CONTENTS

LIST OF ABBREVIATIONS…………………………………………………………………………………………..6

INTRODUCTION………………………………………………………………………………………………………..8

PART ONE - THE CONCEPT OF CULTURAL DIVERSITY

CHAPTER I : Culture – an interplay of complex belief patterns that reflect a heterogeneous, diversified social and linguistic experience

1. Culture and societies - a complementary link for each human being.............. 11
2. Culture: a patchwork of elements we inherit or a creation by our own?.......... 17
3. Nationhood and culture/s............................................................... 19
4. Cultural pluralism versus cultural racism.............................................. 27
5. Intercultural communication by intercultural sensitivity............................ 32
6. Cultural rights as basic rights............................................................. 34
7. Does a universal culture exist?............................................................ 42
8. Cultural rights and minorities.............................................................. 45

CHAPTER II : European cultural diversity

1. A Europe of peoples and its dilemmas................................................... 50
2. Does a common European culture characterized by its diversity exist?......... 54
3. The EU- a model of diversity governance?.............................................. 57
4. The EU and its questionable political identity........................................... 62
5. European linguistic diversity............................................................... 69

CHAPTER III: European cultural diversity and its legal frameworks

1. National legislation pertaining to cultural diversity................................. 74
2. UNESCO’S Universal Declaration on Cultural Diversity.......................... 78
3. The Council of Europe’s standard-setting on cultural diversity.................. 82
4. “In varietate concordia”- United in Diversity as the EU motto.................... 83
5. EU’s legal framework pertaining to cultural diversity............................... 86
6. Article 151 (ex article 128) of the Maastricht Treaty............................... 88
6.1. The drafting process of Article 151 – a historical outline on the need of a cultural policy within the EU……………………………………. 90
6.2. The difficulties encountered by Article 151 after Maastricht…………… 94

CHAPTER IV: European cultural policies
1. Cultural policy–comparative cultural policy issues related to cultural diversity………………………………………………………………100
2. National cultural policies………………………………………………… 103
3. Intergovernmental cultural cooperation………………………………… 105
4. EU’s cultural policies…………………………………………………….. 107
5. EU’s cultural programmes with special regard to the promotion of cultural diversity………………………………………………………… 114
  5.1. Culture 2000 programme……………………………………………… 114
  5.2. European Capital of Culture………………………………………… 117
6. The Council of Europe’s cultural policy………………………………… 119

PART TWO - THE CONCEPT OF MINORITY

CHAPTER V: The definitional dilemma of the concept of minority
1. The concept of minority………………………………………………….. 122
2. Attempts at defining the concept of minority by main international and regional institutions………………………………………………….. 130
  2.1. Interpretation of the term minority by the Permanent Court of International Justice………………………………………………….. 130
  2.2. The United Nations……………………………………………………. 131
  2.3. The OSCE, the Expert Meeting on National Minorities in Geneva and the Framework Convention for the Protection of National Minorities.. 132
  2.4. A possible definition of national minority…………………………….. 135
  2.5. The meaning of National Minorities at European level……………… 138
3. Classification of National Minorities through defining their rights……….. 138
CHAPTER VI: The regional frameworks: European Union, Council of Europe and OSCE standards on Minority Protection

1. European Union standards and the protection of minorities……………….. 141
   1.1. The protection of minorities through the implementation of general human rights law………………………………………………………………………………141
   1.2. EU’s minority policy and legislation…………………………………….. 144
   1.3. The European Court of Justice and its case law on human/minority rights…………………………………………………………………………………………145
   1.4. The European Parliament and its Resolutions on minorities………….. 149
   1.5. The European Council………………………………………………… 150
       c) Action Programme 2001-2006 to combat discrimination…………………153
   1.6. The EU Commission and the Enlargement Process………………….. 154
   1.7. EU’s Charter of Fundamental Rights and its Articles 20-22………….. 156
   1.8. EU’s external policy and minority rights……………………………… 158
2. The Council of Europe and minorities……………………………………... 160
   2.2. The Council of Europe’s Framework Convention for the Protection of National Minorities…………………………………………………………………..175
       a) General considerations on the nature of the FCNM………………….. 180
       b) The FCNM and its content…………………………………………… 181
       c) The imperfectness of the FCNM……………………………………...190
3. The High Commissioner on National Minorities of the Organization for Security and Cooperation……………………………………………… 194

CHAPTER VII: European Minority Governance

1. Models of European Minority Governance………………………………… 200
2. Minority Participation……………………………………………………… 202
   2.1. Democratic participation: Representation in Legislative, Administrative and Advisory Bodies ………………………………………..204
       a) Direct or indirect privileges for minorities’ representation………... 205
2.2. Participation at decision-making levels – local governments and autonomy systems………………………………………………………….. 207
   a) Territorial autonomy…………………………………………………….. 213
   b) Personal autonomy……………………………………………………… 214
   c) Functional autonomy…………………………………………………… 215
3. Bilateral treaties as a means of minority protection ………………… 215

CHAPTER VIII: Minorities and the Ombudsman Institution in Europe

1. The Ombudsman Institution and its role in a multicultural society defending human and minority rights…………………………………………….. 222
2. Legal bases and common features of Ombudsman institutions……………… 227
3. Specialization of Ombudsman Institutions…………………………………… 232
4. Minority Ombudsman Institutions…………………………………………… 236
5. Four case studies of existing specialized Minority Ombudsman Institutions………………………………………………………………… 241
   5.1. The Parliamentary Commissioner for national and ethnic minority rights in Hungary……………………………………………… 241
   5.2. Finland’s Ombudsman for minorities…………………………………… 243
   5.3. Germany’s Commissioners……………………………………………. 245
   5.4. Sweden’s Ombudsman against Ethnic Discrimination……………… 247

APPENDIX: SELECTED CASE STUDIES ON MINORITIES IN EUROPE

CASE STUDY I - Finland - The Swedish-speaking Finns and the Saami

1. The principle of equality of the Finnish and Swedish languages………….. 256
2. Political participation of Swedish-speaking Finns…………………………. 264
3. The Sámi…………………………………………………………………… 264
4. Sámi Language Act………………………………………………………… 266
5. Sámi-language education…………………………………………………… 267
6. Sámi-language media………………………………………………………. 269
7. The Sámi Parliament and Sámi organizations……………………………… 270
CASE STUDY II - Italy and South Tyrol (Südtirol-Alto Adige)

1. The legal framework of minorities in Italy – a general outline………………. 273
2. South Tyrol- living in a bilingual and tricultural province……………………. 275
3. Autonomy Statute – legislative and executive powers in the
   Autonomous Province Bozen/Bolzano, South Tyrol…………………………. 278
4. The principle of proportionality in South Tyrol……………………………… 281
5. Language parity in the Autonomous Province of Bolzano/Bozen…………….. 282
6. The educational system in South Tyrol……………………………………….. 284
7. The European South Tyrol…………………………………………………… 286

CASE STUDY III – The multicultural Romania

1. Ethnic diversity in Romania – the legal framework in a transition country. 287
2. Romanian’s concept of local public administration…………………………… 292
3. Linguistic rights in Romania………………………………………………… 299
4. The Roma population………………………………………………………… 301
5. Transylvania - The German and Hungarian minority………………………. 308

CONCLUSIONS…………………………………………………………………….. 315
BIBLIOGRAPHY…………………………………………………………………… 318

TABLES:

Table 1: Linguistic diversity in Europe……………………………………………….. 72
Table 2: Chart of signatures and ratifications and status of monitoring work
   (1st cycle) of the FCNM…………………………………………………………… 177
Table 3: Examples of Minority Press in Europe…………………………………… 199
Table 4: Comparison of Ombudsman Institutions Europe-wide…………………. 249
Table 5: Ethnic structure of Romania’s population. Censuses of 1930, 1956,
Table 6: Table of cases……………………………………………………………… 343

FIGURES:

Figure 1: EU’s cultural policy………………………………………………………… 112
Figure 2: EU’s competences in cultural field stressing the concept of cultural diversity……… 113