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**Participation of national minorities in public life
including their interaction with public authorities**

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This report was prepared by the team of the European Centre for Minority Issues (Flensburg, Germany) together with experts from Belarus, Moldova, and Ukraine. The listed authors do not necessarily agree to all the contents and conclusions of the report.

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Introduction

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This report focuses on the participation of national and ethnic minorities in public life in Belarus, Moldova and Ukraine. This consists of opportunities for people, irrespective of their ethnic and linguistic belonging, to fully participate in public life, including in socially significant decision-making along with expressing, preserving and developing their own specific cultural and linguistic features. The key question is therefore to what extent public or non-governmental organizations (NGOs) are ready to communicate with individuals and organizations representing minorities, and their ability to consider the special needs and interests of people who differ from the majority in terms of their ethnic origin, culture or linguistic preferences. Thus, this report is devoted to the issue of communication between minorities and authorities, rather than on general issues of minority protections.

The general topic of communication between minorities and authorities consists of issues related to the institutional structure of this communication, and the results that it yields. This overarching framework also includes issues of how the system of official organizations responsible for ethnic policies is structured, as well as the scope of its activities. This topic is one of the few that defines how ethnic relations will develop in Belarus, Moldova and Ukraine, as it

addresses the ways society and the state prevent the alienation of any parts of the population, as well as societal cleavages and destabilization.

States looking to establish and improve the peaceful coexistence of a diverse society should look to the numerous international norms aimed at peaceful and constructive coexistence among different groups and established positive practices across various countries. This report offers relevant general and country-specific information, summarizes the results of discussions, and puts forward recommendations about good practices to be borrowed and developed in appropriate areas.

The Eastern Partnership (Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine) have accumulated their own positive and negative experiences in resolving the regulation of ethnic relations. These countries have a number of mechanisms and practices concerning the interaction between minorities and authorities, including advisory bodies, commissioners on minority issues, expert councils, and so forth. So far, no efforts have really been made to assess the efficacy of these mechanisms, or these attempts have failed to yield any clear results. More importantly, public and expert discussions on



broader issues of minority participation in the Eastern Partnership countries are still limited in scope and depth and remain at the periphery of public attention.

This report was prepared as a summary of public discussions organized by the European Centre for Minority Issues (ECMI) Eastern Partnership Programme in 2014–2016.² Using the outputs of these discussions and other available sources, the authors have identified the most effective and strategically promising decisions and initiatives that can ensure efficacious interaction between public bodies and the people and organizations that formulate and advocate for the specific interests and needs of national minorities.

I. General information and conceptual notes

1) General information

Belarus, Moldova and Ukraine came into being as independent states simultaneously with the breakdown of the USSR in 1991. These three countries differ from each other in terms of territory and population size. Belarus occupies 207,600 km² and has a population of 9,498,000 (according to the most current administrative records from 2016); Moldova's territory is 33,846 km² with a population of 2,913,000 (according to the census of 2014); Ukraine is 603,549 km² with a population of 42,488,000 (according

to the most current administrative records from 2016). All three countries have industrial and agrarian economies: Belarus is an upper mid-level developed country, while Moldova and Ukraine are at a lower middle level. According to the World Bank, the 2015 GDP per capita (adjusted for purchasing power parity) was 17,700 USD in Belarus, 5,040 in Moldova and 7,940 in Ukraine.³

Belarus has an authoritarian regime with strong centralized presidential power, Moldova is a parliamentary republic while Ukraine has a semi-presidential system. According to the Heritage Foundation and World Street Journal's 2016 assessment of economic freedom, Moldova is a "mostly unfree" country and scores 57.4 points on a 100-point graded scale (where 100 points mean full economic freedom), while Belarus scores 48.8 and Ukraine scores 46.8 points, putting them in the category of "repressed" states.⁴ According to Transparency International's 2015 corruption perception index, Moldova received 33 points on a 100-point graded scale (where 0 points means maximum corruption in the public sector; 100 points indicates the absence of corruption), Belarus scored 32 and Ukraine scored 27.⁵ In other words, all three countries are characterized by poor public governance, an excessive bureaucratic burden on the economy and, in some cases, on other spheres of public life.

² www.ecmi-epp.org.

³ The World Bank. Countries and Economies. <http://data.worldbank.org/country>.

⁴ 2016 Index of Economic Freedom. Country Ranking. <http://www.heritage.org/index/ranking>.

⁵ Transparency International. Table of results: Corruption Perceptions Index 2015. <http://www.transparency.org/cpi2015#results-table>.



Moldova has no control over part of its territory: the left (eastern) bank of Dniester – the internationally unrecognized Pridnestrovian (Transnistrian) Moldavian Republic, which is under Russian patronage. Ukraine has no control over the Crimean Peninsula, composed of the Autonomous Republic of Crimea and the city of Sevastopol, which were occupied and annexed by the Russian Federation in 2014. In the east of the country, there is conflict with separatist enclaves directly supported and controlled by Russia.⁶

All three countries have ethnically diverse populations: the share of ethnic Belarusians in Belarus is 84% (according to the 2009 census), Moldovans in Moldova make up 76% (according to the 2004 census) and Ukrainians in Ukraine comprise 78% of the population (according to the 2001 census). Along with the main ethnic nations, these countries are populated by ethnic minorities including Russians, Poles, Jews, Roma and others; each of these three states are home to a large number of people belonging to the core nationalities of the two other states.

The three countries are, in principle, comparable with each other in terms of how ethnic minority issues are perceived and how their respective approaches are implemented. All three position themselves, albeit to differing degrees and in different forms, as

primarily ethnonational states in the name and for the benefit of their major or “titular” ethnic groups. In other words, ethnic nationalism remains the countries’ major conceptual framework, although its concrete manifestations vary significantly from country to country, and from region to region. Second, in all three countries, the Russian language and broad bilingualism play a similar role, which in many respects determines social processes and the perception of ethnic relations. Third, the soviet heritage persists in legislation as well as in conceptual approaches to ethnic relations.

2) Terminology and major concepts

Minorities

Ethnic diversity is a term that may be based on various concepts and approaches. The concept of “minority” in the sense of a “national or ethnic minority” is one way among a few to describe the social organization of cultural variations, and this approach is broadly used in larger Europe.

There is no consistent or universally recognized definition of “minority” among politicians and researchers as it aims to cover a broad range of social relations. This is the reason why “minority” is used primarily as a

⁶ The present report includes a description of the situation in the Transnistrian region of the Republic of Moldova. However, it does not cover the Ukrainian territories that are currently beyond the control of the lawful government of the country: the Crimean Peninsula (Crimea) and temporarily occupied parts of Donetsk and Lugansk Oblasts

(Donbas). The reason for this omission is that while Transnistria was examined and discussed within the EPP project, Crimea and Donbass were not. Second, Transnistria is an established, stable and peacefully developing institutional environment, while Crimea and Donbass are characterized by continuing inter-state armed conflict and foreign occupation.



practical category with flexible meanings, depending on the specific context.

In larger Europe, the concept of “minority” results from the idea of the nation-state: minorities are the groups that differ from the “nation” or “majority population”. For various historical or political reasons, and partly because of widely spread misunderstandings, the word “minority” carries a negative connotation in many places. In some cases, the word “minority” is considered to refer to the legally subordinate or disadvantaged status of a group, or its “non-indigenous” or “alien” character. Therefore, this term is generally avoided by activists from indigenous nationalities, as well as by authorities.

Usually, attempts to find a general definition are based on lists of qualifying characteristics, such as a numerically smaller group size; the group’s cultural, linguistic and lifestyle specificities that distinguish it from others; its non-dominant or subordinated position in the society; self-awareness and solidarity among its members, chiefly in the aspiration to preserve the group’s identity. Sometimes, this list includes citizenship in the sense that only citizens of the country of residence can be referred to as a minority. However, general definitions are a poor reflection of a complex and changeable social reality, and it is rare to find situations where all of these characteristics are present and ideally match the definition. Furthermore, the concept of “minority” is sometimes used arbitrarily because of political or ideological considerations. In

fact, minorities are, often, only those whom the state recognizes as minorities.

In spite of all complexity inherent in the use of “minority” as a concept, it is widely used in national and international law, and the idea of minority as a theoretical model makes it possible to describe some important situations. If decision-making in a society is based on majority votes, minorities cannot protect their interests using conventional procedures; this implies a need for special mechanisms to ensure these interests are considered. If minorities include those who do not belong to the “main culture” (primarily understood as the language, behaviour models and traditions of the majority), and, therefore, face additional challenges in their everyday lives, they may need additional protective mechanisms.

The modern idea of “minority” used in international instruments implies that minorities are in no way second-class citizens, nor an element of an external environment to be controlled but are genuine and legitimate members of the society with special needs and interests. As a rule, international instruments refer to the protection of persons belonging to minorities, but not to the rights of minorities as collective entities. The protection of minorities includes three main components: the safeguarding of equality, opportunities to protect and express distinctive features, and participation in public life.

It should be noted that the problems faced by minorities in these three spheres result, as a rule, not from deliberate restrictions or



limitations, nor because of an intention to do them harm, but because public and social institutions are unable, or unwilling, to take the specificity of the situation and the needs of those who differ from the majority into consideration.

Participation

The participation of minorities or, more broadly, different ethnic groups in public life is a difficult and complex issue embracing several levels and dimensions. The concept includes individual, collective and organizational levels; political, social, economic and cultural dimensions; as well as substantive and symbolic aspects. The major components of ensuring participation comprise the elimination of formal and informal obstacles to comprehensive use by individuals of all their rights and freedoms; the elimination of social barriers between different groups and the creation of conditions for their cooperation and mutual understanding; an opportunity for individuals to express their specific needs and interests as members of ethnic, linguistic or religious groups; the recognition of all such groups as an integral part of society; opportunities for self-organization as members of groups for the protection and independent assurance of their interests; the creation of conditions so that special needs and interests of members of such groups can be expressed in public spaces and that they are taken into consideration in public decision-making.

Thus, participation appears to be inseparably linked with the protection of minority identities and assuring the equality of rights and opportunities for all members of society.

The distinction is, in the fact, that facilitating participation is a broader task than ensuring equality, as there is no need to directly compare individuals and the situations they are placed in. The complexity of the participation agenda is that it has to reconcile inconsistent tasks: On the one hand, it is necessary to eliminate the factors that impede people's social mobility, irrespective of their ethnic origin. On the other hand, there is a need to create conditions for the preservation, expression and protection of their specific traits and interests related to this distinctiveness.

Although participation is understood in a broad and ambiguous way, it is of great practical importance as it implies the creation of a communication system, taking into account the specific needs of a social group, the elimination of barriers to social mobility, consolidation of societal cohesion and thus the prevention of destructive processes. International organizations and experts generally insist on the idea of effective participation as not only formal participation, but also as a process yielding desirable results. Experts usually connect the "participation" of a group in public life with the opportunity for its internal self-organization and inclusion in societal and political processes as a uniform group of interests.

The central issue within the general participation agenda is the opportunity for minorities to be a part of decision-making processes, especially in those decisions that directly relate to the minority. The key issue is the opportunity to constantly and



constructively interact and hold consultations with authorities and those who speak on behalf of minorities. Therefore, minorities should ideally be present at all levels of legislative power (for example, in local or national parliaments) and have a say in political decision-making, especially when the matter in question directly relates to them. At the same time, they should also be represented in public services and the labour market, as well as having access to mass media and education.

Representation

Discussions on minorities' participation in public life and minorities' representation have one common feature: a widespread tacit assumption that ethnic groups are internally cohesive social entities with a distinct way of life, capable of generating structures of representation and self-governance from within their own environment. Therefore, issues of "autonomy" – a group's ability to run its own internal affairs – are closely bound with issues of "representation" of the group with respect to larger society and authorities, as well as the delegation of accountability and responsibility to those representatives. This approach leads to the treatment of an ethnic community as a single social entity with a single, unified position, which in turn legitimizes the bureaucratic logic of simplifying the configuration of dialogue and reducing the number of entities to be communicated with.

There appear to be a number of uneasy issues with theoretical and practical importance: Who can participate in the formation of representative structures, or, in other words, what are the criteria for belonging to the group in need representation, and how can these criteria be applied in practical terms? Can representative structures or individuals adequately reflect the views or "interests" of the group as a whole? Under what conditions can such a structure or individual be independent of pressure from authorities while, at the same time, be effective in fulfilling its tasks?

Another closely related issue is the "authenticity" of political representation and of its substantive content; in other words, how fully and accurately do the delegates represent those who delegated them these powers of representation. Following Hanna Pitkin, modern political theory acknowledges four major dimensions of representation: Formal representation refers to vesting representatives with powers and formulating their accountability to those who delegate them. Symbolic representation refers to the legitimacy of representatives in the opinion of the represented. Descriptive representation means representatives' conformity to social parameters and those whom they represent (for example, women are represented by women, or Crimean Tatars by Crimean Tatars). Finally, substantive representation shows how far the activity of representatives reflects the interests of those whom they represent.⁷

⁷ H.F. Pitkin, *The Concept of Representation*. Berkeley: University of California Press, 1967, pp.

38–59; S. Dovi, *The Good Representative*. Oxford: Blackwell Publishers, 2007.



Issues related to fair, authentic and effective representation are discussed and resolved in various ways at different levels and in different professional communities. There are two notable aspects. First, the people and organizations taking on the representation of certain ethnic groups follow their own viewpoints and interests, which may not adequately reflect the views and aspirations of other members of the group. Second, the ability of a group to make their specific needs and interests visible and salient in the public sphere is only possible if there are people and institutions that claim their eligibility to represent them. Groups, as such, can only participate in politics and public life through those who speak in their name.

Mechanisms for the communications and participation of minorities in decision-making

Mechanisms for ensuring the participation of minorities in public life – in the sense of representing and upholding special needs and interests in the process of socially important decision-making – can be divided into two categories: mechanisms for general democratic participation and mechanisms for creating special conditions for minorities.

Mechanisms for general democratic participation, such as political parties, universal suffrage and free press, as well as representative institutions such as parliaments and municipal councils, enable citizens belonging to minority groups to participate in political life on equal footing with others. Decentralizing power and shifting decision-making to lower levels and

closer to voters (the subsidiarity principle) also increase minority capacities.

However, there are questions around the efficacy of such mechanisms: even if participation through common national institutions is facilitated without discrimination, the relatively small number of voters means that the interests and needs of minorities may not be taken into consideration. This highlights the need to have special representation mechanisms to compensate for the limited electoral capacities of minorities.

The following special mechanisms for minority representation are most often employed in the modern world:

- Removing percentage thresholds for minority political parties;
- Minority quotas in party lists within the framework of proportional electoral systems;
- Creating electoral constituencies in areas with a predominant minority population to ensure the election of minority candidates;
- Separate voting lists for minorities;
- Quotas or specially allocated seats in parliaments or other representative institutions;
- Advisory or consultative bodies;
- Special representatives on the affairs of a certain minority.



Quotas for minorities in the executive are only used as extreme and exceptional solutions.

Autonomy arrangements occupy a special place. The autonomy of a certain geographic area is not necessarily conditioned on the predominance of a certain ethnic group, but autonomy is often established for the purpose of granting more opportunities to a compactly settled minority population. Notably, autonomy facilitates the participation of minorities in public life in two ways: it provides an opportunity for the minority to run its own internal affairs independently, and it allows them to have a say at the national level if the autonomous territorial unit is represented at the central parliament or government, or if it forms an independent electoral district.

Technical mechanisms and solutions for facilitating communication, for example the opportunity to use the minority language in official paperwork or in receiving public services, can also support the more effective participation of minorities in cultural, social and economic life and public affairs.

International legal framework

From a legal point of view, Eastern Partnership countries are obliged to respect their international commitments, which generally stipulate the equality of all citizens irrespective of origin, language or religion, and guarantee opportunities for their full participation in all spheres of the society's life.

The right to participation may have many interpretations, including the participation of persons belonging to an ethnic group in societal life, the right of a group to participate in decisions that are important for the entire society, and the right of an individual to participate in the life of his/her group. The normative framework for participation and representation is not very well developed. Usually, the substantiation of the “right to participation” implies references to major instruments on human rights that underpin the democratic form of governance.

For example, Article 25 of the International Covenant on Civil and Political Rights says:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions:

- a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- c) To have access, on general terms of equality, to public service in his country.

The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (Resolution of the UN General Assembly No 2625 (XXV) from 24 October 1970) states, *inter alia*, that territorial integrity and political unity of sovereign and independent states shall be



protected if they are “conducting themselves in compliance with the principle of equal rights and self-determination of peoples <...> and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour”.

A number of international conventions, such as the UN International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) point to the need to dismantle interracial and interethnic barriers in public life.

The 1992 UN Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities is not legally binding and does not establish any monitoring mechanism or judicial proceedings. Nevertheless, the Declaration establishes important political and moral obligations on UN member states. Under Article 2 of the Declaration:

<...>

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

3. 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 for the Protection of National Minorities (FCNM), opened for signature in 1995 and having come into effect in 1998, is a legally binding multilateral document entirely devoted to the protection of national minorities. It is aimed at ensuring the full and effective equality of national minorities by creating conditions that enable them to develop their culture and preserve their distinctiveness. The Convention establishes norms concerning persons belonging to national minorities, such as the freedom of peaceful assembly, freedom of association, freedom of expression, freedom of thought, conscience and religion, access to mass media, as well as rights related to the use of language, access to education, transboundary cooperation and so on.

The FCNM does not contain a definition of a “minority” and leaves this issue to the discretion of participating countries. However, the Advisory Committee on the Framework Convention insists that the FCNM shall be applied in line with its goals and spirit, effectively proscribing the arbitrary exclusion of groups from the scope of the Convention on such grounds as official recognition, citizenship, history of settlement, residence and so forth.

The FCNM only covers the individual rights of persons belonging to minorities; Paragraphs 13 and 31 of the Explanatory Report to the Convention explicitly stress that the FCNM does not envisage any collective rights. The Convention is truly a framework document; the generic character of its provisions mean it cannot be applied



directly, but requires translation into national legislation. The FCNM establishes a weak protective mechanism: individual petitions are not possible, and the implementation of the Convention is monitored by the Advisory Committee comprised of independent experts.

The FCNM's substantive provisions contain five major interconnected components of minority protection:

The first is the actual assurance of general human and civil rights for persons belonging to minorities along with protection against discrimination (Article 4, para. 2; Article 6, para. 3, Article 12 of the FCNM). It is significant that the FCNM specifies “full and effective” equality rather than formal equality, implying that positive measures for upholding minorities should not be considered discriminatory (Article 4, para. 3).

The second component concerns “protective” civil and cultural rights – protection against any arbitrary interference or the prohibition of any activities aimed at maintaining, expressing and protecting the group identity. This differs from the first component in that fundamental rights and protection from discrimination can be brought to bear where the right to express cultural distinctiveness is negated or violated. Several FCNM articles (Articles 5, 7, 8, 9, 10, 13, 14, 17) also proscribe arbitrary prohibitions and restrictions related to the expression of minority identity.

The third component is the symbolic recognition of minorities in the official domain. Although the FCNM omits the issue of group recognition as such (for example, in population censuses), it sanctions the use of toponymics (names of localities on maps or road signs) and proper names according to their minority-language spelling (Article 10, para. 2; Article 11).

The fourth component relates to positive measures by the state to support minority cultures and languages. The FCNM does not formulate such provisions as unambiguously binding and provides no criteria for determining their necessity or sufficiency; it does not specify, for example, what amount, in which particular areas, under which conditions and what type of resources can or should be allocated. The Convention contains only general guidelines on possible support for schools and mass media outlets serving minorities under certain conditions (Article 14, para. 2). However, according to the Advisory Committee and international experts, an explicit demand for certain public services that support and facilitate minority languages and cultures, together with the objective capacity of the state to provide such services, constitute necessary and sufficient conditions for considering that the state is obliged to provide such support under the auspices of the FCNM.

The fifth component concerns the integration and “participation” of minorities in public life (Article 15) and the promotion of tolerance and cooperation between different population groups (Article 6, para. 1 and Article 11).



Article 15 on participation is formulated in the most general way:

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.

It is important to note here that the FCNM addresses “effective” participation – one that yields practical results rather than being tokenistic. It is also essential that Article 15 contains reserved and ambiguous phrases, which do not directly prescribe the forms and degrees of participation to be ensured.

The Advisory Committee on the Framework Convention can issue thematic commentaries containing interpretations of the FCNM. The Commentary “On the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs” (2008) is especially important. It sums up the results of monitoring the Convention’s implementation across party states and summarizes the positive practices observed in Europe. The Commentary shows the complex nature of minority participation in public life and the inseparability of various minority-related policies, such as the securing of full and effective equality, minority self-organization and flexible consideration of minorities’ interests and needs.

In 1992, the Conference on Security and Cooperation in Europe (in 1994 renamed the Organization for Security and Cooperation in

Europe (OSCE)) set up the role of High Commissioner on National Minorities (HCNM). The HCNM’s mandate is diplomatic in character; the Commissioner works for the early identification and resolution of ethnic tension and conflict. The work is confidential, which means that the Commissioner uses the tools of quiet diplomacy, has no right to engage in legal disputes, and should abstain from public assessments or statements related to the situation in individual countries. He/she has the right to submit expressions of concern to the governments of member states and to issue guidelines, developed by experts with regard to minorities, on the situation in a country or on a certain general subject.

The HCNM has issued a number of thematic recommendations: the Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999) and the Ljubljana Guidelines on Integration of Diverse Societies (2012) are of particular importance for the analysis of the issues raised in this report.

The sense and orientation of the Ljubljana guidelines are very precisely formulated in the introduction to the document:

<...>

If diverse societies do not have good integration policies, there is the danger that different communities, particularly large and territorially concentrated ones, may become increasingly separate, with few or no common interests and no shared sense of belonging. Such separation into parallel and unconnected societies poses a considerable risk to the viability and stability of any multi-ethnic



State. This risk can be mitigated through a well-managed integration process, which can play a crucial role in preventing tensions from escalating into conflict and is also a prerequisite for building an equitable society. Integration is directly connected with meeting the responsibilities that sovereignty entails, including respecting human rights and ensuring good and effective governance, and it is intimately related to the overall stability of any pluralist society.

With regard to minority participation in political life and the development of generally valid decisions, paragraph 14 of the Guidelines say the following:

States should ensure that all interested members of society, including persons belonging to minorities, enjoy adequate opportunities to have an effective voice at all levels of government, especially with regard to, but not limited to, those matters directly affecting them. In particular, representatives of all interested groups should be effectively consulted when elaborating and implementing integration policies. They should also participate in monitoring and evaluating the effectiveness of such policies.

Effective participation requires, *inter alia*, that minority representatives are able to exert substantial influence on the policy-development process, thereby facilitating shared ownership of the outcomes. Simply permitting formal involvement is not sufficient. Examples of means and instruments that facilitate effective participation include electoral arrangements, specialized governmental bodies, consultative mechanisms,

participatory decision-making procedures and awareness-raising campaigns. Special efforts should be made to identify barriers to participation and ways to overcome them.

The Lund Recommendations are aimed at encouraging and supporting special measures to facilitate the effective participation of national minorities in public life. The Recommendations consist of four components: 1. General principles specifying, among other things, the importance of the effective participation of national minorities in public life and the obligation of states to respect internationally recognized human rights. 2. Support for participation in decision-making through elections, measures undertaken by central governments and other mechanisms at regional and local levels, as well as consultative and advisory bodies. 3. Securing the effective participation of minorities through territorial and non-territorial self-government mechanisms. 4. Constitutional and legislative guarantees and other tools ensuring effective participation in public life.

Advisory and deliberative bodies are of special interest, as they relate to a wide spectrum of public issues including infrastructure and social aspects of diversity. In particular, states should establish such bodies within institutional frameworks where appropriate to ensure dialogue between state structures and national minorities. These bodies should be able to raise issues before decision-makers, prepare recommendations, formulate legislative and other proposals, monitor relevant situations and present their



opinions on any government proposals that can expressly or implicitly impact minorities.

3) Previous studies

National minorities in Belarus, Moldova and Ukraine have drawn the interest of international organizations, legal experts and researchers within the general framework of human rights protection. Minority participation in public life is only one aspect of minority protection and is overshadowed by other problems. Nevertheless, this issue is discussed and reflected in a number of reports and publications. The present report is not a substitute for other descriptive and analytical materials, nor is it a compilation; our purpose is to attract attention to systemic problems within the three countries and to propose possible solutions.

The least informative publications are the outputs of UN monitoring because minority issues are not a priority for UN bodies. Information on the minority situation in the three countries appears in periodic reports on compliance with the International Covenant on Civil and Political Rights, the ICERD and the Universal Periodic Review (UPR) of the human rights situation at the national level.⁸ The work of the UN Special Rapporteur on minority issues⁹ is of great importance. UN materials are especially valuable for the study of minority issues in Belarus, which is cooperating with the Human Rights

Committee and the Committee for the Elimination of Racial Discrimination.¹⁰

Being a member of the Council of Europe (CoE), Moldova and Ukraine periodically report on the implementation of the FCNM,¹¹ and Ukraine also reports on the European Charter for Regional or Minority Languages.¹² Reviews of the respective CoE bodies provide a detailed analysis of the current issues and processes, while the comments and recommendations point out the gaps and shortcomings in legal regulation.

The OSCE (and especially the HCNM) has a special role in monitoring the situation in Ukraine and Moldova. The HCNM pays particular attention to minority participation in public life and state policies related to minorities. For example, on 10 March 2016, under the aegis of the HCNM, the Ukrainian parliament (*Verkhovna Rada*) held a round table devoted to the interaction between authorities and minorities.

Minority participation in public life has not yet become a priority for NGOs or research centres. One of the very few exceptions is a review on the integration of national minorities in the post-soviet space, prepared by the Institute for European Policy and Reforms (Moldova) and the International Institute of World Policy.¹³ It is important to note that minority organizations themselves

⁸ <http://www2.ohchr.org>.

⁹ <http://www.ohchr.org/EN/Issues/Minorities/SRMInorities/Pages/SRminorityissuesIndex.aspx>.

¹⁰ <http://www2.ohchr.org>.

¹¹ <http://www.coe.int/en/web/minorities/country-specific-monitoring>.

¹² http://www.coe.int/t/dg4/education/minlang/Report/default_en.asp#Ukraine.

¹³ *Integration of national minorities in the post-soviet space – Ukraine and the Republic of Moldova*. December 2015.

<http://iwp.org.ua/eng/public/1884.html>.



raise issues of participation and communication with authorities at meetings arranged by parliaments and governmental bodies (mainly in Ukraine), but almost never publish any materials and do not hold any campaigns in relation to these issues on their own initiative. The only exceptions are some individual organizations dealing with specific issues, such as minority political parties or programmes for the support of Roma people.

II. Legal frameworks in Belarus, Moldova and Ukraine

For the purposes of this report, the term “legal framework” means the formal provisions of constitutions, laws, other regulatory legal acts, international agreements and other international instruments used by the states – at least as theoretical guidelines – for protecting minorities and ensuring their participation in public life.

All three countries have similar legislation concerning minority protection. Belarus is different because it is not a member of the CoE and is therefore not subject to its conventions and other instruments.

All three countries participate in major UN agreements related to minority protection. All are members of the OSCE and are subject (at least formally, in the case of Belarus) to its recommendations regarding the treatment

of minorities. Moldova and Ukraine are members of the CoE and parties to all its conventions.¹⁴ All three countries participate in bilateral treaties and agreements that contain provisions on minority protection or are exclusively devoted to their support.

At the domestic level, the constitutions of all three countries contain norms acknowledging, in general, the ethnic diversity of their populations and the equality of rights of all the citizens irrespective of their ethnic belonging. National laws on minorities have been adopted in all three countries, having been initiated during the soviet period; they are generally of declarative character without clear mechanisms or guarantees of implementation. All three laws contain general norms on interaction between the state and minority organizations, as well as on the need to take minority interests into account. Language legislation, the laws on political parties, elections and local self-government also contain provisions concern minorities and usually refer to their specific needs. Structures for diversity management and interaction between governmental bodies and minority organizations are usually set up on the basis of executive acts.

The following sections provide details of the pieces of legislation related to minorities, broken down by each of the three countries in focus and by legislative level.

¹⁴ Moldova has signed but has not yet ratified the European Charter for Regional or Minority Languages.



1. Belarus

International obligations

Article 21 of the Constitution proclaims that “the state guarantees the rights and freedoms of citizens of Belarus enshrined in the Constitution and laws and specified by the state’s international obligations”. However, the Constitution does not contain provisions stipulating that international treaties are directly applicable and have primacy over domestic norms if they contradict them. The implementation of international treaties is realized through their incorporation into the national legislation.

Belarus is party to international conventions, adopted within the UN system, on the protection of minorities and on combating racial and ethnic discrimination. Among them are the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the ICERD (1965), the Convention on the Rights of the Child (1989), and the UNESCO Convention against Discrimination in Education (1960). Belarus does not recognize the right to file individual complaints according to Article 14 of the ICERD.

The Republic of Belarus is not a member of the CoE and is not a party to the European conventions related to the protection of minorities.

Belarus is a member of several treaties adopted within the framework of the Commonwealth of Independent States (CIS), an intergovernmental formation that includes

most of the countries of the former USSR, concerning the protection of minorities and non-discrimination as well as the regulation of migration. Among them is the CIS Charter, adopted in 1991, whose Article 3 ensures human rights and fundamental freedoms for all regardless of racial and ethnic belonging, language, religion, political and other views; the CIS Convention on Human Rights and Fundamental Freedoms (1995), which includes Article 20 on equality and non-discrimination and Article 21 on the rights of persons belonging to minorities; the Agreement on the Restitution of the Rights of Formerly Deported Persons, National Minorities and Peoples (1992); and the Agreement on Cooperation in Education (1992).

The CIS Convention on Providing the Rights of Persons Belonging to National Minorities (21 October 1994) mostly duplicates the principles of the law of the Republic of Belarus “On Protection of National Minorities” and uses the same terminology (see below). The Convention entered into force in January 1997 after having been ratified by Belarus. Belarus was the third of five countries to ratify the Convention, but it remains inactive, like other CIS instruments, due to a lack of political will and motivation to apply it.

Almost all bilateral framework treaties about friendship and cooperation that Belarus has concluded with other countries, including CIS members, contain provisions on mutual obligations to protect minorities. In 1999, Belarus signed an “Agreement between the Republic of Belarus and Ukraine about



Cooperation in Ensuring the Rights of Persons Belonging to National Minorities”. Apart from that, a number of intergovernmental and inter-institutional agreements on the protection of minorities were signed with other countries and entered into force.

General constitutional and legislative norms on ethnic communities

Constitution¹⁵

The 1994 Constitution of Belarus (with amendments approved at the republican referenda of 24 November 1996 and 17 October 2004) contains some provisions directly connected with ethnic relations.

Article 14. The state shall regulate relations among social, ethnic and other communities on the basis of the principles of equality before the law and respect of their rights and interests. <...>.

Article 15. The state shall bear responsibility for preserving the historic, cultural and spiritual heritage, and free development of cultures of all the ethnic communities that live in the Republic of Belarus.

Article 22. All shall be equal before the law and entitled without discrimination to equal protection of their rights and legitimate interests.

Article 50. Everyone shall have the right to preserve one’s ethnic affiliation and

equally, no one may be compelled to define or indicate one’s ethnic affiliation. Insults to ethnic dignity shall be prosecuted by law. Everyone shall have the right to use one’s native language and to choose the language of communication. In accordance with the law, the state shall guarantee the freedom to choose the language of instruction and education.

Laws

The law “On National Minorities in the Republic of Belarus” was enacted and brought into effect on 11 November 1992. The law was modified and amended in 2003 and 2007 but these updates did not essentially change its contents.

Article 1 of the law defines persons belonging to national minorities as “persons permanently residing on the territory of the Republic of Belarus and having citizenship of Belarus whose origin, language, culture or traditions are different from those of the main population of the republic”. Article 2 stipulates that belonging to the national minority is a matter of personal choice and this choice does not have any unfavourable consequences. Article 5 says that nobody can be forced to determine and indicate his (her) ethnic affiliation, nor prove or deny it.

Mechanisms of implementing the law are provided, in general, by means of declarative and reference norms. Article 7 establishes that consultative bodies consisting of national

¹⁵ Belarusian legislation is quoted according to the national online database of the Republic of Belarus, <http://pravo.by/>.



minority representatives may be created and function on a voluntary basis under local Councils of Deputies, who determine the procedure of creating them. Article 8 contains general provisions stipulating that the state “in the way established by the legislation” shall assist in creating the conditions for the development of national minorities’ education and culture by allocating the necessary funds for this purpose out of national and local budgets. Furthermore, it declares the right of minority public associations (Article 9) to carry out entrepreneurial activity according to the legislation and (Article 10) to create cultural and educational institutions. Other public associations also have similar rights.

However, Article 12 prohibits the creation and activity of public associations if they contradict the legislation, but also “if the mentioned public associations are organizationally connected or are a part of the political organization of a foreign state”. This is open to broad interpretation and, consequently, can be arbitrarily used to terminate the activities of minority organizations that consider contact with ethnically related states to be essentially important and that receive their support.

Other laws and norms related to ethnic groups’ participation

National minorities are mentioned in the 1990 law of Belarus “On Languages” and the 1991 law “On Culture of the Republic of Belarus”. The 2011 Code on Education of the Republic of Belarus (Law No 243-Z, 13

January 2011 with subsequent amendments) contains the following provision:

According to the wishes of pupils, students and their lawful representatives, under the decision of local executive and administrative bodies coordinated with the Ministry of Education of the Republic of Belarus, groups can be created in preschool educational institutions, classes and groups in general secondary educational institutions, or in preschool and general secondary educational institutions, in which teaching and upbringing shall be held in the language of the national minority, or the national minority language shall be studied as a subject.

The main problems with the legislation are the reservations contained in such phrases as “can be created” and “under the decision of executive and administrative bodies”. Authorities have an opportunity to use this margin of appreciation to the detriment of minorities, while minorities have no effective channels for interacting with and impacting the decisions of authorities, as shown below, in Section IV (1).

The powers and modes of activity of the bodies responsible for policies related to minorities, as well as the format of their interaction with minority organizations, are determined by the governmental acts and those of the respective departments.

2. Moldova

International obligations

The Constitution of the Republic of Moldova establishes the supremacy of international



law over national legislation (Article 4, part 2). In 1993, Moldova joined the International Covenant on Civil and Political Rights and the ICERD. Moldova also participates in other major institutions on human rights including the European Convention on Human Rights (ECHR) and other instruments of the CoE. In 1996, Moldova signed and ratified the FCNM. Bilateral agreements on the protection of minorities were also signed with Ukraine, Bulgaria, Russia, Poland and Belarus. In 2002, Moldova signed, but has not yet ratified, the European Charter for Regional or Minority Languages.

General constitutional and legislative norms on participation¹⁶

Moldova's effective constitution of 29 July 1994 contains provisions which indirectly affirm the idea of the national statehood of the Moldovan ethno-nation. The preamble mentions the "continuity of the Moldovan people (*poporului moldovenesc*) statehood within historical and ethnic framework of its growing as a nation", and satisfaction "of interests of citizens of a different ethnic origin who alongside with the Moldovans constitute the people of the Republic of Moldova (*poporul Republicii Moldova*)". At the same time, the constitution says that "national sovereignty resides with the people of the Republic of Moldova" as a whole (Article 2, part 1) and that the national unity of Moldova constitutes "the foundation of the state" (Article 10, part 1).

The constitution does not mention minorities or any other groups, but according to Article 10, part 2 "the state recognizes and guarantees all its citizens the right to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity". All citizens of the Republic of Moldova are equal "before the law and public authorities regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin" (Article 16, part 2) and the law "shall forbid and prosecute all actions aimed at denying and slandering of the state and the people, instigation to sedition, war of aggression, national, racial or religious hatred, incitement of discrimination, territorial separatism, public violence, or other manifestations encroaching upon the constitutional order (Article 32, part 3). Further, the constitution provides that although the state language of the Republic of Moldova is "Moldovan based on the Latin alphabet" (Article 13, part 1), the state "shall acknowledge and protect the right to preservation, development and functioning of the Russian language and other languages spoken within the territory of the state" (Article 13, part 2).

Law on Minorities

The major national law regulating ethnic relations is the law "On the Rights of Persons Belonging to National Minorities and the Legal Status of their Organizations" (No 382-XV, 17 July 2001; hereinafter referred to as the Law on Minorities). In the preamble, the

¹⁶ The legislation quoted here is based on the online legal database of *Registrul de Stat al Actelor Juridice al Republicii Moldova*, <http://lex.justice.md/>.



Law on Minorities demonstrates the commitment of Moldova to comply with international norms, including the FCNM, on the protection of minorities. The law also acknowledges the ethnic, cultural and linguistic diversity of Moldova throughout its history. It guarantees that belonging to a national minority is a matter of free personal choice which should not entail any unfavourable consequences for a person. Among other legal principles, the Law on Minorities makes it necessary to note the equality and non-discrimination of minorities (Article 4). Article 1, part 1 of the law identifies as persons belonging to national minorities those who reside in the territory of Moldova, have Moldovan citizenship, possess ethnic, cultural, linguistic and religious features that differ from the majority of the population (Moldovans) and consider themselves to be of a distinct ethnic origin.

The Law on Minorities does not provide a list of national minorities and does not establish a procedure for official acknowledgement, but there was a three-month period after its approval for the creation of implementation mechanisms and for bringing other legislation into conformity with it (Article 29). Nevertheless, this was done to a limited degree; legal collisions persist in some areas and there are still gaps in the regulation.

Other acts

Moldova has no special mechanisms for hiring representatives of minorities to public authorities. Article 3, part 6 of the Law of Moldova “On Political Parties” (No 294, 21 December 2007) says that “the

establishment and activity of political parties on the basis of discrimination based on race, nationality, ethnic origin, language, religion, gender, property status or social origin are prohibited”. Only nation-wide parties can function, because Article 8, part 1 (d) stipulates that “at the time of the parties’ establishment, it must have members resident in at least half of the second-level administrative–territorial units of the Republic of Moldova, with no fewer than 120 residents in each of the administrative–territorial units”.

Gagauzia

Gagauzia which is ethnically distinct from the rest of Moldova enjoys a special legal regulation at the national level and also has its own legislation; hence it is described in a separate subsection.

Gagauzia is a territorial autonomy explicitly and unambiguously proclaimed on behalf of the Gagauz ethnic group on the basis of a law adopted by central authorities – not inherited from the former communist regime. The major, largest and “titular” Gagauz ethnic group is a Turkic-speaking people who have historically confessed Orthodox Christianity. Gagauzes moved from the Balkans to the Budzhak steppes in southern Bessarabia together with some other ethnic groups, such as Bulgarians and Albanians. At present, this territory is divided between Moldova and Ukraine.

The Gagauzian Autonomy was established in 1994 after a long conflict between the self-proclaimed authorities of the Gagauzian



region and central authorities of Moldova. The Gagauzian national movement, and Gagauzian elite as a whole, agreed to the autonomous status of Gagauzia, considering self-administration to be a potentially effective solution to the region's internal problems, and, at the same time, saw autonomy as a means of representing and protecting the interests and needs of Gagauzia and Gagauzes vis-à-vis Moldova's central authorities. The existing arrangement can be considered a success as long as conditions for the region's peaceful development have been created, but the current situation has prompted numerous grievances both on behalf of Gagauzia's administration and of the political elite of Moldova.

The special status of the Autonomous Territorial Unit of Gagauzia¹⁷ (ATUG) is enshrined by the Constitution of Moldova (Article 111)¹⁸ and defined by the national organic law "On the Special Legal Status of Gagauzia (Gagauz Yeri)" (No 344-XIII, 23 December 1994) (hereinafter referred to as the Law on Autonomy). Since 1998, the ATUG has had its own basic law called the Code (*Ulozhenie*). The ATUG representative body is the Gagauzian People's Assembly (GPA), which has limited legislative powers in the spheres of education, culture, sports, public works, regional budgeting, territorial administration and some other issues at the regional level. The People's Assembly is formed on the basis of a direct general vote

with a majoritarian system of single-seat constituencies. Gagauzia's highest public official is the *Bashkan* (Governor), elected on the basis of a general direct vote within the region, who has authority over all public administrative bodies of the ATUG. The Executive Committee appointed by the GPA, upon presentation of candidates by the *Bashkan*, acts as the executive authority.

The Law on Autonomy (as well as the Constitution of the Republic of Moldova) failed to clearly define the powers of the ATUG, nor the relationship between this law and other legislative acts of the Republic of Moldova. The GPA has the right of legislative initiative in the Parliament of Moldova, but Gagauzia has no special representation in the republic's Parliament; Gagauzia has members in the Republic of Moldova's Parliament, but they are not institutionally connected with the ATUG authorities and do not represent their interests. The ATUG's direct representation at the central executive authorities is actually confined to the *ex officio* membership of the Head of Gagauzia in Moldova's government. Article 19 of the Law on Autonomy provides that, upon proposal from Gagauzia's *Bashkan*, the heads of regional branch offices of the executive power can be members of collegiums of respective ministries and departments. In case of any conflict between the central power and the ATUG on issues related to a breach of the region's authority, the dispute may be transferred by the GPA to

¹⁷ In the Law on Autonomy of Gagauzia – "Territorial Autonomous Unit with a Special Status".

¹⁸ Until July 2003, Article 111 stipulated the possibility of creating territories with a special status;

nowadays, the general provision of autonomies can be found in Article 110, while Article 111 establishes the autonomous status of Gagauzia only.



the Constitutional Court of Moldova; however, the leadership of Gagauzia has resorted to this mechanism rarely and ineffectively.

Specific situation in the Transnistrian region

Moldova also plays host to the more controversial Pridnestrovian (Transnistrian) Moldovan Republic (PMR), which is not recognized by the international community. Since the territory's status is defined in Moldova's law and the entity has its own legislation, the PMR is described separately. The PMR is located mainly on the left (eastern) bank of Dniester, although some left-bank villages come under the jurisdiction of the Republic of Moldova. The PMR also controls the city of Bendery and some other enclaves on the right bank. The de-facto government of the left bank considers the PMR to be a sovereign state, having proven its independence through warfare and several referenda. The Republic of Moldova considers the PMR to be an integral part of the country, illegally held by a separatist regime with Russia's support.

The PMR has acquired all the attributes of statehood including a president directly

elected by the population, a parliament (Supreme Soviet), government, armed forces, police, customs service and a system of local territorial administration. Most analysts characterize the PMR as a regime of centralized presidential rule based on authoritarian governance with external democratic attributes, loyalty of the electoral majority and the concentration of real power in the hands of power structures and local financial–industrial corporate groups.

According to a 2015 census held by the Transnistrian government, the PMR population comprised 475,665 persons¹⁹ (compared with 684,000 in 1989)²⁰. The 2004 census showed an ethnic breakdown with Moldovans making up 31.9% of the total population, Russians 30.3%, Ukrainians 28.8% and the remainder being a mix of smaller ethnic groups, mainly Bulgarians, Belarusians, Tatars and others.²¹

The preamble to the PMR Constitution of 1996²² defines the “people” as “multinational”, but only mentions minorities or ethnic groups in Article 8, part 2: “The state shall regulate relations between social, national and other communities on the basis of principles of equality and respect to their rights and interests”. The concept of

¹⁹ Краткие предварительные итоги переписи населения Приднестровья 2015 года [Brief preliminary results of 2015 Transnistrian census], <http://gov-pmr.org/item/6831>.

²⁰ See N.V. Babilunga, B.G. Bomeshko, P.M. Shornikov *Statehood of Pridnestrovie, history and modern age*. Bendery, Poligrafist 2007, p. 87 [Бабилунга Н. В., Бомешко Б. Г., Шорников П. М. *Государственность Приднестровья: история и современность*. Бендеры : Полиграфист, 2007, С.87].

²¹ According to the Transnistria census of 2004, *Demoscope-Weekly*, No 213–214, 12– 25.09.2005, <http://demoscope.ru/weekly/2005/0213/panorm01.php#2>.

²² The Constitution, laws and other normative and legislative acts of Transnistria are quoted here, and below, according to the official legal database available at the official website of the TMR, <http://president.gospmr.ru/ru/zakon>.



regulating relations between national communities has definite soviet roots and can be also found in the Constitution of Belarus. The PMR Constitution proclaims equal rights and freedoms for all people “without any differentiation based on gender, race, nationality, language, religion, social origin, belief, personal and social standing” (Article 17). Article 12 designates Moldovan, Russian and Ukrainian as official languages on equal footing.

In fact, the Russian language dominates the public sphere including government, education, mass media and culture, while the scope of application of the other two official languages is gradually shrinking, partly because of the decreasing number of speakers. Insufficient attention is paid to minority groups (other than the three major ethnicities) and languages (other than the three official ones).²³ At the same time, official statements, educational literature and publicly facilitated cultural and folkloristic events aim to emphasize the multi-ethnic and multicultural nature of Transnistrian society; in other words, small groups are symbolically recognized and present in the public space. This strategy can be considered effective in the sense that there are practically no open conflicts or noticeable cases of discontent with the official ethnocultural policy.

3. Ukraine

International obligations

Under Article 9 of the Ukrainian Constitution of 1996, “international treaties that are in force, agreed to be binding by *Verkhovna Rada* of Ukraine, are part of the national legislation of Ukraine”. Ukraine participates in all the major universal and European international instruments on human rights including the International Covenant on Civil and Political Rights and ICERD. Ukraine also participates in other major UN conventions on human rights and is party to all major CoE instruments on human rights including the ECHR, the revised European Social Charter and the FCNM; Ukraine has also signed and ratified the European Charter for Regional or Minority Languages. There are some provisions concerning the safeguarding of rights of persons belonging to ethnic minorities in international agreements concluded between Ukraine and neighbouring states, in particular with Poland (1992), Moldova (1996), Romania (1997), the Republic of Belarus (1997) and Russia (1997). Ukraine has also signed a separate Cooperation Agreement with Moldova which aims to ensure the rights of persons belonging to national minorities, but this has not yet been ratified by the Moldovan parliament.

²³ Hammarberg, T. *Report on Human Rights in the Transnistrian Region of the Republic of Moldova*, 14 February 2013. United Nations,

http://www.undp.org/content/dam/moldova/docs/Publications/UN_MD_Senior_Expert_Hammarberg_Report_TN_Human_Rights.pdf, p. 36.



General constitutional and legislative norms on participation²⁴

Constitution

Article 21 of the 1996 constitution acknowledges the equality of all people in their dignity and rights, as well as the inalienability and inviolability of these rights and freedoms. The constitution provides for equal constitutional rights and freedoms, as well as equality before the law without distinctions “based on race, colour of skin, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics” (Article 24). At the same time, the constitutional rights and freedoms of persons and citizens are not exhaustive, nor can they be abolished or diminished in their content or volume by means of the adoption of new laws, or in the amendment of existing laws (Article 22).

Article 10 of the constitution notes that “the free development, use and protection of Russian and other national minority languages of Ukraine is guaranteed”. Article 11 states that, “the state promotes the development of an ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine”. Article 53 specifies that “citizens belonging to national minorities are guaranteed, in accordance with the law, the right to receive instruction in their native language, or to study their native language in state and

communal educational establishments and through national–cultural societies”.

Laws

The law “On National Minorities in Ukraine” (No 2494-XII, 25 June 1992) is the basis of ethnic policy; it was approved long before the Constitution of Ukraine or the FCNM. The biggest problem with the law is its declarative character and the lack of a mechanism for implementation. The law defines national minorities as “groups of Ukrainian citizens, who are not of Ukrainian nationality [ethnicity], but demonstrate a feeling of national self-awareness and affinity” (Article 3). It contains general provisions such as the equality of Ukrainian citizens and equal protection of the state (Articles 1 and 18); equal rights of citizens to be elected or appointed to any position in legislative, executive and judicial bodies, local or regional self-governments, armed forces, enterprises or other establishments and organizations; free choice of nationality [ethnicity] and spelling of personal names (Articles 11 and 12); and the right to association and support by the state of minority associations (Articles 13, 15 and 16). The initial version of the law envisaged the formation of standing commissions, under the *Verkhovna Rada* and local municipal councils, on the issues of interethnic relations. It also allowed for the creation of special structural units in local executive bodies and advisory bodies, formed of national minority representatives, under municipal councils (Article 5). In

²⁴ Ukrainian legislation is referred to according to the *Verkhovna Rada* database of Ukraine, <http://zakon2.rada.gov.ua/laws>.



2012, Article 5 was revised, and these initial provisions were pared down to a mere statement that the central executive authority appointed by the president ensures the development and implementation of state policy in the areas of interethnic relations and the protection of minorities. It was also stipulated that local representative bodies can set up standing commissions, while local state administrations can set up structural units of their own.

Some provisions on the legal protection of national minorities can be also found in Ukrainian laws “On Education” (1991), “On the Freedom of Conscience and Religious Organizations” (1991), “On Petitions of Citizens” (1996), “On Local Self-Government in Ukraine” (1997), “On Citizenship of Ukraine” (2001), “On Culture” (2011), “On Public Associations” (2012), “On Higher Education” (2014), and in other legislative acts.

Norms directly related to minority participation

The Ukrainian law “On Political Parties” (No 2365-III, 5 April 2001) does not establish any restrictions on the formation of political parties by national minority representatives. Membership of political parties is free, and parties cannot limit it to any ethnicity.

The Law of Ukraine “On Election of People’s Deputies of Ukraine” of (No 4061-VI, 17 November 2011) (later revised and amended) guarantees equal electoral rights to citizens irrespective of their ethnicity. The

law also contains guarantees against the division of single-member constituencies that would “disperse” the national minority vote and prevent them from electing “their” candidates. Article 18 specifies that:

<...> the borders of single-member constituencies are defined, taking into consideration the borders of administrative–territorial units, interests of territorial communities, and the settlement of national minorities in certain territories. Administrative–territorial units with compact settlements of particular national minorities and bordering each other shall constitute one electoral constituency. If the number of voters belonging to national minorities is higher than needed to form one electoral constituency in neighbouring administrative–territorial units, such constituencies are formed in a way that voters belonging to national minorities form the majority of voters in one of them.

The law “On Local Elections” (No 595-VIII, 14 July 2015) does not give preference to national minority representatives. Article 4 of the law prescribes the equality of rights and opportunities to participate in the electoral process, ensured through the prohibition of privileges and restrictions for candidates on various grounds (race, colour of skin, political, religious and other beliefs, ethnic and social origin, wealth, place of residence, language and other characteristics).

Article 9 of the law “On Local Self-Government” (No 280/97-BP, 21 May 1997) devoted to local initiatives provides greater opportunities for voters to take part in the work of local representative bodies.



According to this article, members of territorial communities (*hromadas*) have the right to initiate the consideration of any issue for which local self-government is responsible; therewith, a local initiative submitted for consideration to the council in due order shall be subject to obligatory consideration at an open meeting of the council, with the participation of the group responsible for initiating the motion.

Regional acts

Legal acts adopted mainly at the level of the province (oblast), such as targeted programmes and concepts on ethnic policy, are an important element of the system of interaction with ethnic minorities. Twelve regional target programmes directly related to ethnic minorities are currently in force in Ukraine: Vinnitsa, Volyn, Zaporizhzhia, Kirovohrad, Mykolaiv, Odessa, Kherson and Chernivtsi provinces (oblasts) have one programme each; Zakarpattia (Transcarpathian) oblast and the city of Kyiv have two programmes each. A typical example of these is the Regional Programme for the Support of National–Cultural Societies and the Ukrainian Diaspora in Chernivtsi oblast for 2016–2018. Its primary goal is to maintain the identity of national minorities within the oblast, providing financial support to ethnocultural societies for the restoration and preservation of their cultures and traditions. The programme contains a list of those actions of national–cultural societies and local authorities held in the oblast and financed from the regional budget.

III. Structure of ethnic diversity management

1. Belarus

Parliament

The Parliament of Belarus contains a specialized structure, called the Standing Commission on Human Rights, National Relations and Mass Media, within its House of Representatives. In the Council of the Republic (the chamber set up on the principle of territorial representation), the Standing Commission on Education, Science, Culture and Social Development also addresses ethnic relations.

Central executive power

Belarus had no special state structures dealing with the issues of national minorities within the executive at the national level until the mid-1990s; there were no mechanisms for cooperation between the government and national minority associations either. Later, the Committee for Religions and Nationalities was established under the Council of Ministers of Belarus. On 15 July 2006, the Committee was dismissed under Decision No 891 of the Council of Ministers and replaced by the Plenipotentiary for Religions and Nationalities.

The Plenipotentiary is appointed to his/her office by the president, upon the recommendation of the Council of Ministers, and is subordinate to the government. The responsibilities fulfilled by the Plenipotentiary and his/her apparatus (in relation to ethnic policy) include



participation in the development and implementation of state policy related to ethnicities and religious denominations; monitoring of relations between the state and associations of citizens self-identifying as members of a national minority, and control over the implementation of related legislation; submission of proposals on improvement of legislation based on the analysis of practices related to its application; assistance in the realization of rights of citizens in the areas of culture, education, language, information support; rendering assistance in the awareness activities of public associations of citizens identifying themselves as belonging to national minorities; assistance to civil society associations in concluding agreements with state structures; analysis and forecasting of religious and ethnopolitical developments as well as dynamics and tendencies of ethnic processes, interethnic and interreligious relations; and international cooperation within the scope of the Plenipotentiary's competence. The Plenipotentiary is responsible, in particular, for the consideration of complaints and petitions of citizens,²⁵ however no analysis of the nature and content of complaints and petitions has been published, and there is no data on how many of these refer to ethnic issues.

The Plenipotentiary participates in the development of legislation within his/her competence; specifies the mechanisms for its implementation; provides recommendations and consultations to local authorities; and

coordinates activities of the republican and local state bodies and public associations. He/she also arranges for research, analyses the state and dynamics of ethnic and confessional processes, and participates in preparing and holding cultural and awareness-raising events.

There has been an advisory body on ethnic issues for more than 20 years, which includes representatives of national-cultural societies, under the Council of Ministers or a high-level executive body responsible for nationalities policy. At present, the Plenipotentiary has the Interethnic Advisory Council and Council of Experts under his/her auspices.

Besides the special bodies established in the second half of the 1990s, sectoral ministries also play a significant role. The Ministry of Education of Belarus is responsible for arranging teaching in and of national minority languages, including the development and provision of didactic and educational materials to educational institutions, classes and groups where minority languages are taught.

The Ministry of Culture of Belarus is responsible for the support and financing of national minorities' initiatives in the sphere of culture: it provides organizational and financial support for holding art festivals, allocates funds for contests, exhibitions, and the functioning of art collectives within national minority associations, and secures the general conditions for the development of

²⁵ О работе органов по делам религий и национальностей Республики Беларусь с обращениями граждан [On the functioning of

bodies for religions and nationalities working with petitions of citizens in the Republic of Belarus], <http://belarus21.by/Articles/1423481925>.



the artistic creativity of national minorities. The Republican Centre for Nationalities Cultures was set up in 1994 as an affiliate of the Ministry of Culture and carries out a huge amount of work in support of the goals listed above.

The functioning of public authorities in the field of ethnic and cultural policy is mainly based on long-term programmes. “The programme for the development of the confessional sphere, national relations and cooperation with countrymen abroad for 2006–2010” was elaborated by the Plenipotentiary’s office and approved on 30 November 2006 by the Belarusian Council of Ministers. A similar programme for 2011–2015 was approved only by the board of the Plenipotentiary’s office but coordinated with a number of ministries. The priority of these programmes is to monitor religious organizations and interact with them; the ethnic components of the programmes include cultural and awareness-raising activities, overall monitoring of ethnic relations, studies of specific issues, the professional development of civil servants, and conferences and meetings with minority organizations.

Regional and local authorities

At the regional level, units (departments) have been set up for religions and nationalities in all oblast executive committees, as well as in the Minsk City Council of People’s Deputies. Their tasks are broadly similar to those of the Plenipotentiary with the exception of law-making and international cooperation. Coordinative councils of civil society and

national–cultural associations, political parties and trade-unions have been established in oblasts and cities; they cooperate or, rather, are guided by the respective departments on ideological issues within the state administration. Departments of culture within respective executive committees are responsible, among other things, for holding cultural events for national minorities and for the acquisition of funds for libraries in minority languages.

The corresponding state structures prioritize projects, programmes and events of intercultural character or those geared toward interethnic cooperation. The most successful activities are festivals of national cultures, which considerably energize the cultural and awareness-raising work of national–cultural associations and popularize their creative achievements.

The oblast executive committees and the Minsk City Executive Committee develop and implement regional programmes, which, as a rule, run for two years each. City and district executive committees implement local action plans based on the national and oblast development programmes in the given area.

2. Moldova

The role of the parliament

The Committee on Human Rights and Interethnic Relations is responsible for minority issues and for implementing the National Action Plan on Human Rights.



Bureau of Interethnic Relations

The Bureau of Interethnic Relations is the major executive body responsible for state policy in the field of interethnic relations in the Republic of Moldova.²⁶ The first executive authority responsible for “nationalities policy” in Moldova was set up in 1990, even before the breakup of the USSR. It went through several name changes: the Department for Nationalities Issues (1990–1994); Department of Nationalities Relations (1994–1998); Department of Nationalities Relations and Functioning of Languages (1998–2001); Department of Interethnic Relations (2001–2005); and the Bureau of Interethnic Relations (2005 to present). The organization’s priorities, regardless of name, have always been interethnic relations, work with the diaspora and the implementation of linguistic policy.

The main challenges and, accordingly, tasks of the Bureau can be divided into two parts. The first is the development of basic documents in the sphere of nationalities policy; during the initial period of its work for example, it prepared a package of presidential decrees and related governmental resolutions. The second part is everyday interaction with citizens, state structures and ethnocultural associations. The Department actively cooperated with ethnocultural organizations and upheld their development with many staff members

having previously been members of these same associations.

On 1 June 1996 saw the opening of the House of Nationalities, under the Department of Nationalities Relations, which united the republic’s ethnocultural organizations. The House of Nationalities became part of the Department and later of the Bureau of Interethnic Relations. Throughout 1998–2001, in cooperation with the Institute of Interethnic Studies, the Department held a number of international forums devoted to the issues of national minorities and interethnic relations, the functioning of languages in a multi-ethnic environment, integration and identity, as well as the importance and role of international legal documents aimed at the protection of national minorities and the integration of Moldovan society.

However, the Bureau’s performance is hampered by limited powers and a lack of financial resources. The absence of regional representatives also reduces its efficiency.

The Department supported all kinds of minority national holidays, some of which are now widely celebrated in Moldova and have become very popular among the general public. These include the Day of Slavic Writing and Culture, celebrated every May, and the ethnocultural festival on the third Sunday in September.

²⁶ V.P. Stepanov, Бюро межэтнических отношений Республики Молдова [Bureau of Interethnic Relations of the Republic of Moldova], in: *Revista de*

etnologie și Culturologie. Chișinău: Centrul de Etnologie al IPC al AȘM, 2006, Vol. I., pp. 86–102, <http://ethnology.asm.md/archives/>.



Following a governmental decision in December 2016, the Bureau of Interethnic Relation shall become part of the Ministry of Education, Culture and Science.²⁷ It is not yet clear how this body will function in the future.

Other executive authorities

The 2000s saw a general trend towards the gradual closure of institutions engaged in ethnocultural policy. Among these are the Commission on International Relations under the President of the Republic of Moldova, the Office of the Councillor of the Government on Roma Issues, and the Department of Education for National Minorities within the Ministry of Education and Youth. Individual specialists in minority issues still work in certain sectoral ministries and departments; in some cases, they are brought together in specialized units. In 2007, a Ministry of Education and Youth unit responsible for the education of national minorities was dismissed, and now only one specialist in this complex area remains.

People's Advocate and the Council on Equality

The People's Advocate (with functions similar to those of an ombudsman) can receive complaints related to discrimination and engage in minority issues. One advantage of this institution is a network of regional

representative offices. The People's Advocate regularly reacts to aints lodged by Roma people and to allegations of politicians and officials using hate speech. The office of the People's Advocate also reveal systemic problems of inequality and discrimination through thematic and annual reports. Article 23 of the Law on the People's Advocate contains a provision for an advisory board, stipulating the need for "representation of ethnic groups and minorities existing in society".²⁸

The Council on Equality was set up in accordance with the Law on Ensuring Equality²⁹ and began functioning in October 2013. Since then, it has been engaged in various activities stipulated by the legislation of Moldova, including the consideration of individual complaints. In 2013–2015, The Council examined 13 cases of discrimination on linguistic grounds and seven cases on the grounds of race or ethnicity. The Council addressed the issue of hate speech (in connection with public statements of officials and publications in mass media), which is qualifies as instigation to discrimination prohibited by the law. The Council also provides, on its own initiative, conclusions and recommendations on the revocation of discriminatory provisions from official documents in force as well as drafts of official acts. The staff and councillors are

²⁷ Изменения в структуре правительства [Changes in the Structure of the Government], 2 December 2016, [HTTP://a-tv.md/index.php?newsid=24106](http://a-tv.md/index.php?newsid=24106); Правительство сократится на семь министерств. СМИ узнали о новой структуре кабинета [The Government staff shall be cut down by seven ministries. Mass-media have found out about the new structure of the Cabinet of Ministers], 2 December

2016, <http://newsmaker.md/rus/novosti/pravitelstvo-sokratitsya-na-sem-ministerstv-smi-uznali-o-novoy-strukture-kabmina-28664>.

²⁸ Law on Amendments to the Law on Parliamentary Lawyers No 1349-XIII of 17 October 1997, of 27 July 2007, No 200.

²⁹ Law No 121 of 25 May 2012 came into effect on 1 January 2013.



actively engaged in educational and training activities aimed at authorities and the general public.

Thus, Moldovan civil society organizations and national minority activists can use the People's Advocate and the Council on Equality to lodge complaints and resolve problematic situations, as well as to receiving special training and additional information.

Local authorities

Decisions of significance to minorities are mostly made at the central level, and sometimes at regional levels, but without the participation of municipal authorities. For a brief period (1999–2002) specialists on the functioning of languages and interethnic relations worked in district councils of Moldova. These specialists' salaries were paid from local budgets and, as a rule, this person had to deal with such issues over and above his/her main duties, which negatively affected the overall performance. After the dissolution of district councils in 2002, these special positions were abolished. Officials with similar duties only remain in the city hall offices of Chisinau and Balti.

The situation in Transnistria

The PMR has no special structures dealing with ethnocultural policy nor any special mechanisms ensuring the representation of ethnic or linguistic groups in government and administrative structures.

3. Ukraine

Legislative power

Within the Parliamentary Committee on Human Rights, the Rights of Minorities and International Relations, there are several specialized subcommittees. Since 2014, the list has included: the subcommittee on interethnic relations; the subcommittee on ethnopolitics, indigenous peoples' rights, national minorities of Ukraine and victims of political repressions; the subcommittee on the issues of citizenship, migration and ethnic groups; and the subcommittee on gender equality and non-discrimination.

Specialized bodies within the executive

The system of institutions in Ukraine with the power to regulate ethnopolitical processes has changed over the years since independence, but these were rather regressive in character. Ethnopolitical processes and interactions between authorities and national minorities used to fall under the responsibility of the following central authorities:

1991–1993 – the Committee on Nationalities under Ukraine's Cabinet of Ministers;

1993–1996 – the Ministry of Nationalities and Migration;

1996–1999 – the State Committee on Nationalities and Migration;

1999–2001 – the State Department of Nationalities and Migration, initially within the Ministry of Justice.



In September 2001, the status and powers of the State Department of Nationalities and Migration were reinstated. The State Committee on Nationalities and Religions (albeit under various names and with changing competences) existed until 2010 when it was abolished by the central authorities. Under the standing order adopted by a resolution of the Ukrainian Cabinet of Ministers (No 495, 3 September 2014), the Ministry of Culture became the central executive authority responsible for interethnic relations, religions and the protection of national minority rights, and the central executive structure responsible for national minorities in Ukraine is the Department of Religions and Nationalities within the Ministry of Culture.

Other ministries and departments

Aside from the Ministry of Culture, minority issues do touch on the functions and responsibilities of the Ministry of Education and Science, the Ministry of Social Protection, the Ministry of the Interior and the Security Service of Ukraine. Some of these ministries have established special divisions to deal with minority issues. The Department of Secondary and Preschool Education within the Ministry of Education and Science, for example, contains a unit responsible for the contents of education, language policy and national minority education.³⁰ The unit is directly charged with interacting with public advisory councils, religious organizations and organizations

engaged in education for minorities and accordingly cooperates closely with a public council comprising heads of educational programmes of all Ukrainian public associations of national minorities.

The Commissioner for Human Rights

The Commissioner (Ombudsman) for Human Rights of the *Verkhovna Rada* plays a role in the communication between minorities and the state.³¹ The Commissioner receives complaints on human rights violations and reveals and reacts to systemic problems and violations. Under the Law of Ukraine on the Prevention of Discrimination (2012), the Commissioner addresses major problems related to the prevention and counteraction of discrimination. His/her responsibilities include monitoring the observance of non-discrimination principles in general, and in various spheres of public life in particular; bringing before the court the cases of violation of public interests and discrimination; examining petitions of individuals and/or groups concerning discrimination and providing expert opinions on court inquiries; developing proposals on the improvement of legislation; and cooperating with international organizations. In fact, as part of its antidiscrimination mandate, the Commissioner's office initiated the examination of issues related to the protection of national minorities. Notably, the Commissioner comes up with statements and initiatives concerning linguistic issues

³⁰ <http://mon.gov.ua/about/departamenti/departament-zagalnoyi-serednoyi-ta-doshkilnoyi-osviti.html>.

³¹ The position of the Commissioner for Human Rights up until recently has been occupied

exclusively by women, but the Ukrainian law refers to this institution using the suffix "man" in masculine.



and minorities' education, even though these issues are beyond the actual antidiscrimination sphere.

Special situations and structures

The Plenipotentiary on ethnonational policy was set up in June 2014. The Council on Ethnonational Harmony was set up under Ukraine's Cabinet of Ministers as an advisory and consulting body at the same time. The Plenipotentiary was granted broad but poorly defined functions related to ethnonational policy. Gennadiy Druzenko, who was appointed the Plenipotentiary, found it unnecessary to support minorities' cultural distinctiveness or to protect their rights, fairly believing that these tasks fell within the competences of the Ministry of Culture and the Parliament Commissioner for Human Rights, respectively. Attempts to resolve conflicts or develop strategies for the formation of a unified political nation in Ukraine were not consistent and yielded no results. The Plenipotentiary objectively could not, and did not, strive to become an information or coordination centre for ethnonational policy in the country. The Plenipotentiary's office was very small and was never fully staffed, and the attempts to assume new formal powers were unsuccessful. As a result, this institution was abolished in May 2015. While never formally dismissed, the activity of the never-efficient Council on Ethnonational Harmony was later terminated having only ever held two formal meetings. By the end of 2015, the Department of Minorities and the Ukrainian Diaspora within the Secretariat of the Cabinet of Ministers was also disbanded.

Under the Resolution of the Cabinet of Ministers of Ukraine (No 299, 20 April 2016) the Ministry of Temporarily Occupied Territories and Internally Displaced Persons was formed by merging the State Agency for Restoration of Donbass and the Government Service on the Autonomous Republic of Crimea and City of Sevastopol, both of which were established in 2015. The problems of Crimean Tatars and other national minorities in the temporarily occupied territories partly became the responsibility of this new ministry.

The Plenipotentiary on the Crimean Tatar People, and its maintenance unit, were set up by Decree of the President of Ukraine (No 656/2014, 20 August 2014). The Standing Order on the Plenipotentiary of the President of Ukraine on Crimean Tatar People was approved by the Decree of the President (No 841/2014, 3 November 2014). The Resolution of the *Verkhovna Rada* (No 1140-VII, 20 March 2014) "On Guarantees of the Rights of Crimean Tatar people within the Ukrainian state" contains a provision affirming that Ukraine recognizes the *Kurultay* (or national congress) of the Crimean Tatar people as the supreme representative body of that nation, and recognizes the *Mejlis* (or executive office under the Kurultay) as the advisory council of Crimean Tatar representatives. By decree (No 194/2015, 3 April 2015) decisions of a strategic nature related to Crimean Tatars shall be made by the president after consultations with the Mejlis. *Mejlis* is actually represented before the senior executives of Ukraine as the advisory council of Crimean Tatar representatives. By decree



(No 194/2015, 3 April 2015) decisions of a strategic nature related to Crimean Tatars shall be made by the president after consultations with the Council of the Crimean Tatar People.

Upon a proposal of the Ministry of Culture of Ukraine, the Resolution of the Cabinet of Ministers (No 454-p, 16 May 2014) set up the state enterprise called “Crimean House”. Due to bureaucratic difficulties and long-lasting repair works, the official opening of the House took place 2 years later, on 27 February 2016. The enterprise is developing as a platform for working with Crimean Tatar organizations and implementing cultural projects.

Regional authorities

Units in charge of ethnic issues were set up within regional administrations after Ukraine gained independence. Their later transformations, in many respects, followed the changes at the national level.

In 2010, after the dismissal of the State Committee on Nationalities and Religions and the transfer of its functions to the Department of Religions and Nationalities of the Ministry of Culture of Ukraine, no uniform structure was set up for the regions nation-wide. The establishment of institutions for ethnonational policy at the regional level became a prerogative of provincial administrations and, as a result, national minority issues in regions were transferred to structures that were not always interested in making the necessary decisions or, more importantly, ensuring the protection of minority rights.

Fifteen of the 25 basic administrative–territorial units of Ukraine (besides the occupied Autonomous Republic of Crimea and Sevastopol) have special divisions responsible for ethnic issues. Only Vinnitsa and Zakarpattia (Transcarpathian) oblast administrations have independent structural divisions for these functions. In other oblasts, these functions were transferred to structures, in most cases, as supplementary to their main responsibilities without due attention to the protection of national minorities. These structures, as a result, did not regard this national minorities as a priority.

Ethnic issues belong to the tasks of the Departments of Culture in 15 oblasts, and to the units responsible for information and public relations in seven oblasts. In all these structural divisions, only one specialist is directly responsible for nationality issues, while in 12 oblasts the specialist on nationalities is also responsible for interconfessional relations. In total, there are just 44 specialists engaged in ethnonational policy in the oblasts of Ukraine, some of whom do not have sufficient training or experience.

Usually, the functions of structural units on ethnic issues are officially formulated as follows: to study and analyse tendencies of ethnonational and ethnocultural development of the region; make short– and long-term forecasts; coordinate the activities of local executive authorities and local self-governments concerning interethnic and interconfessional relations; monitor the observance of legislation on minority issues; take measures for the prevention of



instigation to ethnic, racial and religious hostilities; and render methodological assistance to local executive authorities and local self-governments. These structures also act as coordinators in interactions between minority spokespersons, their civil organizations and the authorities – mainly through advisory councils.

Provincial administrative units in charge of nationality issues participate in the elaboration and implementation of regional target programmes. For example, the Department of Nationalities and Religions of Zakarpattia oblast administration drafted, and now participates in, the fulfilment of the programme on the development of education, culture and traditions of national minorities in the oblast, for 2016–2020, as well as the Programme on the Centre of Cultures of National Minorities of Zakarpattia and the Programme on the Roma Population of Zakarpattia. During 2016, the Department provided organizational and methodological support for more than 30 different activities concerning national minorities and the prevention of ethnic discord. Regional festivals of Hungarian, Romanian and Slovak popular arts were held upon the initiatives of national–cultural societies. The Zakarpattia Centre of Cultures of National Minorities has hosted about 100 different events connected to the regular activities of the public organizations of national communities.

The Interdepartmental Working Group on the implementation of the Strategy on the protection and integration of Roma for the time up until 2020 has been set up in Zakarpattia oblast as an advisory and

deliberative body under the provincial administration. The position of adviser to the head of the oblast administration on Roma issues was also established for the same purpose.

Administrative reform and local authorities

Local authorities are responsible for general aspects of territorial development; Article 32, para. 8 of the Law of Ukraine “On Local Self-Government” (No 280/97-BP, 21 May 1997) designates local self-governments (municipalities) the power, among other things, to provide “assistance to creative unions, national–cultural societies, associations, other public and non-profit organizations functioning in the area of public health services, culture, physical culture and sports, and work with youth”. Under Article 44 of the same law, the preparation of target programmes on the development of minorities in their places of compact settlement shall be delegated to local state administrations. Under Article 5 of the Law on Minorities, local councils can, but are not obliged to, create standing commissions on interethnic issues, while local state administrations can form special structural units. This practice does not take place below provincial (oblast) level, but local authorities do occasionally engage in minority issues through their departments of culture, mainly in areas of compact minority settlement.



The reform of local governance and territorial division³² started in Ukraine in 2014 with the approval of the Concept of Reform of Local Self-Government. According to this Concept, 1,500–2,000 territorial communities are to be created, replacing the more than 11 thousand local councils. The main aim of the reform is the creation of self-sufficient and effective self-government structures; for this purpose, essential powers shall be transferred from the centre to the grass-roots level.

In course of the reform, these new self-governments must receive broader powers for securing the appropriate living conditions of local communities and the necessary tax and budgetary resources. For example, local communities will now have to maintain municipal educational and cultural institutions themselves. The Law on the Cooperation of Communities also defines, among other things, three forms of local cooperation with relevance for minorities: implementation of joint projects, joint financing of institutions and organizations owned by municipalities, and delegating certain tasks to municipal authorities along with the transfer of related resources. These frameworks make it possible for communities to form educational institutions in national minority languages and to establish joint cultural institutions, as well as to carry out joint activities.

The reform presents new broad possibilities but leaves some questions unanswered, for example: will local self-governments

prioritize minority issues; how can municipal activities be uniform and coordinated without direct subordination to oblast authorities; and will these activities be carried out by people with at least a minimal basic training? In particular, it remains unclear how local conflicts on ethnic grounds can be prevented and settled.

IV. Structures and practices of interaction with minorities – problems and positive achievements

Communication between people and organizations acting on behalf of minorities, on the one hand, and public authorities on the other has developed in an irregular and inconsistent way in all three countries; there have been some positive achievements, but a number of systemic problems persist and reproduce themselves. The fact the institutions described above exist and function can be considered an achievement; authorities everywhere recognize and declare the necessity of dialogue and cooperation with minorities, who have the opportunity to deliver their point of view to the authorities. The major problems stem from the fact that minority representatives play a passive role in their communication with authorities, and especially in the process of decision-making. As a rule, their opinion is only occasionally sought, generally relating to a narrow set of issues directly related to the popularization of folklore, as well as to cultural and educational activities. The minority's

³² <http://decentralization.gov.ua/>.



perspective on more fundamental problems, such as education and language policies, is frequently ignored, or those affected only learn about decisions post factum.

There are both substantive and organizational reasons for these problems. Substantive reasons mostly relate to the fact that the systems of government in all three countries are substantially isolated from society, protecting the interests of elite groups and relying, at least in part, on social and nationalist populism. The latter, in particular, can be seen in the statements and speeches of officials and politicians, as well as in state-sanctioned versions of national history, in which population groups not belonging to the “titular” nationality are ignored or represented as a source of problems. Such conditions do not favour dialogue between governments and small groups, or encourage consideration of the latter’s difficulties and requests. On the other hand, people and organizations acting on behalf of minorities pursue their own interests in a way that impedes the development of a common position or the representation of the needs of minorities more broadly.

Organizational problems relate to the weakness and inefficiency of democratic institutions, the ineffectiveness of advisory structures, as well as the limited resources and powers accorded to government bodies responsible for ethnonational policy.

1. Belarus

The role of NGOs

According to data from the Plenipotentiary’s Office on Religions and Nationalities, there were 213 registered public associations representing 27 nationalities, including more than 40 organizations, functioning in the entire country by January 2016.³³ The scope and character of their activities look as follows. The creation of political parties on ethnic grounds in Belarus is not allowed. Ethnic or national–cultural societies differ in their scale and mode of activity, but most are engaged in cultural and educational projects. Jewish organizations contribute to social work (such as the support of elderly people and youth) while Roma organizations support and protect the rights of their local communities and participate in international projects to provide assistance to the survivors of Nazi persecution.

Most major activities and events that relate to ethnocultural policy arise from the initiative and activity of civic organizations within the national minorities, while the state’s contribution is mostly in the form of financial and organizational support. Thus, minority NGOs are in an ambiguous position. On the one hand, national minority representatives can identify their priorities for activities and resolve their own issues concerning the preservation of their ethnic distinctiveness quite independently. On the other hand, in Belarus, they can only function under the

³³ Список национально-культурных общественных объединений, зарегистрированных в Республике Беларусь (по состоянию на 1 января

2016 года) [The list of national–cultural NGOs registered in the Republic of Belarus (as of 1 January 2016)], http://belarus21.by/Articles/nac_cult_ob.



monitoring and, sometimes, indirect guidance by the authorities.

It is first necessary to mention that every public association in Belarus must be official registered, but that the registration requirements are so onerous that they constitute an unsurmountable obstacle for many organizations. The activity of unregistered organizations is criminally liable, and the threat of deregistration under all kinds of pretexts is a powerful lever and, most often, an incentive for self-censorship.

Second, it is the authorities who decide which minority organization activities will be upheld, relying as they do on state support; minorities' opportunities are very limited by the paucity of international assistance. A general rule, state structures support the activities of those national-cultural public associations which include various ethnic groups and promote the ideas of internationalism, friendship and tolerance.

It is important to acknowledge that state financial, legal and organizational support for ethnocultural associations is provided on a regular basis and is of great importance to them. Notably, a special procedure has been developed for submitting of requests for funding to the Office of the Plenipotentiary. Another form of support is the lowering of rent for premises hosting ethnocultural associations – the rent for several dozen national-wide and regional public ethnocultural organizations was reduced upon the request of the Plenipotentiary – but this is entirely at the discretion of the authorities. Oblast executive committees and

the Minsk City Executive Committee also provide for tax exemptions at the local (city and district) level for ethnocultural association. Decisions are taken, on an annual basis, on whether to allow a full exemption or a 50% discount on land and real estate taxes.

The opinions or requirements of minority public associations that run counter to formal policies usually incur problems for such organizations. Since the end of 1980s, authorities have been strongly suspicious towards Polish organizations, especially if the latter demonstrated loyalty to Poland or showed discontent with the position of the Polish minority in Belarus. One of the Polish minority's main problems (reflective of national minorities in Belarus in general) is the conflict between the authorities of Belarus and one of the two Unions of Poles that resulted from the breakup of the initial Union of Poles in Belarus (UPB), the biggest public organization of the national minority numbering 25 thousand persons. In March 2005, the UPB congress elected Ms Andzelika Boris as its chairperson, but the Ministry of Justice of Belarus refused to acknowledge the legitimacy of these elections on procedural grounds. A new congress was held, and a new leadership was elected in Volkovysk, but the leadership headed by Ms Boris refused to acknowledge the new elections, believing they were a ploy for the government to take control of all 16 Polish Cultural Centres of the UPB ("Polish Houses") built in Belarus with public money provided by Poland.



In 2005–2006, the dispute escalated into an interstate conflict: three Polish and three Belarusian diplomats were respectively expelled, the Polish ambassador was recalled from Belarus, and Minsk accused Warsaw of financing a “disruptive” broadcasting station, denying a group of Polish deputies from the European Parliament entry to the country.

The two governments remained polarized in this conflict for ten more years. Warsaw, actively supported by the European Union, believed that a national minority, and a large oppositional movement, had been subjected to repressions. Minsk, however, felt the situation represented Poland’s intervention in Belarus’ internal affairs, as well as Poland’s desire to speak on behalf of all Belarusian citizens who identify as Poles. Belarusian authorities therefore perceived the problem as an artificial pretext for exerting external pressure on the country. This was exacerbated by the issuance of the so-called “Pole’s Card” – a document certifying the belonging of a foreign national to the Polish nation – which was effective in all post-soviet countries.³⁴ Interstate relations did not begin to improve until the end of 2016.

³⁴ There are decisions of the Constitutional Court of Belarus from 2011 ruling about the non-conformity of Pole’s Card both to the international law and bilateral agreements between the two countries. Moreover, further on the Belarusian legislation was modified for prohibiting a holder of this kind of documents issued by a foreign state to hold positions in public and military services and in the police.

Representation through elected bodies

People of various ethnic origins are represented in the parliament and local councils; but none of the deputies of the last 20 years has paid any attention to minority issues. Representatives of minority organizations, as a rule, are not among the elected deputies, and they do not lobby for their interests through parliament or local councils.

The role of executive authorities

In Belarus, there is a well-functioning and efficient system of quick response to complaints and petitions of citizens as well as of civil society organizations; the system is regulated by the law “On Petitions of Citizens and Legal Entities” (No 300-Z, 18 July 2011). As a rule, communication between national–cultural societies and central authorities is channelled via the Plenipotentiary on Religions and Nationalities. At the local level, communication is supported both directly by executive committees or via departments on religions and nationalities.

Advisory structures

Interaction between authorities and minorities takes place via the Interethnic Advisory Council under the Plenipotentiary³⁵

³⁵ Положение о Консультативном межэтническом совете при Уполномоченном по делам религий и национальностей. Утверждено приказом Уполномоченного по делам религий и национальностей № 7 от 23.01.2010 г. [Regulations for the Interethnic Advisory Council under the Plenipotentiary on Religions and Nationalities. Approved by the



and through other advisory structures. The Interethnic Advisory Council consists of 23 members (as of 2016),³⁶ nominated by registered public minority associations and approved by the Council and the Plenipotentiary. Members of the Council (not necessarily citizens of Belarus) act as representatives of their organizations. The Council works *pro bono* and holds meetings at least quarterly. Each member can make proposals concerning the work plan and meeting agendas of the Council. Decisions are made by open voting and are considered obligatory for public associations whose representatives are included in the Council. At its meetings, the Council considers information on the rent of premises for minority organizations and the implementation of joint activities, discusses experiences and problems in the work of associations and joint activity plans, and resolves various other issues.³⁷ It is mainly engaged in planning cultural, educational and folklore activities, as well as discussing the allocation of financial assistance to public

associations and granting discount or waiver in the renting of premises.³⁸

Another Interethnic Advisory Council was set up under the Republican Centre of National Cultures. Upon a decision of the Board of the Plenipotentiary on Religions and Nationalities, similar public councils were set up around the end of 2010, or beginning of 2011, at most departments on religions and nationalities of oblast executive committees and the Minsk City Executive Committee.³⁹ Structurally, functionally and normatively, the activity of councils at the oblast level is similar to that of national-level Councils.

All the councils work *pro bono*, functioning as public consulting institutions without any legal personality. Normative and organizational responsibility for their establishment and functioning belongs to the state structures under which they are established.⁴⁰ As a rule, council meetings can only proceed with a quorum of either half or two-thirds of active members. The meeting

Plenipotentiary on Religions and Nationalities by Order No 7 from 23.01.2010], http://belarus21.by/Articles/nac_pol.

³⁶ Состав Консультативного межэтнического совета при Уполномоченном по делам религий и национальностей. Утвержден приказом Уполномоченного по делам религий и национальностей № 7 от 23.01.2010 г. [The composition of the Interethnic Advisory Council under the Plenipotentiary on Religions and Nationalities Affairs. Approved by the Plenipotentiary on Religions and Nationalities by Order No 7 from 23.01.2010, http://belarus21.by/Articles/nac_consultation_centre.

³⁷ О деятельности Консультативного межэтнического совета. Информация о Консультативном межэтническом совете при Уполномоченном по делам религий и

национальностей [On the activity of the Interethnic Advisory Council under the Plenipotentiary on Religions and Nationalities Affairs], http://belarus21.by/Articles/nac_deyat_sovet.

³⁸ Nataliya Kutuzova, Язык вражды, этническое профилирование и правонарушения на почве ненависти как проявления дискриминационного отношения [Hate Speech, Ethnic Profiling and Violations on the Grounds of Hatred as Manifestations of Discriminatory Attitude], in: *Право на равенство и недискриминацию этнических меньшинств в Беларуси. Аналитический отчет* [The Right to Equality and Non-Discrimination of Ethnic Minorities in Belarus. Analytical Report] / N. Kutuzova, M. Rybakov, D. Chernykh. – Minsk: 2015, pp. 21, 25–26.

³⁹ Ibid.

⁴⁰ Ibid., p. 20.



agenda is prepared and proposed to council members no later than 10 days before the meeting. Decisions are approved by a simple majority, and their implementation or compliance with are mandatory for public associations who have representation at the council.⁴¹ Council requests to state structures are subject to mandatory consideration but are only of a recommendatory nature. The frequency of meetings of both state-wide Councils is at least once a quarter, and extraordinary meetings may be held at the initiative of the council's supervising body or of the leadership and members of the council itself. Local councils convene as required; although they should theoretically hold meetings at least twice a year, staff reductions and the disbandment (resubordinating) of departments on religions and nationalities resulting from the 2013 "optimization" of the executive, the work of most councils has been suspended or has sharply decreased in intensity.⁴²

The responsibilities of provincial advisory councils include general discussions on ethnic and confessional situations in the region and the role of public organizations; compliance with the legislation on public organizations; interaction with state bodies; participation in contributors' contests and selection as well as other activities at the Republican Festival of National Cultures; administration and reporting of civil society organizations; and discussions on working plans and reports.⁴³

⁴¹ Ibid., p. 20–21.

⁴² Ibid., p. 23.

Roma mediators

A private initiative to train and support Roma mediators has been in development since 2015 within the project "Social Integration of the Roma Population in Belarus: providing the right for equality"⁴⁴ run jointly by the Expert and Educational Association of Roma Integration, the Republican Centre of National Cultures, three Roma organizations of Belarus and the Vilnius Centre of Expert Examination of Equal Rights. To date, five Roma mediators have started receiving training based on the methodology of the CoE, but it would be premature to say what the results of their work will be.

Major problems of communication

The interaction between authorities and minorities in Belarus fully reflects the overall picture of relations between the state and society in general. Formally, the state is interested in the initiative of national-cultural societies and ethnonational policy is initially built as a partnership, theoretically based on the initiative of minority NGOs and supported by the state. In fact, bottom-up initiatives can only take place with the permission and within the limits prescribed by the state; the agenda is entirely determined by the state, which also makes all the significant decisions. Relations are built in such a way that a lot of important issues for minorities are not publicly raised or discussed; the general public is only informed of these decisions after the fact. According to the available data, the meeting agendas and action plans of advisory

⁴³ Ibid., p. 23.

⁴⁴ <http://romaintegration.by>.



councils, especially of the Interethnic Advisory Council under the Plenipotentiary, are prepared by the secretariats of the bodies under which the councils were established, while independent initiatives of the members are frequently unwelcome. It is indicative that, even in the formation of contest juries and the selection of participants for folklore festivals (such as the Republican Hrodna Festival of National Cultures), no independent actions or initiatives of national-cultural societies are envisaged – decisions are made by departments of culture, as well as by professional juries and commissions appointed by the said bodies.

A number of areas significant for ethnic minority organizations (as well as for a part of society wishing to develop the Belarusian language) are problematic but are not discussed with national-cultural societies. This includes the general framework of state linguistic policy, the possibility of opening schools and classes in minority languages, the regulation of the cultural activities of ethnic societies, communication with ethnic kinstates and receiving foreign aid.

Those seeking to establish a school with a minority language of instruction, in addition to direct permission from the Ministry of Education, are obliged to find a minimum number of active parents who are ready to enrol their children, to resolve many other formalities and to secure funding for maintaining the school and supplying the school with materials. In the 1990s, representatives of the Polish minority proposed the creation of a school in Novogrudok (Hrodna oblast) with Polish

instruction, but this attempt failed due to the categorical position of the authorities insisting that there would not be a sufficient number of pupils to fill it.

With insufficient state funding for national minorities' activities, foreign aid plays a key role. As a rule, minority literature, school textbooks, other training materials, specific musical instruments, traditional national costumes and so forth are provided by other countries. Belarusian legislation strictly regulates the receipt of almost all kinds of assistance from abroad, which is subject to a number of rather inconvenient and often contradictory formalities.

Holding public events (such as concerts, festivals etc.) is also strictly regulated by Belarusian legislation. Organizations must obtain licences in order to hold cultural activities, which might entail amending their charters and other formal problems. In practice, without the support of state structures, an association faces a number of formal and informal difficulties.

2. Moldova

The role of NGOs

As mentioned above, legislation in Moldova disallows or impedes the organization of political parties on ethnic and regional bases. Nevertheless, several Gagauzian parties and a Roma political movement were established, although they have not become a noticeable



political force, nor have they brought any candidates to the national parliament.⁴⁵

There are more than one hundred ethnic non-political organizations acting on behalf of national minorities. Generally, one group is represented by several organizations at national and local levels. Their funding opportunities, number of members and character of activities vary significantly, and some organizations representing the same ethnicity compete with each other. NGOs with the opportunity to receive finances from abroad – Russian and Jewish organizations, for example – find themselves in a better position. Minority organizations only engage in human rights protection, including the monitoring of hate speech and prevention of discrimination, in exceptional cases. Among such exceptions is the participation of the National Roma Centre in the Antidiscrimination Coalition of Moldova.⁴⁶ More frequently, minority organizations only engage in cultural and educational activity.

Representation through publicly elected bodies

Article 23 of the Law on Minorities stipulates that persons belonging to national minorities can be represented in the parliament and local

councils through elections. At the same time, there are no special mechanisms, such as reserved seats, to guarantee their representation. Moreover, the 2007 law “On Political Parties” does not allow the formation of parties on an ethnic basis, since the provision of Article 3, part 6 on the prohibition of creation and activity of parties based on discrimination on racial, ethnic and other grounds is interpreted broadly. The establishment of a party requires at least 4,000 members living in at least half of the administrative units (districts) of the country,⁴⁷ including at least 120 members per administrative–territorial unit.⁴⁸ Moreover, the numerical threshold for parliamentary elections in Moldova is rather high: 6% for a party. In practice, this deprives regional parties or movements with regional or local political platforms of the right to exist and prevents minorities living in compact settlements from creating their own parties.

The Advisory Committee on the Framework Convention permits minority representatives to be elected to the parliament and local bodies as members of mainstream political parties.⁴⁹ Since the country’s independence, non-Moldovan (by ethnic origin) members of parliament have declared their wish to represent and protect the interests of minorities. According to the estimates

⁴⁵ *Integration of national minorities in the post-soviet space – Ukraine and the Republic of Moldova*. December 2015, p. 15, <http://iwip.org.ua/eng/public/1884.html>.

⁴⁶ Another example is the Human Rights Protection Centre of Russian Communities in the Republic of Moldova. It functions under the instruction and auspices of the Fund for Support and Protection of Rights of Compatriots Living Abroad – a Russian state organization. See <http://krorm.ru/pravo.html>.

⁴⁷ There are 32 districts in Moldova with three city municipalities (Chisinau, Belt and Bender), Territorial Autonomous Unit (Gagauzia) and one territorial region (Transnistria).

⁴⁸ Article 8 (1) (d) of the Law on Political Parties.

⁴⁹ ACFC/OP/III(2009)003, Advisory Committee on the Framework Convention for the Protection of National Minorities. Third Opinion on Moldova, 26 June 2009. Strasbourg: Council of Europe, § 161.



provided in the report on the integration of minorities in the post-soviet space, prepared by the Institute of European Policy and Reforms (Moldova) and the International Institute of World Politics, there were 20 non-Moldovans (out of 101 MPs) elected to the parliament in 2010, and 16 in 2014.⁵⁰ Minority representation in the parliament and local councils depends on major political parties including minority representatives in their electoral lists. The parliament is formed on a proportional system; MPs elected through party lists have to respect party discipline and adhere to the decisions of their parties. In the 2009 NGO shadow report on Moldova's compliance with the FCNM it was emphasized that, in the long run, major political parties do not take the needs of minorities into consideration.⁵¹ For political parties, minority issues are generally not a priority, although left-wing parties traditionally pay a lot of attention to the support of the non-Moldovan electorate.

The role of executive authorities

Minority organizations cooperate mainly with the Bureau of Interethnic Relations of Moldova.

Article 24 of the Law on Minorities says that persons belonging to national minorities have the right to proportional representation at all

the levels of executive structures, as well as judicial and law enforcement bodies. This provision is of a declarative character and is not backed by implementation mechanisms. According to some estimates, the level of minority participation in these bodies, as a whole, remains low in both big and small groups; at the same time, there is no monitoring of national minority representation in the public service. Insufficient command of the state language is another factor limiting minorities' access to public service. The Government of Moldova⁵² has admitted to the limited minority representation in government structures, noting that "one of the problems" in this area is the poor linguistic integration of minorities and insufficient fluency in the Moldovan language by many non-Moldovans.

As mentioned above, a number of institutions that served as communication channels between minority organizations and country leadership were abolished in 2001–2014; the most important of those were the Commission on Interethnic Relations under the President of the Republic of Moldova and the Department of Education for National Minorities within the Ministry of Education and Youth. While the supervisory board of the formerly state-run broadcasting company

⁵⁰ *Integration of national minorities in the post-soviet space – Ukraine and the Republic of Moldova*. December 2015, p. 15,

<http://iwp.org.ua/eng/public/1884.html>.

⁵¹ Cited in N. Bepamyatnykh, A. Vasilevich, A. Osipof, F. Prina, I. Pushkin, *Политика управления этнокультурным разнообразием в Беларуси, Молдове и Украине: между советским наследием и европейскими стандартами* [Policies of

Ethnocultural Diversity Management in Belarus, Moldova and Ukraine: Between Soviet Heritage and European Standards], Vilnius, EGU, 2014, p. 163.

⁵² ACFC/SR(2000)002, Third report submitted by the Republic of Moldova pursuant to article 25 paragraph 1 of the Framework Convention for the Protection of National Minorities, 29 February 2009. Strasbourg: Council of Europe, p. 22.



Teleradio-Moldova,⁵³ used to guarantee the representation of minorities, this has now been terminated. Thus, public authorities have no enforcement mechanisms or legal obligations to enable persons belonging to minorities to voice their needs in the political sphere at the national level.

Local authorities

Since there are no special mechanisms guaranteeing the representation of national minorities in local administration, minorities appear to be represented through elections as members of national parties, but only in the territories where they make up a considerable proportion of the population. The Advisory Committee on the Framework Convention⁵⁴ noted an extremely low representation of Roma and small ethnic groups at both central and local levels. The authors of the report on the integration of minorities in the post-soviet space share this opinion, also noting the lack of systematic official statistics or general estimates with regard to the representation of non-Moldovans in the public sector.⁵⁵

Theoretically, independent candidates can compete with political parties and obtain seats at local and regional levels, but in reality, it happens very seldom.⁵⁶ Representatives of minority organizations are nevertheless elected to local councils. For example, according to the Government of

Moldova, 14 out of 144 deputies in the City Assembly of Chisinau were non-Moldovans in 2013; in the Balti City Council, 24 out of 34 deputies were non-Moldovans.⁵⁷ But even this avenue is almost completely closed to Roma. For example, a study undertaken in villages with Roma communities showed that Roma people are completely absent from local and regional councils.⁵⁸ Two Roma women were elected to local councils for the first time in 2015.

The 2009 CReDO⁵⁹ report noted that existing political parties that form regional and local elected bodies “are rarely sensitive” to the needs of persons belonging to minorities. The same report provided similar data on Ukrainian, Bulgarian and Roma communities in villages with considerable concentrations of these minorities; the report revealed their insignificant or very limited participation in local-level decision-making processes, even though Ukrainians voiced concerns about, for instance, the use of the Ukrainian language at schools and in mass media. At the same time, many financial, social, cultural and educational issues cannot be resolved at the local level, as local administrations depend on central bodies, especially on the Ministry of Education and Youth.

Studies of Ukrainian villages in the central part of Moldova also showed that villages

⁵³ According to N. Bespamyatnykh, A. Vasilevich, A. Osipov et al., *op. cit.*, p. 165.

⁵⁴ ACFC/OP/III(2009)003, § 163.

⁵⁵ *Integration of national minorities in the post-soviet space – Ukraine and the Republic of Moldova*. December 2015, p. 13,

<http://iwp.org.ua/eng/public/1884.html>

⁵⁶ *Report on the Implementation of Minorities Rights in Moldova*. Chisinau: CreDO, 2009, p. 48.

⁵⁷ ACFC/SR/IV(2015)005. Fourth Report submitted by Moldova pursuant to article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities. Strasbourg, 16 June 2015, p. 60.

⁵⁸ *Ibid.*, pp. 7, 15, 47.

⁵⁹ *Ibid.*, pp. 43, 46.



were distributed among districts in such a way that areas compactly populated by Ukrainians were administratively divided.⁶⁰ This approach decreases the proportion of the Ukrainian population in each district, which in turn limits opportunities for Ukrainians to voice their demands and enjoy their rights in the spheres of education, culture, language and mass media. The situation is similar for some Bulgarian communities. Nevertheless, one positive development is the creation of the separate Taraclia district in 1999, with a concentrated Bulgarian population constituting a local majority. This separate district makes it possible to resolve some problems including those concerning transboundary cooperation with Bulgaria and Ukraine. There are also some Bulgarian communities outside of the Taraclia district, including those located within the Gagauzian Autonomy. In the communities outside of Taraclia, the situation is similar to that of the Ukrainian minority – the administrative division of the minority population affects its ability to defend its special interests.⁶¹

Roma communities have very little influence on decision-making processes at the local level, including those that affect them directly; there is no process for informal consultations or any other forms of self-governance in Roma communities.

The situation in Gagauzia

The ATUG's main problems are its relative economic and political weakness and lack of clarity regarding the allocation of powers between Chisinau and the ATUG's capital Comrat. As mentioned above, the Law on Autonomy does not define the ATUG's powers very clearly, and no clarification has been subsequently provided regarding to the relationship between this law and other pieces of legislation within the Republic of Moldova – nor has there been any clarification in the case of the Constitution). The ATUG authorities believe that the Law on Autonomy has supremacy over current legislation in Moldova. Moldova's lawmakers enact new legislation for the entire country without any special exemptions for Gagauzia, while the executive and judicial authorities generally believe in the supremacy of the legislation of Moldova. Accordingly, the application of the national legislation without regard for the ATUG's special status significantly diminishes Gagauzia's autonomous powers.

Collisions between the centre and the ATUG mainly relate to the appointment of officials and the application of legislation, particularly with regard to education and the formation of local administration. Problems related to taxation and the allocation of budgetary and extrabudgetary funds and international financial aid are especially acute.⁶² The leadership of Gagauzia feel that they have no effective representation within the central authorities and have made unsuccessful

⁶⁰ Ibid., pp. 42–43.

⁶¹ Ibid., pp. 44–46.

⁶² Integration of national minorities in the post-soviet space – Ukraine and the Republic of Moldova.

December 2015, p. 14,
<http://iwp.org.ua/eng/public/1884.html>.



attempts to achieve, among other things, the direct representation of Gagauzia in the Parliament of Moldova and the right to establish local political parties.

International and domestic pressure to harmonize the national legislation of Moldova with the Law on Autonomy has not yielded any results to date. Both Moldovan and ATUG parties participated in negotiations and bilateral working groups, but no real progress was made. The joint Working Group of the Parliament of Moldova and the People's Assembly of Gagauzia only demonstrated their ability to develop and make coordinated decisions in 2016, creating the possibility for positive changes.⁶³

Advisory structures

Article 22 of the Law on Minorities provides:

When developing and carrying out policy in the field of culture and education of national minorities, the government, ministries, state structures and local authorities shall hold consultations with organizations of persons belonging to national minorities whose interests are impacted by the respective decisions.

The activity of ethnocultural organizations in Moldova is, in many respects, connected with the Bureau of Interethnic Relations and the affiliated advisory council. In reality, only

one public consultative body is functional in Moldova, and it works under the Bureau of Interethnic Relations. The Coordinative Council of Ethnocultural Organizations works under the aegis of the Bureau as an advisory body and unites the heads of accredited minority organizations (ethnocultural public associations) including those of immigrants. According to data from September 2015, 93 organizations⁶⁴ have been accredited.

For the first time, the status of a public advisory body under the Department of Nationalities Relations was assigned to the Coordination Council by the Order of the Government of the Republic of Moldova (No 554, 27 July 1994). On 27 November 2001, the Standing Order on the Coordinative Council of Ethnocultural Organizations was approved by the Director General of the Department of Interethnic Relations. According to the standing order, the Council includes the heads (or their assistants, but no more than one person) of national minority public associations registered with the Department, as well as the Director General of the Department, his/her deputies and a head of the National Minorities Unit and his/her deputy. The Council also has associated members who are heads (or their assistants, but no more than one person per organization) of newly created national minority public associations within one year from the date of filing a registration

⁶³ The Parliament of the Republic of Moldova. Reports between Parliament and UTA Gagauzia, <http://www.parlament.md/Actualitate/RaporturileParlamentuluiUTAGagauzia/tabid/237/language/en-US/Default.aspx>.

⁶⁴ <http://www.bri.gov.md/index.php?pag=sec&id=91&I=ru>.



application with the Department. According to the standing order, the Council is headed by two co-chairpersons – the Director General of the Department of Interethnic Relations (currently a head of the Bureau) and a representative of one of the ethnocultural societies (the latter to be elected annually).

The Council includes six specialized sections supervising the major areas of activity of public ethnocultural associations accredited by the Department of Interethnic Relations (now Bureau): the section of communities and associations, culture and enlightenment, women's organizations, youth and children's organizations, science and education, and the section for friendship and cooperation with foreign countries. The permanent working body of the Council is the board consisting of 17 elected annually individuals. It also includes heads of the above-mentioned specialized sections. Minority organizations can develop cultural and educational projects and present them to the Bureau with a request for financing, but there are no special rules or criteria for the selection of projects for funding.

According to the Advisory Committee on the Framework Convention,⁶⁵ the Coordinative

Council is not generally considered by national minorities to be influential in decision-making. It is more involved with the organization of cultural events than effective representation of the overall range of minorities' interests. In turn, heads of the Bureau regularly speak about the lack of initiatives and interest on the part of ethnocultural organizations.

There are no advisory structures in the ATUG or at local government levels including the municipalities of Chisinau and Balti.

Roma mediators

Under special provisions included in the 2011–2015 Action Plan to Support the Roma Ethnic Group in the Republic of Moldova,⁶⁶ the institute of community mediators was established.⁶⁷ The 2006 law on local self-government was amended by law No 69 of 5 April 2013. As a result, municipalities of the first level received the right to establish the position of “Roma mediator”.⁶⁸

The mediator is, as a rule, a person belonging to the Roma community who, due to his/her special training and semi-official status, facilitates interaction between ordinary Roma people and local authorities, health care, educational and social protection

⁶⁵ ACFC/OP/III(2009)003, § 63.

⁶⁶ Decision of the Government of the Republic of Moldova from 31 January 2012, On Modifications in the Action Plan to Support the Roma Ethnic Group in the Republic of Moldova for 2011–2015 approved by the Decision of the Government No 494 from 8 July 2011 No 56, <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=342070&lang=2>

⁶⁷ Decision of the Government of the Republic of Moldova on Approval of Framework Provision on

Organization of Community Mediators' Activity from 17 July 2013 No 557,

<http://lex.justice.md/viewdoc.php?action=view&view=doc&id=348861&lang=2>.

⁶⁸ Fourth Report submitted by Moldova pursuant to Article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities. ACFC/SR/IV(2015)005. Strasbourg, 16 June 2015, p. 28.



institutions. The idea of Roma mediators is based on the fact that many of their problems result from the inability of ordinary Roma individuals to communicate with public institutions because of illiteracy, lack of confidence, poor command of the state language, and prejudice on the part of others. The institute of Roma mediators is developing in a number of countries, including Moldova, on the initiative and with the support of the CoE. In Moldova, local authorities have responsibility for the appointment of mediators (representing local Roma community or elected at a general meeting of local communities). The Action Plan to Support the Roma Ethnic Group in the Republic of Moldova for 2011–2015 envisaged the hiring and training of 48 mediators, each of which would be capable of working with at least 150 Roma persons.

In 2013, 462,600 Moldovan lei (about 28,300 Euro) were allocated from the state budget for training the first 15 community mediators in 14 municipalities, and 1,619,800 Moldovan lei (about 83,300 Euro) were allocated in 2014 for hiring all 48 community mediators in 44 Roma communities, as stipulated in the plan. As of 1 January 2015, new provisions on decentralized financing⁶⁹ came into effect at the national level, meaning that local administrations became responsible for the allocation of funds for local services, including for the activity of community mediators; however, the hiring of mediators by local administrations was suspended because of a lack of funds.

⁶⁹ <http://politmoldova.com/s-1-yanvary-a-tekushhego-goda-dejstvuet-novaya-sistema-formirovaniya-mestnyh-byudzhetrov.html>.

According to recent data, only 15 community mediators were being remunerated from local budgets in 2015, dropping to only nine in 2016. This situation places great importance on the role of Roma public associations. Considering the fact that, in some cases, there is a lack of demand for community mediators, the role of Roma public associations is crucial in supporting an effective dialogue with local authorities.

The situation in Transnistria

There are several dozen ethnocultural associations functioning in the PMR. Often, a region-wide society of a certain ethnicity (Union of Russian Communities, Union of Moldovans, Union of Ukrainians and others) is supplemented by several local organizations of the same nationality. They all demonstrate loyalty to Transnistrian authorities and cooperate with the government getting, in turn, support in the form of discounted or cost-free rent of premises and, sometimes, direct funding for their activities. Some minority organizations (such as Bulgarian societies) are engaged in socially focused projects, such as assistance for the development of small businesses or youth legal awareness. Some minority organizations (of Jews, Ukrainians, and Roma) actually are not divided between the Right and Left banks of the Dniester and work jointly.

There is no institutionalized interaction between ethnic organizations and authorities, but the public associations of three major



groups (Moldovans, Russians, and Ukrainians) are usually represented among the deputies of the PMR Supreme Soviet and participate in the work of the advisory Public Chamber of Transnistria.

Special advisory structures on ethnic issues ceased activity in the middle of 2000s; however, there are activists from ethnocultural societies in consultative bodies at some ministries. In Transnistria, advisory and consultative functions are carried out by the so-called Public Chamber; there are also functioning public advisory councils within city and district authorities. Though the PMR Public Chamber includes the heads of some ethnic organizations, but it's the Chamber's official reports do not indicate that they have dealt with any specific problems or requests of certain ethnic groups.

Major communication problems

Moldova has some pressing issues that impact minorities and necessitate dialogue with persons and organizations acting on their behalf, but this dialogue is either not conducted at all or appears to be ineffective. The most urgent issues include the general outline and contents of linguistic policy; education for minorities; minority representation in government; the general understanding of integration; and the spelling of personal names in official documents.⁷⁰ The issues detailed in the above sections on

Gagauzia and the Roma should also be added to this list.

The general public is dissatisfied with current linguistic policy for two main reasons: insufficient possibilities for studying the state language, and non-observance of the legislation regarding the opportunity to use Russian in communication with state structures.

The Code on Education of the Republic of Moldova (Law No 152, 17 July 2014 with subsequent amendments) proclaims in Article 9, para. 3 the following principle: “The basic financing of general education shall be made by the ‘money follows the pupil’ principle, under which the allocated resources for a pupil or a child shall be transferred to the educational institution in which the pupil studies”. According to Article 10, para. 1, “In the educational system, the education process shall be carried out in the Romanian language, and within the possibilities of the education system, in one of the languages of international communication or, under paragraph 2, in the languages of national minorities”. In practice, this results in “optimization”, which means the closure of schools with small numbers of pupils and their transfer to larger schools serving several communities, resulting in the closure and reduction (along with ordinary schools) of the number of schools and classes with minority languages of instruction. The

⁷⁰ Resolution of the Republican Conference in honour of 20th anniversary of the Framework Convention for the Protection of National Minorities from 27 June 2015. Authors have a copy of the original. See also Report of the Special Rapporteur on minority issues -

Mission to the Republic of Moldova, 11 January 2017 (A/HRC/34/53/Add.2), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/004/38/PDF/G170438.pdf?OpenElement>.



Educational Code was drafted “behind the scenes” without consulting minorities or taking their opinions into account, generating particular discontent among minority activists.

There is a disproportionately low representation of non-Moldovans in the state machinery, regularly giving rise to complaints from minority organizations;⁷¹ however full and precise data, as well as an accurate analysis of the reasons, are not available.

These problems are also reflected in the process of developing the Strategy on Integration of National Minorities of the Republic of Moldova (2015–2020). The elaboration of the Strategy started in 2013 upon the initiative of the OSCE, but the document has never been officially approved. During this process, minority organizations regularly complained that the document was being developed by the Bureau of Interethnic Relations behind closed doors, consultations with minority organizations were held only occasionally, and their comments and proposals were not taken into consideration.

In 2012, the law of Moldova “On Identity Documents of the National Passport System” was amended, and patronyms were dropped from individual identity documents. This change caused a lot of discontent, but protests were futile. The Centre for the Protection of

the Rights of Russians living in Moldova and Transnistria in 2016 lodged a lawsuit representing an individual applicant and referring to the provisions of the Law on National Minorities of Moldova, but this attempt was unsuccessful.

3. Ukraine

The role of NGOs

According to the data provided in the fourth official periodic report of Ukraine on the implementation of the FCNM, 1,314 national minority organizations were officially registered in the country as of the beginning of 2016, including 49 that were operating nation-wide.⁷²

According to Ukraine’s legislation, political parties can participate in the formation of authorities, including through participation in elections. The Law of Ukraine “On Political Parties” does not impose any restrictions on the formation of parties by national minorities. However, it establishes a norm about joining or leaving political parties, which means that parties cannot restrict membership on the grounds of ethnicity. There are some examples of political parties formed by national minorities, namely: the Party of Hungarians of Ukraine, the Transcarpathian Hungarian Cultural Association (KMKSZ);⁷³ the Democratic Party of Hungarians of Ukraine; the Party of the Russian Bloc; Party of Poles

Convention for the Protection of National Minorities. ACFC/SR/IV(2016)003. Strasbourg, 30 May 2016, p. 29.

⁷³ Abbreviation from the Hungarian *Kárpátaljai Magyar Kulturális Szövetség Társadalmi Szervezet*.

⁷¹ Русские Молдовы: в поисках утраченного отчества [Russians of Moldova: In Search of the Lost Patronym]. 04.06.2016, <https://ru.sputnik.md/society/20160604/7068968.html>

⁷² Fourth Report submitted by Ukraine pursuant to Article 25, paragraph 2 of the Framework



(“Solidarity”). The latter, created in 2014, positioned itself as a party of all ethnic minorities of Ukraine, but it did not and does not play any noticeable role in political life. In 2016, the Roma Party of Ukraine and the Georgian Party of Ukraine were also formed.

Non-party type of organizations set up on ethnic basis differ from each other in many ways – in number of members and participants, financial resources, the character and directions of activity and so forth. It is necessary to note the existence of at least five national umbrella organizations trying to represent a multiplicity of ethnic communities each. All these NGOs should be treated as organizations based on single individual leadership, where groups of like-minded persons unite around the chairperson or the founder instead of making coalitions based on equal partnership. Minority NGOs are mainly engaged in cultural and educational activities; some of them, such as organizations of Roma, Russians and Hungarians are also involved in human rights advocacy. Minority organizations generally avoid political activity and, on the whole, express loyalty to the leadership of the country, but minority organizations actively express their views and loudly protest against decisions if they directly violate their interests with regard to educational or language policy.

At the national level, minority NGOs do not receive direct support from the state. The majority of Ukrainian oblasts provide little or no financial assistance to, national-cultural organizations. Support, if provided, is usually for cultural and learning activities, or

publishing and informational work. Only seven oblast budgets allocate money to the framework of nine programmes on the development of interethnic relations – for 2016–2018, this totalled 2,665,000 hryvnias. However, even the planned amounts are not always fully allocated in practice.

National minority organizations do not have premises for carrying out their cultural and enlightenment activities. Only two centres of national cultures are financed from local budgets (in Vinnitsa and Zakarpattia oblasts). Instead, NGOs have to rent premises using their own money. However, national-cultural societies were accorded no-cost long-term use of Nationalities Houses in Chernivtsi in the early 1990s – a privilege that they had had during the time of Austro-Hungary. Thus, the activity of Ukrainian, Romanian, Polish, German and Jewish Nationalities Houses has been resumed after many decades.

The Commission on Interethnic Relations and Cultural Diversity of the Public Council under Ukraine’s Ministry of Culture discussed the allocation of premises for a House of Nationalities in the City of Kiev for several years. A suitable building was found, but instead it became “Crimean House”, providing accommodation for Crimean Tatars after their forced resettlement in mainland Ukraine. The issue of premises for a House of Nationalities has meanwhile been frozen.



Representation through elected bodies

The Ukrainian law “On Elections of People’s Deputies of Ukraine” (approved in 2011 and later amended) guarantees equal suffrage to citizens irrespective of their ethnicity. Article 18 specifies that boundaries of single-mandate electoral districts shall be drawn, among other things, taking into account the settlement of national minorities. Administrative–territorial units compactly populated by certain national minorities, if they are adjacent, shall form one election district. If the number of voters belonging to national minorities in adjacent administrative–territorial units exceeds the threshold for the formation of one electoral district, the districts shall be formed in a way that voters belonging to national minorities will make up the numerical majority in one of them.

In practice, the formation of single-mandate districts for parliamentary elections is as follows: Two ethnic minorities (Romanians and Moldovans) compactly live in four districts of Chernivtsi oblast: Gertsaevsky district (95% Romanian), Glybotsky district (45.3% Romanian, 6.1% Moldovan), Novoseletsky district (57.5% Moldovan, 6.8% Romanian) and Storozhinetsky district (34% Romanian).

Gertsaevsky, Glybotsky and Novoseletsky districts were included in electoral district No 203 with the centre in city of Novoselitsa. The majority of the population in district No 203 therefore consists of Romanians and Moldovans, but it was extended to include

Ukrainian villages of the Storozhinetsky district, which also contains majority-Romanian villages. This move added 18,000 ethnic Ukrainian voters to the roll, whereas adding the Romanian villages instead would have added 20,000 voters. This does not formally violate the law “On Elections of People’s Deputies of Ukraine”, but appears in contradiction to the spirit of the legislation.

Political parties formed for the representation of minorities participate in local elections and gain mandates. For example, in the local elections of 2015, Hungarian parties were successful in local councils of the Zakarpattia oblast, with KMKSZ winning eight seats out of 64. Hungarian parties are also represented in district councils. In Zakarpattia oblast as a whole, 63 KMKSZ deputies and 26 candidates from the Democratic Party of Hungarians of Ukraine were elected to local governments.

The role of the Verkhovna Rada

The *Verkhovna Rada* of Ukraine is one of the major channels for communication between minority organizations and the state.

From the moment of independence, the *Verkhovna Rada* has included deputies of non-Ukrainian origin, some of whom positioned themselves as representatives and defenders of the interests of their respective nationalities. Thus, parliament has been a platform for voicing the problems and concerns of Crimean Tatars, Romanians, Hungarians and Jews. Such deputies are generally elected through mainstream political parties’ lists and are therefore restricted in their activity by party discipline,



having to support the position of their faction. However, minority organizations have the opportunity to inform individual deputies and the specialized Committee on Human Rights of their stances.

The Committee on Human Rights periodically organizes parliamentary hearings on minority issues; the most important took place on 11 January 2012 and on 11 March 2015, being devoted to the conceptual outlines of ethnonational policy in Ukraine and to the role of civil society in the formation of ethnonational policy, respectively. The resolutions of both hearings were approved by the *Verkhovna Rada*. The Committee on Human Rights also assists in holding regular meetings and roundtables with the participation of national minority organizations. Among these events, a roundtable was held on 10 March 2016 on the initiative of the OSCE HCNM and was devoted to the institutional framework for the regulation of interethnic relations within the framework of decentralization. The hearings of the Parliamentary Committee on Human Rights of 5 October 2016 were devoted to the implementation of the Strategy for the protection and integration of the Roma national minority into Ukrainian society (Roma Strategy hereafter).⁷⁴

⁷⁴ Комітет з прав людини провів слухання щодо стану реалізації Стратегії захисту та інтеграції в українське суспільство ромів [Committee on Human Rights held hearings on the situation with implementation of the Strategy for the protection and

The role of central executive authorities

Interaction between central executive structures, particularly the Ministry of Culture, and minority organizations mainly occurs through advisory and consultative bodies, as well as their affiliated expert councils. The Resolution of the Cabinet of Ministers “On the Provision of Participation of the Public in the Development and Implementation of State Policy” (No 996, 3 November 2010) (with subsequent amendments and additions) prescribes the creation of public advisory councils under ministries, and oblast and district state administrations. The same decision regulates the formation and functioning of these structures.

The coordination of work with the Roma population can serve as a specific example. According to the Decision of the Cabinet of Ministers of Ukraine (No 993, 25 November 2015), an Interdepartmental Working Group was established to implement the Action Plan for the Roma Strategy until 2020; this was approved by the Decree of the President (No 201/2013, 8 April 2013). In November 2016, the Working Group’s first session took place, and thematic subgroups were formed. The subgroups included representatives of central and local authorities and of Roma associations. Ms Zemfira Kondur, vice-president of the Roma women’s NGO

integration of the Roma national minority into Ukrainian society]. 5 October 2016, <http://rada.gov.ua/news/Novyny/135645.html>.



“Chirikli”, was elected the Working Group’s deputy chairperson.

The major goals of the Interdepartmental Working Group are as follows:

- 1) Securing the coordination of activities between executive authorities and Roma public organizations in relation to the integration of the Roma national minority in Ukrainian society;
- 2) Monitoring of the implementation of the plan on fulfilling the Roma Strategy for the period until 2020;
- 3) Preparation of proposals on raising the effectiveness of executive authorities with regard to the integration of the Roma national minority in Ukrainian society.

NGOs can also submit complaints and proposals directly to the authorities as regulated by the law “On Petitions of Citizens” (No 393/96-VR, 2 October 1996). Article 6 envisages the possibility of minority representatives and authorities communicating in a language acceptable to both sides, as well as the possibility for authorities and local governments to provide responses in national minority languages.

Advisory structures

The central executive authority responsible for ethnonational policy used to contain a special advisory and consultative body. Following the 2010 administrative reform and the disbandment of the State Committee on Nationalities, this council was also

dismissed. The Council of Interethnic Harmony was set up under the Cabinet of Ministers of Ukraine in 2014 but ceased activity in 2015. At present, the leading central advisory structure falls under the Commission on Interethnic Relations and Cultural Diversity of the Public Council under the Ministry of Culture. Since the autumn of 2016, there have been efforts to establish the Council of Heads of National Communities under the Ministry of Culture.

The Commission on Interethnic Relations and Cultural Diversity of the Public Council considers a wide range of issues connected with ethnonational policy. Its most noticeable achievements include participation in the development of the National Strategy in the field of human rights⁷⁵ and an Action Plan for its implementation, as well as monitoring the execution of these documents.

Representatives of national minority organizations generally participate in the public councils under ministries and departments dealing with ethnic and national issues. However, according to the Decision of the Cabinet of Ministers (No 234, 8 April 2015), public advisory councils cannot include more than 35 persons, reducing the chances that heads of minority organizations will be represented in councils on general issues. One positive example, however, is the public council under the Ministry of Education and Sciences, which includes the heads of educational

⁷⁵ Approved by the Decree of the President of Ukraine on 25 August 2015 No 501/2015.



programmes from all Ukrainian national minority associations.

At present, fewer than half of Ukraine's oblasts have coordinative and advisory councils, composed of national minority representatives, working under the auspices of provincial authorities. In 12 oblasts, councils of national minority representatives function under the heads of oblast administrations. In three oblasts, there are also sectoral units within public councils set up according to the decisions of the heads of oblast administrations.

The main issues considered at oblast council sessions are the facilitation of registered national minority organization activities including the provision of premises, financial support for cultural, educational and awareness-raising projects, and of publishing activities. The councils are competent to make decisions concerning the drafting of regional programmes on ethnonational development, the establishment of centres of national cultures and other issues that require the support and involvement of administrative authorities.

Unfortunately, as most experts and members of advisory structures admit, the consultative councils are merely symbolic, convening rarely and making no significant decisions. They are usually summoned by the state administration, whose chief interest is in reporting that such a meeting took place, while council members from an NGO background are not very active and lack initiative. There have only been a few exceptions, when council members constitute

a compact group of like-minded activists with a common agenda, striving together to put it into practice. More often, though, specific problems and issues are discussed and decided informally through direct communication between minority representatives and elected deputies or representatives of state administrations.

Roma mediators

Ukraine has a relatively developed system of Roma community mediators, but it was created exclusively by the Roma women's charitable "Chirikli" fund, and not on the initiative of the state. The "Chirikli" fund was established in 1997 and works in several countries in close cooperation with the CoE, and following the CoE methodology on Roma mediators. As a result of the fund's work, 55 Roma mediators are now working in 13 Ukrainian oblasts covering more than 30,000 Roma people. Ukrainian mediators are mainly trained, and are now specializing, in social care, public health services and education. In addition to educating and training mediators, "Chirikli" has also elaborated and published a number of methodological materials including criteria for the selection of Roma mediators, instructions for Roma mediators' work, methods for needs assessments when providing complex social services to Roma, a communication manual for Roma mediators for working with Roma communities, a manual for civil servants for working with the Roma population, a guide for citizens on how to receive public services and regularize their legal status, a programme for the training of mediators, and specific programmes for training social workers and police who deal



with the Roma population, and training programmes for Roma NGOs. “Chirikli” closely cooperates with local, oblast and central authorities of Ukraine. In cooperation with the Institute of Family and Youth Policy, the fund has trained 120 civil servants to work with the Roma population. A specialized expert group within “Chirikli” has also developed in cooperation with the Ministry of Social Policy a standard specification for the social service “Representation of Interests” which was approved by the Ministry of Justice.⁷⁶

Major communication problems

Substantive problems emerge when the opinions of national minority representatives, relating to issues with importance for society as a whole and for minorities in particular, are not heard or considered in the course of public discussions or decision-making. This is partly a result of the general societal marginalization of “non-titular” nationalities and their needs, and the unwillingness and inability of state structures to pay attention to the special needs and problems of minorities. Furthermore, the very character of minority organizations often confines their activity to cultural, folklore and educational spheres, rendering them unwilling or unable to formulate more complicated and challenging issues, or to lobby the authorities with their demands.

The major issues that cause controversies and require interaction and mutual understanding between minorities and authorities include:

- enforcement of legislation on combating hate crimes and hate speech;
- the government’s attitude to radical nationalist groups;
- state promotion of Ukrainian ethnic nationalism;
- the ways how minority history and cultures are presented in school textbooks, museum expositions, scientific projects, cultural activities and so forth;
- language policy and the legislation on languages;⁷⁷
- access to education in minority languages.

There are also some organizational problems with communication. Over years, national minority NGOs have expressed concerns regarding the non-existence of a special Ministry of Nationalities. Their concern (which is not shared by the government) is that the ministry, unlike a state service or agency, can formulate policy as well as implement it. At present, the Ministry of Culture is responsible for the formulation of nationality policy, but ethnic issues are not its priority as they were for the Ministry of Nationalities that had existed in the 1990s. Reportedly, the relevant unit or department

⁷⁶ Міжнародна благодійна організація Ромський жіночий фонд “Чіріклі”. Звіт про діяльність за 2015 рік [International Charitable Organization of Roma Women’s Fund of Chirikli. Information on activity in 2015], 2016, pp. 4–6.

⁷⁷ See A/HRC/28/64/Add.1. Report of Rita Izsak-Ndiaye, the UN Special Rapporteur on Minority Issues. 27 January 2015, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/UAIndex.aspx>. §§ 35–43.



within a ministry does not have sufficient administrative “weight” for the consideration and resolving of systemic problems.

Another problem is the limited functionality of advisory councils. First, it is doubtful whether there is mutual trust and a mutual interest in cooperation between state employees and minority representatives. Second, limiting the number of advisory council members curtails the representation of national minorities. Third, unclear criteria and procedures for the formation of advisory structures are causes for concern. Fourth, advisory councils are often unable to make quick decisions⁷⁸ and monitor their implementation, partly because of the passive attitude of their members.

The weakness and narrow interests of most minority organizations (see above) also generate problems and make these organizations vulnerable to pressure from authorities. Many minority NGOs rely on funding from the state and thus find themselves in a precarious position if tensions should arise with authorities.

Competition between different organizations acting on behalf of the same national minority also creates difficulties. Authorities have to choose a partner for communication, and this choice may sometimes depend on personal relations. The policies of ethnic kinstates also impact the communication of national-cultural societies with authorities. This impact is not always constructive and

should be taken into account, especially in border regions.

Conclusions

All three countries considered here have certain achievements in the participation of minorities in public life, but also some essential gaps and shortcomings regarding the how minorities’ needs and interests are taken into consideration.

All three countries position themselves as “nationalizing” states to some extent, existing for the benefit and on behalf of their “titular” ethno-nations. In Belarus, this is demonstrated ambiguously and mainly expressed through support to the Belarusian diaspora abroad. In Ukraine and Moldova, the role and importance of the ethnic majority is more straightforwardly acknowledged in constitutional acts and legislation; in practice, it is expressed in the official rhetoric of “nation building” on an ethnic basis, in the advancement of nationalist narratives through official cultural and educational policies, and through the policy of only using one state language in public administration and other areas of public life. At the same time, none of the three countries has a targeted policy of establishing direct or indirect restrictions on the “non-titular” population on ethnic grounds. Furthermore, none of these governments impose the use of the majority language in the unofficial sphere, giving minorities considerable opportunities in the labour market. Ethnicity-

representatives of different cultural societies, thus forming a compact and active advisory council.

⁷⁸ This problem has been partly resolved by the Lviv oblast administration by rotating between



based preferential treatment is also not noted in recruitment to the public sector, in relations with businesses or in citizenship policies.

There is also no ethnic prejudice in the restrictive measures imposed on the population of temporarily occupied territories, or on migrants from these territories within Ukraine. Moreover, Moldova and Ukraine have adopted laws against discrimination and established programmes for the integration and support of minority nations; this, at least symbolically, serves as a signal to the population that the governments wish to promote civil equality and participation. None of the three countries are socially divided along ethnic or linguistic lines, although there are differences in the public activity and dynamics of emigration between different ethnic and language groups in Ukraine and Moldova.

On the other hand, although these states do not pursue a strict policy of nation building that would be hostile to “non-titular” nationalities, official rhetoric and attempts to impose a nationalist version of history may lead to the alienation of minorities. The corrupt system of governance and underdeveloped democratic institutes (in both Ukraine and Moldova) and authoritative governance (in Belarus) effectively disempower citizens to participate in the development and making of political decisions.

Therefore there are both positive achievements and flaws in the interaction

between minorities and authorities. In all three countries, the governments realize the importance of communicating with organizations and people speaking on behalf of different ethnic groups, and this is reflected in legislation and official statements. All three countries have state structures within the executive engaged in ethnic policy and in cooperation with minority organizations. They all have public advisory councils dealing with ethnic issues under state authorities.

At the same time, essential problems persist in all three countries. First, the functions of regulatory bodies directly responsible for ethnic policy remain partly unclear, and sometimes overlap with the tasks of other structures. Complications also arise where responsibility for minority issues is spread across various executive authorities and independent bodies (this is especially the case in Ukraine).

Problems also persist with regard to responsibility for minority issues at the regional and local levels, and the coordination of activities between national and local authorities. Belarus has been more successful at resolving these issues because of the relatively small number of issues on the agenda and the strict centralization of executive authorities.

Furthermore, minority interests and needs are not generally considered in significant political and administrative decisions. The school reform and change of legislation regarding personal names in Moldova offer a vivid example. Minority issues tend to be



narrowly identified and formulated: as security problems (and, accordingly, as subject to state control), integration (understood as non-interference in politics, loyalty and the need for control) or the development of culture (narrowly interpreted as folklore and ethnography).

Regular mechanisms of political representation, in the form of political parties and elections, appear to provide limited opportunities for the expression and protection of minorities' specific needs and interests. Belarus has no free elections, and the top-down selection of deputies by executive authorities at all levels takes minimal account of minority needs. In Moldova and Ukraine, only people connected with major national parties can be elected to parliaments and regional councils. Parties include ethnic activists in their electoral lists to increase their visibility and to attract more voters, but upon becoming members of parliament or other elected bodies, these people tend to advance their party agendas and seldom reflect or promote the needs of minorities.

That being said, elected representative bodies and local self-governments in Moldova and Ukraine offer considerable possibilities for national minority organizations, but these are presently underutilized. Minority organizations can have their deputies elected in compactly populated areas, and even with the limited resources and powers afforded to representative bodies, minority organizations and activists can ensure discussions of their problems through deputies and deputy hearings. Ukraine offers the positive example

of involving minorities in parliamentary hearings and other activities organized in the *Verkhovna Rada*, maintaining the parliament as a major platform for the discussion of minority issues.

All three countries have advisory and consultative councils on minority issues; minority organizations are also represented in advisory structures under public authorities engaged in broader thematic areas. The formation and activity of advisory councils represent a mixed picture, however. On the one hand, advisory bodies are the main, permanently functioning, channel of communication between minority activists (and/or experts) and authorities. On the other hand, the criteria for selecting and appointing participants are unclear and advisory structures cannot always formulate their own agenda, follow it up or monitor the fulfilment of their decisions. These groups appear to be unable to gather *in pleno* with due regularity, resolve conflicts or agree among themselves on common positions, nor react quickly to rapidly changing situations.

Nevertheless, the weaknesses of advisory structures in all three countries, as well as in other European states, are inherent and systemic. The formation of advisory councils by top-down appointment or by selecting only like-minded people can undermine the whole concept of such councils as platforms for representing different points of view.

The transformation of advisory structures into clienteles and loyalist support group for the authorities is quite possible and achievable; their efficiency can also be



increased by only appointing those leaders or representatives deemed suitable by official bodies. Such approaches are implementable but would destroy advisory councils as mechanisms of bilateral interaction and distort the authorities' understanding of the situation. Introducing eligibility criteria for membership or procedural restrictions can filter out potential representatives who don't have the required financial resources and introduces the risk that these groups become platforms for propaganda.

To improve communication between state structures and minorities, it is necessary to consider the restrictions imposed by the very nature of NGOs in general, and minority NGOs in particular. NGOs are usually set up by individuals or groups with their own interests and views on a situation. Many ethnic organizations and leaders position themselves as spokespersons promoting the "true" interests of their group, which frequently causes splits and conflicts to develop within those communities. Voluntary societies tend to have limited resources and often depend on donors, authorities and public opinion. In countries like Belarus, Moldova and Ukraine, contact with authorities and major political parties depends on taking a conformist position on many issues.

Therefore, one should pay more attention to the development of advisory structures and independent bodies, or their respective subunits, responsible for the resolution of disputes and conflicts concerning minorities. The formation of such independent structures on a parity basis, functioning like an

arbitration court and engaging in public disputes through an open adversarial procedure, could be a more effective tool for effective communication between the state and minorities.

The establishment and maintenance of communication between state structures and minorities depend, to a large extent, on the state's goodwill and appreciation for the opinions and needs of minorities. In Belarus, Moldova and Ukraine, however, the impetus for the state to behave in such a way is rather weak. Stronger signals will need to come from civil society, state representatives with strategic interests and, most of all, from international organizations.

The position and capabilities of the state depend, in many respects, on the structure and functions of the bodies directly responsible for ethnic policy and, in particular, for minority issues. At present, Belarus, Moldova and Ukraine cannot offer a working model for resolving a range of problems. Other European countries have also failed to develop an ideal model that could be borrowed and used in other national frameworks. Should a special body on ethnic issues be established, it could take a number of forms in terms of its structure, decision-making power and competence: It could be a structure affiliated with the parliament (e.g. a special secretary or contact bureau) providing assistance to legislators or a ministry or other executive body authorized to develop policies and coordinate the activities of other executive bodies. A special executive body could also have more limited functions and powers, working merely as an operator of



special programmes and projects, or as an information service to monitor and redirect complaints and petitions to the appropriate office. Minority issues could also be concentrated in an independent institute on human rights (similar to an ombudsman). It is therefore necessary to find optimal schemes and methods for the coordination of executive authorities, legislative power and independent bodies on human rights, as well as official structures of national and regional (and/or local) levels.

Recommendations

Keeping in mind the current political and economic environment and elite capacities, it is unrealistic to expect the adoption of far-reaching legislative innovations to expand opportunities for national minorities. Even if such new laws were passed, there would be no guarantees that they would be implemented. There is also no reason to expect that any of these three countries will invest the necessary resources in the development of human rights mechanisms and the protection of vulnerable groups.

This makes it much more likely that changes in Moldova and Ukraine will counter the protection of equality and will thwart radical political change in Belarus. Deepening economic problems will make budgetary cuts inevitable, and there will be new incentives for further administrative centralization and unification. A rise in nationalist populism will mean that minority issues will be regarded from the perspective of security and “nation building”, strengthening the positions of the “titular” nations and marginalizing

other groups, probably under the guise of “integration”. Such changes will further limit the resources available for the support of cultural pluralism, ultimately decreasing the already-low level of trust between state institutions and minority activists.

Moreover, a creeping erosion of guarantees of minority protection is probable. Alongside public declarations of adherence to international obligations, unfavourable changes for minorities might be introduced under the radar, as technical measures to optimize spending and administration in general.

Taking these prospects into account, attempts to adopt new laws on languages and minorities entail particularly high risks. Leaving the fundamentals of current legislation and organizational structures intact, avoiding drastic and deep changes in any direction, would help to mitigate these risks, preserve stability and sustain the available mechanisms of communication. Revising and amending already-existing laws is therefore more desirable.

Advancing initiatives based on the assumption that current legislative and institutional frameworks will remain unchanged is more realistic, thus preferable and potentially risk-reducing. The preservation of the legal and organizational basis of current ethnonational policies and guarantees for minorities does not preclude the introduction of slight changes and amendments to the legislation already in force, and the improvement of administrative structures.



Communication between the state and minorities is inevitably impeded by a number of objective circumstances. This stems from the limited powers and expertise of state bodies on the one hand, and the so-far insufficient capacity of ethnic organizations to effectively promote their interests, especially in forming coalitions and presenting a consolidated stance. Further, all three countries suffer from a weak political and economic situation, making it unrealistic to create or even discuss special mechanisms for minority representation in government (such as quotas, reserved seats in parliaments and other representative bodies, removing electoral thresholds for ethnic parties and introducing, in some way, independent or special status for certain territories). Moreover, it is doubtful whether these kinds of innovations will help to harmonize ethnic relations and societal integration.

With all these limitations in mind, realistic initiatives aimed at positive changes should, in our view, rest on the following general principles:

- ensuring that the specific needs and interests of minorities are taken into account in the process of socially significant decision-making at all levels of public administration;
- maintaining and developing all possible platforms for dialogue between minorities and authorities, especially advisory and expert councils, as well as public hearings at legislative and representative bodies;
- vesting the authorities responsible for minority issues with powers and other resources for the consideration of individual complaints;

- developing and promoting alternative forms of resolving disputes involving minorities, especially in the form of mixed commissions under authorities, arbitration courts and mediation; developing practices for the consideration of complaints and claims within adversarial proceedings in order to make substantiated decisions or recommendations;

- Developing the skills and opportunities for national minority organizations and human rights organizations to lobby and carry out educational and awareness campaigns, especially with regard to the protection of public interests.

Legislative changes

In principle, it is possible to improve national laws on the protection of ethnic minorities and to specify the obligations of the state to support minority organizations and their activities, to consider the interests and needs of persons belonging to minorities (“mainstreaming”) and to dismantle minorities’ barriers to social mobility. It is important that laws related to national minority issues or ethnocultural policy stipulate the following approaches:

- A positive obligation of the state to consider the interests and requirements of persons belonging to minorities in the course of planning and implementing policies concerning languages, education, cultural activities, local administration and relations with civil society organizations;
- A positive obligation to eliminate barriers to social mobility and the



effective participation of minorities in public life;

- Exemption of special measures for the support of minorities (creation of conditions for language and culture development, specific opportunities for representation of interests) from the prohibition of discrimination on ethnic grounds, provided these measures do not imply discrimination against certain minorities vis-à-vis other minorities;
- The creation and support of mechanisms for dialogue between society and state at all levels, including advisory and expert councils, and public discussions;
- Endowing state structures dealing with minority issues with powers to consider and resolve, independently or together with other bodies, complaints and requests concerning minorities;
- Formulation and assurance of the main principles for the public support of minority organizations and institutions on a non-discriminatory basis;
- Setting up joint public–private arbitration, or mixed commissions working on the principle of arbitration courts, for the open consideration of complaints and the resolution of disputes concerning relations between the state and minorities.⁷⁹

In addition to the principles listed above, expanding the possibilities for ethnic minority representatives to participate in electoral process, particularly by removing the prohibitions and restrictions on the creation of political parties on regional or ethnic bases would be especially important.

Another important step would be the expansion of opportunities to use minority languages, especially in areas of compact settlement, for communication with authorities and accessing public services.

The structure of public bodies

The key problem with regard to the structure of public bodies is the interaction, cooperation and coordination of public bodies dealing with ethnic diversity and equality. This can be broken down into three aspects: (1) the division of functions and delimitation of powers between the national executive authority directly responsible for the governance of ethnocultural diversity, and the independent body for the prevention of discrimination; (2) the coordination of activities of the executive authority directly in charge of ethnocultural diversity management and executive bodies dealing with education, social protection, law enforcement, and so on, when resolving minority issues in the course of their regular work; (3) task-sharing between the executive authorities at national and regional levels and the coordination of activities of regional structures responsible for ethnic policy.

⁷⁹ This kind of approach is proposed in paragraph 24 of the Lund Recommendations on the Effective

Participation of National Minorities in Public Life (1999).



The division and delimitation of responsibilities can be resolved in various ways, but it is necessary in all cases to differentiate or coordinate functions and tasks in such areas as monitoring, official expert examinations, and strategic planning in the sphere of minority protection. These activities include the development and implementation of legislative and other official acts, special and positive measures, educational and training programmes as well as the processing of individual complaints and requests.

In principle, various approaches could be followed to resolve coordination issues.

- The first approach rests on the separation of strategic planning of ethnonational policy from the resolution of issues concerning the protection and promotion of human rights and non-discrimination.
- The second approach is the separation of work related to culture, language and support for the ethnocultural activities of NGOs on the one hand, from the prevention and elimination of discrimination on the other.

Both approaches can be combined in different ways, depending on the status of the various bodies and the territorial organization of the country.

The body responsible for ethnonational policy could be primarily responsible for the functioning of an interdepartmental commission on ethnic issues, eliminating the coordination problem.

The body in charge of ethnonational policy would also engage in:

- drafting legislative and other official documents;
- strategic planning;
- international cooperation on minority issues;
- monitoring the overall implementation of legislation;
- developing programmes concerning ethnic relations;
- consulting with minority organizations;
- elaborating special measures for the support of minorities;
- monitoring and analysing the general state of national minorities, particularly with respect to access to public services, interaction with authorities and prevention of conflicts.

Additionally, this body should:

- disseminate information;
- carry out educational and training programmes for civil servants;
- coordinate the activities of regional authorities responsible for ethnic issues;
- receive, process or ensure the consideration of complaints and requests.

In turn, the independent equality body should plan and carry out the activities envisaged by the legislation against discrimination, including preventive measures.



It would be necessary to coordinate the activities of independent equality bodies, law enforcement agencies, the executive and local authorities as well as the exchange of information between them, particularly in:

- monitoring;
- collection of statistical data;
- preparation and carrying out of educational and awareness-raising programmes and projects.

This kind of coordination can be provided partly through an interdepartmental commission on ethnonational issues facilitated and coordinated by the respective central executive authority on ethnic issues.

Finally, task-sharing between different levels of government require special attention and effort. Ethnonational policy should be pursued and supported at the local self-government level where gaps exist at the state level. Support for this arrangement could include the creation of coordinating mechanisms, the provision of informational support and a system of additional training for deputies and employees of administrations.

Mechanisms for dispute resolution

One promising approach could be the creation of an independent dispute resolution body, specifically devoted to issues concerning minorities. Responsibility for communication with minorities could then be gradually shifted from advisory bodies towards the independent structures proposed

above. They would consider issues concerning minorities that cannot be settled by stopping and redressing a violation of law. Such structures can be designed as independent commissions or expert groups, summoned at the request and with the consent of the disputing parties. Such structures could be formed on a parity basis by public authorities and civil society organizations. They can function in a way similar to arbitration courts and engage in the public consideration of disputes within an adversarial procedure. One advantage might be their ability to stimulate more pragmatic approaches to the resolution of complex issues and resolve disputes through open public discussions rather than by unofficial shadow arrangements. They could also contribute to authorities and minority organizations developing the skills for building rational arguments based on human rights.

Advisory structures

In establishing advisory councils on ethnic issues under public authorities, it is expedient to use various structures, formation principles and operational modes:

- a combination of big councils representing all minority groups, engaging in a broad range of issues, and more compact working groups and specialized councils to deal with specific issues, or with specific populations (for example, Roma).
- a mixed membership principle, with some members appointed by state structures and some delegated by civil



society organizations or nominated by NGOs.

- a rotation of advisory council membership can ensure more compact composition and higher operational capacity.

Advisory or consultative bodies on minority issues should have legislative protection against ungrounded rearrangement or dissolution, as well as against the arbitrary dismissal or replacement of members. Members should have the guaranteed right to set agendas and make decisions; it is necessary to secure that proposals and requests are the considered by the public bodies addressed and provide that the councils promptly receive information necessary for effective work.

The authorities under which the advisory structures function should ensure the appropriate conditions necessary for their work, in particular:

- provide up-to-date information on the initiatives and decisions being prepared by public authorities on issues within the competences of advisory structures;
- request and receive of information from public authorities;
- coordinate the activities of councils at various levels and with various

territorial affiliations through the timely dissemination of information regarding plans and decisions;

- request and receive expert opinions and information necessary for their functioning.

It is also recommended that the following actions be taken:⁸⁰

- formally ensure the right of advisory councils on ethnic issues to initiate and hold public hearings on specific problems within their mandate, and oblige state structures to provide informational and organizational support for such activities (including the delegation of their official representatives);
- vest councils on ethnic issues with the right to develop and put forward to state structures, on their own initiative, proposals on the improvement of legislation and state policy in their respective areas;
- use councils on ethnic issues as an instrument for planning and implementing governmental programmes and joint community and state projects related to ethnic issues.

Structures could be set up to combine the characteristics and functions of state and

⁸⁰ Nataliya Kutuzova, Язык вражды, этническое профилирование и правонарушения на почве ненависти как проявления дискриминационного отношения [Hate Speech, Ethnic Profiling and Violations on the Grounds of Hatred as Manifestations of Discriminatory Attitude], in:

Право на равенство и недискриминацию этнических меньшинств в Беларуси. Аналитический отчет [The Right to Equality and Non-Discrimination of Ethnic Minorities in Belarus. Analytical Report] / N. Kutuzova, M. Rybakov, D. Chernykh. – Minsk: 2015, p. 27.



municipal bodies responsible for ethnic issues, on the one hand, with advisory structures on the other. Such bodies could include a secretariat or board composed of representatives delegated by minority organizations, either on a permanent or rotating basis.⁸¹ This structure could function as an information centre, processing complaints and requests related to minorities, and as a mediator between minority organizations and authorities.

Community mediators and community self-governance

It is recommended that all three countries initiate studies and discussions with the participation of minority organizations, experts and representatives of the state in order to identify optimal working modes for community mediators. At present, the institution of community mediators for Roma is being developed upon the initiative of the CoE. Some questions remain, however, such as how to balance the independence of mediators with the need for resources and powers necessary for the fulfilment of their functions. A decision is therefore necessary regarding whether the institute of mediators should become employees of municipal bodies, or as representatives of civil society organizations endowed with a state mandate.

Discussions about the role and status of Roma community mediators, and the consequent practical steps in this area, would

be especially useful in Belarus as these activities could facilitate the cooperation between Belarus and the CoE in the field of ethnic minority protection.

It is also important to study the experiences and promote the development of ethnic groups other than the Roma. Special attention should be given, in particular, to the perspectives of *Mejlises* of Crimean Tatars in mainland Ukraine.

Education and awareness-raising

Courses on ethnocultural issues (possibly combined with antidiscrimination modules) should be introduced into the training and professional development systems of civil servants, municipal employees and law enforcement staff.

In order to ensure a uniform approach to training and educational programmes, it is important to coordinate the activities of the independent equality body and the body responsible for ethnonational policy through joint expert, methodological and editorial councils and working groups.

It is recommended that higher education courses on ethnic relations be introduced or improved within disciplinary frameworks such as political science, jurisprudence, sociology and public administration.

⁸¹ This idea was proposed, for example, by Rita Izsak-Ndiaye, the UN Special Rapporteur on Minority Issues. See Report of the Special Rapporteur on minority issues on her mission to the

Republic of Moldova. A/HRC/34/53/Add.2, 11 January 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/004/38/PDF/G1700438.pdf?OpenElement>, item 99.



Special state and non-state programmes are needed to train journalists and teachers on the issues of equality and ethnic diversity.

General information should also be provided to minorities and the general public on the culture and history of different ethnic groups in the country. Textbooks should reflect the history of the countries as a history of different groups, regions and families, and relevant museum exhibitions and broadcasting programmes should be established.

Civil society activities

It is recommended that NGOs engaged in the protection of minorities and related activities work in the following areas:

- joint elaboration, development and selection of optimal methods for monitoring, training and advocacy aimed at the protection and promotion of individual rights and public interests;
- development of cooperative networks between organizations for the exchange of experience, monitoring techniques and accumulated information;
- joining of resources for the creation of common structures, helping individual applicants or representing their interests at the local level.





FOR FURTHER INFORMATION SEE

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