



## **Joint Launching Conference**

Best Practices for Roma Integration – EU/ OSCE-ODIHR  
Promoting Human Rights and Minority Protection in South East Europe – EU/ CoE  
Regional Initiative for Inclusive Education – EU/ CoE

**27-29 June 2012**  
**Hotel Avala, Budva, Montenegro**

## **BRIEFING PAPER WORKING GROUP 2**

### **“How to enhance participation in public life?”**

#### Contents:

Recommendations made by

1. the Council of Europe’s Committee of Ministers in its monitoring function under the Framework Convention for the Protection of National Minorities (FCNM)
2. the Council of Europe’s Committee of Ministers in its monitoring function under the European Charter for Regional or Minority Languages (ECRML)
3. the European Commission Against Racism and Intolerance (ECRI)
4. the Council of Europe’s Commissioner for Human Rights
5. the OSCE High Commissioner on National Minorities
6. the national Roma seminars conducted by DG Enlargement in 2011

## Framework Convention for the Protection of National Minorities

### Third Opinion on Albania (2012)

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- Ensure and promote access of persons belonging to national minorities, including numerically smaller groups, to radio and television programmes in their language;
- Review the current arrangements for the use of minority languages in relations with the administrative authorities and the use of bilingual signs and place-names in minority languages;
- Review the legislative arrangements in order to establish a full and effective dialogue with organisations representing the various minorities; consult them on issues concerning national minorities.

### Second Opinion on Bosnia and Herzegovina (2009)

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- Complete the adoption of the anti-discrimination law at national level in close cooperation with civil society;
- Take determined measures and mobilise the necessary resources to ensure the effective implementation of the action plans for the Roma in the fields of employment, housing and health care, in close co-operation with the latter's representatives; continue the active implementation of the Action Plan on the Educational Needs of Roma and Members of other National Minorities, focusing on participatory monitoring and evaluation of the measures taken so far;
- Take all possible steps to ensure that the Councils of National Minorities can effectively perform their role and are thus able to improve the participation of persons belonging to national minorities in public affairs; adopt, where necessary, legislative and practical measures to allow improved representation of national minorities, and in particular of the Roma, in elected bodies, especially at the local level;
- In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, carry out an assessment of the needs and demand of persons belonging to national minorities regarding the use of minority languages in relations with administrative authorities and on topographical signs and regarding teaching in and of these languages.

### Third Opinion on Croatia (2010)

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- Review the procedures applicable to the implementation of the right to proportional representation of persons belonging to national minorities in public administration, the judiciary, local government and public enterprises, in conformity with Article 22 of the Constitutional Act on the Rights of National Minorities ; observe stricter monitoring and enforce possible sanctions, in order to ensure the full and effective implementation of this provision at all levels;
- Review legal provisions and administrative practice regulating the election and functioning of the councils of national minorities with a view to eliminating the identified shortcomings, as regards the representativity of these organisations, their funding and their cooperation with local authorities.
- Continue the dialogue with the group of persons identifying themselves as "Muslims" by nationality regarding the possibility of including them in the scope of application of the Framework Convention;

- Review the demand for the introduction of bilingual topographical signs and for the use of minority languages in dealings with the administrative authorities in the municipalities inhabited by a substantial number of persons belonging to national minorities and ensure that the right to use a minority language and script in relations with the administrative authorities is respected in all bodies of local self-government where the law is applicable;

#### Second Opinion on Serbia (2009)

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- Complete the pending legislative reforms in the field of national minority councils and the prohibition of discrimination in light of the Advisory Committee's specific recommendations and ensure that conditions are in place for their effective implementation;

- Consolidate the legislative framework regarding minority media in a way that maintains the obligation of the State to provide national minorities with adequate conditions to create and use their own media;

- Address as a matter of priority, both at legislative and practical level, the lack of personal identification documents of the Roma;

- Pursue further efforts to increase the representation of national minorities in the judiciary and in law-enforcement bodies and take steps to obtain a clear view on the representation of national minorities in the public administration;

- Pay increased attention to the situation of persons belonging to national minorities living in economically disadvantaged areas and ensure that their representatives are adequately involved in both identifying priority projects to be funded and in their implementation in the areas concerned;

- Take measures to increase the effectiveness of the councils of inter-ethnic relations at municipal level, *inter alia* by clarifying further their composition and functions.

#### Third Opinion on "the Former Yugoslav Republic of Macedonia" (2011)

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- Undertake further measures to promote tolerance, mutual understanding, respect and intercultural dialogue, and further measures to combat prejudice towards persons belonging to national minorities, including through the effective implementation and monitoring of the laws adopted to implement the Ohrid Framework Agreement; create opportunities for interethnic dialogue in all spheres of life, in particular aiming to involve in joint activities children and young people living in ethnically-mixed areas;

- Take measures to effectively redress the underrepresentation of persons belonging to numerically-smaller national minorities in the state administration bodies and in other public institutions at all levels.

- Seek to increase support for the cultural activities of the national minorities' organisations and ensure that financial difficulties will not affect disproportionately persons belonging to national minorities; involve national minority representatives in the decisions on the distribution of funds allocated to cultural projects;

- Put in place conditions necessary for the use of languages of national minorities in dealings with administrative authorities in particular by providing financial means necessary for employment of more qualified interpreters and translators; provide additional support to civil servants to acquire more skills in the minority languages;

- Increase and strengthen opportunities for persons belonging to minority communities to learn the official languages in order to promote their integration into society;
- Take steps to ensure equal access of persons belonging to all communities to public service broadcasting;
- Take measures to ensure that persons belonging to minority communities can effectively take part in economic and social life, including by drawing up a strategy on economic development and by ensuring their unhindered access to the privatisation processes and to property; pursue further efforts to ensure participation of persons belonging to minority communities in public administration.

## European Charter for Regional or Minority Languages

### Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Croatia (2010)

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1. continue efforts to promote awareness and tolerance vis-à-vis the regional or minority languages and the cultures they represent as an integral part of the cultural heritage of Croatia, both in the general curriculum at all stages of education and in the media;
2. take measures to ensure that speakers can use in practice their regional or minority languages in relations with the relevant branches of the State administration;
5. continue efforts to introduce equal and official use of regional or minority languages in those areas where there is a sufficient number of speakers, and to ensure the implementation of local self-government statutes, if necessary with appropriate assistance.

### Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Serbia (2009)

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5. secure the implementation of Articles 9 and 10, in particular regarding Romani and Ukrainian, and ensure that the Part III languages can be used in relations with local branches of the State authorities;
6. take the necessary legal and practical measures to ensure that personal names and place names in the regional or minority languages can be used officially in conformity with the tradition and orthography of the languages concerned.

## European Commission against Racism and Intolerance

### ECRI Report on Albania (2010)

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13. ECRI strongly recommends that the Albanian authorities take all the necessary measures to make it possible for all individuals of voting age who have not been deprived of their civic rights to exercise their right to vote; it

encourages the Albanian authorities to pursue their efforts aimed in particular at ensuring that no one is disenfranchised for purely financial reasons.

14. ECRI encourages the Albanian authorities to remain attentive to the calls by representatives of certain minority groups for seats to be set aside for minority representatives in the Albanian Assembly and to seek solutions, whether within the legislature or other institutions, that allow minority groups' concerns to be better taken into account.

39. ECRI recommends that the Albanian authorities re-examine, in the light of the recommendations of the Advisory Committee on the Framework Convention for the Protection of National Minorities, the institutional arrangements put in place to permit effective participation by persons belonging to minorities in decision making processes and the way in which the members of the body concerned are appointed. In this connection, ECRI suggests that the authorities, in consultation with the relevant minorities, seek ways to better guarantee the representativity of the members of the State Committee for Minorities, and that the competencies of the latter be reviewed as needed in order to ensure that it is able to fulfil its role effectively.

40. ECRI recommends that the Albanian authorities ensure that the State Committee for Minorities has the necessary financial and human resources to function as effectively as possible, especially as regards the operation of new field offices outside Tirana.

48. It also encourages the Albanian authorities to step up their efforts to involve local authorities in the implementation of the parts of the National Strategy for Improving the Living Conditions of the Roma Community pertaining to housing, a field in which local government plays a vital role. In this connection, ECRI encourages the national authorities to envisage introducing measures binding on local authorities, or at least to extend the policy of giving priority, when awarding grants, to projects aimed at ending de facto discrimination.

63. ECRI recommends that the Albanian authorities step up their efforts to increase Roma and Egyptian children's participation in all levels of education. In this context it stresses the need to maintain, and possibly reinforce, the financial support measures for the most disadvantaged families; to continue raising parents' awareness of the importance of sending their children to school; to recruit and train teachers and school directors of Roma or Egyptian origin; and to provide special training for teachers to heighten their awareness of discrimination issues and of the needs of Roma and Egyptian children.

64. ECRI again recommends that the Albanian authorities ensure the implementation at local level of the measures developed under the National Strategy for Improving the Living Conditions of the Roma Community in order to increase the participation of Roma children in all levels of education. It underlines the importance of enabling the involvement of Roma organisations at local level in the development and application of measures suited to their community's needs.

82. ECRI encourages the Albanian authorities to ensure that all the minorities and communities living in Albania are given the possibility of disseminating information on their cultures in the public media.

95. ECRI recommends that the Albanian authorities further reinforce the resources allocated to monitoring the Strategy's implementation so that all the ministries and authorities concerned, and Roma representatives, are actively involved in all stages of the implementation process.

99. ECRI strongly recommends that the Albanian authorities ensure that Albanian Egyptians are not the victims of discrimination as regards their participation in and access to public institutions dealing with the needs and concerns of the country's minorities. To this end it recommends that they strengthen dialogue with the Egyptian

community so as to identify solutions enabling them to play an active role in decisions concerning them and to foster an improved knowledge of their culture and identity.

105. ECRI recommends that the Albanian authorities reinforce their dialogue with the representatives of the Vlach/Aromanian minority and with the Bosniacs living in Albania so as to identify solutions enabling their specific demands to be better taken into account.

122. ECRI again recommends that the Albanian authorities take steps to increase the participation of Roma and Egyptians in political processes at local level and ensure that minority groups, including Roma and Egyptians, are effectively represented within local political decision-making bodies.

125. ECRI recommends that the Albanian authorities step up their efforts to enhance representation of the currently under-represented minority groups in state institutions. These efforts should aim to arouse an interest in employment opportunities within such institutions; ECRI also invites the Albanian authorities to consider the possibility of taking positive action in this field.

128. ECRI encourages the Albanian authorities to pursue their efforts aimed at reinforcing Roma associations' capacities with regard to representation of their communities' interests and to programme management.

129. ECRI recommends that the Albanian authorities strengthen their dialogue with the Roma and Egyptian communities to ensure that greater consideration is given to their concerns at all levels.

130. ECRI again recommends that the Albanian authorities encourage and support the involvement of minority groups and grassroots organisations in the development, implementation and evaluation of projects and measures that directly affect them.

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*ECRI Report on Bosnia and Herzegovina (2011)*

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9. ECRI strongly urges the authorities to align the Constitution of Bosnia and Herzegovina and the provisions of electoral law with the requirements of the European Convention on Human Rights, emphasising the need to avoid prolonging a situation in which the prohibition against discrimination on ethnic grounds is violated. ECRI urges all actors concerned to take a constructive approach, focusing on finding common ground from which to define an electoral system that is viable in the long term, and that, while ensuring the full equality of members of the three constituent peoples, does not reduce representation to a question solely or primarily of ethnic belonging but allows all members of society to participate fully in the electoral process.

12. ECRI recommends that the authorities of Bosnia and Herzegovina review both the impact in practice of the 3% threshold for reserved national minority seats in municipal assemblies and councils and the practical problems reported by representatives of national minorities in exercising their electoral rights in municipal elections. It invites the authorities to take all necessary measures, including at legislative level if necessary, to ensure that national minorities enjoy a real and effective right to representation in elected bodies at local level.

13. ECRI recommends that the authorities take all necessary measures to ensure that representatives of national minorities can participate directly not only in public debates but also in formal discussions on amendments to the State Constitution and electoral law.

53. ECRI again encourages the authorities to support initiatives aimed at reaching all communities simultaneously, such as newspapers presenting the same articles in different languages or a variety of viewpoints

on topical issues, and radio and television broadcasts of interest to all communities and made accessible to all residents of the country.

81. ECRI recommends that the authorities strengthen their efforts to ensure that public sector employment adequately reflects the diversity of Bosnian society. It urges the authorities to step up their efforts to implement the Constituent Peoples judgment of the Constitutional Court of 30 June and 1 July 2000. It strongly recommends that the authorities ensure that national minorities, as well as persons who do not identify with any constituent people or national minority, are also covered by efforts aimed at increasing the number of persons from underrepresented groups in the civil service and in public enterprises.

89. ECRI again urges the authorities of Bosnia and Herzegovina to ensure that all persons living in Bosnia and Herzegovina enjoy adequate access to healthcare in a manner that is not directly or indirectly discriminatory vis-à-vis particular ethnic groups. It recommends that the authorities examine seriously all allegations concerning the display of ethnically divisive symbols in health care centres and take all necessary steps to ensure that such symbols are removed and that every health care centre provides an environment that is open and accessible to all. It further refers in this context to its recommendations made elsewhere in this report regarding the need to ensure that public sector employment adequately reflects the diversity of Bosnian society.

109. ECRI strongly encourages the authorities of Bosnia and Herzegovina to pursue their efforts in the field of civil registration of Roma. It urges them to ensure that all Roma persons in Bosnia and Herzegovina have access to identity papers and are able to obtain all the other official documents they need to enjoy full access to rights.

129. ECRI encourages the authorities to ensure the full involvement of Roma representatives, including the Advisory Board on Roma and the Council of National Minorities in monitoring, evaluating and adapting where necessary the measures set out in the Action Plans for Roma.

136. ECRI calls on the authorities at all relevant levels to resolve all outstanding issues with respect to the composition, functioning and resources of the various advisory bodies on national minorities, including the Advisory Board on Roma, so as to allow national minorities to participate effectively in and have an influence on public life at all levels, both within Entities and at State level.

140. ECRI again strongly encourages the authorities of Bosnia and Herzegovina to ensure that the provisions of the Law on National Minorities are duly applied. It recommends that they co-operate closely with the representatives of national minorities in this respect and draws the authorities' attention to the particular concerns of representatives of national minorities regarding the need to ensure the visibility of their languages and cultures as well as teaching of and in minority languages.

171. ECRI refers to its recommendations earlier in this report, urging the authorities to amend the Constitution and electoral law so as to ensure that all citizens enjoy equal electoral rights – both the right to vote and the right to run for election –, whatever their ethnic origins. It urges the authorities at the same time to ensure that all persons within the jurisdiction of Bosnia and Herzegovina enjoy not only by law but also in fact, all the rights laid down by law, regardless of their ethnic origins.

172. ECRI urges the authorities as well as political leaders at all levels to engage in this process constructively, avoiding the temptation to seek short-term political gain by championing the rights of some at the expense of those of others, and instead seeking solutions in the long-term interests of all persons living in Bosnia and Herzegovina, based on the recognition of equal democratic citizenship of all. It urges the authorities to ensure that civil society and all relevant groups – including national minorities and persons who do not identify with any constituent people or national minority – are adequately involved in public debates and represented in formal discussions.

19. ECRI urges the Croatian authorities to take all the necessary measures to resolve the problems that long-term residents who are not ethnic Croats have encountered in obtaining Croatian nationality. In particular, naturalisation could be facilitated by abolishing the requirement that any other nationality be renounced and by embracing the concept of dual nationality.

20. ECRI recommends that, among the measures that could be taken to make it easier for long-term residents to acquire Croatian nationality, the Croatian authorities include information campaigns, particularly for those sections of the population who have the most difficulties, such as Roma, Bosniaks, Serbs and other minority groups.

75. ECRI strongly recommends that the Croatian authorities ensure that there is no discrimination against ethnic Serbs in access to public sector jobs. It encourages the authorities to conduct investigations when there are allegations of discrimination and to take all the necessary measures if those allegations are confirmed. It also stresses the importance of implementing the constitutional and other provisions providing for representation of the members of national minorities, including ethnic Serbs, in public services such as the police, education and the judicial service.

96. ECRI recommends that further steps be taken to recruit members of minority groups to the police force.

128. ECRI strongly encourages the Croatian authorities to take all the necessary measures to ensure that the composition of judicial bodies reflects the ethnic diversity of the population as a whole, by implementing without delay Article 22 of the Constitutional Law on the Rights of National Minorities.

9. ECRI recommends that the authorities amend Article 45 of the Constitution to open possibilities for non-citizens to vote in and stand for local elections.

91. ECRI urges the authorities to take all possible steps to facilitate the procedures for “displaced” and “internally displaced” persons to obtain the status of “foreigner with permanent residence” in Montenegro. They should ensure, where necessary, that lack of financial means to obtain the necessary documents is not an obstacle. In particular, they should ensure that those persons, primarily RAE, who have no birth or citizenship certificates are not automatically excluded from the possibility of obtaining the status of “foreigner with permanent residence” in Montenegro.

104. ECRI recommends that the authorities pursue and intensify the issuing of personal documents to RAE, in accordance with the Strategy for the improvement of the position of the RAE population in Montenegro 2008-2012.

126. ECRI recommends that the authorities increase their efforts to ensure that there is no police impunity. It is also important to equip the police with the skills, including language skills, to increase their effectiveness by enhancing communication with and gaining the trust of minority groups. Therefore, ECRI invites the authorities to consider ways to increase the recruitment of national/ethnic minorities in the police.



60. ECRI recommends that the Serbian authorities implement the Strategy for the Improvement of the Status of Roma as soon as possible and provide it with sufficient human and financial resources. ECRI further recommends that Roma representatives be consulted and included in the implementation of this strategy.

99. ECRI urges the Serbian authorities to take immediate measures to ensure that Roma, Ashkali and Egyptians who do not have identity documents are provided with them.

110. ECRI recommends that the Serbian authorities ensure that Albanians are adequately represented in the judiciary. ECRI further recommends that the Serbian authorities ensure better representation of Albanians in state owned companies.

142. ECRI recommends that the Serbian authorities continue taking measures to recruit persons belonging to national minorities into the police force.

148. ECRI recommends that the authorities take measures to ensure that the judiciary in the Autonomous Province of Vojvodina reflects as much as possible the ethnic diversity of this region.

149. ECRI recommends that the Serbian authorities continue taking measures to attract ethnic minorities into the police in the Autonomous Province of Vojvodina.

The three specific recommendations for which ECRI requests priority implementation from the authorities of Serbia, are the following:

[...] ECRI urges the Serbian authorities to take immediate measures to ensure that Roma, Ashkali and Egyptians who do not have identity documents are provided with them.

10. ECRI recommends that the authorities continue their efforts to identify residents who still have no effective nationality and to settle their status in this respect.

96. ECRI strongly recommends that the authorities pursue their efforts fully and finally to settle the problem of access to personal documents experienced by persons belonging not just to the Roma community but also the Albanian and Turkish communities.

101. ECRI strongly recommends that the authorities settle without delay the issue of registration of minority religious groups and communities. It also recommends that they exercise vigilance with regard to all forms of discrimination or intolerance on grounds of religion.

118. Referring the authorities to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, ECRI recommends that they pursue the process of recruiting members of under-represented minority groups into the police. [...]

126. ECRI encourages the authorities to further their co-operation with nongovernmental organisations engaged in fighting intolerance, safeguarding fundamental rights and/or protecting the interests of minority groups and recommends that they provide them with lasting support so they have sufficient stable financial resources with which to perform their tasks.

## Commissioner for Human Rights

### Recommendation on systematic work for implementing human rights at the national level (2009)

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In their systematic work for implementing human rights member states should:

3. Involve all stakeholders during the entire process, including NHRIs, civil society and representatives from disadvantaged groups of people. Such an inclusive and participatory approach will contribute to the legitimacy of the plan, create shared ownership and make implementation effective. All communication with NHRIs and civil society representatives must be conducted with full respect for their integrity and independence.

4. Review the implementation of action plans in a regular way and carry out an independent evaluation upon their completion. It is equally important to assess the process, in terms of participation, inclusiveness and transparency, as it is to evaluate the end result.

11. Take concrete action towards creating an enabling environment for civil society, including human rights defenders, and make consultation with civil society a common practice when drafting policies and action plans at the national, regional and local level.

### Report by the Commissioner for Human Rights Mr. Thomas Hammarberg on his visit to Albania (2008)

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1. Develop a process of comprehensive governmental planning in the field of human rights, incorporating the existing specific plans and ensuring partnership with civil society actors.

39. Review the status and mandate of the State Committee for Minorities in order to strengthen its role and affectivity.

42. Ensure the establishment of mechanisms at the local level to provide continuous and direct contacts among the local authorities, educational institutions and the Roma communities.

### Report by the Commissioner for Human Rights of the Council of Europe, following his visit to Bosnia and Herzegovina (2011)

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55. The Commissioner calls on the authorities of Bosnia and Herzegovina to end the longstanding discrimination towards members of national minorities by bringing the Constitution and the Election Law fully in line with the European Convention on Human Rights, in light of the European Court of Human Rights' judgment in the case of *Sejdic and Finci*.

58. The Commissioner urges the authorities of Bosnia and Herzegovina to implement promptly and effectively the laws on national minorities' councils. Systematic financial support is needed to make effective the work of all national minority councils. The authorities are urged, in particular, to enable the councils to participate actively in policy-making and in the process of drafting of legislation concerning national minorities.

59. The Commissioner has noted with concern that the amendment made to the Election Law of Bosnia and Herzegovina in 2008 is likely to result in reduced possibilities for national minorities to be represented in municipal authorities, due to the raising of the threshold allowing persons belonging to national minorities to benefit from a reserved seat within local assemblies. He urges the authorities to take all necessary measures, including

legislative measures, to provide persons belonging to national minorities with real possibilities of representation in municipal councils and assemblies. The Commissioner fully supports the findings and recommendations made in 2008 by the Advisory Committee on the Framework Convention for the Protection of National Minorities in this regard.

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Report by the Commissioner for Human Rights Mr. Thomas Hammarberg following his visit to Croatia (2010)

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58. The Commissioner remains concerned about the situation of the ethnic Serb refugees and IDPs and calls on the Croatian authorities to take all necessary measures to make these persons' sustainable return possible by facilitating their access to citizenship, housing, property and employment.

59. The authorities are encouraged to ensure the full participation of minority members in all relevant action planning and decision making, in accordance with Council of Europe standards. In this context, the provisions of the Law on the Use of a National Minority Language and Script should be fully implemented. An affirmative action policy is also needed with respect to returnees and the reconciliation of communities. Such measures will strengthen the inherent pluralism, social cohesion and stability of democracy in Croatia.

65. As regards returnees who do not hold Croatian nationality and express the wish to stay and integrate in the country, the authorities should facilitate their acquisition of Croatian nationality. In this regard, the Commissioner highly recommends the ratification by Croatia of the European Convention on Nationality and of the Council of Europe Convention on the avoidance of statelessness in relation to State succession.

145. During his visit, the Commissioner noted certain improvements in the involvement and participation of Roma in public life. Nonetheless, Roma remain critically underrepresented in political life, public administration and the judiciary. A strategy and a subsequent coherent action plan are needed to remedy this situation, in accordance with the relevant standards of the Council of Europe.

146. The Commissioner remains deeply concerned by the significant number of stateless Roma in the region of the former Yugoslavia, including Croatia. He urges the Croatian authorities to take additional measures to facilitate Roma access to citizenship, especially for children. In this regard, the Commissioner urges Croatia to ratify the Council of Europe Convention on Nationality, signed by Croatia on 19 January 2005, and to sign and ratify the Council of Europe Convention on the avoidance of statelessness in relation to state succession. Naturalisation procedures for Roma should be simplified. Adapted possibilities for learning the Croatian language should also be provided and made known to the Roma.

147. The Commissioner stresses that the substantial reinforcement of free legal aid targeting Roma would be highly beneficial for the regularisation of their legal status. In light of the likely exclusion of Roma without regularised civil status from the recent Law on Free Legal Aid, additional funds may have to be generated to extend project activities to all Roma in need.

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Report by the Commissioner for Human Rights Mr. Thomas Hammarberg, following his visit to Montenegro (2008)

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2. Ensure a fully transparent process for the application to and distribution of government funding to civil society organisations.

3. Increase efforts to effectively involve NGOs and civil society in consultation and dialogue on human rights issues, particularly in policy development, standard setting and in operational level planning.

4. Take all necessary steps to guarantee an environment in which human rights defenders may peacefully defend their basic rights, defend the human rights of others and seek genuine human rights reforms in the country for the benefit of all persons .

35. Step-up efforts to create a public sector that is proportionally representative of the population with priority given to government structures, the judicial system, the military, law enforcement, education and local administration.

38. Support and facilitate birth and citizenship registration of both domicile and displaced Roma from Kosovo, in order to minimise the risk of statelessness.

39. Open concrete possibilities for the local integration of “displaced persons” from Croatia and Bosnia-Herzegovina opting to remain in Montenegro, and grant them a proper legal status which will facilitate their integration in Montenegrin society.

40. Regularize the status of the “internally displaced persons” from Kosovo residing on Montenegrin territory through: (1) citizenship, (2) long term residence with all of the rights of citizens other than voting rights, or (3) prima facie refugee status.

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**Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Serbia (2011)**

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132. The enactment of the Law on Minority National Councils in 2009 and the election in 2010 of the members of these councils are positive steps. However, the Commissioner remains concerned that the members of the Bosniak national minority council have not yet been elected.

138. The Commissioner remains deeply concerned by the situation of Roma who remain forcibly displaced from Kosovo and still lack personal identity documents. He is particularly concerned by the related, persistent problem of non-registration of Roma children upon birth. The Commissioner welcomes the commitment shown by the Serbian government and urges the authorities to promptly follow up on their plan aimed at facilitating access of all Roma to personal identity documents. In this regard, the Commissioner urges the authorities to enact an amendment to the Law on Residence which would provide that persons who do not have registered residence will get temporary documents with the address of the nearest social care centre.

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**Report by the Commissioner for Human Rights Thomas Hammarberg on his visit to “the Former Yugoslav Republic of Macedonia” (2008)**

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7. Fully implement the “Strategy for Cooperation of the Government with the Civil Sector (2007-2011)”, preferably through an institutionalised consultation framework for exchange between government and civil society.

21. Continue efforts towards the creation of a representative police force. Particular attention should be given to the need to include women and other minorities than the Albanian minority.

42. Invest more efforts to secure full and equal participation of Roma in politics and society.

### **I. General principles**

1. Sovereignty comprises the jurisdiction of the State over its territory and population, and is constrained only by the limits established by international law. No State may exercise jurisdiction over the population or part of the population of another State within the territory of that State without its consent.
2. Sovereignty also implies the obligation of the State to respect and to ensure the protection of human rights and fundamental freedoms of all persons within its territory and subject to its jurisdiction, including the rights and freedoms of persons belonging to national minorities. The respect for and protection of minority rights is primarily the responsibility of the State where the minority resides.
3. The protection of human rights, including minority rights, is also a matter of legitimate concern to the international community. States should address their concerns for persons or situations within other States through international co-operation and the conduct of friendly relations. This includes the full support by States of international human rights standards and their agreed international monitoring mechanisms.
4. A State may have an interest – even a constitutionally declared responsibility – to support persons belonging to national minorities residing in other States based on ethnic, cultural, linguistic, religious, historical or any other ties. However, this does not imply, in any way, a right under international law to exercise jurisdiction over these persons on the territory of another State without that State's consent.

### **II. State obligations regarding persons belonging to national minorities**

5. States should guarantee the right of everyone, including persons belonging to national minorities, to equality before the law and to equal protection under the law. In this respect, discrimination based on belonging to a national minority or related grounds is prohibited. Achieving substantive equality may require special measures and such measures should not be regarded as being discriminatory.
6. States should respect and promote the rights of persons belonging to national minorities, including the right freely to express, preserve and develop their cultural, linguistic or religious identity free from any attempts at assimilation against their will.
7. States should promote the integration of society and strengthen social cohesion. This implies that persons belonging to national minorities are given an effective voice at all levels of governance, especially with regard to, but not limited to, those matters which affect them. Integration can only be achieved if persons belonging to national minorities, in turn, participate in all aspects of public life and respect the rules and regulations of the country they reside in.
8. States should not unduly restrict the right of persons belonging to national minorities to establish and maintain unimpeded and peaceful contacts across frontiers with persons lawfully residing in other States, in particular those with whom they share a national or ethnic, cultural, linguistic or religious identity, or a common cultural heritage.

### **III. Benefits accorded by states to persons belonging to national minorities abroad**

9. States may extend benefits to persons residing abroad, taking into account the aforementioned principles. Such benefits may include, inter alia, cultural and educational opportunities, travel benefits, work permits and facilitated access to visas. They should be granted on a non-discriminatory basis. The State of residence should not obstruct the receipt or enjoyment of such benefits, which are consistent with international law and the principles underlying these Recommendations.

10. States should refrain from taking unilateral steps, including extending benefits to foreigners on the basis of ethnic, cultural, linguistic, religious or historical ties that have the intention or effect of undermining the principles of territorial integrity. States should not provide direct or indirect support for similar initiatives undertaken by non-State actors.

11. States may take preferred linguistic competencies and cultural, historical or familial ties into account in their decision to grant citizenship to individuals abroad. States should, however, ensure that such a conferral of citizenship respects the principles of friendly, including good neighbourly, relations and territorial sovereignty, and should refrain from conferring citizenship en masse, even if dual citizenship is allowed by the State of residence. If a State does accept dual citizenship as part of its legal system, it should not discriminate against dual nationals.

12. States may offer assistance to support education abroad, for example, with regard to textbooks, language training, teacher training, scholarships and school facilities. Such support should be non-discriminatory, have the explicit or presumed consent of the State of residence and be in line with applicable domestic and international educational standards.

13. States may provide support to cultural, religious or other non-governmental organizations respecting the laws and with explicit or implied consent of the country in which they are registered or operating. However, States should refrain from financing political parties of an ethnic or religious character in a foreign country, as this may have destabilizing effects and undermine good inter-State relations.

14. The free reception of transfrontier broadcasts, whether direct or by means of retransmission or rebroadcasting, may not be prohibited on the basis of ethnicity, culture, language or religion. Limitations are restricted to broadcasts that use hate speech or incite violence, racism or discrimination.

15. When granting benefits to persons belonging to national minorities residing abroad, States should ensure that they are consistent in their support for persons belonging to minorities within their own jurisdiction. Should States demonstrate greater interest in minorities abroad than at home or actively support a particular minority in one country while neglecting it elsewhere, the motives and credibility of their actions may be put into question.

### **IV. Multilateral and bilateral instruments and mechanisms**

16. States should co-operate across international frontiers within the framework of friendly bilateral and multilateral relations and on a territorial rather than an ethnic basis. Transfrontier co-operation between local and regional authorities and minority self-governments can contribute to tolerance and prosperity, strengthen inter-State relations and encourage dialogue on minority issues.

17. In dealing with issues concerning the protection of persons belonging to national minorities, States should be guided by the rules and the principles established in international human rights documents, including those multilateral instruments and mechanisms which have been created specifically to support the implementation of standards and commitments relating to minorities.

18. States are encouraged to conclude bilateral treaties and make other bilateral arrangements in order to enhance and further develop the level of protection for persons belonging to national minorities. These mechanisms offer vehicles through which States can share information and concerns, pursue interests and ideas, and further support minorities on the basis of friendly relations. A bilateral approach should follow the spirit of fundamental rules and principles laid down in multilateral instruments.

19. States should make good use of all available domestic and international instruments in order to effectively address possible disputes and to avert conflicts over minority issues. This may include advisory and consultative bodies such as minority councils, joint commissions and relevant international organizations. Mediation or arbitration mechanisms should be established in advance through appropriate bilateral or multilateral agreements.

#### Recommendations on Policing in Multi-Ethnic Societies (2006)

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### **I. General principles**

1. States should adopt policies which clearly recognize the importance of policing for inter-ethnic relations. These policies should form part of wider policies and programmes to promote the integration of minorities at national and local levels. They should also be co-ordinated with wider action to promote professionalisation and a service-orientation in policing, and to ensure that all policing is carried out in accordance with international standards on human rights, including rights of persons belonging to minorities.

2. States will need to ensure that the police and the general public, including minorities, understand the role of the police in promoting good inter-ethnic relations. They will also need to ensure that the police are tasked and equipped to carry this role out. Political and police leaders should publicly state their support for this role, and promote understanding and support for it generally among the public.

3. Action plans to implement these policies, and also to monitor their implementation on a regular basis, should be developed by state authorities and police in close co-operation with minority representatives.

### **II. Recruitment and presentation**

4. The composition of the police – at local, regional and national levels and including senior as well as junior ranks, and also civilian personnel – should reflect the diversity of the population. The public image of the police as an ethnically representative body needs to be actively promoted.

5. Statistical targets should be set for increasing the representativeness of the police, and monitoring of the ethnic composition of the police should be introduced in order to measure progress.

6. Initiatives to increase recruitment of underrepresented minorities will need to be introduced. These should include special measures to encourage applicants and to assist them to achieve the required standards, together with actions to remove any direct or indirect discriminatory barriers.

7. Measures will also need to be introduced to ensure that police officers from a minority background are accepted and treated equally inside the police organization, which should provide a neutral working environment, and have equal opportunities for progression in their careers.

### **III. Training and professional development**

8. Police need to receive training and other forms of professional support required to understand and respond appropriately to the sensitivities of minorities, and so that they are able to carry out their policing roles effectively in ways which promote harmony and reduce tensions.

9. It is recommended that training in minority issues and inter-ethnic relations is included in both initial and in-service training, and provided for senior as well as junior police officers. Representatives of minorities should be involved in both the planning and delivery of training.

10. Police codes of conduct should include professional standards for policing in multi-ethnic societies, and police training programmes should include components specifically designed to achieve these standards. Breaches of these standards should be subject to remedial action, and exemplary good practice should receive professional and public recognition.

11. It is recommended that police managers and supervisors are clearly tasked with the responsibility to ensure that their staff achieve these standards in their dealings with minorities, and should provide leadership and set examples of good practice in their own work.

### **IV. Engaging with ethnic communities**

12. Police should be tasked with developing methods and practices to communicate and co-operate with minorities and to build confidence together at local, regional and national levels.

13. Police will need to ensure they have the capability to communicate with minorities in minority languages, wherever possible by recruitment and training of multilingual staff, and also by use of qualified interpreters.

14. Police should play a proactive role in providing encouragement and support to minorities to assist them to communicate and co-operate with the police, for example by acting as partners in initiatives to promote recruitment and to provide training on minority issues. Minorities for their part should be ready to communicate and co-operate with the police for the purpose of increasing community safety and access to justice.

15. It is recommended that mechanisms are established to ensure that police are democratically accountable for their actions to people from all sections of the community. These need to include effective systems for making and following up complaints, which are accessible to persons belonging to national minorities. All sections of the community need to be aware of their rights and responsibilities in relation to the police, and of the powers of the police and the services they are expected to provide.

### **V. Operational practices**

16. Measures should be taken to ensure that police enforce the law in an impartial and nondiscriminatory manner which does not single out any particular group, e.g. by engaging in 'racial profiling'. Such measures should include codes for the conduct of operational practices, such as use of police powers to stop and search people on the street and in other public places.

17. Police should take steps to encourage the reporting by persons belonging to national minorities of crime, in order to promote community safety and access to justice.

18. When undertaking regular patrols in multi-ethnic areas, police should where possible deploy ethnically mixed teams in order to build public confidence and increase their operational effectiveness. Police should also ensure



their tactics and appearance (e.g. numbers, visibility of weapons, choice of uniforms) are appropriate to the task and do not unnecessarily provoke fear and tension.

19. Police should ensure that anti-discrimination law is enforced vigorously and effectively. In particular, police should take steps to encourage the reporting of crimes motivated by ethnic hatred, and ensure that they are fully recorded and investigated.

20. States need to ensure that mechanisms to provide advice and support for victims of crime are equally accessible to and effective for persons belonging to national minorities.

## **VI. Prevention and management of conflict**

21. Police should be tasked and trained to play a proactive role in developing a relationship with minorities aimed at identifying and if possible reducing tensions which can lead to inter-ethnic conflicts.

22. Police also need to be trained and equipped to manage civil disturbances and incidents of inter-ethnic conflict in a professional and non-partisan manner, with the aim of de-escalating conflicts and of resolving them through mediation where possible and with minimal use of force.

23. Especially at the local level, police should co-operate closely with other public authorities to ensure their actions to prevent and manage inter-ethnic conflict are co-ordinated with wider action to promote the integration of minorities and to build a successful multi-ethnic society.

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### **Guidelines on the use of Minority Languages in the Broadcast Media (2003)**

## **I. General principles**

### **1) *Freedom of Expression***

The freedom of expression of every person, including persons belonging to national minorities, includes the right to receive, seek and impart information and ideas in a language and media of their choice without interference and regardless of frontiers.

The exercise of this freedom may be subject only to such limitations as are compatible with international law.

### **2) *Cultural and Linguistic Diversity***

States should guarantee the freedom of choice by creating an environment in which a variety of ideas and information can flourish as communicated in various languages.

### **3) *Protection of Identity***

All persons, including persons belonging to national minorities, have the right to maintain and develop their identity, including through the use of their language(s), in and through the broadcast media.

### **4) *Equality and Non-Discrimination***

All persons, including persons belonging to national minorities, have the right to enjoy the freedom of expression and to maintain and develop their identity in and through the broadcast media in conditions of equality and without discrimination. States should take special and concrete measures, where necessary, to ensure that persons belonging to national minorities enjoy effective equality with regard to the use of their language in the broadcast media.

## II. Policy

5) States should develop policy to address the use of minority language(s) in the broadcast media. Policy should be based on an ascertainment of the needs of persons belonging to national minorities to maintain and develop their identities.

In the development and application of such policy, persons belonging to national minorities should enjoy effective participation, including in consultative processes and representation in relevant institutions and bodies.

6) Independent regulatory bodies should be responsible for the implementation and enforcement of State policy. Such bodies should be established and should function in a transparent manner.

7) State policy should support public service broadcasting which provides a wide and balanced range of informational, educational, cultural and entertainment programming of high quality in order, *inter alia*, to meet the needs of persons belonging to national minorities. States should maintain and, where necessary, establish the financial, technical and other conditions for public service broadcasters to fulfill their mandates in this field.

8) State policy should facilitate the establishment and maintenance by persons belonging to national minorities of broadcast media in their own language.

## III. Regulation

### 9) *Permissibility of Regulation*

States may regulate the broadcast media for the protection and promotion of the freedom of expression, cultural and linguistic diversity, the maintenance and development of cultural identity, and for the respect of the rights or reputations of others. Such regulation, including licensing, must be prescribed by law, based on objective and non-discriminatory criteria and shall not aim to restrict or have the effect of restricting broadcasting in minority languages.

### 10) *Promotion of Languages*

In regulating the use of language in the broadcast media, States may promote the use of selected languages. Measures to promote one or more language(s) should not restrict the use of other languages. States may not prohibit the use of any language in the broadcast media. Measures to promote any language in broadcast media should not impair the enjoyment of the rights of persons belonging to national minorities.

### 11) *Proportionality of Regulation*

Any regulation, whether prescriptive or proscriptive, must pursue a legitimate aim and be proportionate to that aim. When assessing the proportionality of any regulation, specific factors concerning the nature of the media and wider social environment should be considered. Such factors include:

- **The nature and objectives of the measure**, including its potential to contribute to the quality and balance of programming, in pursuit of the protection and promotion of freedom of expression, cultural and linguistic diversity, and the maintenance and development of cultural identity.
- **The existing political, social and religious context**, including cultural and linguistic diversity, structures of governance, and regional characteristics.
- **The number, variety, geographical reach, character, function and languages of available broadcasting services** – whether public, private or foreign – at all levels (national, regional and local). The financial costs to the audience of the various services, technical possibilities for reception and the quantity as well as the quality of

broadcasting, both in terms of the scheduling of slots and the type of programming, are all relevant considerations.

- **The rights, needs, expressed desires and nature of the audience(s) affected**, including their numerical size and geographical concentration, at each level (national, regional and local).

#### 12) *Translation Restrictions*

Minority language broadcasting should not be subject to the imposition of undue or disproportionate requirements for translation, dubbing, postsynchronisation or subtitling.

#### 13) *Transfrontier Broadcasting*

The free reception of transfrontier broadcasts, whether direct or by means of retransmission or rebroadcasting, shall not be prohibited on the basis of language.

The availability of foreign broadcasting in a minority language does not negate the State's obligation to facilitate domestically produced broadcasting in that language nor does it justify a reduction of the broadcast time in that language.

### **IV. Promotion of minority languages**

#### 14) *State Support*

The State should support broadcasting in minority languages. This may be achieved through, *inter alia*, provision of access to broadcasting, subsidies and capacity building for minority language broadcasting.

#### 15) *Access to Broadcasting*

States should provide meaningful access to minority language broadcasting through, *inter alia*, the allocation of frequencies, establishment and support of broadcasters, and program scheduling. In this regard, account should be taken of the numerical size, geographical concentration, and location of persons belonging to national minorities together with their needs and interests.

The availability of minority language broadcasting at regional or local level does not justify the exclusion of minority language programming in nationwide broadcasting, including for dispersed minorities.

### **A. Frequencies**

- When awarding licenses, States should consider providing frequencies for minority language broadcasting in whole or in part.
- States should consider providing "open channels" – i.e. program transmission facilities, which use the same frequency, shared by a number of linguistic groups within the service area – where there are technical limitations on the number of frequencies available and/or groups that do not have sufficient resources to sustain their own services.

### **B. Broadcasters**

- States should prescribe appropriate requirements for State or public service broadcasters with regard to the provision of programming in minority languages.
- States should also consider creating favourable conditions (financial or otherwise) to encourage private minority language broadcasting. This may be achieved through the allocation of licenses, including calls for tender or in response to a proposal from an applicant. States may also choose to exempt minority language broadcasters from competition legislation or create special regimes to relieve them of certain administrative burdens.

- Where there is no private minority language broadcasting, States should actively assist its establishment, as necessary.

### **C. Programming**

States should ensure that the amount of time allocated and the scheduling of minority language broadcasting should reflect the numerical size and concentration of the national minority and be appropriate to their needs and interests. Consideration must also be given to the minimum amount of time and appropriate scheduling needed for small minorities to have meaningful access to broadcast media in their language. These aims may be achieved through licensing, including through stipulation of lengths and periods of minority language broadcasting.

#### **16) Public Funding**

States should consider providing financial support for minority language broadcasting. This can be achieved through direct grants, favourable financing/tax regimes, and exemption from certain fees payable on award or alteration of a license. To ensure effective equality, minority language broadcasters in numerically smaller communities may require funds or facilities disproportionate to their size as a percentage of available resources. States should encourage and facilitate, including through the provision of financial assistance, the production and distribution of audio and audiovisual works in minority languages.

#### **17) Capacity Building**

States should contribute to the building of the capacity of minority language broadcasting. This may be done through technical support to distribute minority language productions both domestically and abroad and to facilitate transfrontier broadcasting in minority languages. In addition, States should consider supporting the education and training of personnel for minority language broadcasting.

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### **Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999)**

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#### **I. General principals**

1) Effective participation of national minorities in public life is an essential component of a peaceful and democratic society. Experience in Europe and elsewhere has shown that, in order to promote such participation, governments often need to establish specific arrangements for national minorities. These Recommendations aim to facilitate the inclusion of minorities within the State and enable minorities to maintain their own identity and characteristics, thereby promoting the good governance and integrity of the State.

2) These Recommendations build upon fundamental principles and rules of international law, such as respect for human dignity, equal rights, and nondiscrimination, as they affect the rights of national minorities to participate in public life and to enjoy other political rights. States have a duty to respect internationally recognized human rights and the rule of law, which allow for the full development of civil society in conditions of tolerance, peace, and prosperity.

3) When specific institutions are established to ensure the effective participation of minorities in public life, which can include the exercise of authority or responsibility by such institutions, they must respect the human rights of all those affected.

4) Individuals identify themselves in numerous ways in addition to their identity as members of a national minority. The decision as to whether an individual is a member of a minority, the majority, or neither rests with that individual and shall not be imposed upon her or him.

Moreover, no person shall suffer any disadvantage as a result of such a choice or refusal to choose.

5) When creating institutions and procedures in accordance with these Recommendations, both substance and process are important. Governmental authorities and minorities should pursue an inclusive, transparent, and accountable process of consultation in order to maintain a climate of confidence. The State should encourage the public media to foster intercultural understanding and address the concerns of minorities.

## **II. Participation in decision-making**

### *A. Arrangements at the Level of the Central Government*

6) States should ensure that opportunities exist for minorities to have an effective voice at the level of the central government, including through special arrangements as necessary. These may include, depending upon the circumstances:

- special representation of national minorities, for example, through a reserved number of seats in one or both chambers of parliament or in parliamentary committees; and other forms of guaranteed participation in the legislative process;
- formal or informal understandings for allocating to members of national minorities cabinet positions, seats on the supreme or constitutional court or lower courts, and positions on nominated advisory bodies or other high-level organs;
- mechanisms to ensure that minority interests are considered within relevant ministries, through, e.g., personnel addressing minority concerns or issuance of standing directives; and
- special measures for minority participation in the civil service as well as the provision of public services in the language of the national minority.

### *B. Elections*

7) Experience in Europe and elsewhere demonstrates the importance of the electoral process for facilitating the participation of minorities in the political sphere. States shall guarantee the right of persons belonging to national minorities to take part in the conduct of public affairs, including through the rights to vote and stand for office without discrimination.

8) The regulation of the formation and activity of political parties shall comply with the international law principle of freedom of association. This principle includes the freedom to establish political parties based on communal identities as well as those not identified exclusively with the interests of a specific community.

9) The electoral system should facilitate minority representation and influence.

- Where minorities are concentrated territorially, single member districts may provide sufficient minority representation.
- Proportional representation systems, where a political party's share in the national vote is reflected in its share of the legislative seats, may assist in the representation of minorities.
- Some forms of preference voting, where voters rank candidates in order of choice, may facilitate minority representation and promote inter-communal cooperation.

- Lower numerical thresholds for representation in the legislature may enhance the inclusion of national minorities in governance.

10) The geographic boundaries of electoral districts should facilitate the equitable representation of national minorities.

### *C. Arrangements at the Regional and Local Levels*

11) States should adopt measures to promote participation of national minorities at the regional and local levels such as those mentioned above regarding the level of the central government (paragraphs 6-10) The structures and decision-making processes of regional and local authorities should be made transparent and accessible in order to encourage the participation of minorities.

### *D. Advisory and Consultative Bodies*

12) States should establish advisory or consultative bodies within appropriate institutional frameworks to serve as channels for dialogue between governmental authorities and national minorities. Such bodies might also include special purpose committees for addressing such issues as housing, land, education, language, and culture. The composition of such bodies should reflect their purpose and contribute to more effective communication and advancement of minority interests.

13) These bodies should be able to raise issues with decision makers, prepare recommendations, formulate legislative and other proposals, monitor developments and provide views on proposed governmental decisions that may directly or indirectly affect minorities.

Governmental authorities should consult these bodies regularly regarding minority-related legislation and administrative measures in order to contribute to the satisfaction of minority concerns and to the building of confidence. The effective functioning of these bodies will require that they have adequate resources.

## **III. Self-governance**

14) Effective participation of minorities in public life may call for non-territorial or territorial arrangements of self-governance or a combination thereof. States should devote adequate resources to such arrangements.

15) It is essential to the success of such arrangements that governmental authorities and minorities recognize the need for central and uniform decisions in some areas of governance together with the advantages of diversity in others.

- Functions that are generally exercised by the central authorities include defence, foreign affairs, immigration and customs, macroeconomic policy, and monetary affairs.

- Other functions, such as those identified below, may be managed by minorities or territorial administrations or shared with the central authorities.

- Functions may be allocated asymmetrically to respond to different minority situations within the same State.

16) Institutions of self-governance, whether non-territorial or territorial, must be based on democratic principles to ensure that they genuinely reflect the views of the affected population.

### *A. Non-Territorial Arrangements*

17) Non-territorial forms of governance are useful for the maintenance and development of the identity and culture of national minorities.

18) The issues most susceptible to regulation by these arrangements include education, culture, use of minority language, religion, and other matters crucial to the identity and way of life of national minorities.

- Individuals and groups have the right to choose to use their names in the minority language and obtain official recognition of their names.
- Taking into account the responsibility of the governmental authorities to set educational standards, minority institutions can determine curricula for teaching of their minority languages, cultures, or both.
- Minorities can determine and enjoy their own symbols and other forms of cultural expression.

### *B. Territorial Arrangements*

19) All democracies have arrangements for governance at different territorial levels. Experience in Europe and elsewhere shows the value of shifting certain legislative and executive functions from the central to the regional level, beyond the mere decentralization of central government administration from the capital to regional or local offices.

Drawing on the principle of subsidiarity, States should favourably consider such territorial devolution of powers, including specific functions of self-government, particularly where it would improve the opportunities of minorities to exercise authority over matters affecting them.

20) Appropriate local, regional, or autonomous administrations that correspond to the specific historical and territorial circumstances of national minorities may undertake a number of functions in order to respond more effectively to the concerns of these minorities.

- Functions over which such administrations have successfully assumed primary or significant authority include education, culture, use of minority language, environment, local planning, natural resources, economic development, local policing functions, and housing, health, and other social services.
- Functions shared by central and regional authorities include taxation, administration of justice, tourism, and transport.

21) Local, regional, and autonomous authorities must respect and ensure the human rights of all persons, including the rights of any minorities within their jurisdiction.

## **IV. Guarantees**

### *A. Constitutional and Legal Safeguards*

22) Self-governance arrangements should be established by law and generally not be subject to change in the same manner as ordinary legislation. Arrangements for promoting participation of minorities in decision-making may be determined by law or other appropriate means.

- Arrangements adopted as constitutional provisions are normally subject to a higher threshold of legislative or popular consent for their adoption and amendment.

- Changes to self-governance arrangements established by legislation often require approval by a qualified majority of the legislature, autonomous bodies or bodies representing national minorities, or both.
- Periodic review of arrangements for self-governance and minority participation in decision-making can provide useful opportunities to determine whether such arrangements should be amended in the light of experience and changed circumstances.

23) The possibility of provisional or step-by-step arrangements that allow for the testing and development of new forms of participation may be considered. These arrangements can be established through legislation or informal means with a defined time period, subject to extension, alteration, or termination depending upon the success achieved.

### ***B. Remedies***

24) Effective participation of national minorities in public life requires established channels of consultation for the prevention of conflicts and dispute resolution, as well as the possibility of ad hoc or alternative mechanisms when necessary. Such methods include:

- judicial resolution of conflicts, such as judicial review of legislation or administrative actions, which requires that the State possess an independent, accessible, and impartial judiciary whose decisions are respected; and
- additional dispute resolution mechanisms, such as negotiation, fact finding, mediation, arbitration, an ombudsman for national minorities, and special commissions, which can serve as focal points and mechanisms for the resolution of grievances about governance issues.

### **Oslo Recommendations regarding the Linguistic Rights of National Minorities (1998)**

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#### **NAMES**

1) Persons belonging to national minorities have the right to use their personal names in their own language according to their own traditions and linguistic systems. These shall be given official recognition and be used by the public authorities.

2) Similarly, private entities such as cultural associations and business enterprises established by persons belonging to national minorities shall enjoy the same right with regard to their names.

3) In areas inhabited by significant numbers of persons belonging to a national minority and when there is sufficient demand, public authorities shall make provision for the display, also in the minority language, of local names, street names and other topographical indications intended for the public.

#### **RELIGION**

4) In professing and practicing his or her own religion individually or in community with others, every person shall be entitled to use the language(s) of his or her choice.

5) For those religious ceremonies or acts pertaining also to civil status and which have legal effect within the State concerned, the State may require that certificates and documents pertaining to such status be produced also in



the official language or languages of the State. The State may require that registers pertaining to civil status be kept by the religious authorities also in the official language or languages of the State.

### **COMMUNITY LIFE AND NGOs**

6) All persons, including persons belonging to national minorities, have the right to establish and manage their own non-governmental organisations, associations and institutions. These entities may use the language(s) of their choosing. The State may not discriminate against these entities on the basis of language nor shall it unduly restrict the right of these entities to seek sources of funding from the State budget, international sources or the private sector.

7) If the State actively supports activities in, among others, the social, cultural and sports spheres, an equitable share of the total resources made available by the State shall go to support those similar activities undertaken by persons belonging to national minorities. State financial support for activities which take place in the language(s) of persons belonging to national minorities in such spheres shall be granted on a non-discriminatory basis.

### **THE MEDIA**

8) Persons belonging to national minorities have the right to establish and maintain their own minority language media. State regulation of the broadcast media shall be based on objective and non-discriminatory criteria and shall not be used to restrict enjoyment of minority rights.

9) Persons belonging to national minorities should have access to broadcast time in their own language on publicly funded media. At national, regional and local levels the amount and quality of time allocated to broadcasting in the language of a given minority should be commensurate with the numerical size and concentration of the national minority and appropriate to its situation and needs.

10) The independent nature of the programming of public and private media in the language(s) of national minorities shall be safeguarded. Public media editorial boards overseeing the content and orientation of programming should be independent and should include persons belonging to national minorities serving in their independent capacity.

11) Access to media originating from abroad shall not be unduly restricted. Such access should not justify a diminution of broadcast time allocated to the minority in the publicly funded media of the State of residence of the minorities concerned.

### **ECONOMIC LIFE**

12) All persons, including persons belonging to national minorities, have the right to operate private enterprises in the language or languages of their choice. The State may require the additional use of the official language or languages of the State only where a legitimate public interest can be demonstrated, such as interests relating to the protection of workers or consumers, or in dealings between the enterprise and governmental authorities.

### **ADMINISTRATIVE AUTHORITIES AND PUBLIC SERVICES**

13) In regions and localities where persons belonging to a national minority are present in significant numbers and where the desire for it has been expressed, persons belonging to this national minority shall have the right to acquire civil documents and certificates both in the official language or languages of the State and in the language of the national minority in question from regional and/or local public institutions. Similarly regional and/or local public institutions shall keep the appropriate civil registers also in the language of the national minority.

14) Persons belonging to national minorities shall have adequate possibilities to use their language in communications with administrative authorities especially in regions and localities where they have expressed a desire for it and where they are present in significant numbers. Similarly, administrative authorities shall, wherever possible, ensure that public services are provided also in the language of the national minority. To this end, they shall adopt appropriate recruitment and/or training policies and programmes.

15) In regions and localities where persons belonging to a national minority are present in significant numbers, the State shall take measures to ensure that elected members of regional and local governmental bodies can use also the language of the national minority during activities relating to these bodies.

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The Hague Recommendations regarding the Education Rights of National Minorities (1996)

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**The spirit of international instruments**

1) The right of persons belonging to national minorities to maintain their identity can only be fully realised if they acquire a proper knowledge of their mother tongue during the educational process. At the same time, persons belonging to national minorities have a responsibility to integrate into the wider national society through the acquisition of a proper knowledge of the State language.

**Decentralization and participation**

5) States should create conditions enabling institutions which are representative of members of the national minorities in question to participate, in a meaningful way, in the development and implementation of policies and programmes related to minority education.

6) States should endow regional and local authorities with appropriate competences concerning minority education thereby also facilitating the participation of minorities in the process of policy formulation at a regional and/or local level.

7) States should adopt measures to encourage parental involvement and choice in the educational system at a local level, including in the field of minority language education.

**Public and private institutions**

8) In accordance with international law, persons belonging to national minorities, like others, have the right to establish and manage their own private educational institutions in conformity with domestic law. These institutions may include schools teaching in the minority language.

9) Given the right of persons belonging to national minorities to establish and manage their own educational institutions, States may not hinder the enjoyment of this right by imposing unduly burdensome legal and administrative requirements regulating the establishment and management of these institutions.

10) Private minority language educational institutions are entitled to seek their own sources of funding without any hindrance or discrimination from the State budget, international sources and the private sector.

**Minority education at tertiary level**

17) [...] Persons belonging to national minorities may also seek ways and means to establish their own educational institutions at the tertiary level.

18) In situations where a national minority has, in recent history, maintained and controlled its own institutions of higher learning, this fact should be recognised in determining future patterns of provision.

### **Curriculum development**

20) The curriculum content related to minorities should be developed with the active participation of bodies representative of the minorities in question.

21) States should facilitate the establishment of centres for minority language education curriculum development and assessment. These centres could be linked to existing institutions providing these can adequately facilitate the achievement of the curriculum related objectives.

## **Recommendations made at the National Roma Seminars conducted by DG Enlargement in 2011**

### **Cross-cutting issues – general recommendations**

Capacity building, co-ordination and communication is needed for the Roma<sup>1</sup> Minority Council or Roma Technical Secretariat, institutions in charge of Roma policies and NGOs;

Local authorities have a key role in Roma inclusion;

Roma should participate in the design, implementation and monitoring of Roma Action Plans and Programmes. Their role in decision-making should be enhanced. The position and the needs of Roma women and girls should be considered.

Transparency of the government (funds, co-operation)

Allocate resources to National/Local Action Plans for Roma – this would also show the commitment from the government towards Roma issues

Systemic and sustainable enhancement of position of Roma can be created with initial support from donors. (examples: Health Mediators, Roma Teacher Assistant, Roma coordinators/Roma Information Centres, Community-based facilitators)

### **1. Civil Registration**

All children must be registered at birth through Health Institutions in co-operation with the Municipal Civil Status Offices;

FBiH law on civil registration should be adopted and harmonized with RS;

Civil status legislation should be adopted swiftly including the bi-laws and administrative instructions and training on these, so that municipalities can do their work;

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<sup>1</sup> Roma is meant to include Ashkali, Egyptian and other related communities in the Western Balkans.

Registration campaign undertaken with Roma communities to register – during this period registration should be free of charge (temporary windows);

Free legal aid should be provided to people who need assistance in registering for citizenship; late registration (or subsequent registration) should be free of charge;

Proof of residence can be provided through Centres for Social Welfare or Roma National Councils for those people without a permanent address;

*Albania specific:* Registration should be made available free of charge and the costs for DNA testing for family unification and birth registration in general should be covered by the state;

Naturalization of stateless people and refugees;

Civil registration of repatriated children has to be systematically carried out;

Civil registration should be more efficient;

*fYRoM specific:* costs and fines for late registration should be waived as well as DNA testing required for establishing identity for the first 6 months in 2012;

*MNE specific:* the Independence of Montenegro created some specific requirements for IDPs/DPs who did not have MNE citizenship before. They will receive 'foreigner status' for the coming 10 years, which gives them the same entitlements as MNE citizens except voting rights. The procedure to obtain this status and get travel documents is very complicated and time consuming. However, procedures are improving and by going to Kosovo<sup>2</sup> many IDPs can re-register and have faster access to civil documents;

### **3. (Vocational Training) and Employment**

Efforts need to be undertaken to employ Roma – both men and women – in the public sector, in ministries, educational institutions, employment bureaus and social welfare centres as teacher assistants, Roma educators or Roma mediators. (Regional);

*fYRoM specific:* Strengthened efforts are needed to increase representation of Roma in the public administration based on merits and qualification. In addition, affirmative employment measures in government funded projects should be promoted.

*MNE specific:* The authorities will increase their efforts to recruit graduate Roma in the public sector (Ministries and education, as teachers and assistants).

Roma NGOs should facilitate the co-ordination among municipal/regional social, vocational education centres and employment centres with a view to improve Roma access to market information and employment. (Regional);

*MNE specific:* Language courses will be provided to Roma persons who do not speak the Montenegrin language, in particular women;

Access to existing and future active labour measures for employment should be provided also for the Roma refugees.

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<sup>2</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

#### **4. Social and Healthcare**

Members of the Roma community should be employed in social work centres. Additional resources Needed to engage additional case managers in the next three years;

#### **5. Housing**

The current methodology for selection of housing projects beneficiaries should be revised to clarify selection criteria, based on lessons learnt from past experience, while keeping needs-oriented approach. *Role of commissions for selection of beneficiaries, role of Centers for social welfare and Roma representatives need to be clearly indicated;*

An independent monitoring mechanism/body should be established to oversee the implementation of housing projects from the beginning to the end of implementation. Such mechanism should be based on clear guidelines, *including as regards selection of Roma and other experts in charge of monitoring;*

#### **6. Free Movement**

Full implementation of the already identified policies to be ensured;

There is a risk that undue migration pressure would increase pressure on the enlargement process. Continued and enhanced cooperation with the Serbian authorities is necessary to monitor and overcome the difficult situation of the abuse of visa free-travel regime faced by some EU Member States. Roma community's awareness of the risks posed by abuse of the visa free regime to be increased;

Roma NGOs should continue campaigns to inform Roma communities on re-admission procedures;

Sustainable integration of all returnees shall be ensured and returning families shall be integrated and provided with assistance.