



PARTICIPATION OF NATIONAL MINORITIES IN PUBLIC LIFE: THE ROLE OF CONSULTATIVE BODIES

7 March 2006
Braşov, Romania

BRIEFING NOTE

Objectives

On 7 March 2007, a conference on the role of consultative bodies of national minorities will be held in Braşov, Romania in the framework of the Romanian Presidency of the Committee of Ministers of the Council of Europe.

The aim of the Conference is to generate an exchange of views between consultative bodies of national minorities, governmental experts, researchers, representatives of civil society and other stakeholders in the Council of Europe area on the issue of participation of national minorities in public life, with particular focus on the role of consultative bodies.

This conference will explore the role of such bodies of national minorities in this area by discussing, in particular, their composition, mandate and functioning and it will provide a unique opportunity for the representatives of such bodies to discuss their respective experiences and to meet with representatives of equivalent institutions dealing with similar challenges in other Member States.

The conference's discussions will be instrumental in identifying valuable experiences with regard to the role and the functioning of consultative bodies in Council of Europe Member States. Its results will eventually contribute to the efforts of the intergovernmental committee of experts relating to the protection of national minorities (DH-MIN) to draw up a **manual of best practices**. Such a manual could assist Council of Europe member states in developing their policies with regard to the consultation of national minorities, including through the enhancement of their minority consultative mechanisms.

Substantive issues to be addressed in the conference

While the principle of effective participation of national minorities is now well established in international documents relating to national minorities - and features as a specific provision (Article 15) of the legally binding Council of Europe's Framework Convention for the Protection of National Minorities - the ways and means to ensure that this principle is given a concrete translation in practice varies greatly according to the State concerned as highlighted in the report prepared by Mr Marc Weller, Director of the European Centre for Minority Issues (see below, reference documents).

The establishment of advisory or consultative bodies of national minorities represents one way of establishing **channels of dialogue between governmental authorities and minorities**. The potential of such bodies in ensuring that minorities have a say in the decisions affecting them has been emphasised on a number of occasions by the Advisory Committee on the Framework Convention in its country-by-country monitoring of the implementation of this treaty (see also reference document, selected excerpts of the Opinions of the Advisory Committee). Consultative bodies of national minorities have also received increased importance in recent years in some countries which have entrenched these bodies in their legislation.

However, there are a number of questions that emerge regularly in the debates on the **practical aspects of the setting up and the functioning of such bodies**. For example, how can these advisory bodies provide a platform embracing the diversity of minority groups and the various conflicting views that may exist between minority communities in a given country? How can such bodies really influence decisions if they do not have any legislative powers or more generally do not have decision-making powers?

The Conference will examine a number of such issues. These can be grouped together in three main clusters, each of which will be addressed in a specific workshop of the conference (see also programme under reference documents below).

Membership (workshop 1)

Given the diversity of the consultative bodies of national minorities existing in the Council of Europe Member states, the conference could help to establish a typology of consultative bodies according to their composition and more precisely, according to the level of representation of national minorities in the said body. At the same time, the conference could help to identify the scope for governmental involvement (both positive or negative) in decisions concerning membership, and in particular, with regard to the selection process of national minorities to be represented in such bodies:

Below are examples of issues that may be considered:

- Does the consultation mechanism/advisory body include all minorities or are there minority-specific bodies or forms of consultation?
- Is the advisory body composed of representatives of national minorities only or is it a mixed structure with representation of both national minorities and state officials?
- What is the role of state officials in the work of advisory body/consultation mechanism?
- How is the formal and/or factual influence of representatives of minority groups safeguarded?
- How are the minorities' representation and representativeness (representation of numerically small minorities, representatives of minority NGOs, minority representatives

- from Parliament, political parties of minorities, others) ensured in the advisory body/within the consultation mechanism?
- Election or appointment procedure for participation in the advisory body/consultation mechanism: who proposes (national minorities, political parties, others), who decides (Government, Parliament, others)?

Status, mandate and functions (workshop 2)

The conference will examine a range of consultative mechanisms at different levels, the status of which may vary greatly. The workshop will also examine the areas of competence and functions that are usually associated with these bodies. In this connection, the workshop may want to highlight those core competences that should be given to such bodies.

Selected issues relating to status:

- What is the legal basis for the consultation mechanism/ advisory body of national minorities (constitutional, ordinary law, other)?
- What status does the consultation mechanism/advisory body have: NGO status/public body status/ personal autonomy arrangements with advisory functions, other status?
- If the advisory body is a public body, what is its relation to public authorities (is it independent and how is its independence ensured)?
- At what level do these consultation mechanisms/bodies operate: central level bodies/ local or regional bodies, both levels?

Examples of functions may include:

- Taking initiatives and making proposals/recommendations,
- Possibility to request information,
- Monitoring the situation of persons belonging to national minorities (including on the basis of individual complaints/communications), preparation of studies, conducting research,
- Increasing public awareness of problems related to the situation of national minorities,
- Consultation and participation in the preparation of public policies on national minorities: existence of an obligation to consult in the legislative process and public policy decisions affecting national minorities, areas where consultation is foreseen (culture, education, language, social and economic participation, other areas),
- Coordination functions among different minorities, other coordination functions,
- Other specific tasks assigned, including distribution of resources directed to cultural activities.
- Participation in international minority activities, e.g. in the mixed committees under bilateral treaties or in the monitoring process under the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Language, etc

Functioning and working methods (workshop 3)

This workshop will examine how consultative bodies of national minorities relate to the different levels of powers and explore the channels that exist to ensure that minority concerns are properly addressed by decision-making bodies at all levels. Issues relating to the effective functioning of consultative bodies, including resources will also be discussed.

Example of issues that could be discussed:

- Are there any procedural guidelines in place for consultation of persons belonging to national minorities/advisory bodies?
- What are the working methods used, including the forming of sub-bodies dealing with specific areas or specific consultation mechanisms for certain areas?
- What channels of co-operation exist between the advisory body/consultation mechanism and Parliament (including through the relevant Parliamentary committees) and the Government (including governmental offices for national minorities where relevant)?
- What is the situation with regard to the resources allocated to the advisory bodies/consultation mechanisms (finance, staff) and what is the source of funding (central/local authorities, mixed funding)?
- What links exist between the advisory bodies/consultation mechanisms at the different levels (local/central)?
- What channels of co-operation/links have been created between various advisory bodies working at the same level (if such bodies exist)
- Are the recommendations and/or the findings of the advisory bodies/consultation mechanisms publicised or otherwise communicated to a wider audience?
- Where can the public seek and find information about the mandate, composition and activities of the advisory body/consultation mechanism (for instance, does a specific website exist)?
- Are minority languages used in the work of such bodies?
- Do consultative bodies carry out fact-findings or other visits to minority-populated regions

Reference documents

- Programme of the Conference
- Report by Marc Weller, Director of the European Centre for Minority Issues (ECMI), on consultative arrangements concerning national minorities (DH-MIN (2005)011 final)
- Selected Excerpts from the Opinions of the Advisory Committee on the Framework Convention relating to the issue of consultative bodies of national minorities (Article 15).