

The Double Standards between Member State and Candidate Country Obligations

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It is proposed that there are now three standards of minority rights obligations within the European Union. The EU-15, the 2004 and 2007 Member states and the current aspiring member states are all being held to different obligations.

The political importance of the minority right issues in Latvia and Bosnia and Herzegovina make them obvious choices for case studies



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The Constitution of Bosnia and Herzegovina provides that only ethnic the constituent peoples can be elected members of Presidency and House of Peoples. In the case of Sejdić and Finci v. Bosnia and Herzegovina the plaintiffs were Roma and Jewish respectively and were excluded from standing for election. The exclusion of these individuals from political participation was found to be in violation of Protocol No. 12. This was the first time that the European Court of Human Rights found a violation of this protocol.

A Three-Fold Research Project

I have analysed the double standards that existed between the EU-15 and the accession states at the time of the 2004 EU enlargement, with the case study of Latvia .

This is compared to the minority right obligations of Latvia as a new member state in 2004 and those required of Bosnia and Herzegovina as a current potential member state.

In both of these countries, minority rights have been a major stumbling block in the journey to EU membership. Both countries have had cases concerning the political participation of minorities brought against them at the European Court of Human rights.

I take an inter-disciplinary approach to this research, seeking to bridge the current divide between the disciplines of law and politics by examining minority rights through an analysis of legal instruments within a political context.

“ The accession process imposes something of a double standard in a handful of areas, chiefly the protection of ethnic minority rights, where candidates have to meet standards that the EU-15 have never set for themselves” Moravcsik and Vachudova (2003) 46.

The failure of the European Union to establish an internal EU minority standard is in part to blame for this double standard at the time of the CEECs accession.



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Political candidates in Latvia were required to hold a certificate of knowledge of the official language . Ingrida Podkolzina held this certificate but had her name stuck off following a surprise visit from a language examiner. In the case of Podkolzina v Latvia the ECHR held that the requirement to hold a language certificate was legitimate but the re-examination meant that procedure guarantees were not respected and that Latvia violated Article 3 of Protocol 1.