

Ethnic and Multicultural Policies:
Public administration in a multicultural environment
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Setting up new political institutions and reforming public administration are important features of the transition process in post-communist countries. During this process, in many countries, both central and local governments have to deal with multiethnic communities. Governments must be ready to protect the right of minorities, and encourage their involvement in democratic state-building. This is the way to achieve political stability, a basic condition for effective transition to a market economy and for adopting the rule of law.

Post-communist countries had established various forms of legal and institutional frameworks for the protection of minorities. But it has become increasingly clear that for securing a broader inclusion of minorities at various government levels, what is needed, participatory system of governance. Local authorities are important agents as they are implementing multi-ethnic policies close to those affected. Their task is designing policies that are responsive to ethnic diversity; through representation or direct involvement of minorities. Yet, effective implementation is often hindered by control of the central government, skewed administration of law, insufficient technical expertise and inadequate resources. These barriers should be overcome as soon as possible, legal and institutional reforms supplemented in order to create a political culture that embraces multi-ethnicity in public administration.

This working group meeting will address the following problems

- a) **How to properly handle growing ethnocultural and linguistic diversity in a modern world at the local level?**
- b) **Why and how minorities should be protected by the states?**

1. INTRODUCTION: ESSENCE OF THE MODERN CONCEPT OF MINORITY RIGHTS:

1.1 The right to non-discrimination

Non-discrimination – is it sufficient?

Non-discrimination as *equal treatment* – does always equal treatment ensure full and effective equality in a multicultural society?

1.2. The right to preserve one's identity

Minority rights – do existing legal instruments provide clear guidelines for action in concrete circumstances?

1.3. Basic documents:

UN:

- Art.27 of International Covenant on Civil and Political Rights, 1966
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992

OSCE:

- Copenhagen Document, 1990

Council of Europe:

- European Charter for Regional and Minority Languages
- Framework Convention for the Protection of National Minorities

Most of these documents are rather politically binding. The Framework Convention – the first ever legally binding instrument on minority rights – nevertheless, a *document of principles*.

Thus, all these instruments contain general principles to be implemented in practice in various forms, depending on local peculiarities.

2. PARTICIPATION AND REPRESENTATION OF MINORITIES

2. 1. Effective Participation of Minorities

Particularly essential, because:

- determines the process, not the result;
- applies general democratic principles to the problem of minority rights;
- related to the principle of subsidiarity.

Relevant provisions:

UN Declaration of 1992 (Art.2, para.2, 3):

“Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.”

The Framework Convention (Art.15):

“The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.”

Related documents/ further readings:

The Lund Recommendations on the Effective Participation of National Minorities in Public Life.
Foundation on Inter-Ethnic Relations, September 1999 <http://www.osce.org/hcnm/documents/lund.htm>

Proposals of the ECMI Seminar "Towards Effective Participation of Minorities". European Centre for Minority Issues, Flensburg, May 1999
http://www.ecmi.de/activities/tep_proposals.htm

Towards Effective Political Participation and Representation of Minorities. Working Paper prepared by Dr Fernand de Varennnes, UN Working Group on Minorities Fourth session, May 1998
<http://www.riga.lv/minelres/publicat/devaren2.htm>

2.2. Patterns of implementation in different states

- a. ***Federalization*** (Switzerland, Belgium, Canada, Russia)
- b. ***Non-federal territorial autonomy*** (Aland islands, South Tyrole, Aosta Walley, Catalonia, Greenland, Gagauzia, Crimea). Danger of secession – pros and cons?
- c. ***Non-territorial autonomy and self-government*** (Hungary, Russia, Estonia)
- d. ***Peculiarities of electoral systems***: designation of electoral districts (Finland), facilitation or prohibition of ethnic parties (Albania, Bulgaria)
- e. ***Special representation***: guaranteed seats in elected bodies (Slovenia, Croatia, Crimea); lower electoral threshold (Poland, Germany, Romania); simplified conditions for registration; privileged funding (Germany); other formal and informal measures.
- i. ***delegation of power***, legislative veto (Hungary, Estonia)
- j. ***structural methods***: specialised institutions – ministers (Slovakia, Romania, Czech Republic, Russia, Macedonia), governmental offices (Bulgaria, Croatia, Hungary, Moldova, Slovenia, Lithuania, Ukraine, Belarus), attached to Foreign Ministries (Albania, Poland); consultative bodies.

2.3. Questions for discussion

2.3.1. Participation and representation of minorities in elected bodies:

- **is it adequate in your country?**
- **presence of political parties of minorities and the level of ethnic mobilisation**
 - **how typical for your country?**
 - **positive and negative aspects**
- **electoral system in your country – how it affects participation and representation of minorities?**

- **use of minority languages in electoral system**
- **are any special measures necessary to improve participation of minorities? If yes, what kind of measures?**
- **do any institutionalised or informal mechanisms of participation of minorities (minority-based opposition?) in decision-making exist in your country?**

2.3.2. Participation and representation of minorities in executive power and public administration:

- **is representation of minorities in state bureaucracy and public administration adequate?**
- **do ethnic statistics exist? How are these data collected?**
- **recruitment policies**
 - **formal/informal criteria for choice?**
 - **is representation of minorities taken into account?**
 - **are any measures to increase representation of minorities necessary?**

2.3.3. Consultative bodies:

- **how effective are in your country?**
- **principles of formation (nominated representatives vs experts)**
- **authorities**
- **rules of procedure**
- **possible changes necessary to enhance effectiveness?**

3. USE OF LANGUAGES IN PUBLIC ADMINISTRATION

3.1. Relevant provisions:

The Framework Convention (Art.10 para.2):

“In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.”

3.2. Patterns/types of implementation in different states

- a. ***Full bilingualism*** (Finland)
- b. ***Federal multi/bilingualism + local mono/multilingualism*** (Canada, Switzerland, Russia)
- c. ***“Dual monolingualism”*** (Belgium)
- d. ***Federal/central monolingualism + local bilingualism*** (Italy, Spain, Slovakia, Romania)
- e. ***“Functional multilingualism”*** (Luxembourg)
- d. ***Full monolingualism*** (France, Latvia)

3.3. Questions for discussion

- **status of language(s) in a given country/region: practical and symbolic aspects**
- **monolingualism/multilingualism in public administration:**
 - **advantages and drawbacks of the both approaches**
 - **cost-effectiveness?**
- **areas where use of minority languages before public authorities could/must be permitted**
- **language requirements for employees**
 - **mandatory language requirements for all employees**
 - **“at least one X-language-speaker in each office”**
- **ensuring non-discriminatory recruitment policies**
- **experience of official use of minority languages in your country: problems and achievements**