analysis of the transparency offered by elected minority representatives in Romania, it is this meaning that will be employed as a conceptual benchmark for assessing the information made available to the general public.

It has been remarked that accountability as a concept, as well as its mechanisms and procedures, are generally absent from the public discourse on the new Central and East European democracies.²⁸ In the case of Romania, generalised corruption and impunity are recognised problems of the political environment; while some accountability mechanisms have been formally put in place, their functioning is however not optimal, to say the least.



There is an almost complete lack of academic literature discussing the issue of the accountability of minority representatives in Romania. This paper will attempt to contribute to this gap in knowledge, and in the following will analyse the existing mechanisms of accountability – vertical and horizontal – embedded in the system for the representation of national minorities.

V. MECHANISMS OF VERTICAL ACCOUNTABILITY IN THE ROMANIAN SYSTEM OF POLITICAL REPRESENTATION FOR NATIONAL MINORITIES

As mentioned above, vertical accountability refers to the possibility of citizens to exercise control over their representatives through electoral mechanisms, as well as to the power of civil society and media to hold them to account through their specific means. The following analysis will attempt to track the degree to which the electoral system, civil society and media in Romania constitute effective mechanisms of accountability, enabling minority communities to hold to account their elected representatives.

1. Electoral arrangements for the representation of national minorities

The 1991 Romanian Constitution provides for the parliamentary representation of minorities by allowing each minority that failed to pass the general electoral threshold to send one representative to the Chamber of Deputies.²⁹ The electoral legislation subsequently enacted provided that organisations representing national minorities were permitted to contest national elections (thus being allowed to behave as parties, although legally they were registered as

not-for-profit organisations) and that they benefited from a reduced electoral threshold of 5% of the average number of votes received by a mainstream deputy,³⁰ with the 5% threshold increasing to 10% in 2004.³¹ Importantly, in those cases where several organisations representing the same national minority competed for access to Parliament, the one receiving the highest number of votes would prevail (provided that it passed the reduced threshold), as only one representative per minority would be granted access to Parliament under these special conditions. A second important observation refers to the fact that the election of minority MPs is carried out by means of open registers; in other words, any person, of any ethnic background, situated in any part of the country, is allowed to cast his/her vote for a minority MP, with no restrictions as to who can cast a vote for a minority candidate. Both mainstream and minority parties are registered on the same ballot, the voter being however permitted to cast one vote only.

The reduced electoral threshold and the open register are two features that, as will be shown in the following, determine to a great extent the level of accountability that can be exercised by the minority communities over their representative.

The reduced threshold for accessing national parliament is indeed fairly low, requiring an association to obtain in 1992 a minimum of 1,336 votes to pass the threshold, a minimum of 1,494 votes in 1996, 1,273 votes in 2000, and respectively a minimum of 2,841 votes in 2004.³² Nevertheless, this low number of minimum votes should be seen in the context of the size of these national minorities; as the table below shows, given the very small size of their minority communities, several candidates would have necessarily had to campaign for votes outside their constituencies, as their total population would have not been sufficient to ensure enough votes for passing the electoral threshold.³³ This is in particular the case of very small minorities such as the Ruthenian (257 persons), Albanian (477 persons), Macedonian (695 persons), Armenian (1,780 persons), Italian



(3,331 persons), or Polish (3,671 persons).³⁴ Furthermore, if we take into account the fact that a person can cast only one ballot, whether for a minority candidate or a mainstream one, we understand that even for slightly larger minorities campaigning outside the community becomes a necessity, as very possibly some of the members of that ethnic group might have a stronger preference for a mainstream party.³⁵

The election results listed in Table 1 indicate that indeed this was the strategy employed by minority candidates, who in several cases managed to obtain many times more votes than the number of persons declaring themselves of the respective ethnic background: e.g. in the 2012 elections the Macedonian candidate obtained 17.5 times more votes than the number of people that declared their ethnicity as Macedonian in the 2002 census; in the 2000 elections, the Ruthenian candidate obtained 27 times more votes than the total number of Ruthenians in the country, while in the same elections the Albanian candidate obtained 22 times more votes than the total number of Albanians. Indeed, even slightly larger minorities obtained a quite high number of votes, with the Bulgarian candidate obtaining 2.5 times more votes than the total number of Bulgarians in the country.

Institutionally, the high number of votes obtained by minority candidates is explained by the existence of low thresholds for entering Parliament, in conjunction with the open register system, which allows any citizen to cast a vote for a minority MP. Candidates running for election on a minority ballot were thus provided with the opportunity to campaign for votes outside their communities, and as Table 1 indicates, many did. Whether candidates chose to campaign in the same areas where the respective minority was concentrated (by appealing to voters living there but who have a different ethnic background), or whether they simply chose to target certain socio-economic categories (such as the current MP for the Bulgarian minority, who in addition to campaigning for votes from the Bulgarian

community also portrays himself as an advocate for army personnel),³⁶ obtaining these additional votes equates to an extension of the minority constituency, which the MP nominally represents in Parliament, to also include a non-minority electorate.

This extension of the constituency – although arguably necessary in order to pass the electoral threshold or to defeat a competitor running for the same minority mandate – presents a challenge to the issue of political accountability. Nominally, a minority MP is sent to Parliament to represent the interests of a particular ethnic group; after all, the measure of reduced thresholds was instituted in recognition of the problems faced by minority communities to articulate their interests at national level due to their low numbers. This implies that the constituency who is entitled to both authorise the MP as a representative and to hold him accountable are the members of that particular minority. Extending this constituency to include non-members of the minority community in turn implies that by receiving their votes the MP implicitly recognises that they too have a right to authorise and hold him accountable. This gives rise to a potential conflict of interests: suppose the second (‘external’) constituency becomes larger than the nominal one (for instance, that the military employees voting for the Bulgarian MP are more numerous than the members of the Bulgarian constituency) and comes to determine the outcome of the elections. How could the nominal minority hold to account the MP in such a situation, should they be outnumbered by the ‘external’ constituency? Could we still consider the MP in this situation as the representative of the respective minority?



Table 1 The number of votes obtained by successful organisations of national minorities in parliamentary elections

Minority	2002 Census	Percentage of the total population	Votes obtained in 2012	Votes obtained in 2008	Votes obtained in 2004	Votes obtained in 2000	Votes obtained in 1996	Votes obtained in 1992	Votes obtained in 1990
Ruthenian	257	0.001%	5,265	4,514	2,871	6,942	0	0	0
Albanian	477	0.002%	10,010	8,792	5,011	10,543	8,722	0	0
Macedonian	695	0.003%	12,212	11,814	9,750	8,809	0	0	0
Armenian	1,780	0.008%	10,761	13,892	9,810	21,302	11,543	7,145	399
Italian	3,331	0.01%	7,943	9,567	6,168	21,263	11,454	4,188	0
Polish	3,671	0.01%	8,023	7,670	5,473	5,055	1,842	3,031	2,372
Jewish	5,870	0.02%	10,019	22,393	8,449	12,629	12,746	0	0
Greek	6,513	0.02%	9,863	8,875	7,161	15,007	8,463	9,134	4,932
Croat	6,786	0.03%	6,281	9,047	10,331	11,084	486	219	0
Bulgarian	8,025	0.03%	10,155	14,039	15,283	20,085	5,359	1,906	3,451
Czech and Slovak	21,137	0.09%	8,677	15,373	5,950	5,686	6,531	4,708	4,584
Serb	22,518	0.10%	8,207	10,878	6,643	8,748	6,851	5,328	9,095
Tartar	24,137	0.11%	9,291	11,868	6,452	10,380	6,319	7,699	0
Turkish	32,596	0.14%	7,324	9,481	7,715	6,675	4,326	2,572	8,600
Russian-Lipovan	36,397	0.16%	8,328	9,203	10,562	11,558	11,902	14,975	17,974
German	60,088	0.27%	39,175	23,190	36,166	40,844	23,888	34,685	38,768
Ukrainian	61,353	0.28%	7,353	9,338	10,888	9,404	7,165	7,717	16,179
Roma	535,250	2.46%	22,124	44,037	56,076	71,786	82,195	52,704	29,162

Source: For the 1990-2004 elections, Călușer, 'Reprezentarea minorităților naționale pe locurile rezervate în parlament', p.177. For the 2008 elections, Central Electoral Bureau, *Proces verbal privind rezultatele alegerilor pentru Camera Deputaților, 30 noiembrie 2008*. Available at <http://www.becparlamentare2008.ro/rezultate.html>. (Accessed 31 January 2011). For the 2012 elections, Central Electoral Bureau, *Proces verbal privind partidele politice, organizațiile cetățenilor aparținând minorităților naționale, alianțele politice, alianțele electorale care întrunesc/nu întrunesc pragul electoral și candidații independenți care au obținut majoritatea voturilor valabil exprimate în colegiile în care au candidat pentru Camera Deputaților respectiv pentru Senat, 9 decembrie 2012*. Available at <http://www.becparlamentare2012.ro/A-DOCUMENTE/Rezultate%20intermediare/anexa%204.pdf> (Accessed 26 January 2013)



A solution to these dilemmas is not immediately obvious. The emergence of the ‘ethno-business’ phenomenon in Hungary in the late 1990s (a term referring to various abuses of the legislation for the protection of national minorities) led to a change in the electoral legislation in 2005. These changes included the institution of a closed electoral register, with anyone wishing to vote for a minority candidate having to register first on a minority electoral roll. Additionally, restrictions were also imposed on minority candidates, who must now declare their knowledge of the language, culture, and traditions of the respective national minority. These measures were instituted with a view to ending various abuses made possible by previous legislation (which among others included an open electoral register); to date, due to a lack of consistent research, the positive effects of these changes are not yet clear, but scholars remain generally sceptical in this respect.³⁷

2. Alternative minority non-governmental organisations as a pre-condition of vertical accountability in Romania

Also pertaining to the realm of vertical accountability are the pressures put by civil society on governments and political representatives, as such pressures are generally considered as raising standards and public expectations of state performance, encouraging oversight institutions to act, and may be even conducive to the enactment of institutional checks and balances where these are lacking.³⁸ In the present case, civil society would consist of minority organisations able to challenge the minority representatives where they do not agree with his/her policies, and who are regularly consulted on matters of interest for the respective national minority group.

The first contemporary organisations of national minorities appeared immediately after the change of regime in 1989; legally they were

set up as ‘associations’, a term equivalent to ‘non-governmental organisations’. Soon afterwards, the 1990 law regulating Romanian parliamentary and presidential elections provided that, although the legal status of these minority non-governmental organisations was different from that of a political party (so normally would not be allowed to contest elections), an exception would be made, so that should they wish to take part in elections, they would be allowed to do so.³⁹ This exception to the general rule of elections has been maintained throughout the various changes and modifications of the electoral legislation, and remains in force today.

Another institutional innovation was the creation of the Council for National Minorities (*Consiliul pentru Minorități Naționale* - CMN), set up in 1993 as a consultative body of the Romanian government under the direct authority of the General Secretary of the Government. Although initially it was designed to bring together all organisations representing national minorities,⁴⁰ in 2001 the Council (renamed the Council of National Minorities - *Consiliul Minorităților Naționale*) was re-organised and stipulated that only those organisations that obtained a seat in Parliament could become members of this body.⁴¹ As such, according to the new regulations, each minority, regardless of its size or socio-economic characteristics, was allowed to send only one representative organisation to the Council, namely the one that succeeded in passing the electoral threshold for parliamentary representation.

While beneficial to minority communities, who were exempt from the rigors of establishing political parties and thus obtained an easier path into parliamentary representation, in conjunction with the setting up of the CMN, this exception to the general rule of elections had an important side-effect. It created a blur between civil society and elected political representatives, with part of the civil society (as made up of parliamentary minority non-governmental organisations) became identified with the state: the organisations which gained



parliamentary representation received the entire allocation of public funds for that respective minority, they become exclusive members of the Council of National Minorities for that minority, and the respective minority MP decides on general policy for minority communities by participating in parliamentary debates.

Of course, civil society is not reduced to a single non-governmental organisation; there is no restriction on the number of minority NGOs that can be set up, and in the case of most national minorities there are several such organisations. However, as noted in the 2005 Opinion of the Advisory Committee on Romania, non-parliamentary organisations are entirely excluded from both consultation and state support, as the organisation present in Parliament is the exclusive representative in CMN and the exclusive recipient of the entire financial allocation for the respective minority.⁴² This means that many of these alternative organisations struggle to survive, many of them disband from lack of financial resources, so that they cannot constitute a credible opposition to the formal parliamentary representative.

On the other hand, the organisation representing a particular minority in parliament can no longer fulfil the role of ‘pressure group’ carefully watching and taxing the state’s policies for the respective minority. With exclusive access to governmental consultation and public funds (which it has the freedom to spend as it deems appropriate), it becomes, *de facto*, a state actor. The same 2005 Opinion further points out the politicisation of the parliamentary organisations as a result of their dependency on state funding and the lack of pluralism in the Council.⁴³

All these issues point to a potentially problematic type of vertical accountability as exercised by civil society; where non-parliamentary organisations are both denied access to state support and are also excluded from consultations on matters concerning their respective minority communities, we cannot meaningfully speak of civil society as a means

to ensure vertical accountability for minority representatives.

3. Mass-media as a generator of vertical accountability

Mass-media is generally regarded as one of the very important means through which political accountability can be achieved; academic literature on the subject has repeatedly shown that media capture bears a series of negative effects on political outcomes⁴⁴ and that for it to be able to function as a generator of political accountability, a few conditions are necessary. The most prominent refer to the existence of media pluralism (since the presence of a large number of independent media organisations makes it less likely that the state is able to control the provision of news) and a high degree of media independence (measured by the difficulty with which the state is able to transfer resources to the media).⁴⁵

Of course, these theoretical considerations refer to mainstream media and its capacity to generate vertical accountability at national or at least regional level. While of course avoiding a mechanical application of these general principles to the particular situation of small national minorities, these considerations are however extremely useful in guiding our analysis. It would be indeed difficult to apply the criterion of the plurality of the media in the case of small minorities. Given that these are ethnic groups with a membership of several thousand persons, we cannot reasonably expect the existence of several minority language newspapers competing for such a numerically low readership; as will become evident, in the absence of media plurality, the criteria of media independence becomes ever more important.

If we are to consider the kinds of media that can reach small minorities in Romania, we can broadly speak about two types of media: mainstream media (in Romanian language, whether at local or national level), and minority



media (in the minority language or bilingual, and as shown below, subsidised by the state). Given the reduced demographic weight of small national minority communities, mainstream media (printed or the audio-visual), even at local level, is rarely concerned with these communities' issues; being privately owned means that their main focus is on reaching a wider public and thus that they are not concerned with covering the news of what constitutes a minute part of their readership. As such, small minorities' issues rarely make it to mainstream media headlines.

Conversely, minority printed mass-media is concerned almost exclusively with the issues pertaining to those respective small ethnic communities, and is targeting a very specific readership. Most of them are published in the respective minority language, with some of them including a Romanian version; importantly, there is usually just one newspaper per minority language, with some newspapers having regional versions to accommodate the geographical dispersion of the community.

Here, the issue of media independence becomes central to the role of the media as a promoter of political accountability. Newspapers in the languages of national minorities are almost entirely subsidised by the state. While state support for minority language media is encouraged by European minority legal instruments (such as Art. 9 of the FCNM), what is particularly important here is *how* this state support is offered to minority communities. Again, we meet the same exclusive emphasis on minority organisations members of the Council of National Minorities, with financial support being channelled via the Council for National Minorities to parliamentary organisations.⁴⁶ This means that minority publications are funded exclusively through these organisations, and as such are dependent on them. Indeed, these newspapers are advertised by these organisations as being their 'own' publications,⁴⁷ and rifling through the editorial cassettes of these publications, one finds that sometimes editors in chief are members or even presidents of these organisations.⁴⁸

Also, Romanian legislation provides special rules for the audio-visual media, offering broadcasting space in the languages of national minorities on public television, which broadcasts a series of programmes in a variety of minority languages, with Hungarian, German, and Roma being given a greater weight. In terms of the audio-visual acting as a promoter of accountability, the same issue as in the case of printed media emerges: Romania's first state report on the implementation of the FCNM mentions that 'organisations of persons belonging to national minorities which have representatives in Parliament are provided with broadcasting time in accordance with the law, free of charge and without any interference.'⁴⁹ The problematic aspect here, from the point of view of accountability, is the exclusive access given to those minority organisations represented in Parliament, meaning that non-parliamentary organisations are excluded from access to the mass-media, and that the perspectives present on national television are those of just one organisation per national minority.

We find therefore a fundamental flaw in the design of state support for these minority publications. By channelling state funds through the minority organisations present in Parliament, printed publications are made financially entirely dependent on these; in addition, the audio-visual broadcasts also give exclusive access to these organisations. It can be safely said therefore that minority mass-media has become 'captured' by the parliamentary organisation of any given minority. This 'capture' becomes ever more evident where the leadership of the organisation conflates with the editorial leadership of that publication. Under the current circumstances, it would be unthinkable to imagine a non-parliamentary organisation being able to advertise during the electoral campaign in a minority newspaper, as for that matter it would be quite unthinkable to imagine a minority newspaper printing an article critical of the parliamentary organisation or the respective minority MP. This is so in spite of the fact that these are not privately



sponsored media but funded from public money earmarked for national minority communities.

With little mainstream media attention paid to the issues of small national minorities, and with minority media ‘captured’ by those organisations present in Parliament and members of the CMN, we cannot comprehensibly speak of media as a promoter of political accountability. Indeed, it appears that whatever information is made available to the public concerning these ethnic groups, it is made through these organisations, leaving little space for dissenting opinions and alternative views. This in turn means that the minority constituency (and potential voters in coming elections) is overwhelmingly exposed to the news and information provided by media controlled by the political elites presently in power, with very limited scope for obtaining information from alternative, independent sources.

VI. MECHANISMS OF HORIZONTAL ACCOUNTABILITY IN THE ROMANIAN SYSTEM OF POLITICAL REPRESENTATION FOR NATIONAL MINORITIES

As shown above, most scholars agree that the existence of mechanisms of vertical accountability alone is not a sufficient condition for ensuring that political representatives will act in the best interests of the citizens they represent. The importance of an additional mechanism of horizontal checks and balances between institutions is considered crucial to the creation of strong democratic linkages between the representatives and their constituencies; indeed it is difficult to conceive of mechanisms of vertical accountability functioning adequately in the absence of constitutional guarantees, of a balanced institutional setting ensuring the

dispersal of power, or of the political independence of those authorities who investigate and prosecute abuses.⁵⁰ The checks and balances embedded in the institutional setting will ideally also prevent manipulation by any one party, majority, or individual,⁵¹ thus avoiding capture by political or economic elites.

In the assessment of the horizontal accountability mechanisms of the Romanian system for the political representation of small minorities, this paper will focus in particular on the checks and balances preventing manipulation by interested parties and on the mechanisms of financial transparency and accountability. Indeed, while many experts take for granted the efficiency of transparency mechanisms on creating accountability, some scholars argue that actual evidence on transparency’s impact on accountability is not as strong as one might expect.⁵² Without attempting to solve this theoretical dilemma, this paper will take as a starting point the idea that transparency concerning how public funds are spent creates an element of trust in the general public, and that it has at least *some* impact on political accountability, however hard it is to quantify this impact. As such, the analysis will focus on both the levels of transparency available for assessing the use of public money allocated by the state for national minorities, and also on the financial accountability this public expenditure entails in the Romanian system of protection of national minorities.

1. Horizontal checks and balances embedded in the institutional system so as to preclude manipulation by any one party

An analysis of whether the system of representation of national minorities precludes its manipulation by any interested party will have to start from the changes to the electoral legislation that were made in 2004 and 2008 respectively, and trying afterwards to understand



who benefits from these changes and who initiated them.

As mentioned earlier, the constitution guarantees the representation of national minorities in parliament by providing that each minority has the right to one representative to the Chamber of Deputies. While the electoral legislation remained relatively stable until 2004, providing for the right of minority non-governmental organisations to enter the electoral competition and to benefit from a reduced threshold of 5% of the average number of votes received by a mainstream deputy,⁵³ in 2004, and then again in 2008, the law was substantially amended, with important consequences for minority organisations competing for entry into Parliament.

In 2004, for the first time in post-1989 legislation, the law introduced a definition of ‘national minority’. Until then, in the absence of such a definition, any organisation that included in its statute references to the protection and promotion of the rights of a certain ethnic group was allowed to contest elections, and provided that it passed the reduced electoral threshold it could send a representative to Parliament. The 2004 legislation was modified to provide that a national minority was ‘that ethnic group which is represented in the Council of National Minorities’.⁵⁴ The inclusion of this definition in the electoral legislation had an important consequence for non-governmental organisations wishing to enter the electoral competition: as in 2004 there were 20 ethnic groups represented in the CMN, from then on no other ethnic group could attempt entry to Parliament. This is because of the legal circularity arising from linking the definition of a national minority to the presence of that ethnic group in the CMN. The law regulating the setting up of the CMN clearly states that only those organisations already present in Parliament may become members of this body.⁵⁵ However, any ethnic group not represented in the Council who presently wishes to be granted the status of national minority can only do so if it becomes a member of the Council of National Minorities.

This results in a vicious circle, with the result that any ethnic group that is not already represented in Parliament and the Council of National Minorities is excluded from representation. As an example, in the 2004 elections (which took place after the changes to the electoral legislation were adopted), the *Uniunea Secuilor din România* (Union of Szeklers in Romania), as representative of the Szekler ethnic group, was refused access to the electoral competition. The Central Electoral Bureau rejected their application, on grounds that this ethnic community was not a member of the CMN, as required under the new law.⁵⁶

Also in 2004, a second major change to the electoral legislation for national minorities concerned the threshold for entering Parliament on a national minority mandate, which was raised from 5% to 10% of the average number of votes received by a deputy.⁵⁷ The third major change provided that minority organisations already present in Parliament may run freely in elections⁵⁸ but non-parliamentary organisations representing national minorities were required to present a list of members amounting to 15% of the persons who declared their ethnicity as coinciding to that national minority in the previous census.⁵⁹ These final changes instituted in 2004, although giving an indisputable advantage to those organisations already present in Parliament and creating additional hurdles for alternative organisations wishing to contest elections (provided they wanted to represent an ethnic group already recognised as a national minority),⁶⁰ did not make electoral participation impossible. Proof of this is the example of the Macedonian minority, for whose parliamentary representation three associations contested the 2004 elections.

However, things became more complicated in 2008, with the introduction of a further amendment in the Electoral Law. This amendment provided the obligation of non-parliamentary organisations wishing to contest elections to demonstrate their status as ‘public utility association’, in addition to the list of members comprising at least 15% of the total



number of citizens who in the latest census declared themselves as belonging to that ethnicity.⁶¹ At this point, the competition for the minority organisations already represented in Parliament was completely removed. This was so because competitor, non-parliamentary organisations had to obtain the status of ‘public utility’ before contesting elections, which can only be obtained through a Government Decision.⁶² To date, this condition proved impossible to fulfil, with no organisation obtaining this status despite several applications to the Romanian Government.

These successive changes to the electoral legislation clearly benefitted those minority organisations already members of Parliament, as these changes gradually removed the possibility for alternative, competitor organisations to challenge them in elections. Going back to the issue of institutional manipulation and the existence of checks and balances to prevent it, a quick look at the list of the initiators of changes in the electoral legislation is quite telling. The list of initiators of the 2004 Electoral Law includes the leader of the Parliamentary Group of National Minorities among the signatories;⁶³ similarly, among the initiators of the 2008 Electoral Law we find three minority MPs, including the leader of the Parliamentary Group.⁶⁴ Furthermore, looking at how minority MPs voted for the 2008 Electoral Law (no records of the vote are available for the 2004 Electoral Law), we find that all 14 minority MPs present in Parliament for the final vote voted unanimously in favour of the electoral legislation.⁶⁵

As such, we can safely say that the representation of small national minorities has become ‘captured’ by the current parliamentary organisations and their leaders. Unless an overhaul of the electoral legislation occurs, these organisations and their respective leaders will be the only ones able to contest future elections. However, one cannot be but sceptical about any immediate changes to the present legislation, as it is these very organisations and leaders that decide on electoral legislation. In the absence of

any meaningful consultation with other, non-parliamentary, minority organisations, these current representatives have neither the incentives nor do they face real pressure to push for such changes.

2. Financial transparency and accountability

Each year, the state budget includes a lump amount of public funds earmarked for national minorities, which are made available to the Council of National Minorities; following negotiations among the organisations members of the Council, each organisation receives an amount of money to be used for the promotion of interests of the national minority it represents in Parliament.

An organisation successful in sending a representative to Parliament benefits therefore from a very important advantage: it is the sole recipient of the state budget allocations for that respective minority and solely decides on how these amounts will be used in any particular year. This means that all other minority organisations who do not have parliamentary representation and who are therefore excluded from the Council of National Minorities are also excluded from receiving any direct financial support from the state and from consultation on how these funds would be best spent.⁶⁶

With public funds made available for national minorities being entirely managed by the respective parliamentary minority organisation, financial transparency and accountability become a very important issue.

In terms of transparency, there is no legal requirement to make the accounts of these organisations public, despite the fact that they are managing public funds. As such, the access of the general public to these documents is largely dependent on the goodwill of the leaders of these organisations. During a series of interviews carried out in Romania in 2010 with – among others – leaders of various non-parliamentary minority organisations, a recurrent



aspect were their complaints concerning their lack of access to information about the use of the public funding for their respective minority communities. According to my interviewees, their repeated requests for disclosure of information on how these amounts were spent were constantly met with refusal.

This lack of transparency is a reflection of the legislation regulating the use of public funds earmarked for national minorities. According to the law, the Department for Interethnic Relations (public institution subordinated to the Prime Minister) is the body in charge with monitoring of how these funds are spent.⁶⁷

In practical terms, parliamentary minority organisations have the obligation to submit to the Department for Inter-Ethnic Relations a statement declaring the amounts spent and the general purpose for the expenditure ('mass-media', 'administrative costs', 'projects' etc.), with no other additional documentation required (i.e. invoices, receipts, procedures for organising tenders and their outcomes, etc.). The degree of detail of these reports is not established by any regulation, and as such there is no incentive for representatives of these organisations in going beyond offering the bare minimum of information necessary. Indeed, the records held by the Department of Interethnic Relations are extremely cursory – at their most detailed, they include the total amounts spent by an organisation for a few types of expenses ('mass-media', 'administrative costs', 'projects' etc.) per year. No information is available concerning the funds spent on individual projects and what rules of expenditure were used, making the information available impossible to use.

In more theoretical terms, this situation would fall in Fox's category of 'opaque' or 'fuzzy' transparency outlined above. Whatever information is made available (total amounts allocated per minority, records of the Department for Interethnic Relations, etc.), it is presented in such a manner that a fair assessment of the way in which these funds are

used is rendered virtually impossible. As such, it is quite difficult to speak of financial accountability in relation to parliamentary organisations representing small national minorities. In the absence of public scrutiny and in the absence of any institutional pressure to provide adequate information and justification on how they spend the funds earmarked for their communities, minority representatives cannot be meaningfully be said to be accountable.

VII. CONCLUSION

Criticisms of descriptive representation as being too much focused on *who* the representative is and as such deflecting attention from substantive representation (*what* the representative does) are robustly substantiated by the evidence obtained from the analysis of the Romanian system for the political representation of small national minorities.

This paper has based its analysis of the accountability mechanisms (or lack thereof) embedded in the Romanian system of political representation of national minorities on the latest developments in the academic literature concerning political accountability. The distinction between vertical and horizontal mechanisms of accountability and their particular characteristics was thus most helpful in unravelling the relationship between descriptive representation and accountability in Romania. As shown above, vertical accountability is strongly undermined by the existence of an open electoral register, which makes elected representatives difficult to hold to account by the minority communities; with minority mass-media 'captured' by political representatives and with an ineffective civil society to challenge representatives, one cannot meaningfully speak of vertical accountability in the case of minority representatives. Horizontally the situation is not much better: instead of instituting effective checks and balances, the system allows those already in power to mould the legislation in such a manner as to preserve the *status quo* and to remove all



competition; coupled with the lack of rules concerning transparency and accountability of spending the public funds allocated for each minority group, this in turn points to an almost complete lack of horizontal mechanisms of accountability for elected minority representatives.

As such, the idea that elections represent a sufficient (or at least, effective) mechanism of accountability in the case of descriptive representation appears of limited validity. As this paper has attempted to show, not only is a multiplicity of accountability mechanisms needed, but they also need to be effective. Despite the nominal existence of vertical mechanisms in Romania, their poor functioning, coupled with minimum horizontal mechanisms of accountability allow one to go as far as argue that at this point the representation of small national minorities is 'captured' by a closed circle of political elites.

In a sense, one could argue that the representation of small national minorities in Romania has now become *de facto* a form of corporatist representation, yet maintaining all

the appearances of a pluralist system of representation. It is perhaps on this very aspect that academic reflection is most needed: would a model of corporate representation be indeed a better fit for the interests of small minorities? And, if so, how could a corporate form of interest representation accommodate adequate mechanisms of vertical and horizontal accountability?

In the absence of an academic debate on the subject of corporatist versus pluralist representation of national minorities, and in the absence of a public debate on the problems of the Romanian system of political representation for small national minorities, a lot of questions remain to be answered.

As far as the Romanian case is concerned, given the present situation, one can only hope that minority parliamentary organisations and their leaders, although virtually unaccountable, will act to the benefit of the communities they represent and pursue their interests faithfully. That is however another subject, for another article.

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NOTE: This is work in progress. Any comments, suggestions, and corrections are welcome. Please write to carstocea@ecmi.de.

Footnotes

¹ There are some notable exceptions to this general rule. Some countries (e.g. France, Greece) do not recognise the existence of national minorities on their territories, while others (e.g. the Czech Republic), although granting the status of 'national minority' to certain ethnic groups on their territories, have not put into place any special arrangements for their political representation; in these cases we obviously cannot speak of descriptive representation of national minorities.

² Suzanne Dovi, 'Descriptive Representatives: Will Just Any Woman, Black, or Latino Do?', *The American Political Science Review*, 96(4), 2002, p. 729.

³ Anne Phillips, 'Democracy and Representation: Or, Why Should It Matter Who Our Representatives Are?', in Anne Phillips, ed., *Feminism and Politics* (Oxford: Oxford University Press, 1998), pp. 224-240.

⁴ See Art. 15 of the Council of Europe Framework Convention for the Protection of National Minorities, available at [http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_H\(1995\)010_FCNM_ExplanReport_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_H(1995)010_FCNM_ExplanReport_en.pdf) (Accessed 12 March 2013), and Part II of the OSCE Lund Recommendations on the Effective Participation of National Minorities in Public Life, available at <http://www.osce.org/hcnm/32240> (Accessed 12 March 2013).

⁵ Dovi, 'Descriptive Representatives: Will Just Any Woman, Black, or Latino Do?', p. 730.

⁶ Hanna Pitkin, *The Concept of Representation* (Berkeley, Los Angeles, London: University of California Press, 1967), p. 89.

⁷ Melissa S. Williams, *Voice, Trust, and Memory. Marginalized Groups and the Failings of Liberal Representation* (Princeton: Princeton University Press, 1998), pp. 6-7.

⁸ Of the 20 national minorities currently recognised by the Romanian state, the Hungarian and the Roma minorities represent distinct cases that will not be considered in this research. The latest census (2002) shows that all other 18 minorities are situated below 0.5% of the total population, as follows: the Ukrainian and German minorities each amount to 0.3% of the total population, the Lippovan Russian and Turk minorities amount to 0.2% of the population, the Tartar, Slovak and Serb minorities 0.1 %, while the remaining minorities find themselves below 0.1% of the total population (Bulgarians, Croats, Greeks, Jews, Czechs, Polish, Italians, Armenians, Macedonians, Albanians and Ruthenians). For methodological purposes, this research will be limited to the political representation of these minorities.

⁹ Pitkin, *The Concept of Representation*, p. 165.



- ¹⁰ Andrew Roberts, *The Quality of Democracy in Eastern Europe. Public Preferences and Policy Reforms* (Cambridge: Cambridge University Press, 2010), pp. 31-33.
- ¹¹ Kymlicka, *Multicultural Citizenship*, p. 148.
- ¹² Ibid.
- ¹³ Adam Przeworski, Susan C. Stokes, Bernard Manin, 'Elections and Representation', in Adam Przeworski, Susan C. Stokes, Bernard Manin, eds., *Democracy, Accountability, and Representation* (Cambridge: Cambridge University Press, 1999), p.40.
- ¹⁴ Joy Marie Moncrieffe, 'Reconceptualizing Political Accountability', *International Political Science Review*, 19(4), 1998, p.396.
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- ¹⁶ Jonathan Fox, 'The uncertain relationship between transparency and accountability', *Development in practice*, 17(4-5), 2007, p. 666.
- ¹⁷ Guillermo O'Donnell, 'Horizontal Accountability in New Democracies', in Andreas Schedler, Larry Diamond, and Marc F. Plattner, eds., *The Self-restraining State. Power and Accountability in New Democracies* (Boulder and London: Lynne Rienner Publishers, 1999), pp. 29-30.
- ¹⁸ Ibid.
- ¹⁹ Fox, *Civil Society and Political Accountability: Propositions for Discussion*, p. 1.
- ²⁰ Erika Moreno, Brian Crisp, and Matthew Shugart, 'The Accountability Deficit in Latin America', in ed. Scott Mainwaring and Christopher Welna, eds., *Democratic Accountability in Latin America* (Oxford: Oxford University Press, 2003), p.80.
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- ²⁶ Fox, 'The uncertain relationship between transparency and accountability', p. 667.
- ²⁷ Moncrieffe, 'Reconceptualizing Political Accountability', p. 391.
- ²⁸ Radoslaw Markowski, 'Accountability and Institutional Design in New Democracies', *International Journal of Sociology*, 36(2), 2006, p.46.
- ²⁹ Art. 59(2) of the 1991 Constitution of Romania provides that 'The organisations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organisation only'. Constitution of Romania, 1991. Available at <http://www.cdep.ro/pls/dic/site.page?id=371> (Accessed 5 March 2013).
- ³⁰ Art. 4 of Law 68/1992 concerning the election of the Chamber of Deputies and the Senate, *Monitorul Oficial* 164 / 16 July 1992.
- ³¹ Art. 4(2) of Law 373/2004 concerning the Election of the Chamber of Deputies and the Senate, *Monitorul Oficial* 887 / 29 September 2004.
- ³² Călușer, Monica, 2008, 'Reprezentarea minorităților naționale pe locurile rezervate în Parlament', in Levente Salat (ed.), *Politici de integrare a minorităților naționale din România. Aspecte legale și instituționale într-o perspectivă comparată*, Cluj-Napoca: Fundația CRDE, p. 170.
- ³³ The total number of persons declaring themselves of a certain ethnic background in the census is of course to be used cautiously. If we are to take language (marked as 'mother tongue' in the census questionnaire) as an indicator of ethnicity and therefore of the size of an ethnic minority, it is important to note that the Romanian census does



not distinguish between a person's mother tongue as the first language learned within the family (but which is perhaps no longer used as a principal language of communication) and a person's habitually spoken language. This ambiguity means that there will be inherent variations in assessing the size or degree of assimilation of a certain minority; for methodological purposes, this paper will use the total number of persons declaring to have a minority mother tongue as an indicator of the size of that minority.

³⁴ Institutul Național de Statistică, 2003, *Recensământul populației și al locuințelor, 18 martie 2002, Vol. 1: Populație: Structura Demografică* (Bucharest: Institutul Național de Statistică), pp. 760-765.

³⁵ If a person can only cast one vote, this means that a person for a minority community who has a strong preference for a mainstream party will forsake the vote for the minority candidate in favour of the candidate of the mainstream party, thus reducing the potential pool of voters for the minority candidate.

³⁶ Andreea Cârstocea, *'Ethno-business': the Unexpected Consequence of Post-1989 Policies for the Political Representation of National Minorities in Romania*, PhD Thesis, School of Slavonic and East European Studies, University College London, May 2012, pp. 169-189. See also the military references and symbolism on MP Niculae Mircovici's personal website, available at <http://mircovici-niculae.blogspot.com/> (Accessed 27 February 2013).

³⁷ Balázs Dobos, 'Hungary: An Exemplary Autonomy in Changing Context?'. Paper presented at the conference *Autonomy arrangements in the world*, organised by the Political Science Department of Babes-Bolyai University, Cluj-Napoca, Romania, in cooperation with the European Centre for Minority Issues, Flensburg, Germany, and the Romanian Institute for Research on National Minorities, Cluj-Napoca, Romania, 14-15 September 2012.

³⁸ Jonathan Fox, *Civil Society and Political Accountability: Propositions for Discussion*'. Presented at the conference 'Institutions, Accountability and Democratic Governance in Latin America', the Helen Kellogg Institute for International Studies, University of Notre Dame, May 8-9, 2000, p.1. Available at <http://kellogg.nd.edu/faculty/research/pdfs/Fox.pdf> (Accessed 14 February 2013)

³⁹ Art. 96 of the Decree-Law 92 of 14 March 1990 regulating the election of Parliament and of the President of Romania, *Monitorul Oficial* 35 / 18 March 1990.

⁴⁰ As provided in Art. 1 of Government Decision 137/1993, concerning the organisation and functioning of the Council for National Minorities, *Monitorul Oficial* 74 / 12 April 1993.

⁴¹ As provided in Art. 2 of Government Decision 589 /2001, concerning the setting up of the Council of National Minorities, *Monitorul Oficial* 365 / 6 July 2001. Initially, the Council brought together representatives of 16 minorities; the number has since increased to 19 members, representing 20 ethnic groups recognised as national minorities by the Romanian state (the Czech and Slovak minorities chose to be represented by one joint association – the Association of Czechs and Slovaks in Romania).

⁴² Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, *Second Opinion on Romania*, 24 November 2005, p. 8. Available at http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp#Romania. (Accessed 7 September 2011)

⁴³ Ibid.

⁴⁴ Timothy Besley and Andrea Prat, 'Handcuffs for the Grabbing Hand? Media Capture and Government Accountability', *The American Economic Review*, 96(3), 2006, p.721.

⁴⁵ Ibid.

⁴⁶ Council of Europe, Report Submitted by Romania Pursuant to Article 25 Paragraph 1 of the Framework Convention for the Protection of National Minorities, 24 June 1999, p.36. Available at http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_1st_SR_Romania_en.pdf (Accessed 4 March 2013).

⁴⁷ See for instance 'Prietenul albanezului', published by the Association 'The League of Albanians' in Romania, available on the organisation's website at <http://www.alar.ro/revista.html> (Accessed 11 March 2013); also 'Piazza Romana', published by the Association of Italians in Romania RO.AS.IT, available on the organisation's website at <http://www.roasit.ro/html/ro/ziar.php> (Accessed 11 March 2013).

⁴⁸ See for instance this 2007 edition of 'Macedoneanul de Bailesti', edited by the Association of Macedonians in Romania. Then, director of the newspaper was MP Liana Dumitrescu (now deceased) and editor-in-chief her



mother, Constantina Dumitrescu. Available on the organisation's website, at http://www.asociatia-macedonenilor.ro/files/57_Ziar_de_Bailesti_01_martie_2007.pdf (Accessed 11 March 2013).

⁴⁹ Council of Europe, Report Submitted by Romania Pursuant to Article 25 Paragraph 1 of the Framework Convention for the Protection of National Minorities, 24 June 1999, p.34.

⁵⁰ Moncrieffe, 'Reconceptualizing Political Accountability', p.401.

⁵¹ Ibid., p. 402

⁵² Fox, 'The uncertain relationship between transparency and accountability', p. 664.

⁵³ See Law 68/1992 concerning the Election of the Chamber of Deputies and the Senate, *Monitorul Oficial* 164 / 16 July 1992.

⁵⁴ Art. 4(1) of Law 373/2004 concerning the Election of the Chamber of Deputies and the Senate, *Monitorul Oficial* 887 / 29 September 2004.

⁵⁵ See Art. 2, Government Decision 589/2001 concerning the setting up of the Council of National Minorities, *Monitorul Oficial* 365 / 6 July 2001.

⁵⁶ Biroul Electoral Central, *Decision* 16/ 20.10.2004. Available at <http://www.bec2004.ro/doc3.htm> (Accessed 4 August 2011).

⁵⁷ Art. 4(2) of Law 373/2004 concerning the Election of the Chamber of Deputies and the Senate, *Monitorul Oficial* 887 / 29 September 2004.

⁵⁸ Art. 4(3) of Law 373/2004 concerning the Election of the Chamber of Deputies and the Senate, *Monitorul Oficial* 887 / 29 September 2004.

⁵⁹ Art. 4(4) of Law 373/2004 concerning the Election of the Chamber of Deputies and the Senate, *Monitorul Oficial* 887 / 29 September 2004. The law provided a further amendment (Art. 4, Para. 5), which regulates the participation in elections of non-parliamentary associations representing large minorities.

⁶⁰ The 2005 Opinion of the FCMN Advisory Committee was critical of these changes to the electoral law, on grounds that it may prevent participation to public life of minorities currently not represented in Parliament: 'to date, Romania does not have a list of officially recognised national minorities nor a specific procedure for recognising ethnic communities as national minorities. Nonetheless, the groups taken into account and consulted by the Government in drawing up measures for the protection of minorities are those represented in the Council of National Minorities, a consultative body comprising representatives of citizens belonging to the national minorities represented in Parliament At the same time, with regard to elections to the Chamber of Deputies and the Senate, "within the meaning of the present law, national minority is understood to mean an ethnic group represented in the Council of National Minorities". This implies that in the absence of an official definition of "national minority", over and above the data provided by the population census, the authorities, in order to treat a group as a national minority, take into account the results of parliamentary elections. As indicated above, the Advisory Committee welcomes the inclusion of two new groups in the scope of application of the Framework Convention following the parliamentary elections of 2000. At the same time, the Advisory Committee considers it problematic from the point of view of Article 3 of the Framework Convention that the results obtained in elections are treated as a decisive factor for confirming the existence of a national minority. The Advisory Committee believes it is essential to ensure that such a criterion does not lead to unjustified distinctions among groups potentially eligible for the protection afforded by the Framework Convention.' Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, *Second Opinion on Romania*, 24 November 2005, p. 8. Available at http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp#Romania. (Accessed 7 March 2013).

⁶¹ Art. 9(3) of Law 35/2008, concerning the election of the Chamber of Deputies and the Senate, *Monitorul Oficial* 196 / 13 March 2008.

⁶² See Art. 38 and Art. 39 of Law 246/2005 for the Approval of Government Ordinance 26/2000 concerning Associations and Foundations, *Monitorul Oficial* 656 / 25 July 2005.



⁶³ See Chamber of Deputies, Parliament of Romania, *PL-x nr. 420/2004. Proiect de Lege pentru alegerea Camerei Deputaților și a Senatului*. Available at http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=5691 (Accessed 12 March 2013).

⁶⁴ See Chamber of Deputies, Parliament of Romania, *PL-x nr. 15/2008. Proiect de Lege pentru alegerea Camerei Deputaților și a Senatului*. Available at http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=9055 (Accessed 12 March 2013).

⁶⁵ See Chamber of Deputies, Parliament of Romania, *Vot final PL 15/2008 pentru alegerea Camerei Deputaților și a Senatului - lege organică*. Available at <http://www.cdep.ro/pls/steno/eVot.Nominal?idv=4156> (Accessed 12 March 2013).

⁶⁶ These funds are intended for the exclusive use of minority organisations. It must be noted that a range of public institutions such as the Department for Interethnic Relations, the Ministry of Culture, or the Ministry of Education also receive funds earmarked for national minorities. In these cases however, it is the institution that decides on the use of funds and not the parliamentary organisations of national minorities.

⁶⁷ Government Decision 31/2012 concerning the approval of the allocation and use of the amounts included under the headings a) and b) of the annex 3/13/02a to the Budget Law 293/2011 for the year 2012, *Monitorul Oficial* 70/ 27 January 2012.

ABOUT THE AUTHOR

Dr. Andreea Cârstocea

Research Associate at ECMI

Participating in ECMI's Justice & Governance

*Contact: castocea@ecmi.de

FOR FURTHER INFORMATION SEE

EUROPEAN CENTRE FOR MINORITY ISSUES (ECMI)

Schiffbruecke 12 (Kompagnietor) D-24939 Flensburg

☎ +49-(0)461-14 14 9-0 * fax +49-(0)461-14 14 9-19

* E-Mail: info@ecmi.de * Internet: <http://www.ecmi.de>