



Dialogue with national minorities and effective participation: European experience

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Kiev, 12.02.2018



International standards

- Internationally recognized principles for diversity management?
- General rules, interpretation adjusted to particular circumstances
- Permanent dialogue with all parties involved at local, regional, national and international level

Stability dilemma

- Suppression and assimilation of minorities?
- Support of diversity, respect to identity, multiculturalism?
- Cultural diversity as the basic value vs certain level of homogeneity as a precondition for national unity – *how to strike a balance?*
- Equality and non-discrimination beyond formal equal treatment: full and effective equality
- **All different, all equal:** sometimes different treatment is needed to ensure equality – the substance of minority rights.



Main approach: effective participation

- Framework Convention for the Protection of National Minorities, 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.*

Interpretation of effective participation

- OSCE High Commissioner on National Minorities:
 - The Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999)
- Advisory Committee on the Framework Convention for the Protection of National Minorities:
 - Thematic Commentary on Effective Participation of Persons Belonging to National Minorities in cultural, social and economic life and in public affairs (2008)

Effective participation: some general points

- All areas of life: economic, social, cultural, political
- Availability of data: protection of personal data, disaggregated
- Legislative prohibition and effective mechanisms on prevention of and combatting discrimination
- Taking into account cultural peculiarities and specific needs – training of staff
- Availability of information about public services (incl. in minority languages)
- Proportionality of professional and occupational language requirements



Effective participation: institutional approaches

- Federative or confederative arrangements
- Territorial autonomy
- Decentralization and subsidiarity
- Cultural autonomy
- Special representation
- Delegation of powers
- Consultative councils
- Specialized state and municipal bodies

Territorial solutions

- Advantages and risks? Examples:
 - Belgium
 - Germany: Schleswig-Holstein
 - UK: Scotland, Wales
 - Austria: Carinthia, Burgenland
 - Spain: Catalonia, the Basque country
 - Italy: Alto-Adige/South Tyrol, Aosta valley
 - Bosnia: Dayton agreements (*power-sharing*)
 - Moldova: Gagauzia

Effective participation: elections

- Political parties of minorities
 - electoral system (D.Horowitz)
 - borders of electoral districts
 - use of minority languages
- Exemption from threshold
 - Poland (German party), Germany (Danish party)
- Special funding from state budget
 - Germany (Sorb party in Brandenburg)
- Guaranteed seats
 - Slovenia (Hungarian and Italian minorities)
 - Croatia (3 +1+1+1 mandates), Serbia, Montenegro
 - Romania (15-18 mandates)
 - Kazakhstan (delegated by the Assembly of Peoples)

Effective participation: the right to speak out or to have impact?

- Delegation of power
 - the right to veto
- Minority self-government
 - Hungary (Law of 1993): 3 types of self-governments
- Competence and mandate?
- Funding?
- Criteria for entitlement: subjective vs objective?

Consultative bodies

- Existence *per se* does not ensure effective participation
- Established in most of European states
- Often set up as a response to crisis (Estonia – “roundtable” 1993, Latvia– consultative council 1996)
- Mandate and competence?
- Legal basis?
- Representative vs expert approach?
- Nomination and election vs appointment?

Specialized state and municipal bodies

- Existence of institutions as such does not guarantee adequate solutions
- AC FCNM: should not replace general institutions – **mainstreaming!**
- Options
 - Independent bodies
 - Department within some ministry
 - Ombudsman
 - Parliament
 - President...

Conclusions

- No universal solutions *one size fits all*
- International instruments set only general principles. Practical approaches, mechanisms and institutional arrangements depend on specific situations
- Strategy: ***mainstreaming***, not just one institution in charge of minority protection
- Necessary prerequisite: effective participation of minorities themselves, adequate instruments and forms should be found
- Protection of minorities fully meets national interests of a democratic state: minority rights are integral part of fundamental human rights, respect for them facilitates peace and stability