



**Organization for Security and Co-operation in Europe  
High Commissioner on National Minorities**

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**SUMMARY OF THE TENTH ANNIVERSARY SEMINAR ON THE  
1999 LUND RECOMMENDATIONS ON THE EFFECTIVE PARTICIPATION  
OF NATIONAL MINORITIES IN PUBLIC LIFE**

**Introduction**

This international seminar on the Lund Recommendations on the Effective Participation of National Minorities in Public Life (hereinafter Lund Recommendations) was organized jointly by the OSCE High Commissioner on National Minorities (HCNM) and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law in Lund, Sweden, on 18 and 19 May 2009. It gathered policymakers and experts from governments, NGOs and academia in the OSCE area with a view to exchanging views and experiences of the application of the Lund Recommendations throughout the OSCE region over the last ten years and reviewing possible areas where their impact could further be strengthened. After opening statements that underlined the importance of participatory pluralism in democratic societies and the particular significance of these Recommendations in the pursuit of minority protection and conflict prevention, five panels each dealt with one aspect of minority participation.

**Panel 1: General Principles of Participation of National Minorities in Public Life and their Application in the International Arena**

Discussions made clear that political representation alone is not enough to effect participation in public life; it should be underpinned by economic, social and cultural participation. The 2008 Commentary on Article 15 of the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) was cited as an indispensable complement to the Lund Recommendations, allowing for the necessary holistic approach to participation. It was also pointed out that while participation as such must be promoted, care must be taken to prevent formalistic arguments from creating barriers for minority participation. Participation not only means consultation and being asked to contribute advice: it must also mean being listened to, providing effective inclusion in decision-making, and the enjoyment of substantive minority rights. The latter remains the responsibility of the State, whether minorities participate in the process or not.

In terms of participation as a tool for conflict prevention, it was pointed out that participation is a central issue of conflict between minorities and majorities. There must be effective

participation for structural change to take place. It was underlined that it is important that this takes place at all levels – from political parties to assets management, which implies the need for a change in how politics are conducted. The panel also agreed that there is a lack of participation generally, not just in terms of minority participation, and this is why conflicts occur more often in non-democratic States. Self-determination issues cannot be completely divorced from the debate around participation. It was pointed out that even though the question of self-determination is nowadays usually limited to its internal dimension, i.e. to autonomy within the state structure, it is often seen by State representatives as the first step towards secession. At the same time, for some minorities, autonomy may mean a denial of power and is therefore a source of conflict.

Discussions moved on to the underuse of effective participation in peace processes; it is public involvement that makes peace more sustainable. Yet, there is often little room for public participation in peace-making as short-term security and public order concerns frequently preclude such participation. In addition, concerns to preserve the integrity of mediation and confidentiality preclude the inclusion of divergent voices in peace processes, even though this would be more conducive to lasting peace building and the prevention of new conflict.

## **Panel 2: Participation of National Minorities in Economic, Social and Cultural Life**

Members of this panel pointed out that the Lund Recommendations, like the main body of minority protection instruments elaborated in the early 1990s, largely neglect economic, social and cultural rights. The Commentary on Article 15 of the Advisory Committee to the FCNM reflects the gradual integration of economic, social and cultural rights into minority protection, establishing a crucial link between public participation and participation in economic and social life, and making it clear that the participation of minorities in economic and social life is an essential and often underestimated part of their effective participation in public life. It was therefore opined that the Lund Recommendations should be read together with the Council of Europe “Commentary on Participation” for an enhanced interpretation.

It was further pointed out that within human rights and minority rights, appropriate attention should be given to economic, social and cultural rights, and not only to civil and political rights; something demanded by the minorities themselves. Different approaches to promoting participation in economic, social and cultural life by NGOs and intergovernmental organizations were presented, illustrating that project activities are increasingly taking economic, social and cultural grievances into account as these are often root causes of conflict.

Economic, social and cultural rights of minorities have also been the subject of new initiatives related to minorities and development, though thus far there is only limited knowledge of how minority rights impact among actors in the development field. It was pointed out however that there is the risk of lumping minorities with other “vulnerable groups”, which obscures the particular relationship of minorities with the State – very different from disabled people, for example. Yet, generally, development programming tends to treat all “vulnerable groups” the same, sometimes making it less effective or even harmful to minorities since it does not take account of their particular identity and participation rights. Minorities should not be asked to sacrifice their cultural identity in order to access economic opportunities but should be enabled to determine their own economic and social life, while at the same time benefiting from relevant development programmes.

This led on to the observation that institutions such as the HCNM have, through their project activities, some experience in addressing minority grievances in the economic, social and cultural field while preserving their specific rights and could provide an important source of guidance to development actors, thus helping build awareness of the nexus between economic, social and cultural rights and minority rights to facilitate better participation. In terms of suitable development strategies that may best reconcile the economic, social and cultural needs of minorities with the enjoyment of their specific minority rights, targeted approaches (where minorities are the main beneficiary of the development intervention) were cited as the most promising, since inclusive approaches (directed at broader society) may in fact exacerbate inequalities and thereby harm minorities.

### **Panel 3: Participation of National Minorities in Decision-Making**

The third panel focused on the question of electoral arrangements to promote national minority participation in the political process as well as advisory and consultative bodies. In addition, the participation of Roma and Sinti in decision-making and the related processes was addressed in particular.

As far as electoral arrangements are concerned and the fundamental question of how to shape mechanisms for translating minority votes into seats, discussants agreed that any electoral legislation that guarantees enhanced minority participation, whether implying lower thresholds for minorities or reserved seats arrangements, may achieve its end, yet requires strict scrutiny in terms of adherence to fundamental principles of democracy as heavily institutionalized minority representation may discriminate against unrepresented groups. This is why a variety of options have been developed within electoral systems that permit or advocate minority participation, in an attempt to achieve a balance between formal equality and effective equality.

In this context, advisory and consultative bodies may be more flexible and therefore also particularly successful in designing participation mechanisms that are less intrusive than electoral legislation, helping to engage minorities at a different level perhaps but still enabling them to participate in decision-making. Drawing on practical cases, it was emphasized that advisory and consultative bodies are specifically tailored to facilitate an effective dialogue between public authorities and national minorities. Practice demonstrates how important it is to make these bodies genuinely representative of all minority groups. Furthermore, these bodies, although well placed within the domestic system of governance, need to have genuine powers in co-decision, including where assets management is concerned.

The participation of Roma and Sinti in decision-making processes is a particularly complicated case as far as continuing deprivation and marginalization is concerned. Among the numerous challenges faced by this community are the lack of inclusiveness by main political parties, the reluctance to address Roma issues within party programmes, the lack of identity documents and birth certificates, and the problem of illiteracy. Yet, experience in some countries shows positive developments such as the establishment of Roma/Sinti parties and Roma representatives in parliaments and local/regional elective bodies, as well as participation in advisory and consultative bodies. This trend should be strengthened and developed. Any further action designed to increase Roma/Sinti participation must, however, address the low awareness among Roma and Sinti of their participation rights, the apparent indifference towards their participatory needs and the harmful competition between Roma groups related to their participation and representation in public affairs.

Panellists and discussants concluded that the Lund Recommendations continue to offer a valuable set of options for increasing the inclusiveness of national minorities. In this sense the Lund Recommendations have substantially contributed to improving good governance in the OSCE region.

#### **Panel 4: Participation of National Minorities in Executive and Judicial Bodies and in Case Law**

The fourth panel addressed aspects of national minorities' participation in sensitive key areas such as administration and judiciary, as well as relevant case law. Participation in administration and judiciary was highlighted as a key tool for effective participation more generally. At the same time, however, this kind of participation requires stricter scrutiny – representation that is not based on arithmetical criteria – and permanent monitoring and assessment. On the one hand, it is necessary that these provisions are properly implemented;

on the other, in order to prevent the creation of “ghettos” or parallel structures within the public service, they should not extend beyond what is absolutely necessary to achieve effective participation.

The relevant jurisprudence on minority participation could only be addressed from the point of view of the case law of the European Court of Human Rights (ECtHR) because of the last minute cancellation of the scheduled contribution related to domestic courts. The European Convention on Human Rights (ECHR) does not make explicit reference to national minorities except for the general non-discrimination clause. However, minority-related cases are often adjudicated by the ECtHR, either directly or indirectly. As to minority participation in general, it is worth mentioning the case *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria* (2001), where the ECtHR stated that participation requires not only allowing minority groups to maintain their own identity but also including and involving them in decision-making processes. It was concluded, however, that the ECtHR might not be the best body to deal with the complexity of minority participation because it is a judicial body not equipped to criticize constitutional approaches to minority issues.

This conclusion raised a debate on the role of international standards in the administration and judiciary. It was agreed that participation issues, both in the administration and – even more so – in the political process is a matter for political decision, and that courts are subject to somewhat contradicting parameters when they have to adjudicate on these highly political issues. The difficulty in monitoring the implementation of participation commitments by domestic administrations and courts was also raised. Not least, effective participation is closely linked with democratic decision-making. Conflicts are often seen in terms of security and economic constraints, while too often the overall issue of effective democratization as a precondition for effective participation is neglected. Participation of minorities in local government, for example, is meaningless if the local administration is in effect run by central government.

#### **Panel 5: Participation of National Minorities and Self-Government**

The final panel of the Conference dealt with self-government and autonomy as tools for minority protection and participation. Both territorial and non-territorial autonomy solutions were analysed and discussed, including those designed to meet the specific self-government needs of the Nordic indigenous people, the Sami. Overall, it was highlighted that autonomy – particularly in its territorial forms – has remarkable potential for the accommodation of minority participation claims, but is often viewed with suspicion by States, particularly in Central, Eastern and South-Eastern Europe.

In relation to territorial autonomy, the absence of any significant progress in this area within the OSCE region after the adoption of the Lund Recommendations was highlighted. In the absence of a codified “right to autonomy”, this is left to the discretion of States who, as a matter of fact, are generally very reluctant to set up territorial arrangements for accommodating national minority issues. This reluctance might be driven by historical or politically motivated fears; in any case, it is also what often defines the attitude of international organizations towards this issue. A more consistent approach by national minorities, States and international organizations was advocated; one that considers the potential effect on good governance for all rather than only self-governance for national minorities.

The debate went on to explore the rise and fall of the concept of non-territorial (i.e. cultural/personal) autonomy solutions. On the one hand, this type of arrangement is faced with similar obstacles confronting territorial solutions. On the other, the last decade – significantly, after the adoption of the Lund Recommendations – has witnessed the development of a remarkable number of instruments for minority non-territorial self-government, such as national minority councils, particularly in South-Eastern Europe.

Finally, taking the territorial and non-territorial arrangements of the Nordic countries as an example, it appears that non-territorial autonomies tend to be less effective than territorial ones. Yet, non-territorial (cultural) autonomy may still be a good alternative if looked at from a human rights perspective and inclusion is taken as the starting point. Overall, there was consensus that the section on autonomy is one of the strengths of the Lund Recommendations, but that this should be seen in light of self-governance, which is a broader concept than autonomy.

## **Conclusion**

Effective participation of national minorities in public life is an essential component of a fully democratic, peaceful and prosperous society. The Lund Recommendations aim to facilitate the inclusion of minorities within the State and enable minorities to maintain their own identity and characteristics, thereby enhancing the good governance and integrity of the State. The purpose of the Recommendations is to encourage and guide the adoption by States of specific measures to alleviate tensions related to national minorities and thus to serve the ultimate conflict prevention objective of the OSCE High Commissioner on National Minorities. In this regard, the importance of the psychological dimension of the participation process was reiterated: only when minorities feel that they are truly included and treated with dignity can true democratic participation and good governance be achieved. It was also

pointed out that the question of participation is closely linked to the issue of quality of representation; reference was made in this regard to the principle of subsidiarity.

The *Lund Recommendations on the Effective Participation of National Minorities in Public Life* should be looked at as a set of options available to States rather than as a set of standards. Their validity in a particular context depends on local, regional and national specificities, and therefore their application will always be a challenge and require careful consideration. Yet, there was general agreement that all policies and measures, such as institutional structures and procedures for effective participation in decision-making, should be assessed first and foremost on their practical impact. Over the last decade, the Lund Recommendations have proven to be an important reference document. In particular, they are both clear enough as an instrument to bring security and confidence to States and flexible enough to take new developments into consideration. This is particularly relevant in view of the new challenges related to the question of how to deal with new minority groups as members of society with their own characteristics.