

CULTURAL AUTONOMY INTO A MULTICULTURAL SPACE: ESTONIAN CASE**Cristi Iftene, Assist.Prof., PhD, “Ovidius” University of Constanța**

Abstract: In contemporary society, respecting the rights and fundamental freedoms and human dignity is one of the issues that raises many conflicts and debates. In order to ensure the compliance with these universal principles is necessary to understand correctly the ratio between culture, cultural identity and human rights.

Cultural autonomy is an autonomous self-government of cultural business of a group or minority. Thus, we can say that it is a personal autonomy limited to cultural affairs. It includes issues of identity such as: language or education. The minority decides freely on these issues and is run by the majority or by the laws issued by the State. The target is unequivocally free cultural development of the group. It is not necessary to transfer all powers to the minority. Cultural autonomy could, for example, be considered as school autonomy, if the minority considers this fact enough. The other part of the cultural autonomy could lead to the separation from the majority culture, minority isolation and unquestionably group alienation. However common knowledge and respect is represent a prerequisite for cohabitation.

Keywords: Autonomy, culture, ethnicity, decentralization

Cultural autonomy can lead to separate cultures, in exchange of those integrated. Such segregation would be too expensive for the protection of cultural assimilation. From now on cultural autonomy reaches its limits when separating the majority from the minority would endanger the unity of the state. Therefore, it needs to be supplemented by a minority political participation in the state's management. That is why cultural autonomy should be based on an agreement between the state and representatives of minority or group.¹

In this respect cultural autonomy in Estonia during the interwar period is the best known example. Like other countries, the Estonian government made generous promises to its minorities but unlike others it has turned them into legal effect. The relevant legislation was represented by the Cultural Autonomy Law from 1925, which authorized any ethnic group with more than 3,000 members, like Germans, Russians and Swedes, to create a separate legal identity. A Board was appointed in order to take control of state functions, as well as municipal authority in education, culture, libraries, theatres, museums, etc.. Non-territorial minority of Germans from Estonia took advantage from the law in 1925 and has set an own cultural Council.

A more recently example is represented by the situation of the Sami territory in Finland after the entry into force of amendments of the Council of Finland from August 1, 1995. Under new Section 14, paragraph 3, Sami as indigenous people will have the right to maintain and develop their own language and culture.²

¹ See A. Unghe, *Human Rights and Cultural Identity: New Hope for Ethnic Peace?*, Harvard International Law Journal, nr. 331992, pp. 341-352

² Another normative act on defending Sami's cultural autonomy is represented by the Law on Sami Parliament from January 1, 1996.

Personal autonomy differs from personal autonomy by design and purpose, extending to a linguistic and cultural group.³ Cultural autonomy is based on community rather than extending to all members of society as in the case of personal or individual autonomy. Cultural autonomy differs from personal autonomy by the fact that personal rights are granted to an individual in base of its membership to a particular group. Thus these rights are specific and are only for individuals who belong to a certain minority group. There is a minimal legal structure for the guaranteed rights. Asbjørn Eide⁴ understands cultural autonomy as the right of self-government through a defined group of cultural elements in terms of issues affecting the maintenance, preservation and reproduction of their own culture. Thus, the State chooses not to exert its authority over the minority group in terms of a certain number of elements. Cultural autonomies are non-territorial in the sense that their jurisdiction on certain issues covers the entire state territory.⁵

Cultural autonomy applies to all members of a national, ethnic, linguistic or religious group, wherever they are located within the State. Such systems have received throughout history Jews, who could manage their internal life according to their specific tradition, or Muslim communities. National minorities have the right to organize themselves as entities of public law and to establish their own institutions that they consider necessary to support and develop their identity. For controlling and funding these institutions, minority groups could introduce taxes and produce regulations which have to be obeyed by their members. Cultural autonomy is defined by a greater number of rights for minority groups.

The right of self-government identified by a well-defined cultural group is transferred in matter affecting the maintenance and reproduction of its culture.⁶ In this case the state chooses not to exert its authority over the minority.

The big problem of cultural autonomy is to create submissive relationships, submissive in the minority, towards the representative body, invested with the power to issue binding regulations for the members of a minority and the power to charge. In all known cases, people have retained the right to decide whether or not they belong to a community. But the dissent to the community has as a result, in the context of personal autonomy, the location of dissenting persons towards those with the same ethnic identity. This cost is practically difficult to pay and unacceptable

Achieving autonomy is a principle invoked by minorities as a constituent element of the preservation of the identity of a group. Cultural autonomy implies an effort to conserve the traditions of a community whereby one tries to create a rhythm of community life that works according to the system of values resulting from the historical development of

³ Like Sami in Norway, Sweden, Finland and Russia; it should be noted that only a part of these territories guarantees a cultural autonomy to Sami population.

⁴Eide, Cultural autonomy: Concept, Content, Hystory and Role in the World Order, quoted in Markku Suksi (ed.), *Autonomy: Applications and Implications*, Kluwer Law Interntional, The Hague, 1998, p.251

⁵Markku Suksi, *Functional autonomy: the case of Finland with some Notes on the basis of International Human Rights Law and Comparisons with other cases*, quoted in *International Journal on Minority and Group Rights*, Vol.15, nr.1-2/2008, pp.195 and the followings.

⁶Markku Suksi, *Autonomy: Applications and Implications*, Ed. Kluwer Law International, Hague, 1998, p.343

community and from the experience of the tradition meeting other traditions and the general effort to modernize society.⁷

In our view, *cultural autonomy* is supported and encouraged by multiculturalism only as a factor of preservation of identity, as a way of increasing the power of a community which is in a report of discrimination and disadvantage emphasized by the inability to access the power. Cultural autonomy must not be confused with *administrative autonomy on ethnic criteria*, because it means strengthening some minorities under the form of 'imagined communities' that exist in a common identity, built on elements of a common tradition and on cultural policies that are promoted by modern governance.⁸ It is about political power able to promote cultural policies where community properties should be regarded as minorities' cultural goods, in a common cultural space of a society where the principle of dignity recognition of others functions as a rule of common sense.

Analyzing the historical development of society we can see that most groups that have called for increased freedom and social control, on behalf of autonomy structured on self-identity reasons, have often come to impede the freedom of their group members, to ask them to have uniform options, ways of actions consistent with those of the group, to shape their own freedom of belief and conscience according to group requirements.⁹ Thus, in some cases a violation of freedoms and the right to difference of group members is reached, although this fights in order to affirm the difference and wider certain freedoms. That is why mechanisms must therefore be sought to enable community self-determination in close correlation with its right of individual autonomy.

We believe that, achieving autonomy is a principle invoked by minorities as a constituent element of the preservation of the identity of a group. Cultural autonomy implies an effort to conserve the traditions of a community whereby one tries to create a rhythm of community life that works according to the system of values resulting from the historical development of community and from the experience of the tradition meeting other traditions and the general effort to modernize society

At the same time cultural autonomy should not be confused with *administrative autonomy on ethnic criteria* because it rather assumes the consolidation of minorities under the form of communities under a common identity built on elements of a common tradition and on cultural policies promoted by modern governance. The principle of self-government claimed by the promoters of cultural autonomy takes into consideration, in fact, asserting the principle of subsidiary. Community may take their own decision regarding their problems unless the rules and general rules of law are not violated.

In our view, human rights are an integral part of culture, and promoting their compliance is an objective of ensuring the reconciliation of the diversity of individuals, without cancelling their own cultural identity, becoming a universal standard for the whole humanity.

⁷Sandu Frunză, *Pluralism and multiculturalism*, quoted in *Journal for the study of religions and ideologies*, nr. 9, 2004, p.138

⁸Benedict Anderson, *Imagined Communities. Reflections on the origine and spread of nationalism*. Ed. Integral, Bucharest, 2000, p.63

⁹Sandu Frunză, *Pluralism and multiculturalism*, quoted in *Journal for the study of religions and ideologies*, nr. 9, 2004, p.138

Thus we can say that cultural rights are an integral part of human rights that define the identity of individuals, minority groups and minority themselves and represent specific individual rights in accordance with their specific cultural ideal, as an unfettered expression of the right to diversity.¹⁰ Cultural rights are based on principles of equality and non-discrimination, ensuring an objective assessment of the existing specific differences at national and international level. Therefore, we can say that human rights are at the same time the rights of individuals belonging to minorities.

Such a construction, allows a harmonious coexistence of all persons belonging to minorities, ensuring their preservation and transmission of personal identity, as a result of recognition of cultural differences specific to each individual, removing any inequality which may lead to discrimination or the loss of personal freedom of individuals, as members of a minority group, to prevent their isolation in dealing with other cultures.

Dimensions of culture and its derivatives

Democracy is a very important factor in identifying the dominant traits that defines a modern society in which it prevails cultural diversity of individuals, who represent institutionalized entities in order to ensure protection of fundamental rights and dignity, without being violated the right of ethnic belonging, cultural and religious freedom of each individual.

Multiculturalism is a known fact and widely recognized, met in ethno-political reality of the contemporary world. At present in the 200 internationally recognized countries there are around 600 spoken languages and live between 4000 and 6000 ethnic or ethno-cultural groups. At the origin of ethno-cultural pluralism is found that some communities formed and complete active companies from a institutional point of view, including self-government traditions, there were incorporated into a larger state usually against their will, as a result of colonization, conquest or yielding of territory from one power to another, and voluntarily as a result of federalization.

Taken together, culture is one of the many features that the customize specific of local communities or regional from the framework of the nation, and a determining factor in identifying the common elements between various states, regardless of distance. At the EU level, the desire of Unity in Diversity¹¹ represents a challenge to all Member States, which seeks to achieve a certain cohesion between their citizens taking into consideration their identity and cultural diversity.

The research of the concept of culture is an extremely complex operation, which focuses on studying cultural patterns, taking as reference the perceptions and meanings attributed to the cultural identity of each human entity that represents the mission of culture in society. In our view, culture can be depicted as an intelligible structure, loaded with a reality that can be known, learned and passed so that culture becomes the product of human activity, in which each individual forms its own perception of nature and society.

The anthropological view approaches the concept of culture from the perspective of a human world, the need for social reproduction that humans want to protect. In order to

¹⁰Ion Diaconu, *Minorities from non-discrimination to identity*, Ed. Lumina Lex, Bucharest, 2004, p.135

¹¹ The motto symbolizes the fact that, through the European Union, the Europeans are united in promoting peace, prosperity and cultural diversity, traditions and languages of Europe is a positive element for this continent.

understand the diversity of culture and its unbroken chain of transformations it must be understood and accepted the description of culture as an organic phenomenon. The comparison of culture with a living organism is an expression of human thinking analogies. In the concept of other researchers, culture deals only with sophisticated spiritual matters requiring a special initiation for understanding these issues.¹²

Therefore we consider that the culture's task affects the surrounding reality and determines human's pathways to action. Culture is an internalization of the development of human activities that adapts to and activates depending on the factors determining this process, acknowledging in some cases local and temporal segregation.

The concept of culture based on aspiration to specific group rights is essential, static and segregation from a geographical point of view in the sense that does not allow an overlap of different regional cultures.¹³

In a modern society defined by democracy and pluralism, culture generates new forms and aspects, which emphasize the importance of personal autonomy and determines a reinterpretation of singular vision on the concept of culture in a specific geographical framework, involving a recognition of multiculturalism at a local and regional level in order to enhance the equity of diversity promoted in present in the European Union.

The dynamic character of cultural pluralism causes an enlargement of the right to self-government of minority groups, as a moral basis for the protection of these ethnic groups.¹⁴ Cultural symbol plays an important role in the life of a community, being able to define and shape the complexity of a society. Cultural symbol is a summation of experiences through which the community expresses its self, ensures the continuity of common life experience by its various institutions. Cultural symbols can be material or spiritual, regional or general human, depending on the means by which they are disseminated.

In our view, the recognition of cultural plurality represented the need for implementation of democracy at the state's level and the guarantee to access their own culture, in order to achieve a cultural dialogue that largely excludes the differences and tensions that may occur during the evolution of human society. We believe that defining culture in terms of a universal attribute of humanity, which includes at the same time national roots, is a wish to all EU citizens, in order to ensure good living in the communion proposed by the new European identity.

A crucial aspect in the union in diversity is represented by the integrating concept of "national" in European culture. The European identity principles reunites national culture and other peoples culture, without losing the individual's right to preserve and perpetuate their own cultural values, which determines its own identity construction. Thus, the dynamic of modern culture, integrates in its essence the existence of a minority group opposed to a majority group, without leading to the emerge of conflicts between minority and majority, thus we can see a democratization of culture.

We can appreciate that the innovative impact of democratization redefines culture. Thus we believe that modern culture should include defining elements of democracy itself,

¹²Gheorghe Popescu, *Cultural Diversity – a challenge for the contemporary world progress in the Annals of Apulensis University, the Psihological series*, nr. 7, tom 1, Alba-Iulia, 2006, p.181

¹³Levente Salat, *Liberal Multiculturalism: normative basis of authentic minority*, Ed. Polirom, Iași, 2001, p. 214

¹⁴*Idem*, pp. 214-215

and at the same time its necessary ways to translate them into practice. The transition to a normative democracy by creating political means to achieve wider access to all categories of citizens has become a reality of these last decades. Cultural democratization takes into account the concept of religion, thus several major implications are present in the minds of a population and their existence in terms of customs, rituals, and traditions.

In our view, cultural diversity involves a cultural and tradition exchange at a ethnic level, in order to preserve and promote various cultural events existing in democratic societies today.

Multicultural education determines the discover of cultural wealth and cultural variety at intrapersonal level, so that the real exchange of ideas is the key to innovation and progress in human society. Cultural diversity recognizes the problem of defending the differences and creates a cultural dialogue that reinforces human experience, in a universalization effort of a particular existence.

Estonia fights for cultural autonomy although there are elements of concern about Russians in Estonia. Thus Estonia has adopted in 1993 the Law on cultural autonomy of national minorities, which, together with certain constitutional provisions and the Estonian Language Act¹⁵ creates a high degree of cultural autonomy for minorities in Estonia. Estonian law seems to reject the idea of dual citizenship for the Russians. This occurs in the context of refusal to recognize the independence of Estonia by Russia and the notion according to which Russians represent a threat to the Estonian „ethnic character”.¹⁶ But for national minorities who have only Estonian citizenship, this law provides a broad cultural autonomy, as the „right to maintain the ethnical identity”.¹⁷ The purpose of this agreement is to give to national minorities the possibility to provide education in their own language, to use their own freedom of expression in their own language and practice their own rituals and traditions. Estonian legislation also provides that where a language from a populated area is not Estonian, the minority language can be used in local authorities and government. This includes the use of minority languages in court proceedings. Moreover, the institutions that provide education services for ethnic minorities can choose their language of instruction. What seems relevant is that these language rights also extend to the Russian population.

Finland's Constitution recognizes the right of people to receive services in other languages. Recognizes two national languages (Finnish and Swedish) and gives individuals the right to use their own language in courts and before other public authorities. The main Act of Parliament which implements this constitutional law is the Language Law (423/2003). Both languages must be used in bilingual municipalities. In fact, however the duality of the linguistic regime extends only to traffic signs, courts and other areas of state administration. There is thus a requirement that the state's officials must know both languages when working in a bilingual jurisdiction.

¹⁵ The Language Law from Estonia, adopted in 1995 and modified in January 1999.

¹⁶Michael Tkacik, *Characteristics of forms of autonomy*, quoted in *International Journal on Minority and Group Rights*, Vol.15, nr.1-2/2008, p.375

¹⁷Marku Suksi, *On the Constitutional Features of Estonia*, Åbo Akamemis tryckeri, Åbo, 1999, p.47

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