**Input to the report of the Special Rapporteur on minority issues to the UN General Assembly on institutional arrangements of States that enable minority rights to flourish**

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**BACKGROUND**

1 This submission provides responses to the questions informing the report of the Special Rapporteur on minority issues, which will be presented to the General Assembly in October 2024, at its 79th session. The assessment of the implementation of Article 2(2) and Article 2(3) of the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM) is relevant and highly welcomed.

2 This submission highlights the interpretation of effective participation of minorities within the international normative framework and scholarship that focuses on the different elements contributing to participation of minorities, specifically in public life and decisions that affect them.

**REPONSES TO QUESTIONS 4 TO 6**

**Are there institutional arrangements and/or political practices that de facto exclude persons belonging to minorities from effective participation in decisions at the national – and, where appropriate, regional level – concerning the minority to which they belong?**

3 It is important to note that as far as minorities are concerned, international organisations recognised that participation opportunities, especially in public life of minorities, need to be ‘effective.’[[1]](#footnote-1) This means that arrangements in place need to go beyond legal symbolism and ensure that minorities have meaningful opportunities to take part in this area and influence the decisions that affect them.

4 Participation in decision-making forms the first component of the right to effective public participation of minorities. Effective participation in decision-making of persons belonging to minorities can be realised both on national and local levels. Arrangements at central government level can range from special representation through reserved number of seats, establishment of relevant ministries, and special measures for minority participation in civil service including facilitation of public services in the language of the minority.[[2]](#footnote-2) While some of these arrangements are more commonly implemented at a national level, it should be noted that some of these opportunities can also be replicated on a local level.[[3]](#footnote-3)

5 In certain instances the opportunities mentioned previously may not deliver the influence that minorities require in order to ensure effective participation in the decisions that affect them. Here, ‘veto-type’ rights over draft legislation that directly affects minorities can be given to members representing minority communities within the national legislature.[[4]](#footnote-4)

6 The lack of awareness and promotion of diversity among political parties in the society/communities that they represent may serve as a negative factor for the effective participation of minorities in decisions on national and local levels.[[5]](#footnote-5) This factor can be mitigated by encouraging central and regional governments to issue policy statements that recognise the diversity within their respective societies and reflect this diversity as widely as possible within public institutions, the civil service, the police and the judiciary.

7 Another important factor is the willingness of governments to meaningfully engage with advisory and consultative bodies that represent minority communities’ views. Such bodies can take the form of special purpose committees.[[6]](#footnote-6) In addition, it is also important to provide adequate funding to the advisory bodies, encourage their transparency, accessibility for minorities, and independence from government influence.

8 In terms of additional factors that influence effective participation of minorities in decisions that affect them, it is important to analyse language proficiency requirements. If a State aims to implement effective participation of minorities in public affairs, it should eliminate strict language proficiency requirements for minorities wishing to stand for national and local elections. Lowering language proficiency requirements for public administration posts is also advised.[[7]](#footnote-7) The right to freely use minority languages in oral and written private and public communication is a significant factor enhancing the participation of minorities in public affairs,[[8]](#footnote-8) which is particularly important in areas where minorities live traditionally and in substantial numbers.

9 Established electoral thresholds that do not take account of the numerical circumstances of minorities may also negatively impact on public participation of minorities. Implementing lower electoral thresholds during national level elections may contribute to effective participation of minorities, as it will ensure that certain minority communities have an adequate chance of securing representation within the national legislature.[[9]](#footnote-9) Such measures can also be implemented on a local level.[[10]](#footnote-10) Usually exemptions from electoral thresholds are entrenched in constitutions.[[11]](#footnote-11)

10 Elements that govern citizenship and residency requirements can serve as negative factors influencing participation of minorities. While arrangements for effective participation of minorities are usually attributed to ‘traditional minorities,’ other groups such as non-citizens, as well as migrant populations, should also be considered in terms of effective opportunities for participation in public affairs. These arrangements may not be as common; however, a number of measures have been implemented to facilitate better participation opportunities for these and other groups.[[12]](#footnote-12)

**Are there legal, administrative or other barriers that prevent persons belonging to minorities to participate effectively in cultural, religious, social, economic or public life?**

11 While there are a number of legal, administrative and other barriers that serve as obstacles to effective participation of persons belonging to minorities in cultural, religious, social, economic or public life; it is important to consider assessing the participation of minorities and the factors influencing it in a holistic way.

12 Material and financial elements form an important part of public participation. Moreover, there is a link between effective public participation, and the economic, social and cultural lives of minorities.[[13]](#footnote-13) Whether it is learning a language or undergoing naturalisation procedures, these processes require significant financial investments from the individual, without which participation in decision-making is made inaccessible. Therefore, it is important to consider assessing the socio-economic factors that act as barriers to effective participation of minorities in various areas of life.

**What are the benefits and/or challenges of recognizing and granting sectoral (for example, concerning sectors like education) or territorial autonomy to minorities?**

13 There are several benefits of sectoral and territorial autonomy to minorities. Sectoral autonomy is useful when a minority group is geographically dispersed,[[14]](#footnote-14) as minorities are better equipped at national level organisation that promotes control over issues like education, culture, use of minority language, religion, and other matters crucial to their identity and way of life. Territorial autonomy can help preserve state integrity while benefiting minorities in terms of public participation on a level of government that reflects their population concentration.[[15]](#footnote-15) However, both sectoral and territorial autonomy opportunities require adequate financial support in order to ensure successful implementation, as well as some combination of both autonomy categories in certain cases.[[16]](#footnote-16)

14 These arrangements also require guarantees which are ensured in legal, constitutional and dispute resolution arrangements.[[17]](#footnote-17) Sectoral and territorial autonomy is advised to be established by law in order for it avoid being subjected to change in the same manner as ordinary legislation. Dispute resolution mechanisms can take form of impartial judiciary and/or ombudsperson for minorities, that are able to provide due consideration to minority views.

1. Conference on Security and Co-operation in Europe (CSCE) ‘Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE’ (29 June 1990) para 35. [↑](#footnote-ref-1)
2. See OSCE High Commissioner on National Minorities (HCNM) ‘Lund Recommendations on the Effective Participation of National Minorities in Public Life’ (September 1999) para 6. [↑](#footnote-ref-2)
3. On reserved number of seats, see Tove H. Malloy, ‘Introduction’ in Tove H. Malloy, Alexander Osipov and Balazs Vizi (eds), *Managing Diversity Through Non-Territorial Autonomy: Assessing Advantages, Deficiencies, and Risks* (OUP 2015) 10. [↑](#footnote-ref-3)
4. Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) ‘Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and Public Affairs’ (adopted 27 February 2008) para 97. [↑](#footnote-ref-4)
5. See Human Rights Council ‘Recommendations of the second session of the Forum on Minority Issues on minorities and effective political participation, 12 and 13 November 2009’ (2 February 2010) UN Doc A/HRC/13/25 para 30; Lund Recommendations (n 2) para 11. [↑](#footnote-ref-5)
6. Lund Recommendations (n 2) paras 12-13. [↑](#footnote-ref-6)
7. ACFC Commentary No.2 (n 4) paras 102 and 126. [↑](#footnote-ref-7)
8. ACFC Commentary No.2 (n 4) para 160; Explanatory Note of the Lund Recommendations (n 2) para 6; See Nicoletta Mariolini, ‘Multilingualism – a Government Perspective’ in Pirkko Nuolijärvi and Gerhard Stickel (eds), *Language use in public administration: Theory and practice in the European state* (Contributions to the EFNIL Conference 2016) 96. [↑](#footnote-ref-8)
9. See Adrian Schaefer-Rolffs and Kai-Uwe Schnapp, ‘Special Politics for Minority Political Participation in the Danish-German Border Region’ (2014) 21 International Journal on Minority and Group Rights 48, 56. [↑](#footnote-ref-9)
10. See Schaefer-Rolffs and Schnapp (n 9) 56; Tove H. Malloy, ‘Functional Non-Territorial Autonomy in Denmark and Germany’ in Tove H. Malloy, Alexander Osipov and Balazs Vizi (eds), *Managing Diversity Through Non-Territorial Autonomy: Assessing Advantages, Deficiencies, and Risks* (OUP 2015) 194. [↑](#footnote-ref-10)
11. Malloy, ‘Introduction’ (n 3) 10. [↑](#footnote-ref-11)
12. See Council of Europe (CoE), ‘Political and Social Participation of Immigrants Through Consultative Bodies’ (Council of Europe Publishing 1999). [↑](#footnote-ref-12)
13. Fernand de Varennes and Elżbieta Kuzborska-Pacha, ‘Effective Participation of National Minorities in Public Life: the UN’s Perspective’ in William Romans, Iryna Ulasiuk and Anton Petrenko Thomsen (eds), *Effective Participation of National Minorities and Conflict Prevention* (Brill Nijhoff 2020) 17, 38. [↑](#footnote-ref-13)
14. Explanatory Note of the Lund Recommendations (n 2) para 17. [↑](#footnote-ref-14)
15. Explanatory Note of the Lund Recommendations (n 2) para 19. [↑](#footnote-ref-15)
16. Explanatory Note of the Lund Recommendations (n 2) para 14. [↑](#footnote-ref-16)
17. Lund Recommandations (n 2) Recommendations 22-24. [↑](#footnote-ref-17)