

## European Parliament Hearing

### The Situation of fundamental rights in the European Union in 2015

16 June 2016

#### NATIONAL MINORITIES\*

##### Introduction

In Europe in general, “national minorities” include groups that have historically resided in the same region for centuries, such as national minorities, ethnic and linguistic groups as well as the Roma. In many countries religious groups are also included as well as certain racial groups. To recall, the EU Charter of Fundamental Rights and other EU regulations of relevance for minorities do not provide for any substantive rights for persons belonging to national minorities to protect and promote their culture and identity.<sup>1</sup> Moreover, the so-called Copenhagen criteria, which require acceding states to adopt a number of substantive rights, do not pertain to the pre-2004 member states. Thus, at the supra-state level there are no provisions for positive measures to safeguard against assimilation and secure substantive minority rights. However, according to the Charter, EU citizens and residents enjoy the right not to be discriminated against on the basis of membership of a national minority, ethnic or religious belonging, and their linguistic diversity is considered worthy of respect.<sup>2</sup> This the traditional non-discrimination approach found in numerous human rights instruments.

As a result, the EU has chosen to rule by proxy, so to say, by leaving minority protection and promotion to the Council of Europe through the latter’s instrument, the Framework Convention for the Protection of National Minorities (Framework Convention)<sup>3</sup> and other Council of Europe instruments.<sup>4</sup> This is unfortunate not only because there are provisions in the Treaty on the Functioning of the European Union (TFEU) on education and culture that potentially could implement parts of the Framework Convention. But more importantly, there are four EU member states that have not ratified the Framework Convention.<sup>5</sup> This thus provides for an uneven protection of national minorities within the EU. The examination of the situation of national minorities in the EU in 2015 in this report is, therefore, based on the monitoring of the implementation of the Framework Convention.

More specifically, this examination will concentrate only on the countries examined by the monitoring body of the Framework Convention, the Advisory Committee, during 2014 and 2015.<sup>6</sup> Not all opinions are publicly available at this point, so direct references are not made; the gist of the scope of issues should no less be clear. If needed, more information can be provided in an expanded report. Focus will be on national minorities

---

\* Please do not quote without permission of the author.

along the definition provided above. Given that there are colleagues who will address concerns regarding the Roma communities, these will not be discussed here.

### **Current issues and concerns in minority protection**

The situation of national minorities within the EU in 2015 can be seen from at least two perspectives:

- 1) The lack of political will and inertia within governments with regard to minority protection, and
- 2) The current political climate that allows right-wing movements to set an agenda of xenophobia and hate.

With regard to the first perspective, the main substantive minority rights that cause concern include the right to free self-identification (Art 3), the right to equality through adequate institutions (Art 4), the right to maintain and develop culture and be protected against assimilation (Art 5), access to media (Art 9), the right to use minority languages in contact with public authorities (Art 10), the right to bilingualism in public space (Art 11); the right to learn minority languages and adequate opportunities to be taught in minority languages (Art 14), as well as the right to participation in decisions concerning minority life (Art 15). In the following, a short discussion is offered on each of these aspects of minority protection.

#### 1. Recognition and the right to self-identification

It is no secret that in the 1990s, the events in the Balkans gave minority protection a momentum; European governments were forthcoming with regard to recognizing national minorities, and there was a political will to enter into dialogue with minorities about recognition. This is no longer the case. While some minorities have wished for recognition all along, others have changed their mind and now wish to be recognized so they can benefit from the international standards of minority rights. With a few exceptions,<sup>7</sup> governments have not been willing to enter into dialogue with these. Moreover, many countries only recognize persons belonging to national minorities if they hold citizenship; this can be very painful for some families who have waited years for citizenship and remain in a limbo as stateless. Finally, the right to self-identification – to belong or not to belong – is a norm that not all governments respect in census taking.

#### 2. Equality

In spite of the improvements in equality measures and anti-discrimination policy across the EU, many countries lack behind in establishing functioning institutions that can safeguard these measures with regard to national minorities. Even if equality bodies exist, such as Ombudspersons institutions, it is often the case that there is not adequate capacity among the staff to assist the office holder adequately in addressing national minority issues. Another aspect of the capacity of equality bodies is lack of funding to secure that the staff is able to handle all inquiries and petitions according to the mandate. Specific national minority issues may be very difficult to assess, such as war victim status and other issues for returnees. Moreover, multiple discrimination against members of minorities is increasingly a problem that is not adequately addressed, not only in terms of gender and sexual orientation but also in terms of disability. Finally, a major concern in most EU countries is ethnic data collection; disaggregated data collection is needed to design targeted policies and programmes, but very few EU countries conduct such collection.

### 3. Protecting culture and cultural identity

The right of national and linguistic minorities to maintain and develop their cultures and preserve their identities is an important safeguard against assimilation. It refers specifically to religion, language, traditions and cultural heritage. This is a positive measure that requires financial support and sensitivity about cultural identity. Since the financial and economic crises there has been a general tendency to cut funding for cultural institutions run by minorities, such as cultural heritage sites and youth organizations. There is also a tendency to exclude minorities from decision-making in the area of cultural policy-making, and lack of transparency prevents some minorities from accessing funding. Governments should be more open to including minority heritage sites in the official lists of cultural heritage. Finally, national minorities should not be relocated from their traditional homelands unless this is absolute necessary.

### 4. Access to media

Access to media is an essential part of the right to freedom of expression, especially access to public and mainstream media, a fact that is very often neglected by governments. This is unfortunate, as public and mainstream media is here seen as a way to promote tolerance and permit cultural pluralism. Often media access is entirely left to the market place, preventing minorities without funds from using it. Some governments are also reluctant to secure equality in licensing, while others maintain very rigid regulations on translation that minority groups are not able to meet. Finally, the lack of minority programming in public media may be due to journalists not being trained to cover minority issues. This leads to marginalisation of minority issues in public awareness. Governments should consider training members of the minorities to become journalists.

### 5. Minority languages and public authorities

The right to use minority languages in contact with public authorities remains a serious concern in many countries especially with regard to smaller minorities. The right is of course conditioned on numbers and proportionality, but criteria should not be applied rigidly according to the Framework Convention. Nonetheless, allowing for the use of minority languages with public authorities is generally considered an onerous expense by many governments. The issue might be improved by digitalisation of access, but this nevertheless still raises concern for small minorities; minorities representing small languages should not be neglected in the transition to e-government. Often knowledge and mastery of the official state language is considered a reason for not implementing the right to access authorities in minority languages. This is clearly not acceptable as the use of minority languages represents one of the principal means by which such persons can assert and preserve their identity.

### 6. Bilingualism in public space

Bilingualism in public space is often a matter of concern. Often the general population does not understand that minorities may have a right according to international standards to be visible as speakers of a minority language in mainstream society. This can cause frictions in areas where minorities live in substantial numbers and wish to have topographical signs in two or more languages. Where this is respected, the processes to achieve this are not always transparent, and national minorities may not be adequately consulted. Another aspect is personal names in official documents; they should not be transliterated into the official language but should be kept in the original

version of the minority language. A violation of this disrespects the identity of the person.

## 7. Education in minority languages

A truly essential part of the preservation of minority identities is the right to education in and of minority languages and about minority culture. Specifically, governments must ensure adequate resources and opportunities on equal footing with majority education. Moreover, the right pertains to all levels of education and also to smaller languages that may not be officially recognized. Although establishing educational institutions and/or programmes for minorities is generally becoming the norm in most EU member states, adoption of austerity measures as a result of the recent financial and economic crises has raised a number of concerns. Not only have there been reductions in funding for teachers and teaching materials, there has been in several countries closure or mergers of minority schools and programmes. The latter has affected minorities living in remote regions adversely, especially if governments have adhered strictly to minimum size classes. Another aspect of concern is that in some countries, minority schools fall behind majority schools in applying modern technology. Finally, the requirement of national minorities to learn the official state language is a concern if teachers are not fluent in the minority language. Learning the state language is essential for good integration of societies, but learning it at an inadequate level may risk relegating minorities to a secondary citizens category – a situation that is not conducive to social cohesion.

## 8. Effective participation

Undue exclusions from the right to effective participation in public life can result in significant obstacles to the enjoyment of a variety of minority rights. Public life in this context does not only extend to public affairs and decision-making but is equally important with respect to economic and social life. The term ‘economic and social life’ covers a wide range of issues, from access to adequate housing, health care, social protection (social insurance and social benefits), to social welfare services and access to the public and private labour market, as well as access to business and other self-employment opportunities, which are closely linked to property rights and privatisation processes. Matters of concern with regard to political participation also include the right to form political parties based on ethnic and national affiliation; this right is not respected in all EU member states. Other concerns are with regard to consultative and advisory bodies; these should not be confined to cultural affairs but should address all issues relevant for the members. A few member states have appointed specific high-level officials to act as liaison with national minorities; it is vital that these officials function effectively and unbiased. Finally, the lack of citizenship excludes some members of national minorities from accessing their right to vote and stand for election in societies where they have resided for many years.

Participation in public service is a concern in most EU member states; diversity in public service promotes tolerance and understanding through daily inter-action. Participation in social and economic life is particular a concern with regard to Roma communities, the elderly and minorities living in remote areas. But lack of proficiency in the state language also prevents members of national minorities from accessing the labour market. Employment is often the entry point to many social services and housing; this is not always appreciated when it comes to enhancing minority participation, especially of the Roma communities.

## **Current issues and concerns in societal integration**

With regard to the second perspective, that the current political climate allows right-wing movements to set an agenda of xenophobia and hate, the two main issues that create cause for concern are the lack of tolerance and inter-cultural dialogue as well as mutual respect in European societies (Art 6) on the one side, and insufficient intercultural education and dissemination of knowledge about minorities among majority populations (Art 12) on the other. According to the Framework Convention, it is the responsibility of governments to promote and ensure tolerance and inter-cultural dialogue in societies where national minorities reside.

### **9. Tolerance and inter-cultural dialogue**

Tolerance and inter-cultural dialogue is clearly at an all time low in many member states. This has impact on not only the protection of minority rights but also on the safety of members of minorities. Although xenophobia and hate is primarily directed at newcomers and refugees, some national minorities, and especially Roma, have experienced increase in incidences of hate speech involving racist slander. Anti-Gypsism, Islamophobia and anti-Semitism seems to spill over onto other minority groups. Physical attacks as well as assaults on the Internet have caused much pain to many minority groups. One aspect of minority protection is the obligation to take effective measures to promote mutual respect and understanding, including measures to protect against violence and hostilities.

The fields of education, media and culture are considered relevant for achieving tolerance and inter-cultural dialogue as well as recruitment of minorities to the police corps. Unfortunately, governments are not succeeding in these respects. Education policies do not promote dissemination of knowledge about minorities, their culture, history, language and religion, and neither do journalism curricula. History books often remain bias, and cultural programming focuses on folklore activities rather than dialogue. The media is of particular concern because it is easy to access and not regulated appropriately by governments. Profiling by police officers and stop-and-search are serious concerns in some countries, and even if regulations against such exist, governments are not always enforcing them consistently. The worst cases are when governments do not adopt or amend and implement legislation that criminalizes hateful acts.

## **Conclusions**

This very cursory examination of current concerns with regard to minority protection in 2014 and 2015 has shown that there is clearly an uneven approach within the EU. Not all member states have signed up to the European regime for minority protection, whereas those that have still need to step up their efforts; much is left to be desired with regard to all the major provisions for minority protection. Unfortunately, the EU is not able to step in but remains side lined due to the lack of competences in EU law.

## Notes

---

<sup>1</sup> Follow up to the European Parliament's Resolution of 8 December 2015 on 'The Situation of Fundamental Rights in the European Union (2013-2014), LIBE 2016 available online at [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556962/IPOL\\_STU\(2016\)556962\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556962/IPOL_STU(2016)556962_EN.pdf)

<sup>2</sup> Articles 21 and 22 of the Charter of Fundamental Rights of the European Union, (2000/C 364/01), available online at [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf)

<sup>3</sup> Framework Convention for the Protection of National Minorities, ETS 157 of 1.2.1995 available online at <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/157>

<sup>4</sup> For example, the European Charter for Regional or Minority Languages, CETS 148 of 5.11.1992 available online at <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007bf4b>

<sup>5</sup> These are Belgium, France, Greece, and Luxembourg.

<sup>6</sup> These are the Czech Republic, Croatia, Cyprus, Denmark, Estonia, Germany, Hungary, Italy, Slovakia, Spain, and the United Kingdom.

<sup>7</sup> The Czech Republic and the United Kingdom have both recognized additional groups recently.