

This is an electronic reprint of the original article. This reprint may differ from the original in pagination and typographic detail.

Participation, Citizenship and Transfrontier Exchanges—2017

Barlow, Anna

Published in:
European Yearbook of Minority Issues Online

DOI:
[10.1163/22116117_01601005](https://doi.org/10.1163/22116117_01601005)

Publicerad: 01/01/2019

Document Version
(Referentgranskad version om publikationen är vetenskaplig)

[Link to publication](#)

Please cite the original version:
Barlow, A. (2019). Participation, Citizenship and Transfrontier Exchanges—2017. *European Yearbook of Minority Issues Online*, 16(1), 98–121. https://doi.org/10.1163/22116117_01601005

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

Take down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

Participation, Citizenship and Transfrontier Exchanges—2017

Anna Barlow*

Abstract: This article provides an update on the protection of minorities in Europe during 2017, in the areas of participation, citizenship and transfrontier exchanges. It will summarize developments at the United Nations level as well as regional information from the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe (CoE) and the European Union (EU) and identify trends.

Keywords: National minorities, Participation, Citizenship, Transfrontier exchanges

I. INTRODUCTION

This chapter addresses minority rights in Europe, taking as its thematic scope participation, citizenship and transfrontier exchanges. The developments during 2017 will be summarized, with a focus on the most relevant international and regional rights protections mechanisms under the auspices of the UN, the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe (CoE) and the EU.

Participation in political and public life of people belonging to minority communities is not just a human rights issue, it is also a stability issue. As the OSCE High Commissioner on National Minorities expressed it, “broad, inclusive participation leads to stable, just and secure societies”.¹ In turn, citizenship is an important element in achieving full integration and participation of people belonging to both new and established minorities. Participation and citizenship are thus key to the promotion of stability and security in Europe, as well as being essential for the realisation of individual and community rights. 2017 saw developments directed at both of these facets. There were no developments on transfrontier exchanges within the relevant bodies in 2017.

* Anna Barlow is a doctoral student in the Department of Law, Åbo Akademi University, Finland.

¹ OSCE, “Minority Youth: Towards Diverse and Inclusive Societies”, Keynote Address by Lamberto Zannier High Commissioner on National Minorities to the UN Human Rights Council 10th Forum on Minority Issues, 30 November 2017, Geneva, at <<https://www.osce.org/hcnm/360421>>.

II. THE UNITED NATIONS

Minority rights are a transversal issue at the UN, and within the mandate of several UN bodies. Particular responsibility is placed with the Special Rapporteur on Minority Issues² and the Special Rapporteur on Indigenous Issues.³ Their relevant reports in 2017 will be considered in detail, followed by a summary of the pertinent work of the Human Rights Council.

A. The Special Rapporteur on Minority Issues and the Forum on Minority Issues

The mandate of the previous Special Rapporteur on minority issues, Rita Izsák-Ndiaye, ended on 31 July 2017 when Dr Fernand de Varennes took over the mandate. Izsák-Ndiaye presented her final report to the Human Rights Council during the 34th session in February–March 2017.⁴

In that report, Izsák-Ndiaye reflected on the four main pillars of minority rights protection:

- (a) the protection of a minority's survival by combating violence against its members and preventing genocide
- (b) the protection and promotion of the cultural identity of minority groups, and their right to enjoy their collective identity and to reject forced assimilation
- (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination and promoting affirmative action, when required
- (d) the right to effective participation of minorities in public life and in decisions that affect them.

Within these pillars, Izsák-Ndiaye identified eight thematic priorities that had dominated her tenure, several of which led to work relevant to the areas of

² UN General Assembly, Mandate of the Independent Expert on Minority Issues, A/HRC/RES/25/5, 11 April 2014.

³ UN General Assembly, Human Rights and Indigenous Peoples: Mandate of the Special Rapporteur on the Rights of Indigenous Peoples, A/HRC/RES/15/14, 6 October 2010.

⁴ UN Human Rights Council, Report of the Special Rapporteur on Minority Issues, A/HRC/34/53, 9 January 2017.

participation and citizenship. The thematic focus on recognition of minorities included a reminder that

minorities [are] often disproportionately affected by statelessness as a result of discriminatory nationality and citizenship legislation that [can] deny citizenship to some ethnic, linguistic, racial or religious groups or deprive them of citizenship, or because of discriminatory implementation of nationality laws on similar grounds. Minorities [can] also be at higher risk of statelessness as a result of lack of access to personal documentation.⁵

The cross-cutting issue of minority youth and women highlighted the importance of minority women having the opportunity to participate fully in their communities and in the wider society.⁶ In her general recommendations, Izsák-Ndiaye re-stated the importance of the full participation of minorities:

The Special Rapporteur is gravely concerned at the limited, or often complete lack, of a minority presence in political and public offices. She has repeatedly stressed throughout her tenure the need to ensure that minorities are included in all decision-making processes, including in municipal and government structures, law enforcement bodies, the judiciary, legislative bodies, criminal justice systems and all authorities, especially when their decisions affect minorities. Without their participation, such bodies are less able to take vital decisions for the benefit of the entire society and may be less trusted by minorities, who may be reluctant to access them, or discouraged from doing so.⁷

Worryingly, overall the now-former Special Rapporteur expressed grave concern that the progress made over previous decades on minority rights is under threat from the rise of hate speech, xenophobia and extreme far right political movements.⁸

The Special Rapporteur produced only one European country report during 2017, on the Republic of Moldova. The formal report on the Special Rapporteur's country visit

⁵ *Ibid.* para. 43.

⁶ *Ibid.* para. 46.

⁷ *Ibid.* para. 97.

⁸ *Ibid.* para. 91.

to Moldova was published in January 2017,⁹ following her visit in 2016. This report was referred to in this update last year.¹⁰ One focus of the report was the public participation of minorities, with a key issue being “the underrepresentation of minorities in political institutions, particularly in the central Government, and what was described by some as the marginalization and exclusion of regions with relevant minority populations from the national decision-making processes”.¹¹ The Special Rapporteur urged the Moldovan Government to take steps to strengthen the political participation of minorities, including through reserved seats or other methods to ensure minority representation in parliament. The particular problem of marginalization of the Roma community, particularly Roma women and girls, was also highlighted. Social, economic and political marginalization of the community was reported, with a lack of municipal property registration and identity documents causing particular difficulties for Roma in exercising their rights.¹²

The Recommendations resulting from the ninth session of the Forum on Minority Issues, held on 24 and 25 November 2016, were published in January 2017.¹³ The topic of that forum was “Minorities in situations of humanitarian crises”, and the Recommendations emphasize the role of minority participation in disaster risk prevention, planning for crisis response and humanitarian relief work. The aim of the Recommendations is to encourage the building of “resilient and prepared minority communities that are able to actively respond when crises strike, and to provide timely and appropriate assistance relevant to the specific needs of minority communities in times of crisis”.¹⁴ This cannot be achieved without the effective and meaningful participation of minorities. A variety of actors are addressed by the Recommendations: not only states themselves but also United Nations entities, humanitarian and regional organizations, non-governmental organizations and minority groups.

⁹ UN Human Rights Council, Report of the Special Rapporteur on minority issues on her mission to the Republic of Moldova, A/HRC/34/53/Add.2, 11 January 2017.

¹⁰ Stephan, Sarah, “Participation, Citizenship and Transfrontier Exchanges – 2016”, 15(1) EYMI (2018), 90–112, at 91.

¹¹ UN Human Rights Council, *op.cit.* note 9, para. 76.

¹² *Ibid.* Part VI.

¹³ Human Rights Council, Recommendations of the Forum on Minority Issues at its ninth session: Minorities in situations of humanitarian crises (24 and 25 November 2016), A/HRC/34/68, 13 January 2017.

¹⁴ *Ibid.* para. 7.

The tenth session of the Forum on Minority Issues, held on 30 November and 1 December 2017, took up the issue of minority youth as its main theme, under the title “Minority Youth: towards diverse and inclusive societies”.¹⁵ The importance of encouraging and facilitating minority youth participation in public life, including in the political, civil, social, cultural and economic spheres, was emphasized. The discussion highlighted that young minority people have an essential role to play in peacebuilding and conflict prevention programmes. The keynote address by Lamberto Zannier, OSCE High Commissioner on National Minorities, also stressed the importance of the participation of minority youth in public life.¹⁶ At the time of writing, the official report of the tenth Forum session is still to be published.

B. The Special Rapporteur on the Rights of Indigenous Peoples

The tenth anniversary of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples was celebrated in 2017, and the Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, reported in July to the General Assembly on the achievements of the decade.¹⁷ Overall, her conclusions were disappointing:

Ten years after its adoption, and in spite of the reaffirmation of the commitment to the Declaration made at the World Conference on Indigenous Peoples in 2014, the Special Rapporteur has to conclude that there has been limited progress in the actual implementation of the rights of indigenous peoples.¹⁸

Some positive developments over the decade are of course discernible, and the Special Rapporteur drew attention to, among other things, the ratification *inter alia* by Spain of the Indigenous and Tribal Peoples Convention of the International Labour Organization,¹⁹ the inclusion of the rights of indigenous peoples in the Swedish Constitution of 2011 and dialogue towards the development of new legislation including in the Nordic Sami Convention. At the time of writing, the text of the draft Nordic Sami Convention, which was agreed on in late 2016, is still awaiting

¹⁵ Human Rights Council, Provisional agenda and annotations, A/HRC/FMI/2017/1, 18 September 2017.

¹⁶ OSCE, *op.cit.* note 1.

¹⁷ UN General Assembly, Report of the Special Rapporteur of the Human Rights Council on the Rights of Indigenous Peoples, A/72/186, 21 July 2017.

¹⁸ *Ibid.* para. 86.

¹⁹ Indigenous and Tribal Peoples Convention, 1989 (No. 169).

acceptance by the Sami Assemblies in Norway, Sweden and Finland before formal adoption by the governments.

Overall, practical implementation of minority rights is a challenge and there “remains a serious concern that certain traditional livelihoods and indigenous economic practices are still disregarded and marginalized in many countries, in disregard of article 20 of the Declaration. This is the case with [*inter alia*] reindeer-herding in the Arctic.”²⁰ Furthermore, access to justice “remains elusive for indigenous peoples”.²¹ Denmark was praised for the institutional improvement made in 2009 with its recognition of the people of Greenland as a people with the right to self-determination.

The Special Rapporteur confirmed to the Human Rights Council that her focus continues to be the improvement of implementation of indigenous peoples’ rights on the ground, given that “we seem to have arrived to an impasse, in which the Declaration is not openly challenged but remains far from being implemented”.²² At the same meeting, the Special Rapporteur presented the final in a series of three thematic reports on the subject of indigenous peoples’ rights in the context of international bilateral investment and free-trade agreements. This final report concerns climate change and climate funds as relating to the rights of indigenous peoples.²³ The report emphasizes the importance of participation by indigenous peoples in climate change adaptation and mitigation measures, highlighting the important traditional knowledge they can contribute. Indigenous peoples should be included in climate change planning and monitoring processes, including through their self-governance structures, and after consultation the free, prior, informed consent of affected indigenous peoples should be obtained when climate change initiatives may affect their rights.

²⁰ UN, *op.cit.* note 17, para. 43.

²¹ *Ibid.* para. 57.

²² UN Human Rights Council 36th Session, Statement of Ms Victoria Tauli-Corpuz, Special Rapporteur on the Rights of Indigenous Peoples, 20 September 2017.

²³ UN Human Rights Council, Report of the Special Rapporteur on the Rights of Indigenous Peoples, A/HRC/36/46, 1 November 2017.

C. UN Human Rights Council

The Human Rights Council in 2017 published the reports of Universal Periodic Reviews of Poland, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, Finland and Lithuania.

Lithuania reported the establishment of a new government Department of National Minorities in 2015, responsible for creating the conditions for the inclusive participation of members of national minorities in the social, political and cultural life of the country. Work was continuing on improved Roma integration, in line with the status of the Roma as a particularly socially disadvantaged group, and some progress was reported by the government. The Working Group on the Universal Periodic Review of Lithuania welcomed these positive developments but was concerned about reports of stereotyping and discrimination against minorities. They urged Lithuania to conclude the process of passing and implementing the draft law on national minorities and to ratify the European Charter for Regional or Minority Languages.²⁴ This last recommendation was not supported by Lithuania in its Views on Conclusions and Recommendations.²⁵

The Finnish government in its report to the Working Group declared an aim to strengthen the participation of the Sami and other local actors in the use and management of renewable natural resources in the Sami Homeland. The Working Group noted with concern continued reports of discrimination against minorities, in particular Roma and Sami, and recommended that Finland take measures to prevent such discrimination and ratify the International Labour Organization Indigenous and Tribal Peoples Convention.²⁶

Minority issues raised in the Report on the Netherlands include the recommendation that the government establish effective mechanisms for dialogue with minorities so as to reach a better understanding of minority problems and needs. This recommendation was made in the context of concern about continued discrimination, ethnic profiling and hate speech against minorities, and the particular problems faced by minority

²⁴ Human Rights Council, Report of the Working Group on the Universal Periodic Review—Lithuania, A/HRC/34/9, 27 December 2016.

²⁵ Human Rights Council Report of the Working Group on the Universal Periodic Review—Lithuania: Addendum, A/HRC/34/9/Add.1.

²⁶ Human Rights Council, Report of the Working Group on the Universal Periodic Review—Finland, A/HRC/36/8, 14 July 2017.

women and girls.²⁷ Similar concerns arose regarding the United Kingdom of Great Britain and Northern Ireland, where recommendations include the need to combat discrimination and hate crime against minorities and to include minorities in the process of drafting the British Bill of Rights, which is planned to replace the Human Rights Act.²⁸ Protection of minorities did not form a significant part of the review of Poland.²⁹

Several resolutions of the Human Rights Council in 2017 were of relevance to minorities. In their resolution in March on “Birth registration and the right of everyone to recognition everywhere as a person before the law”, the Council requested the preparation of a report on best practices and specific measures to ensure access to birth registration, particularly for those children most at risk, including children belonging to minority groups. The rights to, *inter alia*, political participation and protection of all human rights are largely dependent on birth registration, making it an important element of human rights protection for all.³⁰

The Human Rights Council on 28 September 2017 expressed concern about the particularly vulnerable position of ethnic and religious minorities within migrant populations, and called upon all states to promote and protect the human rights of all migrants, without discrimination.³¹ The vulnerability of suspects and offenders belonging to ethnic, religious and linguistic minorities was addressed when the Council considered human rights in the administration of justice,³² and concern was expressed at the disproportionate and discriminatory use of the death penalty against such offenders.³³

²⁷ Human Rights Council, Report of the Working Group on the Universal Periodic Review—Netherlands, A/HRC/36/15, 18 July 2017.

²⁸ Human Rights Council, Report of the Working Group on the Universal Periodic Review—United Kingdom of Great Britain and Northern Ireland, A/HRC/36/9, 14 July 2017.

²⁹ Human Rights Council, Report of the Working Group on the Universal Periodic Review—Poland, A/HRC/36/14, 18 July 2017.

³⁰ Human Rights Council Resolution 34/15 on Birth registration and the right of everyone to recognition everywhere as a person before the law, adopted 24 March 2017, A/72/53.

³¹ Human Rights Council Resolution 35/17 on Protection of the human rights of migrants: the global compact for safe, orderly and regular migration, adopted 22 June 2017, A/72/53.

³² Human Rights Council Resolution 36/16 on Human rights in the administration of justice, including juvenile justice, adopted 29 September 2017, A/72/53/Add.1.

³³ Human Rights Council Resolution 36/17 on the question of the death penalty, adopted 29 September 2017, A/72/53/Add.1.

III. THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Austria held the Chairmanship of the OSCE in 2017. One focus in 2017 was rebuilding trust and using confidence-building measures to improve cooperation, to be achieved in part through the protection of the rights of national minorities.³⁴

The OSCE Supplementary Human Dimension Meetings in 2016, the reports on which were published in 2017, made a number of recommendations touching on minority issues. The meeting in Vienna from 14–15 April 2016 on “Policies and strategies to further promote tolerance and non-discrimination” recommended that Office for Democratic Institutions and Human Rights (ODIHR) closely observe the process of combating intolerance and discrimination against Muslims, as well as the Freedom of Religion of Muslim minorities in non-Muslim countries.³⁵

From 10–11 November 2016 a Supplementary Human Dimension Meeting gathered to discuss “National minorities, bridge building and integration”. It recommended that OSCE member states make better use of the High Commissioner on National Minorities’ thematic Recommendations and Guidelines when developing policy, particularly the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations.³⁶ Further, efforts should be made to allow national minority communities to play an active role as bridge-builders across borders.³⁷

A. *The High Commissioner on National Minorities (HCNM)*

The post of OSCE High Commissioner of National Minorities was vacant for 11 months after the end of the tenure of Astrid Thors on 19 August 2016. However, a successor was found in Lamberto Zannier of Italy, who took up the mandate on 19 July 2017. Zannier reported to the OSCE Permanent Council after four months, on 16 November 2017.³⁸

Zannier outlined his impressions following field trips to Macedonia and Moldova in October and November 2017. He commended Macedonia for its efforts to improve

³⁴ Statement by the OSCE Chairperson-in-office and Federal Minister for Europe, Integration and Foreign Affairs of the Republic of Austria, CIO.GAL/3/17, 12 January 2016.

³⁵ OSCE Supplementary Human Dimension Meeting, Policies and Strategies to Further Promote Tolerance and Non-Discrimination 14–15 April 2016—Final Report, PC.SHDM.GAL/9/16, 11 January 2017, 9.

³⁶ OSCE Supplementary Human Dimension Meeting, National Minorities, Bridge Building and Integration 10–11 November 2016—Final Report, PC.SHDM.GAL/10/16, 22 March 2017, 9.

³⁷ *Ibid.* 12.

³⁸ OSCE HCNM, Address by Lamberto Zannier High Commissioner on National Minorities to the 1164th Plenary Meeting of the OSCE Permanent Council, 16 November 2017.

relations with its neighbours and for the positive dynamic which exists, *inter alia*, concerning inter-ethnic relations. He also observed positive steps in Moldova, in particular the adoption of the Action Plan on the Strategy on the Consolidation of Inter-Ethnic Relations. Furthermore, Zannier reported on the resumed dialogue between the Moldovan Parliament and the People's Assembly of Gagauzia in the hope of achieving harmony between Moldova's legislation and the 1994 Law on the Special Legal Status of Gagauzia. Such dialogue may improve the functioning of the autonomy by clearly defining its competencies.

Two important publications were issued by the OSCE High Commissioner on National Minorities in 2017. The first, a joint venture with the United Nations High Commissioner for Refugees (UNHCR), is the Handbook on Statelessness in the OSCE Area: International Standards and Good Practices, launched on 28 February.³⁹ This document provides advice and guidance on tackling statelessness. It emphasizes how vulnerable people of national or ethnic minorities are to statelessness, particularly those who have perceived or actual ties with other countries. Applicable international agreements, examples of good practice and practical advice on how to tackle the problem of statelessness are included in the handbook.

In November 2017, the OSCE High Commissioner on National Minorities published the latest in its series of thematic recommendations and guidelines, the Graz Recommendations on Access to Justice and National Minorities.⁴⁰ The guidelines build on previous thematic reports, in particular the Ljubljana Guidelines on Integration of Diverse Societies, which state, *inter alia*, that “[l]ack of trust in the justice system or a perception that the system favours members of the majority undermines social cohesion, fosters alienation and can increase the risk of conflict, including of an inter-ethnic nature”.⁴¹ The Graz Recommendations emphasize the important role of access to justice in integration and conflict prevention and offer a

³⁹ OSCE/UNHCR, “Handbook on Statelessness in the OSCE Area International Standards and Good Practices”, 28 February 2017, at <<https://www.osce.org/handbook/statelessness-in-the-OSCE-area?download=true>>.

⁴⁰ OSCE HCNM, “Graz Recommendations on Access to Justice and National Minorities”, November 2017, at <<https://www.osce.org/hcnm/graz-recommendations?download=true>>.

⁴¹ OSCE HCNM, “Ljubljana Guidelines on Integration of Diverse Societies & Explanatory Note”, November 2012, 59, at <<https://www.osce.org/hcnm/ljubljana-guidelines?download=true>>.

“practical, policy-oriented approach to the issue of access to justice for national minorities.”⁴²

Ten recommendations are made, throughout which the role of effective access to justice in preventing and resolving problems between majority and minority communities is highlighted. This is, of itself, an important element in the drive towards greater participation. However, some specific elements of participation within the justice system are also emphasized. These include the importance of ensuring that, in accordance with the rule of law, the process of enacting and enforcing laws should be inclusive of minority communities and that national minorities should be consulted in the drafting of laws. Care should be taken to ensure, through positive measures if necessary, that people belonging to national minorities have full and effective equality in accessing justice, through the removal of obstacles that disproportionately affect the participation of minorities in the legal system, such as unnecessarily complex procedures or high court fees. Provision of legal services through legal aid and other forms of assistance could lower some of the barriers to participation. Language, location and cost should all be considered carefully to ensure the legal assistance provided is accessible. Recommendation number five focuses on the need for people belonging to minorities to be post-holders within the judicial system and other access to justice mechanisms. Increasing diversity in the composition of courts, tribunals, prosecution offices, law enforcement agencies, correctional services, enforcement agencies and human rights institutions can “help to address [the] lack of confidence on the part of minorities, make justice more accessible to them, promote the integration of society through participation in State institutions and build trust in the State”.⁴³ The Graz Recommendations propose specific measures to promote effective representation of minorities, including addressing the lack of qualifications, disseminating information about employment opportunities, developing diversity policies (potentially including quotas) and introducing retention policies to guard against the departure of minority employees.

2018 is the tenth anniversary of the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations, the twentieth anniversary of the Oslo Recommendations Regarding the Linguistic Rights of National Minorities and the

⁴² OSCE HCNM, *op.cit.* note 40, 7.

⁴³ *Ibid.* 23.

twenty-fifth anniversary of the creation of the post of High Commissioner on National Minorities; High Commissioner Zannier has expressed an intention to make use of these anniversaries to reinvigorate the implementation of the recommendations.⁴⁴

B. The Office for Democratic Institutions and Human Rights

The Contact Point for Roma and Sinti Issues of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) held a workshop on “Strengthening Diverse Leadership, Participation and Representation of Roma and Sinti, including Women and Youth, in Public and Political Life” in Brussels from 27–28 March 2017. The Summary Report of the workshop states its objective as “strengthening dialogue between Roma and Sinti, policy makers and politicians and [...] exploring strategies to enhance public and political participation of Roma and Sinti, including women and youth [...] In addition, the event sought to discuss the potential of effective participation in public and political life for changing bias narratives and to combat racism and discrimination against Roma and Sinti.”⁴⁵ The workshop was part of the follow-on work relating to the 2003 OSCE “Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area”.⁴⁶

IV. THE COUNCIL OF EUROPE

The Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), Committee of Experts on the European Charter for Regional or Minority Languages (ECRML) and the European Court of Human Rights (ECtHR) all contributed reports or judgments relevant to this review during 2017. The European Commission against Racism and Intolerance (ECRI), whose work is also potentially pertinent, did not publish in the areas of participation, citizenship or transfrontier exchanges in 2017.

⁴⁴ OSCE HCNM, *op.cit.* note 38.

⁴⁵ OSCE/ODIHR/CPRSI, “Strengthening Diverse Leadership, Participation and Representation of Roma and Sinti, including Women and Youth, in Public and Political Life, Summary Report of the Workshop”, 17 September 2017, at <<https://www.osce.org/odihr/342211?download=true>>.

⁴⁶ OSCE Ministerial Council, Decision No. 3/03, Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area, decision of 1 and 2 December 2003, 27 November 2003, at <<http://www.osce.org/odihr/17554>>.

A. *The Advisory Committee on the Framework Convention for the Protection of National Minorities*

In 2017 the ACFC adopted and/or published fourth cycle opinions on Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Malta, the Republic of Moldova, Norway, Romania, Slovenia, Sweden, Ukraine, the United Kingdom and the UN Mission in Kosovo (UNMIK).⁴⁷ The Council of Ministers of the Council of Europe adopted resolutions on Austria, Croatia, the Czech Republic, Finland, Hungary and Italy.

Legal provisions enabling or hindering the full participation of national minorities in parliaments featured in several opinions of the ACFC. In its examination of the compliance of Armenia with Art. 15 of the Framework Convention, the ACFC noted that a new draft Electoral Code would, if adopted, ensure parliamentary representation for the four largest national minorities as part of a generally positive minority rights environment.⁴⁸ However, in the Republic of Moldova, minorities are adversely affected by the *de facto* prevention of registration of regionally based political parties.⁴⁹ Romania's electoral law does not create the conditions needed for free and fair competition between different organisations representing national minorities.⁵⁰ In Kosovo, Kosovan Croat and Kosovan Montenegrin communities are not yet appropriately represented in the Assembly.⁵¹ Practical obstacles can restrict minority access to political processes even where the legal position is in compliance with the Framework Convention.⁵²

There are also commonly barriers to national minorities' participation in decision-making processes that affect them. Very often, consultative structures are in place but are not felt by minority communities to be an effective channel for their concerns to be heard. Cultural insensitivity and lack of meaningful input from the consultative

⁴⁷ At the time of writing, the Opinions relating to Azerbaijan, Bosnia and Herzegovina, and Ukraine, are still restricted.

⁴⁸ ACFC Fourth Opinion on Armenia adopted on 26 May 2016, ACFC/OP/IV(2016)006, 13 February 2017.

⁴⁹ ACFC Fourth Opinion on the Republic of Moldova—adopted on 25 May 2016, ACFC/OP/IV(2016)004, 7 February 2017.

⁵⁰ ACFC Fourth Opinion on Romania adopted on 22 June 2017, ACFC/OP/IV(2017)005, 16 February 2018.

⁵¹ ACFC Fourth Opinion on Kosovo adopted on 8 March 2017, ACFC/OP/IV(2017)001.

⁵² E.g. in Slovenia and the United Kingdom: ACFC Fourth Opinion on Slovenia adopted on 21 June 2017, ACFC/OP/IV(2017)003, 25 January 2018; ACFC Fourth Opinion on the United Kingdom adopted on 25 May 2016, ACFC/OP/IV(2016)005, 27 February 2017.

organs to the decision-makers are familiar difficulties.⁵³ In Sweden, particular problems are evident in the consultation mechanisms for the Sami, who feel themselves to be in a weak position during consultations numerically, economically and in terms of time resources.⁵⁴ The involvement of Roma in decision-making is a particular issue in Slovenia.⁵⁵

The Council of Ministers in 2017 recommended that Finland improve its engagement with the Sami people to ensure that the interests of all parties are adequately addressed both in national legislation and through the ratification of the International Labour Organisation (ILO) Convention No. 169 on Indigenous and Tribal Peoples. They also recommended action to combat increasing inter-ethnic prejudice and tension, as well as the collection of disaggregated equality data as a means of adopting and implementing effective minority protection and equality promotion policies. Finland should facilitate the expression of multiple identity and language affiliations in population registries and provide adequate political and financial support to the Office of the Non-Discrimination Ombudsman. Participation in the decision-making process by all minority groups, in particular Russian and Karelian speakers, should be strengthened. People belonging to national minorities should be given more opportunities to participate in public affairs and be employed by the public service, in particular in law enforcement and the judiciary at both central and local levels.⁵⁶

Croatia was the subject of the following recommendations relating to participation and citizenship:

- Effective mechanisms should be developed in close consultation with minority representatives to ensure the free exercise of rights by persons belonging to national minorities.
- The right to free self-identification (potentially with multiple affiliation) should be applied and minority representatives should be consulted when analysing the results of data collection exercises.

⁵³ ACFC Fourth Opinion on Norway adopted on 13 October 2016, ACFC/OP/IV(2016)008, 22 February 2017; ACFC Fourth Opinion on Kosovo adopted on 8 March 2017, ACFC/OP/IV(2017)001.

⁵⁴ ACFC Fourth Opinion on Sweden adopted on 22 June 2017, ACFC/OP/IV(2017)004, 16 October 2017.

⁵⁵ ACFC Fourth Opinion on Slovenia adopted on 21 June 2017, ACFC/OP/IV(2017)003, 25 January 2018, 30.

⁵⁶ CoE, Resolution CM/ResCMN(2017)1 on the implementation of the Framework Convention for the Protection of National Minorities by Finland, 15 March 2017.

- Anti-discrimination standards within the judiciary and throughout society should be promoted and inequalities addressed.
- Opportunities for people belonging to national minorities, including women, to participate effectively as integral members of Croatian society in decision-making processes should be enhanced.
- Roma representatives should be closely involved at all levels of the implementation of the National Roma Inclusion Strategy, including in the development and implementation of a new action plan.⁵⁷

The position of Roma in the Czech Republic featured significantly in the recommendations of the Council of Ministers following the Czech fourth cycle monitoring. The government was urged to promote tolerance and make efforts to prevent, combat and penalize the inequality and discrimination suffered by the Roma, including through implementation of the Strategy for Combating Social Exclusion 2011–2015 and the National Roma Integration Strategy 2014–2020 which should be carried out with close involvement of Roma representatives. In its fourth Opinion on the Czech Republic,⁵⁸ the ACFC welcomed the new Act on citizenship (which entered into force in 2014) that allows dual or multiple citizenship. The change is particularly significant as under Czech law, citizenship is a requirement for people belonging to minorities to access the protections offered by the law, although in practice the authorities apply the Framework Convention irrespective of citizenship. The new Act will encourage foreign citizens to apply for Czech nationality, thus bringing them within the formal protection of the law. The Council of Ministers' 2017 recommendations to the Czech Republic include that the inclusive approach of authorities should be continued but that the impact of the formal citizenship criterion should be regularly reviewed to ensure it does not exclude members of minorities from protection.⁵⁹

The question of breadth of application of national minority protection legislation was also relevant in Hungary, where domestic minority protection legislation likewise

⁵⁷ CoE, Resolution CM/ResCMN(2017)3 on the implementation of the Framework Convention for the Protection of National Minorities by Croatia, 11 May 2017.

⁵⁸ ACFC Fourth Opinion on the Czech Republic adopted on 16 November 2015, ACFC/OP/IV(2015)004, 28 June 2016, 9.

⁵⁹ CoE, Resolution CM/ResCMN(2017)8 on the implementation of the Framework Convention for the Protection of National Minorities by the Czech Republic, 29 November 2017.

applies only to citizens.⁶⁰ The Council of Ministers recommended that the government “examine, in consultation with those concerned, the possibility of including persons belonging to groups currently not afforded the protection offered by the Act on the Rights of Nationalities, including non-citizens where appropriate, in the application of the Framework Convention”,⁶¹ whilst encouraging a continued inclusive approach to personal application of the Convention. They call for improved dialogue with the Roma and Jewish communities, as well as the allocation of resources to the National Social Inclusion Strategy 2011–2020 and the clarification of the roles of ‘nationality advocates’ and national minority self-governments to ensure the most effective representative and consultative mechanisms for all national minorities. Efforts should be made to increase visibility and effective use of minority languages in public life, including through steps to encourage national minorities to use their own language when dealing with the authorities, and monitoring of the legislation on language capabilities of municipal employees.⁶²

Recommendations for Austria in 2017 include the establishment of local, regional and federal mechanisms to ensure that minority views are taken into account in institutional decision-making. One proposal is to reform the National Minorities’ Advisory Councils so that these enable effective participation of national minorities in all relevant decision-making processes.

The Council of Ministers recommended that Italy take urgent steps to adopt a national legislative framework for the protection of the Roma, Sinti and Caminanti communities with due consultation with representatives of these communities at all stages of the process. The government should consult representatives of the Roma, Sinti and Caminanti communities, including women, in all projects and activities concerning them, and make sustained efforts to promote the use of minority languages by people belonging to minorities in dealings with the local administrative authorities.⁶³

⁶⁰ ACFC Fourth Opinion on Hungary adopted on 25 February 2016, ACFC/OP/IV(2016)003, 12 September 2016, 9.

⁶¹ CoE, Resolution CM/ResCMN(2017)5 on the implementation of the Framework Convention for the Protection of National Minorities by Hungary, 5 July 2017.

⁶² *Ibid.*

⁶³ CoE, Resolution CM/ResCMN(2017)4 on the implementation of the Framework Convention for the Protection of National Minorities by Italy, 5 July 2017.

B. The Committee of Experts of the European Charter for Regional or Minority Languages

The implementation of the European Charter for Regional or Minority Languages is monitored by a Committee of Experts; in 2017 evaluation reports were issued and published on Denmark, Montenegro and Lichtenstein. Committee of Experts' evaluation reports on Romania, adopted in June 2017, and Ukraine, adopted in March 2017, have not yet been made public. The Committee of Ministers adopted the Committee of Experts' recommendations on Armenia, Denmark, Montenegro and Sweden.⁶⁴ The main thrust of recommendations concerned education and broadcasting, but participation concerns were also present, namely the use of minority languages before administrative and judicial authorities⁶⁵ and the use of bilingual place signs.⁶⁶

C. The European Court of Human Rights

The judgment of the European Court of Human Rights in June 2017 in the case of *National Turkish Union and Kungyun v. Bulgaria*⁶⁷ is relevant to this review. The case concerned registration of an association, the National Turkish Union, dedicated to promoting the rights of the Muslim minority in Bulgaria. Under the Bulgarian constitution, only political parties are permitted to conduct political activities, and the Regional Court refused the application for registration of the association on the grounds that, *inter alia*, its declared aims included political aims. The Court of Appeal upheld the decision, adding the reason that the name of the proposed association implied a separatist objective and was thus misleading or contrary to public morals. The Supreme Court of Cassation of Bulgaria dismissed an appeal and upheld the refusal to register the association on two grounds: that the association sought to

⁶⁴ CoE Recommendation CM/RecChL(2017)4 of the Committee of Ministers to Member States on the application of the European Charter for Regional or Minority Languages by Denmark, adopted 25 October 2017, CM/RecChL(2017)4; Recommendation CM/RecChL(2017)3 on the application of the European Charter for Regional or Minority Languages by Montenegro, adopted 27 September 2017, CM/RecChL(2017)3; CoE, Recommendation CM/RecChL(2017)1 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Sweden, adopted 11 May 2017, CM/RecChL(2017)1.

⁶⁵ CoE, European Charter for Regional or Minority Languages Fourth report of the Committee of Experts in respect of Montenegro, adopted 24 August 2017, CM(2017)89; CoE Recommendation CM/RecChL(2017)2 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Armenia, adopted 11 May 2017, CM/RecChL(2017)2.

⁶⁶ CoE, European Charter for Regional or Minority Languages Fifth report of the Committee of Experts in respect of Denmark, 25 September 2017, CM(2017)117.

⁶⁷ ECtHR, Appl. No. 4776/08, *National Turkish Union and Kungyun v. Bulgaria*, judgment of 8 June 2017.

conduct political activities; and that the name and aims of the association presented a danger to national security and breached Article 44 of the constitution (that an association “shall not be contrary to the country’s sovereignty and national integrity, or the unity of the nation, nor shall it incite racial, national, ethnic or religious enmity or an encroachment on the rights and freedoms of citizens”).⁶⁸ The ECtHR reiterated its previous caselaw⁶⁹ that there is no “pressing social need” to limit freedom of association simply on the ground that the association has political aims, unless an intention to take part in elections is present, which it was not in this case.

Furthermore, the expression of separatist views did not itself threaten the territorial integrity of a state and if the association’s activities did produce such a threat there would be options available to the state to dissolve the association. The mere potential that the association could indulge in such activities did not justify the refusal to register. The refusal was therefore a breach of the Article 11 right of freedom of association. This is an important case for national minorities as it indicates that national courts cannot pre-judge the activities of a minority association but must allow registration unless unlawful aims are proven. Some protection against discrimination on the grounds of negative presumption as to the likely activities of minority associations is thus afforded.

D. Other Council of Europe Bodies

On 11 October 2017, the Parliamentary Assembly of the Council of Europe adopted the “Rule of Law Checklist” of the Venice Commission, to be used systematically in its own monitoring work. The checklist has some relevance to the promotion of participation of minorities as it covers equality in law and equality before the law and access to law, with specific reference to national minorities.⁷⁰

The joint OSCE / ODIHR / Venice Commission Joint Opinion on the draft electoral laws in Moldova⁷¹ reminded the Moldovan government of the need to properly

⁶⁸ Constitution of Bulgaria, Article 44(2).

⁶⁹ ECtHR, Appl. No. 59491/00, *United Macedonian Organization Ilinden and Others v Bulgaria* (No. 2), judgment of 18 October 2011 and Appl. No. 57045/00, *Zhechev v Bulgaria*, Judgment of 21 June 2007.

⁷⁰ European Commission for Democracy Through Law (Venice Commission) Rule of Law Checklist, adopted 11–12 March 2016, CDL-AD(2016)007, 18 March 2016, 18, 19, 25.

⁷¹ European Commission for Democracy through Law (Venice Commission) OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Republic of Moldova Joint Opinion on the Draft Laws on Amending and Completing Certain Legislative Acts (Electoral System for the Election

consider the representation of national minorities, bearing in mind the particular circumstances of the Gagauz minority, which had been highlighted in earlier reports.

V. THE EUROPEAN UNION

2017 saw significant action on minority rights in the EU, despite the lack of a well-defined minority rights mandate for the organisation. The EU has law-making jurisdiction over migrants; however, once migrants gain nationality and potentially become members of a national minority, such national minority members fall under the legislative powers of the member state. The European Union Agency for Fundamental Rights (FRA) published a tenth anniversary report covering, *inter alia*, Roma integration and racism and xenophobia . In addition, the FRA published the results of its second European Union Minorities and Discrimination Survey and a study, “Together in the EU”, on the promotion of participation of migrants and their descendants. The Court of the European Union issued a relevant judgment and the European Parliament published a study with recommendations for the development of a comprehensive EU protection system for minorities.

A. European Union Agency for Fundamental Rights

The tenth anniversary of the FRA was the occasion of a report “Between promise and delivery: 10 years of fundamental rights in the EU”, published in 2017.⁷² The biggest minority issue raised in the report is the ongoing hostility against the Roma and consequent discrimination against them in many fields. The FRA highlights the importance of working towards full and meaningful civil and political participation of Roma citizens and increasing the capacity of Roma civil society.⁷³ Roma integration is also the subject of a dedicated chapter in the FRA Fundamental Rights Report 2017,⁷⁴ which categorises the previous 12 months as “[a]nother challenging year for Roma integration”.⁷⁵ In assessing progress made on Roma integration through participation, whilst identifying positive moves in several countries towards greater

of the Parliament), Venice Commission Opinion No. 884/2017; ODIHR Opinion-Nr.: ELE-MDA/308/2017.

⁷² FRA, *Between promise and delivery: 10 years of fundamental rights in the EU* (Publications Office of the European Union, Luxembourg, 2017).

⁷³ *Ibid.* 18.

⁷⁴ European Union Agency for Fundamental Rights (FRA), *Fundamental Rights Report 2017* (Publications Office of the European Union, Luxembourg, 2017).

⁷⁵ *Ibid.* 103.

inclusion on the national stage, the FRA noted a lack of equivalent progress at the local level:

During 2016, Roma people across the EU continued to face discrimination, segregation and social exclusion. The limited progress in implementing national Roma integration strategies shows the need for a thorough review of the proposed and planned interventions. There is also a need to promote the active and meaningful participation of Roma, particularly at local level. For local-level Roma integration to succeed, the active involvement of multiple stakeholders is of utmost importance, including local authorities, civil society and representatives of all sectors of the local population. National-level participation needs to be translated into local-level engagement of Roma and local authorities to produce tangible results on the ground that can be monitored.⁷⁶

In addition to the Roma chapter, the “Racism, xenophobia and related intolerance” chapter draws attention to the continued use of discriminatory ethnic profiling by police forces across the EU in 2016, heightened by the tension resulting from terrorist attacks.⁷⁷

Following on from the first such survey in 2008, the FRA published the results of the second European Union Minorities and Discrimination Survey in 2017. They issued a report of general findings,⁷⁸ as well as selected findings relating specifically to Muslims⁷⁹ and to Roma.⁸⁰ Data collection took place in 2015 and 2016, with survey target groups being immigrants, descendants of immigrants (second-generation only) and, in select countries, ethnic minority Russian and Roma individuals. The survey does not include autochthonous national minorities, other than the data collected on Roma and Russian minorities, and so is not a full picture of national minorities within the EU. The report’s findings include that a considerable proportion of the EU’s immigrant community remains without long-term residence rights or citizenship, even

⁷⁶ *Ibid.* 116.

⁷⁷ *Ibid.* 92.

⁷⁸ FRA, “Second European Union Minorities and Discrimination Main Results, 2017, EU-MIDIS II”, at <<http://fra.europa.eu/en/publication/2017/eumidis-ii-main-results>>.

⁷⁹ FRA, “Second European Union Minorities and Discrimination Survey Muslims – Selected findings, 2017, EU-MIDIS II”.

⁸⁰ FRA, “Second European Union Minorities and Discrimination Survey Roma – Selected findings, 2017, EU-MIDIS II”.

after many years of residing in a country. Of first-generation immigrants who have been in their EU country of residence for 10 years or more, 50% are national citizens.⁸¹ Whilst almost all the descendants of immigrants hold secure residence status, many (13%)⁸² are not citizens of the country in which they live. This is a hindrance to integration and attachment and can cause particular problems for vulnerable groups such as victims of violence.⁸³ The survey did not assess political participation by the respondents but did look at interest in politics and trust in municipal authorities, police, politicians and parliament. Municipal authorities and the police were trusted at the level of 6.3 (out of 10) and national parliaments received a trust score of 5.3, but politicians scored only 4.2. The rankings were consistent across countries and target groups.⁸⁴

In March 2017 the FRA published “Together in the EU: Promoting the participation of migrants and their descendants”.⁸⁵ As with the Minorities and Discrimination Survey, the subjects of this report are migrants and their descendants, rather than autochthonous national minorities. The mandate for EU involvement is taken from Article 79 (4) of the Treaty of Lisbon (2009), which permits the European Parliament and Council to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories. This mandate does not include members of minorities who are citizens of the country in which they live, or those present in the EU unlawfully. The Together in the EU report addresses the position of “migrants and their descendants”, a term used to cover all groups targeted by integration policies. This therefore covers a range of groups, depending on the integration programmes of each country, but generally not long-established or indigenous minorities. In relation to democratic and political participation, the FRA reports that in local elections, third-country nationals are entitled to vote in 15 EU states,⁸⁶ to stand for election in 10 states and to join political parties in 18. This means that these political participation rights are absent in a large

⁸¹ FRA, *op.cit.* note 77, 85.

⁸² FRA, *op.cit.* note 77, 86.

⁸³ FRA, *op.cit.* note 77, 19.

⁸⁴ FRA, *op.cit.* note 77, 99.

⁸⁵ FRA, *Together in the EU: Promoting the participation of migrants and their descendants* (Publications Office of the European Union, Luxembourg, 2017).

⁸⁶ In three states these rights are limited.

number of states, despite approximately 4% of EU residents being third-country nationals.⁸⁷

The FRA also issued an impact assessment of the proposed Regulation on the European Travel Information and Authorisation System (ETIAS) on fundamental rights.⁸⁸ Article 28 of the proposed ETIAS Regulation “envisages a system to predict if a traveller constitutes a risk for irregular migration, security or public health by comparing information submitted by the applicant to specific risk indicators. The proposed regulation leaves significant flexibility in defining which categories of travellers pose such risk.”⁸⁹ The FRA raises the concern that this may unintentionally lead to discrimination against certain groups of travellers, *inter alia* members of national minorities. Whilst direct determinations of risk on such a discriminatory ground would be prohibited, there is a risk that permissible social selection factors such as occupation or education level might particularly affect members of minorities and result in indirect discrimination against them.⁹⁰

B. The Court of Justice of the European Union

On 3 February 2017, the General Court (First Chamber) of the EU issued its judgment in the *Minority SafePack* case.⁹¹ The challenge arose from the European Commission’s refusal to register a European Citizens’ Initiative calling upon the EU to “improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union”. According to the Commission, no provisions of the EU treaties provide a legal basis for the adoption of legislative acts aimed at promoting the rights of people belonging to minorities, and none of the treaty provisions governing the EU institutions confers a legal basis on which the institutions could act in promotion of minority rights. Therefore, the Commission was of the view that it was manifestly outside the powers of the Commission to submit such a proposal for a legal act. The proposal had listed 11 legal acts in an Annexe but the Commission did not address each proposal separately in its

⁸⁷ FRA, *op. cit.* 84, 56.

⁸⁸ FRA, “The impact on fundamental rights of the proposed Regulation on the European Travel Information and Authorisation System (ETIAS)”, Opinion of the European Union Agency for Fundamental Rights, Opinion – 2/2017 [ETIAS], 30 June 2017.

⁸⁹ *Ibid.* 28.

⁹⁰ *Ibid.*

⁹¹ T-646/13, *Minority SafePack—one million signatures for diversity in Europe v Commission*, judgment of 3 February 2017, ECLI:EU:T:2017:59.

refusal decision or provide individualised reasons as to why it believed the legal act suggested was outside EU competence. The Court annulled the Commission's decision on the basis that insufficient reasons had been provided but unfortunately did not give any guidance on whether the proposed initiatives were, in the view of the Court, within the powers of the Commission.

On 29 March 2017 the Commission decided to register the "Minority SafePack" European Citizens' Initiative, in respect of 9 of the 11 proposals; the other two were judged to be manifestly outside the Commission's power to propose legislation. By the deadline for the collection of signatures of 3 April 2018, over one million signatures had been collected, with the national threshold having been reached in 11 member states, thus qualifying for the next stage of the Citizens' Initiative process. By 8 May 2018 all the signatures had been handed to the relevant competent nationalities for validation; once the validation process has been completed, the European Commission will organise a public debate on the matter in the European Parliament. The Commission must then analyse the substance of the requests and decide whether to propose one or more legal acts relating to minority protection. Progress on the Minority SafePack initiative will be reported in the following edition of this Yearbook.

C. European Parliament and European Commission

On 30 August 2017, the Policy Department for Citizens' Rights and Constitutional Affairs, part of the Directorate-General for Internal Policies of the European Parliament, published the results of a study, "Towards a Comprehensive EU Protection System for Minorities".⁹² The study focused on ethnic, religious and linguistic minorities in 11 EU member states, as well as Roma, Muslim and autochthonous linguistic communities in these states. The basis of the mandate for the study is Article 2 of the Treaty of the European Union, which states that "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities." In considering the protection of minority rights, the study sees a central role for access to justice and democratic representation and participation, for nationals

⁹² European Parliament's Committee on Civil Liberties, Justice and Home Affairs and Policy Department for Citizen's Rights and Constitutional Affairs, "Towards a Comprehensive EU Protection System for Minorities", August 2017.

belonging to minority groups as well as “new minorities” who are third-country nationals, such as refugees and migrants.⁹³

The study finds existing international and regional minority protection mechanisms “not fully fit for EU purpose”,⁹⁴ partly because there is wide discretion for states in defining ‘minorities’ and partly through a lack of direct monitoring of the democratic rule of law and fundamental rights in the light of EU specificities. Concluding that existing mechanisms are insufficient, the study suggests that minority rights protection should form an important part of the remit of the proposed “EU mechanism on democracy, the rule of law and fundamental rights” suggested by the European Parliament in October 2016. Part of this mechanism would be the institution of an “EU rule of law, democracy and fundamental rights commission” with “competence to determine the extent to which there are indicia of persistent and systematic rule of law and human rights deficiencies in EU Member States, which would be then referred to the European Commission (for initiating ordinary or systemic infringement proceedings), and the Court of Justice of the European Union (CJEU) for the urgent preliminary ruling procedure and the eventual ‘freezing’ of EU Member States’ actions alleged to contravene Article 2 TEU values”.⁹⁵ The report states that the EU “should play a leading role in laying down the need for higher standards of minority protection, democratic rule of law and fundamental rights than those currently provided by international law”⁹⁶ and suggests that a new EU mechanism on rule of law, democracy and fundamental rights would bring “added value” to the specific case of minority protection.⁹⁷

It is far from clear whether and when such proposals might come to fruition, but they would involve a significant expansion of the EU human rights mandate, including over minority rights, with democracy as a central tenet. Given the European Commission’s response to the Minority SafePack initiative, discussed above, it appears that the Parliament has a more generous view of the mandate of the EU in minority rights protection.

⁹³ *Ibid.* 20.

⁹⁴ *Ibid.* 9.

⁹⁵ *Ibid.* 107.

⁹⁶ *Ibid.* 106.

⁹⁷ *Ibid.* 105.

The plight of the Crimean Tartars continued to hold the attention of the European Parliament during 2017. A resolution of 5 October 2017 condemned the sentencing of Crimean Tartar leaders to harsh sentences on questionable charges, and the increasing intimidation in political, social and economic life to which the community is subjected. The continuing ban on the Mejlis, the representative body of the Crimean Tartars, and the exile of community leaders, are considered by the European Parliament to be grave violations of the Tartar community's rights.⁹⁸

In August 2017 the European Commission published a midterm review of the EU framework for national Roma integration strategies,⁹⁹ which contains some elements of relevance to this overview. It reported that 15 member states had taken advantage of EU financial support and developed national consultation processes for Roma, but that obstacles persist, including lack of capacity and insufficient involvement of civil society. The Commission urged further encouragement of an active role in policy-making by Roma youth.¹⁰⁰ Whilst progress had been made on the development of national coordination mechanisms, there was a problem of insufficient Roma participation in these structures.¹⁰¹

VI. CONCLUSIONS

During 2017, the departing Special Rapporteur on minority issues and the Special Rapporteur on the Rights of Indigenous Peoples reflected on progress over the past six and ten years, respectively. Their conclusions are not reassuring; real progress on the ground on minority participation and citizenship is proving elusive. Nonetheless, there are pockets of hopeful change in European states and a renewed commitment by the OSCE High Commissioner on National Minorities to reinvigorate the implementation of minority rights accords. A surge in enthusiasm for minority protection issues at the EU Parliament, as part of its work on democracy and the rule of law, is positive, particularly as significant attention is being given to the issue which appears most problematic for the UN, Council of Europe and OSCE: the implementation and enforcement of minority rights in practice at the national and local level.

⁹⁸ EP, Resolution on the cases of Crimean Tatar leaders Akhtem Chiygoz, Ilmi Umerov and the journalist Mykola Semena, adopted 5 October 2017, 2017/2869(RSP).

⁹⁹ EU, Communication from the Commission to the European Parliament and the Council: Midterm review of the EU framework for national Roma integration strategies, 30 August 2017, COM(2017) 458 final.

¹⁰⁰ *Ibid.* 13, 14.

¹⁰¹ *Ibid.* 15.