

Ethnic Party Regulation in Eastern Europe

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Introduction

The representation of minorities – ethnic and others – in the political process is an important indicator of the quality of democracy and can take various forms. Minorities can have their own representatives in the legislative institutions at both national and regional level; they can have minority “experts” in various consultative bodies to the government. Alternatively, minorities can also be given a right to self-government. Achieving legislative representation can also be done in several ways – minorities can participate in the political process through non-minority-specific parties or they can try to form their own parties and achieve representation along ethnic lines. There are also various ways in which the state, through its political institutions and legislative framework, can encourage or discourage the representation of its minorities. It is this relationship which we examine.

The chapter investigates the link between one of the forms of ethnic political representation – ethnic parties – and one of the possible ways through which state policy can impact upon it – the type and nature of regulation of ethnic parties found in the Constitution, Party Law, and Electoral Law of a given country. Ethnic parties – parties that aim to represent a specific ethnic minority group – exist in virtually all East-European states, but the legal and institutional frameworks of these countries treat such parties in several quite different ways. Albania and Bulgaria, for example, ban ethnic parties, while the Czech and Slovak Republics allow ethnic parties to exist and subject them to equal treatment by their electoral laws. Hungary and Poland, on the other hand, not only permit ethnic parties to form and run in parliamentary elections but

also make it easier for them to gain representation at different levels of government. Finally, Romania and Slovenia provide the most extreme form of positive discrimination by guaranteeing seats to minorities (subject to some limitations). As the countries of Eastern Europe have substantial proportions of their population belonging to minority groups – about 15% on average – the legal treatment of political parties based on ethnicity has important consequences for the political representation and participation of these groups.

The chapter offers a comparative analysis of the legal regulations of ethnic minority parties. Concentrating on the EU10 East-European states, we trace the development of regulation on parties' activity and identity. As we shall see, Romania proves to have increased the amount of regulation in that category most significantly.

To delve more deeply into the differences and contextual specificity of regulation of minority parties we further examine the Party and Electoral Laws, as well as the Constitutions, to find that the most *restrictive* and most *encouraging* in their regulation towards minority parties are, respectively, Bulgaria and Romania. Finally, the chapter provides a comparison between these two most different forms of minority electoral arrangements and analyses the impact they have had on the success of ethnic parties in the two countries. Our analysis concentrates on the political parties of the Hungarian and the Roma minorities in Romania and on the Turkish and the Roma minorities in Bulgaria. We conclude that the electoral arrangements have made a significant and consequential difference in the case of only one minority – that of the Roma – in both countries. The larger minorities, on the other hand, have done similarly well in both Romania and Bulgaria despite differences in the institutional constraints on their behaviour.

Finally, in an attempt to link institutional arrangements with the political behaviour of individual members of minority groups, the paper investigates whether the different electoral fates of Roma parties have had any impact on the levels of political participation of the Roma minorities in the two countries. For this purpose, the paper uses survey data from the UNDP *Avoiding the Dependency Trap* database (UNDP 2003) and the *Legal Regulation of Political Parties in Post-war Europe* database (van Biezen 2009).

The Regulation of Ethnic Parties

Many of the methods used to promote the representation of minorities have been controversial, in large part because many appear to be opposed to the basic “individualistic” principles of liberal democracy. One in particular – the formation of “ethnic,” “minority” or “ethno-regionalist” political parties – has been particularly contentious. These are parties which, formally or in practice, speak for the interests of a particular group, which are delineated in ethnic terms (Chandra 2011). As such, ethnic parties aim to fulfill a descriptive representative function for these groups in the national political arena.

The ethnic party is an interesting nexus of group-driven efforts to achieve representation and the state’s policies regarding representation. No party can form without individuals willing to be part of it, making ethnic parties a reflection of the minority group’s cohesiveness, socio-economic situation, and political ambition. However, the party’s existence is often subject to differential treatment by the Constitution and other laws of the state. While many African and some European states (such as Albania and Bulgaria) simply ban ethnic parties, others, such as Romania and New Zealand, provide for the preferential treatment of those organizations. The presence of ethnic parties in contemporary democracies has recently been encouraged by the policy recommendations of international organizations such as the OSCE, which has included “establishing political parties based on communal identities” as part of a minority group’s right to freedom of association (OSCE Lund Recommendation, article 8, 2000).

However, academic research provides divergent conclusions about the link between ethnic parties and democratic stability. In his works on consociational democracy, Arend Lijphart, for example, saw the existence of group-based parties as a positive and necessary institutional mechanism to provide for the representation and participation of the various segments of society (Lijphart 1977). Quite in contrast, Donald Horowitz (1985) has made a strong argument against ethnic parties by maintaining that ethnic parties tend to divide a divided society even further. As ethnic parties often represent strictly group interests, they are unable to concern themselves with issues of national importance and their behaviour is dangerous for the good government of the country (Horowitz 1985, 294). States that fear secessionist movements can, therefore, choose to ban ethnic parties. Bulgaria and Albania are examples of systems in which ethnic-based parties are banned in the Constitution or the Law on Parties and where their activities are discouraged by the electoral laws (Juberias

2000, 37). Reilly (2003) has similarly argued that because ethnic parties make their political appeal specifically on ethnicity, their emergence 'often has a centrifugal effect on politics.' The resulting fragmentation of the party system has a detrimental effect on the stability of democracy and government in such situations.

In contrast, other authors have argued that ethnic parties pose challenges to democratic government only in deeply divided societies. Stroschein, for example, has maintained that ethnic parties "domesticate" ethnic issues into institutional forms, thus allowing them to be resolved in parliament rather than through violence. Conflicts between these and other parties are routinized and the political process allows the parties to "find a way to bargain over heated issues and negotiate alternatives" (Stroschein 2001, 61). Birnir has made an even stronger argument: ethnic parties might in fact help the stabilization of the party system in the early years of democracy by providing a stable link between voters and parties for at least some part of the electorate at a time when such links are not well developed overall. Chandra (2005) has argued that, even in deeply divided societies, ethnic parties might not lead to centrifugal tendencies in the party system, while van Cott (2007) maintains that the formation and success of ethnic (indigenous) parties in Latin America has had a very beneficial effect on the quality of democracy in the region.

A natural extension of either of these two positions is the legal and institutional framework which states impose on all political actors. Constitutional provisions and electoral and party legislation are the most common instruments of state policy that can influence the success or failure of any political party, including an ethnic minority party. The actors that make the policies, however, are the parties themselves – something, which Rashkova and Biezen (2014) refer to as the 'paradox of regulation'. Thus, in an era of growing party regulation, and especially considering the areas of spoils for successful competitors and gate-keeping for potential entrants, Katz and Mair (1995) argue that the link between the parties and the state has gained strength, and thus the party has become a public, rather than a private, utility (Biezen 2004). That political parties are increasingly managed by the state, in that their activities are to a larger extent subject to regulations and state laws, is also the focus of Biezen and Kopecký's (2007) study of the dimensions of the party-state link.

To estimate the extent to which ethnic minority parties are regulated, we begin by using the data from the *Party Law in Modern Europe (PLME)* database. The PLME database consists of detailed coding of European party laws. The content of party laws is codified in twelve major categories

ranging from 'democratic principles' to 'party organization' and 'party finance'. Each category is further broken down into additional, more specific, sub-categories – for example, the 'democratic principles' category includes texts related, but not limited, to principles of competition, equality, participation and pluralism. The database provides an overview of the *range* and *magnitude* of regulation (more detailed explanation of the coding scheme and the database is provided in Casal Bértoa, Piccio and Rashkova, chapter 6).

For our purposes here, we are interested in the 'party activity and identity' category, as it refers to what parties do or seek to do; it offers rules governing the activity, goals and behaviour of parties. We make a comparison between the *raw* magnitude of regulation, that is the number of times a particular category is mentioned in a given country's Party Law, the *weighted* magnitude or how much of the regulation in a country's Party Law relates to party activity and identity, and, finally, how the magnitude of regulation *changes* over time. The results show that not much attention is devoted to the 'party activity and identity' in any of the ten East-European democracies. In fact, the highest percentage of regulation devoted to 'party activity and identity' in any Party Law is 14.1 per cent in Lithuania's 1995 Party Law. This figure however drops to less than 10 per cent for all states in their current Party Laws, which shows that states are increasingly less interested in regulating the activity and identity of their parties. In addition to the amount of regulation, we also examined the change in regulation over time. We observe a general low regulation of parties' activity and identity, which throws up no clear pattern of how the regulation changes. Bulgaria, Slovakia and Slovenia are decreasing the amount of regulation; Estonia, Poland and Romania are increasing it, while the remaining four states remain neutral.

Despite providing a useful overview of the extent and directional change of regulation of a party's activity and identity, the figures reported in table 1 leave the regulatory puzzle unsolved as we do not know how specific rules are worded and to what extent they are truly restrictive. Furthermore, table 1 presents an overview of regulation found only in the Party Law, while political parties are regulated also in the Constitution and the Electoral Law of a given country. To complete the picture, we go on to examine the actual content of legislation in both the Party and Electoral Laws, as well as the Constitutions of our countries. An in-depth analysis of the contents of all these legal documents reveals that there is a lot of variation on the regulation of ethnic, religious or other national minorities among the EU10. To encompass the differences in a way

which is useful for further investigation into how ethnic minorities are treated in the political arena in East-European states, we make a fourfold classification of the types of minority references found in legal texts. The first and to some extent least telling type is what we call the *no reference* category; simply, this category reflects a legal document that makes no reference to minorities.¹ The second category is what we call *neutral*, or in other words some references to minorities do exist, however they do not discriminate against these groups, nor do they strengthen their position in the political arena. The final two categories reflect the existence of positive discrimination, which we call *encouraging*, and negative discrimination references which we term *restrictive*.² The four categories thus aid us in making an overall classification of the political treatment of minority parties in East-European legal texts. The results of this examination are summarized in table 1.

Table 1: Regulation of national minority electoral participation

Country	Constitution	Party Law	Electoral Law
Bulgaria	<i>restrictive</i>	<i>restrictive</i>	--
Czech Republic	--	<i>restrictive</i>	<i>encouraging</i>
Estonia	<i>neutral</i>	--	--
Hungary	<i>encouraging</i>	--	--
Latvia	<i>neutral</i>	--	<i>neutral</i>
Lithuania	--	<i>neutral</i>	--
Poland	<i>encouraging</i>	--	--
Romania	<i>encouraging</i>	<i>encouraging / restrictive</i>	<i>encouraging</i>
Slovakia	<i>encouraging</i>	<i>restrictive</i>	--
Slovenia	<i>neutral</i>	<i>restrictive</i>	--

Of the three types of laws examined, the Constitution appears to be the legal document in which minorities are referred to the most.³ As we see, only the Czech and the Lithuanian Constitutions have no reference to minorities and their participation in the political process. In terms of the overall variation in the regulation of minority representation, Romania and Bulgaria appear to be the two countries with consistent types of reference across all legal texts – the former strongly encouraging the representation of minorities, and the latter quite restrictive in that regard. Romania gives special treatment to its national minorities – they are guaranteed representation under some very basic conditions and they

are referred to in many places in the law (Constitution Art. 62.2 and in multiple places in the Electoral Law). In Bulgaria, on the other hand, both the 1990 Party Law (Art. 3.2.3) and the Constitution (Art. 11.4) state that a political party based on a religious or ethnic principle may not be established. Thus, Bulgaria is the only European Union member state which openly bans the existence of ethnic parties. While the clause prohibiting the existence of ethnic parties was removed from the 2009 Party Law, multiple mentions restricting links to religious institutions and the prohibitive ethnic clause in the Constitution still remain. Besides in Bulgaria and Romania, restrictive clauses about ties with religious groups, propaganda promoting religious inequality, and the acceptance of funding from religious entities are also found in the Party Laws of the Czech Republic, Lithuania, Romania, Slovakia and Slovenia. Other states treat all their citizens equally and therefore pay little attention to specifically addressing minorities in their legislation. Finally, we have a group of states which mention ethnic or religious minorities but in clauses that do not in any way encourage or impede their political participation and are therefore considered to have no specific electoral effect on the minority – an example here is Latvia.

In addition to the regulation established by the Constitution and the Party Law, the specific relations between the electoral rules and ethnic parties also have substantial consequences for the ability of those parties to function in the political systems. Assuming that ethnic parties are not banned, the nature of the electoral laws can significantly influence the chances of success or failure of ethnic parties, even without providing them with any special treatment. That electoral systems have an impact on who is represented in the legislative bodies is a long-standing law in political science. According to Duverger's original formulation, in systems where winners take all, smaller parties are discouraged from competing, while proportional representation systems provide little or no reward for fusing and no punishment for splitting (Duverger 1951, 248-254) and are therefore beneficial to both small and large parties alike. As proportional representation lowers the hurdles for smaller parties, ethnic parties are more likely to gain representation in those systems, thus providing for peaceful resolution of ethnic issues and, ultimately, for greater support for the political system by the members of the minority (Lijphart 1999, Norris 2004, 113-5).⁴

Interestingly, our analysis of legal texts shows that no restrictions on minorities are applied in the Electoral Laws in any of the 10 East-European states. Moreover, in the three instances where minority groups

are mentioned at all, the law is either *encouraging* minority representation in some way or *neutral* towards it. Examples of the former treatment are the obligatory rule that municipalities establishing committees for national minorities must issue election announcements also in the language of the national minority concerned (Art 15.4 Czech Electoral Law) and guaranteeing legislative representation to all minority groups which have failed to get a member elected but have gathered at least 10% of the average vote awarded to an elected MP (Art 9.1 Romanian Electoral Law). The Latvian electoral law provides an example of *neutral* treatment. The *restrictive* treatment of ethnic parties by the Electoral Law is more difficult to discern since, in addition to what we may term 'descriptive discrimination', i.e. direct bans on parties of ethnic minorities, they can also be subject to 'substantive discrimination.' That is, the very features that distinguish electoral systems within the PR family are likely to influence the chances of success of ethnic parties even when the rules are not directed at minorities *per se*. As ethnic parties are usually small, the nature and presence of an electoral threshold are probably the most important. Not only do higher thresholds hurt small parties (Rashkova and Spirova, forthcoming) and thus by default also minorities, but thresholds set around the percentage point that reflects the minority proportion of the population also reduce the chances of an ethnic party gaining seats. Similarly, when substantially raised thresholds apply to coalitions, minority parties are hurt especially as the vote is limited by the size of the minority (Juberias 2000, 35). In terms of the classification scheme established above in those cases the electoral law is *restrictive* towards ethnic political participation.

Most of the East-European countries discussed here use proportional representation with thresholds of 4-5% for individual parties. Romania, Slovakia, Poland and the Czech Republic have thresholds of between 7 and 11% for political coalitions. Hungary is the only country with a mixed electoral system, with a 5% threshold in its PR part. Thus, even though electoral legislation does not *de facto* restrict ethnic parties from participating in the political competition, the existence of high electoral thresholds has a *restrictive* effect. Due to the (small) size of minorities in these countries – with the exception of the Russian minorities in the Baltic countries – their representation in the political process is often challenged by such thresholds.

Electoral arrangements can provide for the positive discrimination of ethnic parties by easing their requirements specifically for minority parties. As Juberias notes (2000, 38), countries may relax the

requirements for fielding and registering candidates, running national campaigns, and they may even ignore the electoral threshold in the case of minority parties. Such measures have been introduced by Poland where the party of the German minority which receives between 0.4% and 1.2% of the total vote has been able to secure a proportional number of seats in the Polish Sejm, and by Hungary, but only for local elections. Finally, the most direct way to *encourage* minority participation in the political process is to provide minority parties or minorities as a whole with guaranteed representation in the national legislative body. Thus, groups officially recognized as minorities by the state or minorities that have a political party competing in the elections can be granted seats. Slovenia, for example, provides for the representation of two minorities that are constitutionally recognized as such, while Romania, as is also reflected in table 2 above, provides the strongest system of positive discrimination as it does not limit the number of minorities that can obtain representation (Juberias 2000, 44-49) and it has *encouraging* references to national minorities in all three legal texts examined.

Both positive and negative discrimination of minorities – banning their parties or granting them special privileges – have been criticized by democratic theorists; the former for not allowing a basic right to all citizens, the latter for violating the equality of representation, one of the basic principles of democracy. Moreover, the impact of electoral arrangements is not as clear-cut as electoral engineers sometimes claim it to be. A close examination of these electoral arrangements and their impact on the success or failure of ethnic parties is thus necessary before any conclusions can be made.

Comparing Bulgaria and Romania

Ethnic Party Regulation and Ethnic Composition

Bulgaria and Romania provide a suitable comparison in an effort to look for the impact of ethnic party regulation on party behaviour since they represent the most restrictive and most encouraging modes of regulation of ethnic parties, but also have relatively similar ethnic make-ups and quite comparable histories of inter-ethnic relations and democratic transition.

As noted by the examination of the Constitutions and Electoral and Party Laws of the ten East-European EU member-states, Bulgaria and Romania represent the two extremes of the policy options discussed

here. Bulgaria's restrictive form of institutional arrangements for ethnic parties makes any other electoral arrangement for minorities impossible, while Romania's generous guarantee of a seat to every legally recognized minority organization circumvents the otherwise restraining effect of its high electoral threshold.

The restriction of certain types of parties is in line with the general spirit of the Bulgarian constitution which avoids any mention of the word minority and does not provide for any collective rights (Vassilev 2001, 43). In general, Bulgarian political actors seem fearful of the association of the word *national minority* with *secession* and generally refuse to use the word in public discourse, calling national minorities "minority groups" (CEDIME 1999 and 2001). Despite allegations by minority rights advocates that the constitutional ban on ethnic parties is discriminatory and violates international laws, there has been no discussion about amending the constitution in any relevant way (Bulgarian Helsinki Committee, various years). Bulgaria operates under a proportional representation electoral system,⁵ with a 4% national threshold which treats political parties and coalitions identically.

In contrast, Romania, as noted above, not only allows ethnic parties, but has introduced special provisions to guarantee that they have a seat in Parliament. Its general electoral rules until 2007 were proportional representation with 5% for parliamentary representation of political parties, which became larger for political alliances depending on the number of valid votes cast across the country (Law for the Election of the Chamber of Deputies and the Senate in Romania, 1992). Since 2008, a system mixed system with a 5% threshold for individual parties and 8% threshold for two-party alliances has been used (Stan and Zaharia 2009). Most importantly, since 1990, legally constituted organizations of citizens belonging to a national minority which have not obtained at least one seat through the general rules of the elections have had the right to a seat in Parliament with the only restriction that only one organization per minority group can obtain a seat. Since 2004 it has become more difficult for such organizations to obtain a seat, since they need to meet a "symbolic threshold" of 10% of the average number of valid votes required for the election of one deputy on national level (Romanian Government Department of Interethnic Relations). Despite this qualification, the Romanian system of positive discrimination of minorities is extremely strong, as it does not limit the number of minorities that can obtain representation.⁶ Through that system

about fifteen minorities, on average, and 18 at present, have gained representation in Parliament.

In terms of their ethnic make-up, both countries have a clear dominant majority, a single, large and concentrated minority (Turks in Bulgaria and Hungarians in Romania) and a substantial but scattered second minority (Roma). Table 2 presents basic data on the ethnic composition of the two countries.

Table 2: Minority Groups in Bulgaria and Romania

Ethnic group	Bulgaria		Romania	
	Size	Percent of total population	Size	Percent of total population
Armenians	6 552	0.10%	-	-
German	-	-	60 088	0.28%
Hungarians	-	-	1 431 807	6.6%
Roma	325 343	4.9%	535 140	2.5%
Russians	9 978	0.15%	35 791	0.17%
Serbs	-	-	22 561	0.10%
Tatars	-	-	23 935	0.11%
Turks	588 318	8.85%	32 098	0.15%
Ukrainians	1 789	0.03%		
Vlachs	3 684	0.06%		
Others	19 659	0.29%		

Source: Bulgarian Statistical Institute, *Census 2011*, <http://censusresults.nsi.bg/Reports/2/2/R7.aspx>; Romanian Statistical Institute, *Census 2002*, <http://colectaredate.inss.ro/phc/aggregatedData.htm>

In Bulgaria, the majority group constitutes around 85 % of the total population. The largest minority – the Turks – makes up 8.8% of the population and is concentrated in five of the 28 administrative regions of the country, in two of which they are a majority. The Roma (Gypsies) who constitute about 4.9% of the population according to official statistics, although Roma experts provide estimates of their number that are almost twice as large (CEDIME 1999), are the second largest minority and are territorially dispersed (National Statistical Institute 2011). The Russian, Armenian, Vlach and Ukranian minorities each make up less than 1% of the population and do not have a specific territorial concentration.

Romania has a similar ethnic composition: Romanians constitute a clear majority, amounting to 89% of the population. The country has two large and several smaller minorities. The largest minority are the Hungarians, which make up around 6.6% of the total population and, like the Turkish minority in Bulgaria, the Romanian Hungarians are concentrated in six of the 32 counties of the country (Romanian Government Department of Interethnic Relations). The second largest minority, the Roma of Romania, are the most numerous Roma minority in Eastern Europe. However, given the size of Romania's population, they constitute only 2.5% of it, which makes them a smaller proportion than the Roma in Bulgaria. However, just as in the case of the Bulgarian Roma, experts estimate their population to be much bigger than shown in official data. Some 1.8 million or 7.9% of the total population is the unofficial estimate of the Roma count in Romania (CEDIME 2001). Like all Roma communities, the Romanian Roma are scattered throughout the country and therefore do not encourage any special electoral strategies of the political elite wishing to compete for their vote. Germans, Russians, Turks, Tatars and Serbs are minorities that make up less than 1% of the population.

We focus currently on four minorities – the Turks, the Hungarians and the Roma in the two countries. Until 1990, all four minorities were subject to various policies of assimilation and discrimination by the Communist parties. The Bulgarian experience of forcibly re-naming and re-locating the Turkish minority during the 1970s and 1980s is probably more brutal, but it is fair to say that both countries imposed the majority dominant culture and system on all ethnic groups in the two states. Democratic reforms in the two countries were also similar: the first part of the 1990s was dominated by the successor parties – the Bulgarian Socialists and the Romanian PSDR. Still, and irrespective of the quite diverse legal treatments of politically mobilized ethnicity, all minorities of interest here have established their own political parties, making an examination of the comparative trends of ethnic party development an important insight into the ability of party regulation to impact upon party behaviour.

The Turkish and Roma Parties in Bulgaria

The presence of a constitutional ban on ethnic parties has not meant that no ethnic parties have existed in Bulgarian politics. Using Chandra's (2011) multifaceted definition of ethnic party, which uses the party's

name, platform, source of support, and political behaviour as alternative indicators of ethnic natures, ethnic parties have maintained a stable position in Bulgarian politics by not openly registering as ethnic political entities. However, for most of the 1990s, this was possible only for the relatively numerous and powerful Turkish minority in Bulgaria. The Turkish-dominated Movement of Rights and Freedoms (DPS) was founded officially in January 1990. Although it does not have an openly stated ethnic platform and it includes ethnic Bulgarians in both its membership and its leadership, it represents the interests of the Turkish minority in Bulgaria and its support is heavily concentrated in the regions populated by the minority. As figure 1 illustrates, the party has been present in all legislatures since 1990. Its share of the vote was well below the proportion of the Turkish minority in society, but this changed substantially after 2001. This happened not only because of the stability of the DPS's voters and their turnout in comparison to the substantial decline of the general voter turnout in the country, but also because of an increase in the actual number of DPS votes. In addition, the party's position and support were considered instrumental for the changes of government in 1991 and 1994 while from 2001 to 2009 the DPS was an official coalition partner in the Bulgarian government. The 2009 election left the party and its latest partner, the Bulgarian Socialist Party, in opposition, yet this was reversed in 2013 when early elections put the BSP-DPS coalition back in power.

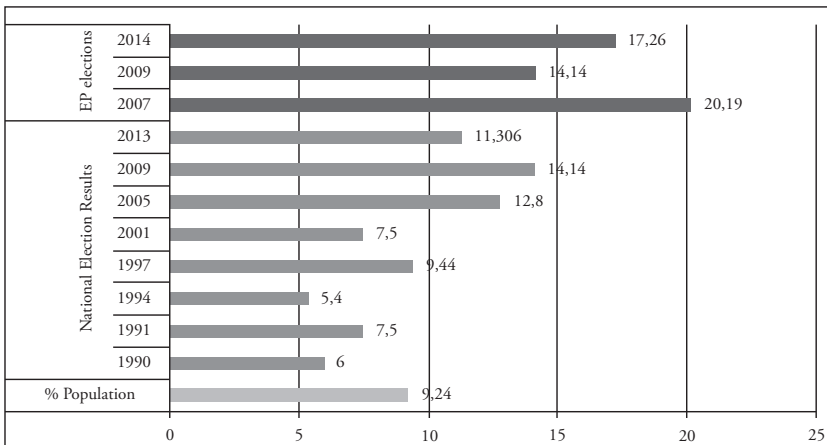


Figure 1. DPS Electoral Support, 1990-2014

The ability of the DPS to function freely in Bulgarian politics was challenged in the early 1990s. In 1991, 93 members of Parliament, virtually all affiliated with the former Communist Party, petitioned the Constitutional Court to declare the DPS unconstitutional because of its *de facto* ethnic base (Ganev 2004, 66). The Court rejected the petition with the argument that there was nothing in the formal documents of the party that made it exclusively Turkish, although its decision is considered to have been prompted by broader considerations of keeping the ethnic peace. The decision of the Bulgarian Constitutional Court ensured the party's persistence in the system and thus greatly influenced political life and ethnic relations in the country. By the late 1990s, there was no major concern that the constitutional provision could prevent either the DPS or the fledgling Roma political parties from participating in the political process (Vassilev 2001). This enabled the Turkish party to function in Bulgarian political life despite the constitutional ban and the absence of special electoral treatment of ethnic parties in Bulgaria.

This has also been made possible by factors beyond the regulatory regime. The Turkish minority is not only of substantial size, well above the electoral threshold of 4%, but the party and its leader (until 2013) Ahmed Dogan have also managed to cultivate a strong loyalty in a large part of the minority. The DPS has a very well encapsulated electorate – 17% – measured as the ratio of its members to its voters; it is second only to the BSP in Bulgaria and way above any averages for non-ex-communist parties in the region (Spirova 2007, 130; van Biezen 2003). Its membership has continued to grow through the 2000s, uniquely among the Bulgarian parties, or indeed European parties more generally.

The DPS thus does not appear to have been substantially hurt by the constitutional or the electoral arrangements in Bulgaria. The 4% electoral threshold came close to posing a threat to the DPS only once, when in the 1994 elections the party received just over 5% of the vote. In response, the DPS formed pre-electoral coalitions with other, not exclusively ethnic parties (these included the Green Party, three small centrist parties and one royalist party in 1997 and the Liberal Union and *EuroRoma* in 2001). This was an indication of a realization that the DPS could not expand its vote further unless it reached outside the Turkish minority (Dal 2003). Consequently, since 2001 the party has been making a conscious effort to transform itself into a “liberal” party concerned generally with minority rights. It has included more ethnic Bulgarians in its leadership, and joined the Liberal International. However, as Horowitz has suggested for ethnic parties in general (Horowitz 1984, 282), achieving broader electoral

support has proven extremely challenging because most Bulgarians do not associate the DPS with liberal values but, rather, with strong commitment to defending the interests of the Turkish minority. Yet, the party itself, as well as numerous commentators and analysts, has praised the “Bulgarian ethnic model”, despite the restrictive legal framework, for the incorporation of the DPS in mainstream democratic politics, the moderation of the party’s policy positions, and its law-abiding behaviour and considers it as a major factor for the preservation of ethnic peace in the country (Vassilev 2001, Tatarli 2003, Petkova 2002; Krasteva and Todorov 2011).⁷ However, the model has excluded all other minorities, a fact that is painfully obvious in the situation of the Roma. Roma parties were unable to secure a stable place in Bulgarian politics throughout the post-communist period. Several factors account for this. First, the initial registration of one Roma party – the Democratic Roma Union was not permitted in 1990 based on the Constitutional ban on ethnic parties, which stymied political mobilization early on. Second, the Roma minority is much more heterogeneous than the Turkish one, and is also scattered around the country. This makes it almost impossible for them to mobilize and support a single national party. Finally, the Bulgarian Roma represent just about 4% of the population, equivalent to the threshold of the electoral system, making the success of an even well-organized and unified Roma party doubtful.

The Bulgarian Roma parties are not unique in this regard. As Stroschein has argued (2001, 61), in order to be successful an ethnic party must obtain a high percentage of votes from a finite political base – the groups that it represents. Ethnic parties thus require a lot of consensus-minded politicians, which is hardly feasible option for the diverse, internally heterogeneous and politically fragmented Roma communities and organizations throughout Eastern Europe (Baranyi 2001, 3). The absence of any special electoral encouragement for ethnic parties in Bulgaria, however, has made Roma representation in Parliament even less likely than in most other post-communist systems.

For most of the 1990s the only political representation the Roma in Bulgaria got was through the mainstream political parties. This was a very limited form of representation in which one or two Roma had a symbolic presence in Parliament during each term.⁸ It was not until 1997-1998 that Roma organizations again began to show genuine political ambition and to take the first steps towards organizing for elections (Mladenov 2003) but, due to the constitutional ban on ethnic political organizations, Roma organizations are either not registered as

parties or have non-Roma-specific names. In the period between 1997 and 2003 some twenty one Roma political organizations were found in Bulgaria, including *Free Bulgaria*, *the Party for Social and Democratic Change* (PSDC), *Evroroma* and *Citizens' Union Roma* as the more visible and active ones.⁹

Roma parties' first elections were the 1999 local elections where *Free Bulgaria* got three Roma elected as mayors and placed over 60 Roma as local councillors. The successful Roma participation led to quite high optimism about the impending parliamentary elections in 2001. However, the heterogeneity of the Roma population, which is divided into several self-enclosed sub-groups, and infighting among its leaders prevented a unified Roma party from emerging despite numerous NGO efforts to encourage this. Two of the main parties – *Free Bulgaria* and the *PSDC* – appeared in a coalition called *National Union Tzar Kiro* with six smaller organizations and parties. The Roma coalition received 27,000 votes (0.6%). Very few Roma voted for the party although Roma participation in elections is estimated at around 65% (UNDP). After this defeat the coalition fell apart (Mladenov 2003). *Evroroma* chose to run in a coalition with the DPS, while *Citizens' Union Roma* joined the BSP coalition. In the 2005 elections, *Evroroma* ran alone and managed to achieve electoral support of 1.25 per cent,¹⁰ enough to provide it with state subsidies, but in 2009 *Evroroma* joined the BSP coalition and secured one seat in Parliament through that coalition. The trend of uniting with the BSP continued in 2013, but neither *Evroroma* nor the other Roma party in the Socialist coalition was given an electable position in the electoral lists of the coalition and, consequently, failed to secure seats in Parliament.

The development of the Roma representation in Bulgaria has thus been characterized by individual representatives here and there elected on larger parties' lists and fluctuating enthusiasm about unifying all Roma parties and seeking to win their own electoral support. These trends have also been influenced, among others, by the legal treatment of ethnic parties. The Constitutional ban on ethnic parties prevented the initial registration of a Roma party, while the absence of special electoral treatment of minority parties ends any hope for the representation of the heterogeneous and not very well organized group along ethnic party lines.

The Hungarian and Roma Parties in Romania

Like the DPS in Bulgaria, the party of the ethnic Hungarians in Romania, the Hungarian Democratic Union (UDMR/RMDSZ) has

played a substantial role in Romanian political life. As ethnic parties are not banned in Romania the party has never had problems with displaying its ethnic basis, and it has managed to preserve itself as the exclusive party of the Hungarian minority. The UDMR has gained representation in all post-1989 parliaments at a level roughly corresponding to the Hungarian proportion of the population, while in the EP elections it has even achieved slight over-representation (Figure 2). In addition it has remained the only stable party in Romanian politics, apart from the communist successor party. It was part of the governing coalitions from 1996 to 2000, a fact that many saw as a major step towards achieving ethnic harmony in Romania. Its support is also very highly encapsulated. Its membership to electorate ratio was about 65% in 1996, a level that is much higher than in the DPS and any other party in the region as well. A large proportion of the Hungarian minority also voted for it, an important fact given how close the proportion of Hungarians in Romania is to the electoral threshold of the electoral system (Stroschein 2001).

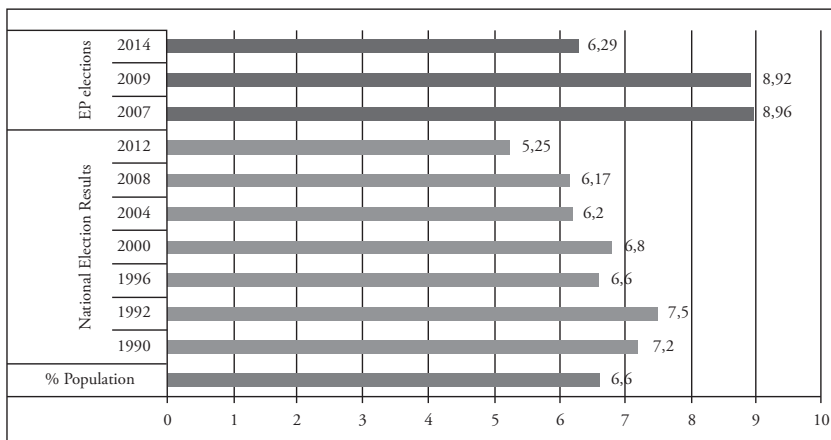


Figure 2. UDMR Electoral Support, 1990-2014

Overall, the UDMR has benefited from the provisions of Romania's PR system and mixed electoral systems, but not from the positive discrimination system that exists for other minorities in the Romanian system. The electoral system has discouraged it from forming electoral alliances so, unlike the DPS, the UDMR has never attempted to ally with other parties. It can be argued that given the nature of the minority and the experience of the DPS in Bulgaria, the UDMR would have done equally well under a typical PR system with no ethnic element. In fact, the

demands of the UDMR have at times reached much more extreme levels than those of the DPS. It threatened to leave the governing coalitions in 1997 and 1998 “if demands for state funded Hungarian university were not met” and has repeatedly called for some degree of autonomy for the Hungarian-majority regions (Stroschein 2001, 61). This trend was exacerbated by the internal split in the UDMR in 2003. The more radical, the Hungarian Citizens’ Party (MPP) supported territorial autonomy for Transylvania and presented itself as a “purer Hungarian alternative” (Stroschein 2011, 192). Fractionalization was somewhat stymied after 2009 with the joint actions of the MPP and the UDMR, but the debate on what the real issue and demand of the Hungarian minority are continues (Spirova and Stefanova 2012).

The higher degree of radicalization along ethnic lines might be attributed to the acceptance of ethnicity as a legitimate political cleavage in Romania’s general legislation. The same feature has also allowed the Roma in Romania to do much better in terms of political mobilization and representation in comparison to their Bulgarian counterparts. Roma political activity has clearly been dominated by the *Partida Romilor* (PR), which “receives government subsidies, allowing it to further strengthen its network and better prepare for its next electoral campaign” (Roma Rights 2003).¹¹ Roma parties have competed from the very first democratic elections and *Partida Romilor* has obtained the guaranteed one seat in the legislature at every election. Its leader, Nicolae Paun, has served as Chairman of the Committee for Human Rights, Religious Affairs and National Minorities in Parliament since 2000.

The Roma Parties in Romania seem to enjoy higher levels of support amongst the Roma minority than do Bulgarian Roma parties. Electoral results show that about twice as many of the Roma in Romania vote for Roma parties as do the Roma in Bulgaria. However, it can also be argued that the Romanian system of positive discrimination has caused the Roma minority to be underrepresented, while many others are overrepresented. The vote-seat ratio for the Roma parties ranges from 0.22 in 1996 to 0.48 in 1990, with 1 being perfect proportionality. Electoral arrangements of the kind that exist in Poland (which allow ethnic parties to gain representation proportional to their vote no matter whether they have passed the electoral threshold or not) would have allowed for much stronger representation of the minority in the Romanian legislature.

Overall, however, the level of representation of Roma parties in the Romanian Parliament is still infinitely larger than that of Roma parties in Bulgaria, and the Romanian Roma parties have gained much more

visibility in political life than have the Roma parties in Bulgaria. While in terms of numbers of Roma in Parliament there is no significant difference between Bulgaria and Romania, the ability of the Romania Roma to achieve representation through their own parties has allowed them to gain more influence in Romanian politics. For example, as a result of the pre-election agreement between the PSD, the winning party in the Romanian 2000 elections, and *Partida Romilor*, the latter received a position in the state administration – under Secretary of State and Head of the National Office for Roma – as well as one Presidential advisor position. *Partida Romilor* also negotiated the appointment of members of the Roma minority to regional and local government offices throughout the country (NDI 2003a). Clearly, these achievements go well beyond what the Roma in Bulgaria have managed to do, where Roma affairs are entirely subject to the will of the governing majority parties. This suggests that even the token representation of Roma ethnic parties in the legislature can make a difference when compared to token representation of Roma leaders only.

Consequences for Minority Political Representation

The final question that this chapter addresses is whether having Roma parties in Parliament elected on their own terms has had any effect on the political attitudes of the Roma minority in Romania. For this purpose, the research uses data from the 2001 Survey of Roma in Bulgaria, Romania, Hungary and the Czech and Slovak Republics carried out by the UNDP (UNDP 2001).¹² The data show that Roma in both Bulgaria and Romania exhibit high involvement in the electoral process – in both countries the voter turnout for the Roma is just around or above the national turnout rate, a fact that is remarkable, given the low education level and economic status of the Roma in society. However, the voter turnout of Romanian Roma is markedly higher than that of the Roma in Bulgaria – a difference of about 14 per cent.

Further, Romanian Roma exhibit a substantially higher familiarity with and trust in their own political parties. About 27 per cent can name a Roma party they trust in Romania, while only about 5% of the Bulgarian Roma can do the same. The contrast is even more striking when we compare these figures to the percentage of Roma who could name any other party that they would trust. About the same number of Roma in Romania could do so – a little over 28%, while the number of Roma who would name a trusted party in Bulgaria was more than three times more than the number of people who could name a trusted Roma party.

The results clearly indicate much greater familiarity with Roma parties at a similar level of general familiarity with political parties. When asked directly about the source of support for the Roma in their country, the Roma in Romania indicated that they can rely on the Roma parties at almost twice the rate of the Bulgarian Roma. Intriguingly, the Romanian Roma also exhibit much lower rates of relying on the state to support them.

However, the difference in familiarity with Roma parties might be a result of the fact that there have been many more Roma parties in Romania and they have been much more active over the years than their counterparts in Bulgaria. A more interesting question is whether there is a difference in how the Roma feel about the political process in general. Regretably, the only survey question that taps into the efficacy of the Roma is the question “Do you feel your interests are well represented (at different levels of government)?”. Romanian Roma show much higher levels of satisfaction with the way their interests are represented at all levels of government. The active presence or absence of Roma parties in the political system seems to make a difference to the political attitudes and behaviour of the Roma minority in Bulgaria and Romania.

Conclusion

This chapter has provided an overview of the regulatory regimes of ethnic political parties in post-communist Europe through a comparison of the ways they are treated in the Constitutions, Party Laws and Electoral Laws of the states in the region. The policies vary substantially from positive discrimination for ethnic parties to outright bans on their existence. The chapter focused on two extreme examples of regulatory positions – those in Bulgaria and Romania – and examined the ways the regulation of ethnic parties and their activities has impacted on their existence in both polities. The general conclusion is that regulatory regimes matter for the ability of political parties to function in the political system. However, there are two major qualifications to this: (1) their effect is felt more by smaller minorities than by larger ones, and (2) their effect is often indirect: it acts to set up the dimensions of political competition rather than directly to pressure political actors.

While the constitutional ban on ethnic parties in Bulgaria has not hurt the Turkish minority, it seems to have at least originally impeded the development of Roma political parties. In addition, the absence of

any positive discrimination with respect to ethnic minorities and the 4% electoral threshold have further prevented the Bulgarian Roma from sending their own representatives to Parliament. In Romania, the arrangements of positive discrimination do not appear to have made much of a difference to the electoral fate of the Hungarian minority party, but have influenced the development of Roma parties. Electoral arrangements thus seem to matter, but to do so mostly in situations where other factors of political mobilization make representation uncertain. The effect of electoral arrangements on the success of ethnic parties is clearly mitigated by the size and dynamics of the minority they represent.

The differences in political attitudes and behaviour between Bulgarian and Romanian Roma lend further support to the argument that constitutional treatment and electoral rules can influence the nature of politics in a country. The politicization of ethnicity, attributable to the *encouraging* treatment of minorities in the Constitution and electoral legislation in Romania, may have allowed the development of more radical nationalism in the case of the Romanian Hungarians than the *officially* non-ethnic representation of the Turkish minority in Bulgaria. While DPS policy positions have been moderated over the 1990s and 2000s, those of the UMDR seem to have become more radical. Clearly, there is a plethora of other factors that have influenced these developments, but the regulatory frameworks have clearly influenced them as well.

Notes

- 1 Estonia, Hungary, Latvia and Poland, for example, do not mention ethnic parties in their Party Laws.
- 2 Our *no reference*, *encouraging*, and *restrictive* categories are similar to Janda's (2005) *proscriptive*, *promotional* and *prescriptive* models of party regulation.
- 3 Party Finance Laws, which are the fourth main legal document in which parties and party competition are regulated were also examined. However, with the exception of two articles classified as 'neutral' in the Romanian PFL, no other country's PFL refers to minority representation.
- 4 It has to be mentioned, however, that in cases when the ethnic minorities are highly concentrated in only several regions, SMD electoral systems can also benefit them. However, cases like this are relatively rare (Norris 2004).
- 5 Prior to the 2009 elections one plurality-elected seat was introduced in each electoral district, reducing the number of seats elected through the PR part (Kolarova and Spirova 2011).

- 6 The breadth of the rule has been criticized for allocating the same status to minorities of various sizes and positions in society (Juberias 2000, 44-49).
- 7 This position was somewhat challenged during the 2005-2009 tenure of the party as coalition partner, when its engagement in clientelistic patron-dominated and corrupt networks brought its behaviour under closer scrutiny. For many (ethnic) Bulgarians the problem the DPS posed in 2011 was not its ethnic nature but its rent-seeking behaviour (Krasteva and Todorov 2011, 35).
- 8 Cooperation with the party of the Turkish minority, the Movement for Rights and Freedoms (DPS), seemed to be a natural choice for some of the Roma leaders. The argument that the two minorities faced common problems as well as the proclaimed desire of the DPS to defend the rights of all people, minorities and individuals in Bulgaria made this an alluring possibility. Cooperation between the two ethnic groups did not pick up again until the 2001 elections when the DPS formed an electoral coalition with Evroroma, an important Roma organization in Bulgaria, and placed a number of Roma representatives on its ticket, yet at unelectable positions (Illiev 2001). By 2003, the DPS dismissed any possibility of future cooperation with the Roma party (Dal 2003). Cooperation with the Bulgarian Socialist Party (BSP) has also been a common policy for the Roma political leaders and was relatively welcomed by the BSP leadership through most of the 1990s. Given that the problems of the Roma mostly call for active state involvement, they are placed on the left side of the political continuum and thus naturally expected to support the major political actor on the left – the BSP (Sega 2002). However, the cooperation between the BSP and the Roma people has been far from fair to the minority, because the concern of the BSP with the situation of the Roma minority has been minimal despite the couple of Roma leaders who achieved representation through the BSP over the years (Illiev 2001). The Union of Democratic Forces, as the major anti-communist political organization in Bulgaria, was also a partner of some of the new Roma political organizations in the early 1990s. Manus Romanov – the first Roma representative in Parliament after 1989 was elected on the UDF list. However, for the rest of 1990s the UDF became “notorious for disregarding Roma as possible partners during elections (Illiev 2001).
- 9 *Free Bulgaria* was originally led by Tzar Kiro – the self-proclaimed tsar of the Roma in Bulgaria and was established in 1997. It is currently led by his son, Prince Angel. ROS Kupate is an organization primarily concerned with the economic development of the Roma and has an ideology that is close to the “democratic idea” (i.e. the UDF). (Mladenov 2003) The organization’s leader established the *Party for Social and Democratic Change* (PSDC) in 2000. In

- 1998, Tzvetelin Kunchev established *Evreroma* after being elected to the National Assembly through the Bulgarian Business Block lists in 1997. By 2000, his immunity as a member of Parliament was removed to allow the courts to prosecute him for several crimes.
- 10 Public funding of political parties in Bulgaria was previously provided for parliamentary parties only (Smilov 1999, IDEA 2004). Currently, parties that have received more than 1 per cent of the national vote are entitled to state subsidy equal to 5 per cent of the minimum wage per vote (Rashkova and Spirova 2014).
 - 11 Public funding for Romanian political parties is rather complex, but most recently the parties which have more than 50 councilors have been eligible for some state funding (previously the barrier was 2, then 4 per cent). For more detail see Ghergina et al. (2011).
 - 12 The data used here are somewhat outdated, but with the refocusing of the UNDP toward discrimination against rather participation of the Roma, this is the most recent available report.

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