

## **Enhancing Minority Governance in Bulgaria**

### **Good Practice Guidelines**

The protection of minorities has significantly increased in recent years in Bulgaria, through civil society and public authority initiatives. The EU membership negotiations, alongside membership of NATO, have had a positive effect on minority governance, leading to minority stakeholders being more active in their mutual dialogue with public officials. In a democracy, understandably, there remain disagreements between the representatives of government and minorities over aspects of minority policy. Today the emphasis has moved on from the legal and political dimensions of minority rights to the policies and programmes through which legal standards are implemented. The issue now is not whether, but how, the State can implement good minority policies which are effective, efficient and democratic.

In September 2004, in close co-operation with public institutions and a range of minority organizations, the ECMI began implementing a project on "Enhancing Minority Governance in Bulgaria". The aim of the project is to offer improvements in the approach to minority policy measures in Bulgaria.

A dynamic two-day seminar was organized in December 2004 on the participative monitoring and evaluation of legislation, strategies, programmes and projects in the minority sphere. The seminar provided a constructive forum for debates on the successes and challenges of projects and programmes across many sectors and most minority communities. Three working groups with representatives of minority communities and public authorities have since taken these proposals further. Local experts explored some of the questions by reviewing current policies towards minorities, and by closer examination of some of the practical problems faced in implementing programmes. The information and the ideas from the working groups were shared in a report. The Good Practice Guidelines that were developed as part of the report draw attention to relevant principles underpinning policies in favour of minorities:

A conference is scheduled to take place in September 2005 for obtaining further input and feedback from a wider group of stakeholders. *Following the deliberations of the conference* the final proposals will be officially submitted to the relevant Bulgarian institutions. It is hoped that the report and the Good Practice Guidelines will stimulate a dialogue on the improvement of approaches towards effective, efficient and democratic policies toward minorities in Bulgaria.

## ***Good Practice Guidelines***

These ***Good Practice Guidelines*** draw attention to relevant principles underpinning policies in favour of minorities:

### **International Standards**

- The protection of minority rights, which forms an integral part of human rights protection, should be seen as a fundamental principle of good governance.
- The State must create the conditions for the effective implementation of the legal standards of minority rights under the Framework Convention for the Protection of National Minorities (Framework Convention) and other international standards.
- In addition, the range of measures put forward in particular in the European Charter for Regional or Minority Languages, The Lund Recommendations on the Effective Participation of National Minorities in Public Life, the Hague Recommendations regarding the Education Rights of National Minorities, the Oslo Recommendations regarding the Linguistic Rights of National Minorities, and the Guidelines on the Use of Minority Languages in the Broadcast Media, should be taken into account.
- Minority organizations should be encouraged to participate constructively in the monitoring of international human rights treaties, by contributing to the drafting of State reports, and submitting "shadow" reports.
- In line with the tradition not to limit the protection of the Framework Convention to only specifically enumerated groups, the government should not be afraid to consult minorities – especially through the National Council for Cooperation on Ethnic and Demographic Issues (hereinafter: ‘National Council’ or ‘National Minority Council’) - on the personal scope of the application of the Convention. It should not hesitate to engage in dialogue with organizations asserting minority status for certain groups of the population which are not currently considered to constitute a minority and respectively enjoy minority rights.
- The government should consult minorities – again through the National Minority Council - on the organization of censuses, and particularly the content of the census forms. Recruiting and training observers from minority groups can play a useful role in making minorities understand the importance of the census.

- At censuses, on condition that the principles concerning the protection of personal data collected and processed for statistical purposes are respected, all citizens should be encouraged to make use of the possibility to identify themselves.

### **Enabling environment**

- Policy-makers in the government and in Parliament must recognize the role and importance of minority policy in making a crucial contribution to the good governance of a modern society.
- Strong leadership and commitment to minority issues is required at the highest level of government, in active partnership with minority communities. The same qualities must be emphasized at the regional and local levels.
- Where organizational and leadership capacity of minority organizations needs to be strengthened, the government must provide support.
- Authorities must ensure that minorities are made aware of their rights and their opportunities, not only their obligations as citizens in society.
- Minority policies should be conducted with minorities, and not for minorities.
- The level and efficacy of funding from the State budget must be increased, funding from all sources must be coordinated, and look to the long term (see also below Collaboration).
- Inter-related funding of public awareness and education projects, and the involvement of the media, is needed to ensure that minority governance is seen as a positive contribution to the society as a whole.

### **Public confidence and support**

- The authorities should adopt specific public information programmes with civil society to fight prejudice and build majority-minority relations.
- The government should strengthen the capacity of the Commission Against Discrimination and the office of the Ombudsman as a matter of urgency.
- The functioning of specialised Ombudsman structures is recommended. Options include the creation of a separate minority Ombudsman institution, establishing sections dealing particularly with minority issues within the general Ombudsman office and the

offices of the public defenders at the local level, or appointing a responsible deputy ombudsman, or special officer, again, within the general Ombudsman institution.

- The general public should be made aware of the achievements in improving minority-majority relations and be encouraged to celebrate these successes.
- Constructive media coverage can help advance thoughtful approaches to difficult issues but this demands a long-term strategy to cultivate sensitive journalism.

### **Aims, principles and good policy**

- The aims and criteria used to assess the attainment of policy goals must be clearly identified through a process emphasising active partnership and consultation at all levels.
- The principles of good policy stressing the effectiveness, efficiency and the democratic nature of policies must be adopted, while learning from previous successful policies.

### **Effective participation**

- The State should create conditions for effective participation of persons belonging to minorities in cultural, social and economic life as well as in public affairs (effective participation being a primary function of good policy towards minorities).
- The diversity of community interests and the variety of needs of different types of minority groups (such as dispersed versus compactly settled groups or small minorities versus large minorities) should be recognized. The most appropriate ways to ensure effective participation should be clearly identified, and adopted, in each case.
- Mechanisms to increase participation may include: political participation, as well as advisory and consultative bodies for minorities, and participation in executive functions and individually as public servants and politicians.
- It is recommended to analyze the practice and outcomes related to minority electoral representation at national and local levels. Steps to increase participation are more urgent where there is no minority representation in parliament at all, despite the possible absence of factors in the legislation that actively preclude such representation (especially the Roma). It is also good practice to include minority representation in electoral commissions.
- The State should ensure equal access to public sector employment to members of minorities. Even if candidates for such posts are not excluded due to their belonging to a

given minority, the government should consider positive action to remedy the inadequate minority participation in many sectors of government.

- Care should be taken to ensure that a representative of persons belonging to a minority fills senior government positions pertaining to minority issues.
- The State should promote the participation of people from minorities and their organizations to influence institutions, policies and processes for fair, democratic, effective, and efficient governance.
- It is recommended that minority representative organizations take a prominent role in the distribution of resources directed towards cultural activities of various minority communities. Information on the state support should facilitate an understanding of the impact of such grants, especially when set against general expenditure in the area. A per capita formula might assist in making such comparisons.

### **Participation at policy, programme, and project level**

- Decision-makers at all levels should be proactive. They should seek input and create opportunities for the effective contribution from members of minorities nationally, regionally, and locally in suggesting, formulating, adopting, implementing, and monitoring minority policies and programmes.
- When seeking to increase minority participation in decision-making through consultations, authorities should ensure that the “right people”, legitimate stakeholder representatives, are involved to the greatest extent possible.
- It is also important to ensure that roles are clearly understood by all involved on whether someone has been selected to “represent” a minority or selected as they are from a minority community. If it is the former they need to have resources to go out and have a dialogue with different elements of their community to be a gateway and not gatekeeper.
- If minority experts (especially Roma) are chosen not on the merits, but because of their ethnic belonging, it is likely that these experts will have little capacity to provide real expertise on minority issues.
- In order to be effective, consultations and meetings with minorities should be thoroughly planned. The organization, style/culture, language and location of meetings may be culturally specific, and there needs to be considerable sensitivity on the best way to communicate and agree agendas. To help achieve this, the consultation process needs to be designed in partnership with minorities.

- Furthermore minority organizations should be in a position to work cooperatively with similar organizations of the other communities (rather than focusing for instance only on Roma issues).
- The selection criteria and process should ensure that as wide and diverse a group of minorities as possible are represented (in terms of ethnic background, gender, age, religion, rural versus urban place of residence, socio-economic background, discriminated/excluded groups, etc.).
- Authorities should remember to make extra efforts to communicate with minorities living in remote areas and other ‘difficult to reach’ circumstances. They should use a variety of communication methods to get information out to as many minority persons as possible to ensure that those who do not have access to the latest forms of information technology are not marginalized or excluded from the process.
- It is important to ensure a concrete and systematic follow-up processes once the consultation has ended.

### **Anti-discrimination. Vulnerable minority groups**

- The State should ensure that discrimination against minorities is being effectively counteracted, and where necessary additional measures should be taken to combat systemic discrimination (especially against the Roma).
- The authorities should involve influential public figures in nationwide anti-discrimination campaigns.
- The State should allocate resources to relevant bodies to develop projects and activities for the economic, social and political integration of the Roma. Also, targeted measures are needed to ensure that Roma enjoy equal access to public office, education, employment, health care, housing, and public services. Authorized agencies should monitor the implementation of these measures, and minority advisory bodies and civil society should also be involved.
- Programming strategies need to reach and address the particular vulnerabilities of ‘minorities within minorities’, such as women, children, the disabled, and the aged, among others (these people are "hit twice" by social exclusion).

### **Minority advisory or consultative bodies**

*General conditions:*

- The government should strengthen existing minority advisory or consultative councils, attribute more political weight, and a wider mandate to them. It should establish them within appropriate institutional and legal frameworks and give them specific powers and resources to exercise their functions effectively.
- It is necessary to strengthen the position of the National Minority Council – this is a matter of political will. In particular, the establishment of the Council should refer to a law rather than being done by way of executive decision.
- Such a law should at the minimum regulate the mandate, functions and powers of the National Minority Council, the requirements to be fulfilled by the members, the exact nomination and appointment procedure to be followed including the involvement of minorities themselves.
- The link of the National Minority Council to the Council of Ministers makes it possible for the Council, when it becomes necessary, to apply pressure. However, there is also a need for the Council to work independently, and to be perceived as a separate body. As such, it can deal with the issues free of political intervention. There has to be a specific statement to this effect in the act establishing this body.
- Rather than being headed by a cabinet minister, as currently provided, one possibility is for the Council to elect its own Chairperson, and to report to the Council of Ministers through a cabinet minister. At the bare minimum, the Council should be able to elect a Deputy-Chair among its nongovernmental members. The presence of one of the nongovernmental members of the Council at meetings of the Council of Ministers in relation to the decisions concerning it, should become an accepted practice.
- If governmental officials remain on the Council, they should have only advising capacity. They should not be granted the power to vote or veto.
- Considerations of political independence call for minimal interference by the executive in the appointment process for Council's members.
- If the appointment is finalized by an executive decision, it is important to see whether this is a discretionary decision of the executive, or whether the executive can only take a decision subject to certain strict criteria. If the appointment is realized by an executive decision, one possibility is that the Council has to give its advice. Right to appeal has to be ensured in all cases.

*A wider mandate:*

- The National Minority Council needs to have sufficient powers and resources to ensure that its functions are effectively discharged.

- Civil society organizations should be able to cooperate with the National Minority Council directly.
- The Council should have the power to act upon its own-initiative.
- The Council should have a real impact on minority policy. It should channel its expertise and information as much as possible to the policy-making process. More specifically, the Council should be entitled to provide proposals on existing laws, policies and practices, give recommendations for amendments and drafting new legislation, or highlight other issues that need addressing. The Council may also periodically exercise a review function in respect to legislation and implementation practice. Once the initial in-dept review is done periodic reviews need to be undertaken at regular intervals. The purpose of such a function is to pinpoint what is wrong with legislation and practice and recommend steps to make necessary changes. The standards to be applied by the Council should clearly include not only the standards, codified in national legislation, but also international standards.
- The Council has traditionally had an institutional connection with the executive to which it submits a report. However, the Council may be granted authority to advise the parliament if requested. Certainly, the members of the Council are well placed to comment on legislative drafts.
- The Council should also criticize or comment on legislation that has been adopted. The existing Council is authorized to comment on draft laws, and it should exercise that function properly, whenever necessary. However, the Council's role in relation to legislation will not be fully effective if it is not able to criticize or comment on legislation that has been adopted. Usually it is both practically and politically easier to comment on draft law, rather than law that is already in force.
- Policymakers should have the duty to inform the Council about all policy drafts in a timely manner. A recommendation is to set down strict consulting requirements, which could imply the obligation of the policymaker to involve the Council into the process of policy-making.
- The Council should be involved in monitoring and evaluating programmes and projects supporting minorities. It should be able to receive regular progress reports from the implementing agencies, and should be involved in project evaluations and may itself receive or commission other evaluations on specific themes.
- Additionally, the Council may be involved in training and may encourage or promote policy-oriented research, which could be undertaken in-house or sub-contracted.

- The Council may also facilitate the establishment of and promote networks of institutions, individuals and organizations engaged in minority activities to share experiences and improve practices. It can engage an increasing number of non-governmental organizations with objectives similar to those of the Council in a dialogue facilitated by the Council on particular topics. It can also play a facilitating role, bringing together civil society and government to enter into discussion on areas of mutual concern in a trusted environment. These may be through conferences, seminars, and workshops on sometimes controversial policy issues that need resolution. This may also involve joint training sessions, or separate training programmes.
- The Council has an important role in educating the public about its own role. It should also be pro-active, ensuring that good governance standards are promoted. Education can be effected: through annual reports presented to Council of Ministers; through codes of conduct; and through good practice guides in the different fields that the Council can develop. The aim should not only be to improve general practices, but also to establish benchmarks, so that authorities can compare and improve their own practices.

*Resources, working practices and procedures:*

- All the endeavours to improve the effectiveness of the Council will be frustrated if it is deprived of experienced supporting staff.
- A problem in relation to secretariat resources available to the current Council could be foreseen, as it is not known how many people will be in fact dedicated to servicing the Council. Still the Council in its current form, as it depends on a Directorate within the central government administration, can expect secretariat resources to be less limited than in the case of the previous Council. A recommendation is to establish a separate unit within the Directorate dedicated to the Council's work (headed by the civil servant who is the secretary of the Council). A more effective option would be to authorize the council to employ a small number of administrative and expert staff dedicated to its work, and to request the services of outside experts to provide expertise on particular topics.
- It is advisable that advisory bodies have their own budget even if administrative services continue to be provided by the Directorate on Ethnic and Demographic Issues at the national level, and the regional administrations at the regional level.
- Given that the government retains a significant influence on the working practices of the current National Minority Council (a senior civil servant acts as the Council's secretary and a minister is the Council's Chairperson), it bears responsibility for the ef-

fectiveness of its functioning. In this respect, it is of particular importance to ensure that the schedule of ordinary Council's meetings is strictly observed (however, no meetings have been held for more than eight months).

- Also, it is important to provide sufficient time to discuss materials submitted to the members of the Council, in order to allow for a real dialogue.
- Another recommended practice is that public agencies submit information or reports in reply to decisions by the Council of Ministers directly to the Council.

#### *Transparency*

- The goal should be to achieve the highest level of transparency possible surrounding the Council's work. Holding of the ordinary Council meetings with no public scrutiny or formal observation is perhaps a necessary element of the work of the Council. Greater publicity may be achieved by holding some public sessions, as well as ensuring sufficient press coverage of the Council's events and recommendations.
- Ensuring the publicity of the Council's report to the Council of Ministers is vital.
- In addition, it is a good incentive to hold an annual hearing by the Council of Ministers on issues in relation to the Council's work. Publicity can be used in cases of non-compliance with the Council's recommendations.

#### **Administrative bodies**

- The State should strengthen the capacity of specialised administrative bodies responsible for implementing policies for minorities.
- It must be remembered that the Directorate on Ethnic and Demographic Issues at the national level is a state body – part of the government's own administration. The role of the Council should not be confused with the role of the Directorate. The input of the minority advisory bodies represents a separate contribution to decision-making, and must be regarded as such. A fundamental problem of division of roles and responsibilities may arise, if the Directorate is seen to be dictating the decisions of the Council who will formally pass decisions.
- It is recommended that in parallel with strengthening administrative capacity for minority issues within the central government administration, focal points for minority issues are created within the principal ministries that are of relevance (*including minorities*).

#### **Collaboration**

- Good practice requires public bodies to work together to determine programming strategies on minority issues (this is termed horizontal coordination).
- In addition, all levels of government are required to work together in a coordinated way – from top to bottom (i.e., vertical coordination).
- The Council of Ministers' Directorate on Ethnic and Demographic Issues may be in charge of national coordination of a meeting of ministers from the relevant ministries, who will meet annually to discuss current issues in the field. This may be supplemented by regular meetings of deputy ministers, who may be members of a separate coordination body. For instance, a committee of deputy-ministers and heads of other public agencies who are currently on the National Minority Council.
- At the regional level, the regional governors should be in charge of coordinating regional taskforces.
- Joint meetings with the National Minority Council, respectively District Minority Councils, should be held. If deputy-ministers and representatives of other public agencies remain on the National Minority Council, they should only act in advising capacity, i.e. they should not have the power to vote (see above).
- The government must ensure that funding for minority issues, from all sources, is coordinated and effective; and that, through their representative organizations, minority communities have a say in how resources are allocated. One proposal requires the ministers, at their annual meeting, to bring forward a coordinated budget proposal for minority-specific funding. This proposal needs to be informed by experience at regional and local level, and advice from the National Minority Council.

### **Regional and local focus**

- Effective minority advisory bodies should be organized and function at regional and, if necessary, also local levels (see, above, the recommendations on improving the effectiveness of the National Minority Council).
- The government should consider a growing transfer of competencies at sub-national levels on issues that are of special concern to minorities, as well as the adequate resources at these levels.
- The participation of minority members in the decision making processes at local level creates a feeling of commitment and responsibility within minority groups, as well as sense of belonging toward common goals and priorities.
- A combined bottom-up and top-down approach to development of strategies, programmes, and plans at regional and local levels is recommended. Another recommen-

ation is that local programmes are adopted by the municipal council which ensures that the programmes are taken seriously, and that resources for implementation are provided.

- Public hearings or local consultative fora on minority issues should be considered in areas where there are serious unresolved problems in relation to minorities.
- Local non-governmental and other civil society groups are particularly valuable partners to public agencies and can assist them in turning their policies on minorities into more practical terms. Given that they are better attuned to the particular vulnerabilities and difficulties that minorities face, they should be actively consulted in all phases of decision-making, and can also act as focal points or liaisons with beneficiary groups.

### **Monitoring and Evaluation (M&E)**

- The implementation and effects of all policies should be continuously monitored. Monitoring is carried out by management, but should also involve key stakeholders engaged in the programme. Monitoring by specially created minority advisory bodies, and by civil society, should be embedded in the policy-making process.
- Minority policies should be evaluated at appropriate intervals, mostly by external, independent experts to ensure that there is a broader vision brought into the analysis. As a general rule, these independent evaluations should be made widely accessible to the public and the media.
- It is important to include donors, government, those implementing the programme, and beneficiaries in a participative discussion that is aimed to go well beyond checking the implementation of inputs and outputs, but to review the short-term outcomes and the longer-term impacts from different perspectives (the real impact of changes in attitudes, actions and policies).
- The recommendation is to develop participatory M&E systems that progressively enable active participation, ownership, and empowerment by the minority themselves.
- A combined measurement of intermediate and final indicators is preferable.
- Increased use should be made of qualitative indicators which are very useful in measuring satisfaction.
- Further, a systematic effort is needed to establish a baseline and a target, at least for the key indicators.
- Indicators must generally meet the characteristic of “good” indicators, as defined by the World Bank. It is preferable to select a few indicators covering the right questions, of good quality, at the right level of disaggregation. Aggregated, country-level indica-

tors are useful, as they give an overall picture. However, they tend to mask differences across regions, gender, or social groups, which need to be captured in order to design successful public policies.

- Indicators should only be included in the monitoring system if it is realistic to set up a mechanism to collect and analyze data on such indicators. The process should emphasize regular examination of progress towards outcome objectives. The periodic evaluations are steps in the programming cycle, where the involvement of minorities and minority groups could prove most valuable.
- Strategic planning is required using the minority strategies as a framework for articulating needs and prioritizing statistical activities involving stakeholders. New tools must be employed for data collection and analysis especially qualitative data collection methods, such as focus group methodologies, household or individual surveys and participatory methods, to enhance and contextualize quantitative findings and make interpretations increasingly relevant for minorities.
- Individual privacy must be respected in all cases (making sure that qualitative data will not be misused).
- A process of 'benchmarking' the results of programme evaluations against other projects at a national level, regional and local level would provide useful data on the effectiveness of the programmes, and lead to the more efficient use of financial and manpower resources.
- Training should be provided for colleagues in the governmental and non-governmental sector in participatory M&E of programmes involving minorities.
- The National Minority Council should have a role in M&E, in the formulation of M&E strategy, and in the establishment of an M&E network of individuals, organizations, and institutions. It can help in building capacity for M&E at regional and local levels (see, above, on the role of the National Minority Council).
- Financial resources for M&E activities must be properly allocated.

### **Information dissemination**

- The information and experience gathered by civil servants and other social actors involved in the selection, design, implementation and evaluation of minority policies must be regularly exchanged and disseminated through widely accessible publications, seminars, meetings, etc.
- The authorities should provide practical and financial support for analysis and research of minority policy measures.

- Information flows should be discussed, planned and strengthened between national, regional and local initiatives.
- More information and training is needed on participatory M&E including a compendium of terms used and good practices. Training should be provided for trainers to train staff in the governmental and non-governmental sector on participatory monitoring of programmes involving minorities.
- Available data should be made more readily accessible and more user-friendly for a greater number of institutions and organisations. The National Minority Council can develop a database to better coordinate the collection of data along with mechanisms to monitor compliance.
- The authorities should ensure that the input from academic research, consultations, expert advice, independent evaluations, as well as from open democratic debate, are efficiently integrated into programme development and project planning.

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