



Strasbourg, 12 November 2009

DH-MIN(2009)002 rev

**REPORT FOR THE COMMITTEE OF EXPERTS ON ISSUES RELATING TO THE
PROTECTION OF NATIONAL MINORITIES (DH-MIN)**

**SUMMARY OF REPLIES TO
THE QUESTIONNAIRE ON ETHNIC DATA COLLECTION**

Report prepared by Mr Patrick Simon*

* Institut National d'Études Démographiques

This report was prepared upon the request of the Secretariat of the Framework Convention for the Protection of National Minorities and of the DH-MIN, for the ninth meeting of the Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN), 1-2 April 2009, Strasbourg, France. The views expressed in the present expert paper are those of the author and do not necessarily reflect the views of the DH-MIN or its Members.

Table of contents

Section 1: Data collection sources.....	7
1.1 Censuses and population records.....	7
1.2 Type of data collected	13
1.3 Other sources	15
1.4 Manner of declaration	17
Section 2: Legal framework for data collection.....	19
2.1 Laws governing data collection	19
2.2 Situation of data on ethnic, religious and linguistic affiliation.....	25
2.3 Justification and use of the data collected	26
Conclusion	27
References.....	29

The international and national bodies responsible for upholding human rights, combating racism and discrimination and protecting national or ethnic minorities have been facing a recurring difficulty for several years. Although the legal instruments shaping their activities have been gradually fleshed out, these bodies encounter problems arising from a lack of data capable of informing them on the situation of minorities, the extent of discrimination and racism suffered by those minorities and the different forms that this discrimination can take in social, political, economic and cultural life. This finding has been arrived at repeatedly by the CERD (Committee for the Elimination of Racial Discrimination, UN), the EUMC (European Monitoring Centre against xenophobia, racism and anti-Semitism, now the Fundamental Rights Agency - FRA), the European Commission or the ECRI (European Commission against Racism and Intolerance) and is becoming one of the prime issues of concern whenever effective policies are to be introduced to promote equality and, all the more so, to protect minorities.

In this context, the Committee of Experts on Issues relating to the Protection of National Minorities, represented hereinafter by its acronym DH-MIN, quite rightly raised the question of the "permissibility of ethnic data collection and appropriate methods for gathering such data"¹. The protection of national minorities presupposes that the State is able to identify unfavourable treatment, cases of exclusion and breaches of equality in respect of the law and access to rights, and also to gauge the socio-demographic profile of the members of minorities to assess whether or not their needs are satisfied, in order to "preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage" (article 5, §1, Framework Convention for the protection of national minorities). Whether the data are statistical or personal, it does indeed seem difficult to implement the principles set out in the framework convention without a description of national minorities in their actual conditions of existence.

After carrying out several consultations with experts², the DH-MIN prepared a questionnaire taking stock of "ethnic data collection" and the legal framework governing such operations. The questionnaire was entrusted to the members of the DH-MIN, who returned it to the committee secretariat. The number of questionnaires returned is far from making this survey an exhaustive one as only 19 countries eventually took part. This report is based, therefore, on analysis of the 19 questionnaires received, mostly in February 2008, and it does not provide a comprehensive snapshot of the situation in all the Council of Europe's member countries.

Where the information in the questionnaire replies is concerned, it should be borne in mind from the outset that no matter how careful the DH-MIN representatives were in replying to the different questions, their replies have an element of subjectivity and depend on the amount of information at the disposal of those who filled in the form. Some replies are highly detailed, while others leave gaps. Interpretation of the questions also varied, as can be seen from the replies to question 13 "Are different data collected on nationals and non-nationals?"; although the question was intended to identify any drawing of distinctions with regard to citizenship in the statistics published, most answered in the negative. Yet citizenship is the most common distinction made in the statistics systems of Council of Europe countries.

¹ Report of the 6th meeting of DH-MIN, 17-19 October 2007, Council of Europe, Strasbourg.

² Timo Makkonen, author of the *European Handbook on equality data*, and Eva Souhrada-Kirchmayer, vice-chair of the Consultative committee of the Convention for the protection of individuals with regard to automatic processing of personal data (ETS 108), as well as the author of this study.

Similar divergences or shortfalls are visible in replies to other questions, emphasising one of the difficulties of gathering information without cross-referencing with several sources. Having already run a similar exercise for the ECRI, we occasionally took it upon ourselves to add certain missing information. Nevertheless, we made a point of remaining as faithful as possible to the initial material: in-depth analysis of the 19 countries concerned would require far more time and resources than those available in the framework of this summary. One final precautionary note before presenting the summary of replies: these replies do not reflect the situation of national, ethnic, linguistic or religious minorities, but the collection of data relating to them.

The report layout follows the sections of the questionnaire, which covers all questions relating to data collection revealing ethnic, linguistic and religious affiliation (regardless of the titles and definitions used to describe this type of data). The first section focuses on the context of the census or whatever else countries use to obtain basic information on their population (essentially combinations of population registers and administrative files), with a description where applicable of the format of questions relating to "ethnic, linguistic and religious affiliation". A second section explores whether this information is collected in other media, such as administrative files, civil status data, statistics in the areas of employment, education or the courts. A third section deals with the legal conditions governing ethnic data collection, particular data protection laws. The final section will sum up what emerges in terms of good practices drawn from comparisons of the situations revealed in the 19 countries.

Section 1: Data collection sources

Statistical information on populations is obtained by various means, the main one being the carrying out of a census. Official statistics are also made up of administrative data and public or private files compiled in numerous spheres of life in society (employment, education, housing, justice, police etc). Numerous social and economic statistical surveys are also run in parallel with official statistics. They provide better knowledge of social groups not dealt with in official statistics. Finally, organisations representing minorities may sometimes gather their own statistical data, either from members' records, in the case of churches or religious organisations for example, or from estimates intended to counterbalance, or compensate for a lack of, official statistics.

1.1 Censuses and population records

The collection of standardised data on the population and households traditionally takes the form of a census at a fixed date, making it possible to cover all the residents at that time. This collection system is the most widespread, but alternative forms of data collection, capitalising on the numerous administrative files in existence and possibly using population registers, have developed. A growing number of countries are abandoning the principle of a census exercise at a fixed date and are compiling databases which operate by linking up files and registers containing substantially the same information with regular updates. One hybrid solution entails combining a registers/files base with part of a census designed to obtain information not appearing in the files. Whichever method is used, the type of data collected and the laws governing these collection exercises are strictly speaking the same. However, the laws governing censuses have specific features that do not concern files and vice versa.

Of the 19 countries which replied to the survey, 14 organise a traditional census, 2 use a system of registers coupled with files (Finland, Sweden) and 3 use (or are envisaging using) a combination of censuses and a register/file system (Germany, Slovenia, Switzerland). Censuses are generally carried out once every 10 years, but this frequency is often changed as a result of external events, administrative complications or funding or organisational difficulties, meaning that the last census dates do not coincide with a ten-year period. The next censuses will be carried out around the year 2010, with slippage into 2011 or even 2012.

The methods used to carry out censuses are now heavily standardised. Since the 1980s the UN has been publishing "principles and recommendations for population and housing censuses" prior to each new wave of censuses³. These methodological guides define not only the methods for collecting the data but also the format of questions, including those concerning "ethno-cultural" aspects. Several questionnaires refer to these recommendations as published by the Conference of European Statisticians. In this context, very little variation may be seen between countries in terms of the methods used to carry out their census.

Generally speaking, the questionnaires are left with residents by census staff, who sometimes put the questions to the respondents and fill in the forms themselves (which makes it possible

³ To improve international comparisons, censuses are carried out around dates with round figures. The last wave was in 2000 and the next one is planned for 2010.

to cover illiterate communities), but more often than not they collect the forms filled in by the respondents. This procedural point is important in that replies must not be influenced by a third party, particularly when they concern subjective and personal information such as ethnic or religious affiliation. Fear of stating an affiliation to a minority may prompt respondents not to make an open statement to an official surveyor. Similarly, it is not to be overlooked that the presence of the surveyor may be seen as intimidating.

However, it is equally true that a system where people fill in their own forms without the assistance of an official surveyor is likely to lead to the under-recording of poorly educated communities with a low level of literacy and a poor grasp of the concepts implemented in census questionnaires – even simple ones. Under-representation of national or ethnic minorities may therefore be exacerbated by the use of a procedure limiting the involvement of outsiders in data collection.

In general, replying to a census is a legal obligation and refusal to do so is likely to incur penalties. However, Azerbaijan and the Russian Federation stated that their census was completely optional. In this case, there is no particular status of obligation attached to any given question.

Case of the Russian Federation:

"Federal Law no. 8-FZ of 25 January 2002 "On the Russia-wide population census" stipulates that participating in the census is a human and civil social duty (Art. 1 para. 4), meaning that no obligation to participate in the census is imposed. The respondent may refuse to reply to any question on the census form."

In some cases (Bosnia-Herzegovina, Slovenia and Serbia), an official personal identification number (PIN code) must be marked down on the census form, which may require the consultation of documents to check its validity. This makes it easier to match the census and administrative data but raises major privacy issues.

Bosnia-Herzegovina

"Responses to questions included in Census Forms were based mainly on statements of persons providing data to census-takers. This means it was not insisted that a census-taker be presented documents by means of which he/she could check the answers which could be documented. However, census-takers could take data from the documents, particularly given the fact that writing of the personal identification number was foreseen in the Census Form. The personal identification number was copied from an identification card, passport, birth certificate, and other personal documents."

Serbia:

"Answers to questions on nationality/ethnicity, religion and mother tongue resulted from a free will of the population to declare themselves. As envisaged by the Guidelines for Enumerators, and relating to the Constitutional provisions that guarantee to citizens full freedom in reporting their ethnicity, religion, the enumerator is obliged to record precisely the answer provided by the respondents. Since a citizen may chose not to reply to this question, the enumerator records "undeclared"."

There are two different aspects concerning free consent in the provision of information: a lack of pressure as regards the content of replies noted down on census forms, which appears to be the rule for the countries which replied to the survey, and whether replies are optional or mandatory. For the second aspect, we have seen that only 2 countries made replying to the census optional, while the others maintained the mandatory nature of the exercise, perceived as the guarantee of exhaustive coverage. It is true that rates of non-reply to non-mandatory surveys can be very high and compromise the legal bases of a great many laws which rely on the findings of the census. Within this mandatory system, some questions have a special status and are made optional. This is the case of questions concerning ethnic affiliation and religion. The reasons for assigning that special status are a central issue in this report, as we shall see later.

The situation with population registers and administrative files is somewhat different. In this case, mandatory replies are the rule and the constraint relates more to the content of the information collected. The possibility of collecting sensitive information, subject to processing restrictions under data protection laws, seems more difficult to cater for than in censuses, where technical and legal solutions may be envisaged. There is no information on this subject in the replies to the survey.

Finland:

"The main source for producing population statistics is the population information system of the population register centre. The data stored in the population information system are specified in the Population Information Act (507/1993). The person is asked to answer questions concerning citizenship, mother tongue and state of birth and, in case of new born child, religious affiliation. In case of immigrants, for example, information concerning religious affiliation is added to the population information system if a person becomes a member of a religious community. Other data concerning the ethnic origin of a person are not recorded in the population information system."

Translation into several languages

In the countries where national and/or linguistic minorities are customarily taken into account, censuses and the keeping of administrative files provide for forms in several languages. Although it is not mentioned in the replies to the survey, one can imagine that translation and the languages chosen are part of more general procedures relating to minorities. Of the 19 countries studied, a number of different cases are identifiable:

- no translation is provided: 5 countries (although one provides a form in two alphabets, Cyrillic and Latin);
- translation into one language widely spoken in the country: in 4 countries, Russian for Azerbaijan, Georgia and the Republic of Moldova, Swedish in Finland (plus English);
- translation into several languages corresponding to official (or unofficial) minorities: 8 countries;
- one case of an officially multilingual country: Switzerland;
- the case of Italy which has two linguistic minorities in the Bolzano region and also translates the questionnaire into the languages corresponding to the main immigrant communities living on its territory.

Italy:

"Census forms have been prepared in German and Slovenian for the linguistic minorities of the corresponding regions, while the translation into 11 foreign languages (Albanian, Arabic, Chinese, Sinhalese, French, English, Polish, Portuguese, Serbo-Croatian, Spanish, German) has been provided for foreign citizens."

Russian Federation:

"Census forms have only been printed in Russian. When preparing the 2002 census, the Russian Statistics body, Rosstat, asked all the territories whether it was necessary to translate the questions on the census forms into other languages spoken by ethnic groups living in Russia.

Requests for translation were received from only four constituent entities of the Russian Federation, and the census form questions were subsequently translated into four languages. The translations were supplied to the census workers to be shown to respondents who could not speak Russian.

For the 2002 census (in accordance with Article 6 para. 4 of the Law "On the Russia-wide population census"), in cases where respondents did not speak Russian, the services of interpreters were used; within ethnic communities of the Russian Federation (particularly in rural areas) and areas densely populated by small indigenous peoples census workers speaking two languages (Russian and the language of the ethnic groups concerned) were selected. "

	Type of collection	frequency	dates of last and next collections	Data collected	Status of questions	Form in several languages	Other ethnic data collection sources
Azerbaijan	Census	10 years	1999/2009	Ethnic affiliation, mother tongue, language spoken	Not mandatory in census	Russian	Education, Civil status
Bosnia and Herzegovina	Census	10 years	1991	National affiliation, mother tongue, religion	Optional (except for languages)	Two alphabets (Cyrillic and Latin)	Civil status (planned)
Czech Republic	Census	10 years	2001/2011	National affiliation, mother tongue, religion	Optional (except for languages)	10 languages	No
Finland	Registers	Annual		Mother tongue, religion (new-born children)	Mandatory	Swedish and English + interpreters	No
Germany	Census/Registers	10 years	2011	Religious affiliation (official and perceived) ⁴	Official: mandatory Perceived: optional	yes	No
Georgia	Census	Variable	2002/2010	Ethnic affiliation, mother tongue, language spoken, religion	Mandatory	Russian	No
Hungary	Census	10 years	2001/2011	Ethnic affiliation, mother tongue, language spoken, religion	Optional (except for languages)	Yes	Electoral list (national minorities)
Italy	Census	10 years	2001/2011	None	Mandatory	German and Slovene + 11 other languages	No, except Bolzano Province
Lithuania	Census	?	2001/?	Ethnic affiliation, mother tongue, religion	Optional	Polish, Russian and English	Ethnic affiliation in population register
Republic of Moldova	Census	?	2004/?	Ethnic affiliation, mother tongue, language spoken, religion	Mandatory	Russian	Administrative files, Civil status, judicial data

⁴ According to the draft (of April 2009) of the Census law.

Romania	Census	10 years	2002/2011	Ethnic affiliation, mother tongue, religion	Possibility of not replying, but no mention of optional	No	Surveys
Russian Federation	Census	10 years	2002	Ethnic affiliation, mother tongue, language spoken	No obligation to reply to census	4 languages + interpreters	Ethnic affiliation on birth certificate
Serbia	Census	5 years	2002	Ethnic affiliation, mother tongue, religion	Optional	Albanian, Hungarian, Romanian, Ruthenian And Slovak	Administrations, schools, police and armed forces
Slovakia	Census	10 years	2001	Ethnic affiliation, mother tongue, religion	Mandatory	Hungarian, Ukrainian, Ruthenian, Rom (?)	Civil status, schools, administrative sources, surveys (ethnic affiliation)
Slovenia	Census / administrative data	10 years	2002	Ethnic affiliation, mother tongue, language spoken, religion	Optional	Italian and Hungarian	birth certificate and population register
Sweden	Registers	annual	2011	None	Mandatory	No	Mother tongue in schools
Switzerland	Census / registers	10 years, annual after 2010	2000/2010	Membership of a religious community, language spoken and language known	Mandatory	German, French, Italian and Romansh and 6 other languages	religious membership (population registers) thematic survey « Language, religion and culture » (beginning 2014)
"The Former Yugoslav Republic of Macedonia"	Census	variable	2002	Ethnic affiliation, mother tongue, religion	Optional (except for languages)	6 languages	Civil status, schools, administrative sources (ethnic affiliation)
Ukraine	Census	10 years	2001	Ethnic affiliation, mother tongue, language known, religion	Optional (except for languages)	No	No

1.2 Type of data collected

Of the three types of data looked at by the study – ethnic, linguistic and religious affiliation – it is data on language that are the most collected, ahead of religion and ethnic affiliation. However, the differences are fairly marginal, since 17 of the 19 countries which replied collect data on at least one of the criteria mentioned. The profile generated by the countries which replied is not very representative of the situation prevailing in Council of Europe States. In a study for the ECRI, we observed that, of the 42 countries studied, 22 collect data on ethnic affiliation, 24 on religion and 29 on language (Simon, 2007, table 1 p.39). It appears that the countries which took part in the study distinguish themselves by a widespread practice of collecting data on national minorities, on religion and on languages. It is mainly the countries of central and eastern Europe which have a long-standing tradition of identifying national minorities, as confirmed by table 2 below.

Nevertheless, the collection of ethnic data gives rise to major reservations in Europe. Sweden and Switzerland do not collect data on ethnic affiliation, for example, and do not think it desirable. Sweden says that it "does not compile official statistics on people's ethnic origin, however, apart from their citizenship and country of birth, since there are no methods of calculating ethnic origin that are both ethically acceptable and scientifically reliable. It is hence not possible for Sweden to submit statistical data on its national minorities." Similarly, Switzerland states that it "does not use the notion of 'ethnic statistics', which it considers ambiguous and problematic from a conceptual viewpoint. [It "does"] not collect data on membership of ethnic groups."

The terminology used for "ethnic" data ranges from "ethnic affiliation" and "membership of ethnic groups" to "national affiliation" or "nationality". In this case the term "nationality" refers not to citizenship as understood in western Europe, but to ethnic affiliation. Information on religion is also fairly wide-ranging and may cover religious beliefs or leanings, such as in Switzerland, affiliation to a form of worship or membership of a religious community. Depending on the definitions used, the information collected describes different levels of affiliation to religion.

Excerpt from the definition of religion given in the reply from Slovenia:

"For determining religion only the attitude towards religion was important and not whether or not the person is officially registered as a member of a religious community. Religious conviction of a person was also not important."

Approaches to the notion of "language" may also differ. Most censuses begin by registering the "mother tongue", i.e. the one spoken in childhood or the "first language learnt in the family". In cases where more than one language have been learnt, the respondents are asked to choose one. Some record the languages spoken (Azerbaijan, Russian Federation, Georgia, Slovenia for example). Ukraine and Switzerland use the concept of "languages known". Switzerland pursues a highly detailed approach to linguistic practices by situating the languages spoken in different places (at work, at school, at home).

It is very rare to be able to give several replies to questions on ethnic, religious or linguistic affiliation. Not only do census forms not provide for the possibility of giving several replies, but the principle of exclusivity of affiliations also prevails in administrative documents. The declaration of nationality (ethnic affiliation) upon the birth of a child whose parents can claim

different nationalities implies a choice made by the parents. One noteworthy exception is the case of Azerbaijan which allows the registration of two "nationalities" in the case of mixed couples. Generally speaking, the situation of minors is determined by their parents.

Table 2: Situation of collection of data on ethnic, religious and linguistic affiliation.

	Ethnic	Religious	Linguistic
Azerbaijan	*		*
Bosnia & Herzegovina	*	*	*
Czech Republic	*	*	*
Finland		*	*
Germany		*	
Georgia	*	*	*
Hungary	*	*	*
Italy			
Lithuania	*	*	*
Republic of Moldova	*	*	*
Romania	*	*	*
Russian Federation	*		*
Serbia	*	*	*
Slovakia	*	*	*
Slovenia	*	*	*
Sweden			
Switzerland		*	*
"The Former Yugoslav Republic of Macedonia"	*	*	*
Ukraine	*	*	*
Total	14	15	16

Given their sensitivity, questions on ethnic affiliation and religion are usually optional (see table 1). Only 3 countries make them mandatory in the same way as the other questions in the census survey (Slovakia, Republic of Moldova and Georgia) whereas, for Azerbaijan and the Russian Federation, the entire census is optional. It may be that the optional nature of the reply is not explicit, as in Romania or Serbia where declining to reply is accepted but no special notification is made, or it may be very clearly indicated, in which case there is a special comment in the questionnaire prior to the question on ethnic or religious affiliation (Hungary for example).

The protocol followed in Slovenia comprises not only an express mention of the optional nature of replies but also an additional procedure to safeguard individual and free reply by the respondents. Under article 10 of the law on population census (OJ RS 66/2000, 26/2001), "all people aged 14 and over had to declare their ethnic affiliation and religion themselves. For household members who on the census reference date (31 March 2002) were at least 14 years old but were absent from the household at the time of the interview or the interviewer's visit or did not want to declare their ethnic affiliation and religion in the presence of other household members or the interviewer, the data on ethnic affiliation and religion were collected with the Statement on the Nationality/Ethnicity and Religion (P-3/NV questionnaire), which was left by the interviewer together with the envelope in the household. In this way every person could fill in the Statement on the Nationality/Ethnicity and Religion and send it to the Statistical Office of the Republic of Slovenia. Sending of the Statement on

the Nationality/Ethnicity and Religion was not obligatory. The office took into account only those Statements on the Nationality/Ethnicity and Religion that were signed."

The questions may be "open", i.e. not giving any groups to choose from, or provide a pre-coded list. In the first case, it is vital that the meaning of the term used – "ethnic affiliation" for example - is properly understood by the respondents for the answers to be meaningful. Using a list makes it possible to specify the question thanks to the groups proposed but tends to draw replies falling into the categories mentioned. Ideally, open questions give the respondents greater freedom. This approach is sometimes criticised by organisations of national minorities because they believe it leads to under-representation of stigmatised groups. The reply from the Czech Republic reads as follows:

"Questions concerning national affiliation and religious affiliation are optional. Some representatives of national minorities believe that this was the main reason why other than Czech national affiliation was stated in 2001 census by much less people than in the 1991 census. Some representatives of national minorities consider it as correct to have all answers to census questions mandatory and to enumerate specifically all "recognized" national minorities (since no law in the Czech Republic enumerates national minorities, this opinion is evidently a misunderstanding on the part of those representatives)."

1.3 Other sources

Civil status, education, employment, police and justice

The census is a legal operation, but its findings are made anonymous by the relatively swift destruction of the data sheets showing the personal details of the respondents. The same does not apply to administrative files or civil status records (birth, marriage, divorce, death). More sensitive still are police files, where the judicial data not only name people but, in addition, are used for purposes of supervision and law enforcement. One would expect, in this case, to see particularly high levels of guarantees of confidentiality, or even a strict prohibition on including mentions of ethnic affiliation or religion

Of the 19 countries concerned, only 9 reported that they collected ethnic data in civil status sources (either in full or only from birth certificates or population registers). In addition there are the countries which partially collect data from electoral files to ensure that minorities enjoy their right to political representation (Hungary) or in a single province (Italy). Some also cover administrative files or school files. It can be seen that there is no automatic link between the collection of data in the census and their extension to other sources. While the Czech Republic, Georgia or Romania collect detailed data in the census, that information does not appear in any other official source.

Serbia gave a lengthy reply, drawing fine distinctions regarding the procedure for registering data on ethnic affiliation and religion as governed by the legal texts regulating this information:

- 1) a reminder of the freedom to declare one's nationality/ethnicity;
- 2) a restriction on the conditions for collecting these data, based on written consent;
- 3) information collected on a voluntary basis when applications are made for places in schools, intended to meet the needs for teaching in a minority language.

"Organs and institutions of public administration keep files, according to their needs, related to ethnic, national, linguistic or religious data. The provision under Article 47 of the Constitution of the Republic of Serbia, on free expression of nationality identity/ethnicity, namely stipulating that no one shall be obliged to report his/her national identity/ethnicity, and the provision under Article 43, according to which no one shall be obliged to report his/her religious beliefs, are starting points for keeping such files.

Under Article 18, paragraph 1 of the same Law, personal data on race, ethnicity, religious and other beliefs, political and union affiliations and sex life may be collected, processed and provided for use only upon the citizens' written consent.

When enrolling in primary and secondary schools in the Republic of Serbia, pupils/student or their parents/guardians have to fill out the "pupil's/student's record card" containing the information on the mother tongue, nationality/ethnicity and religion.

According to the Law on Fundamentals of the Educational System, it is not compulsory to reply to these questions. The schools collect these data in order to ensure the instruction in national minority languages and the religious instruction and to employ the required teaching staff. Such data are submitted to the Ministry of Education for the purposes of creating a database, namely the Educational Information System (EIS). In addition to this data base, the Provincial Secretariat for Regulations, Administration and National Minorities of the Executive Council of the Autonomous Province of Vojvodina also collects information based on a 'questionnaire', which is circulated to all school in the territory of AP Vojvodina prior to the school year and which also contains the information on the students' mother tongue, religion and nationality identity/ethnicity.

The Law on Labour Records, regulating the type, contents and methodology of labour related record keeping, as well as the methods of collecting, processing, using and protecting the data in the respective files, does not envisage an obligation of keeping records on national identity/ethnicity and language. Nevertheless, in practice, there is a possibility for unemployed persons to report their national identities/ethnicities in their unemployment service record card, the intention being to provide job opportunities to persons belonging to the Roma national minority as the most vulnerable group in the labour market. Such data are not comprehensive, considering the self-classification possibility."

Other than for the monitoring of race attacks or incidents of discrimination, it is very rare that police or judicial statistics reveal sensitive data. The only cases reported are in "the Former Yugoslav Republic of Macedonia" and Slovenia:

"In compliance with Police Act (OJ RS No. 49/1998), Police keeps a database of Criminal offences that among other data contains also data on nationality of the criminal denounced persons. When declaring for nationality, a suspect has possibility not to declare his nationality and not to provide Police with such information. Police does not gather other data that refer to racial or ethnic affiliation, language, religion etc."

The case of identity papers

While the collection of information on ethnic affiliation and religion is relatively rare in administrative or private files owing to data protection laws, the situation is even more critical where identity papers are concerned. This is the official identity that will accompany an individual throughout their life, like their date of birth or gender. Most countries where identity papers previously included a mention of ethnic affiliation and/or religion appear to have abandoned the practice.

It is maintained on a voluntary basis in a few cases (Hungary, Russian Federation, "the Former Yugoslav Republic of Macedonia"). The case of Serbia is interesting, as it is possible to print surnames and first names on identity papers in written forms specific to national minorities, in line with the recommendations of article 11 of the Framework Convention, transposed in article 9 of the "law on the protection of rights and freedoms of national minorities". Consequently, Serbia quite rightly replies that "Considering the legal possibility to enter in the personal identification card the surname and name in their original form, there clearly exists the possibility to indirectly point out the national identity/ethnicity".

Georgia:

"Since 1997 indication of ethnicity is removed from the identity card. Indication of ethnicity does not appear in passports as well."

Moldova:

"The Law on Identification Acts of National Passport System № 273-XIII from 9 November 1994 (article 2 (7 (i) and article 3 (5 (i) for the purpose of prevention of any discrimination provides, that in the identity card the ethnic origin of the possessor is not indicated; in identity cards of refugees and in travel acts the ethnic belonging of the possessor is not indicated."

Production of data by organisations or communities of minorities themselves

In most of the respondent countries, communities do not keep ongoing statistics of their membership or more broadly the population groups likely to belong to minorities. Where they do, in one manner or another, their estimates are not considered reliable. On the one hand, the technical expertise required to produce statistics on minorities is rarely available in organisations representing minorities. On the other hand, these organisations tend by their very nature to overestimate the number of their members, and therefore to believe that the official statistics, where these exist, underestimate the situation, as their political weight, resources and possibly access to a number of facilities (schools, local government, among others) are calculated in relation to the demographic weight of the minorities concerned.

Czech Republic:

Organizations of national minorities do not keep or create intentionally their own databases of members of minorities. They usually have no mechanisms, possibilities, funding or skilled employees to do so. However, each such organization has a certain idea and database of its members. Such information is important and is used for planning of activities, etc. Representatives of these organization often use own estimates of such data.

1.4 Manner of declaration

The central principle governing the collection of data on ethnic or religious affiliation is self-identification. The notion of "free choice" is set out in the constitutional texts of several countries (Bosnia & Herzegovina, Serbia) and imposed as a benchmark for the collection of census data, but also within administrative operations as a whole. All the countries which collect data on ethnic affiliation or religion stress the principle of free declaration in the

census, more often than not guaranteed by the Constitution, echoing part of article 3 of the Framework Convention.

This principle is applied in the census, where express mentions of the optional nature of replies to such questions are sometimes inserted, as well as in other sources in certain cases, including of an administrative nature.

Bosnia & Herzegovina:

Article 170 of the Constitution of SFRY guaranteed the citizens a complete freedom to declare national affiliation. A census-taker was obliged to write exact response to a national affiliation question given by a respondent.

In accordance with Article 170 of the Constitution of SFRY, a citizen had the option not to declare himself/herself under this question. In this case a census-taker wrote the response: "Did not declare himself/herself".

The Census Form P-1 (for individuals) included the remark with the question on national affiliation: "According to Article 170 of the Constitution of SFRY a citizen may not declare himself/herself on this question".

Article 174 of the Constitution of SFRY guaranteed the citizens the freedom of confessing one's faith. A census-taker was obliged to write exact response to a religious affiliation question given by a respondent.

The fact if a respondent was registered in a book of members of a religion or not was not important for writing a response to this question. Important was if a respondent considered himself/herself a member of a religion or not.

Slovakia:

"According to the Article 12 para 3 of the Constitution of the Slovak Republic, "Everyone has the right to decide freely which national group he or she is a member of. Any influence and all manners of pressure that may affect or lead to a denial of a person's original nationality shall be prohibited." And according to Article 33 of the Constitution of the Slovak Republic, "Membership in any national minority or ethnic group may not be used to the detriment of any individual."

Azerbaijan:

"The Law of the Republic of Azerbaijan on Information freedom – 19 June 1998, which states that "the information about individual documented or announced orally belongs to that individual. Data about the religious affiliation of the individual and his/her belief can only be collected if submitted of his/her own accord "."

Section 2: Legal framework for data collection

The legal framework governing the collection and processing of statistical data comprises international and national texts from two main sources: firstly, laws on the processing and circulation of information, respect for privacy and data protection, which we shall refer to in the rest of this document as "data protection laws"; secondly, laws on statistics work, the carrying out of censuses, the keeping of population registers and data collection standards which we shall refer to as "laws on statistics". This framework has gradually become standardised and derives from a set of international treaties on human rights, and more specifically from two fundamental texts: Council of Europe Convention no. 108 (CETS 108) "for the protection of individuals with regard to automatic processing of personal data" (1981) and European Directive 95/46/EC (Directive 95) "on the protection of individuals with regard to the processing of personal data and on the free movement of such data" (1995). National texts have essentially followed CETS 108 and, in EU Member States, transposed Directive 95.

2.1 Laws governing data collection

As of 17 March 2009, 41 of the Council of Europe's member States had ratified CETS 108, 3 had signed it without ratification (Russia, Turkey and Ukraine) and 3 had not signed it (Armenia, Azerbaijan and San Marino). Of the 19 countries covered by the study, there are 16 which have ratified CETS 108 and 10 EU Member States which have all transposed Directive 95 into national law or had already met the criteria in their domestic legislation before acceding to the convention.

Accordingly, there is a fairly strong uniformity in the legal provisions governing the collection, production and dissemination of statistical data in the countries included in this study.

In addition to these laws there are:

- Laws on statistics setting out the code of conduct for statisticians, laying down the conditions for their activities and giving more specific definitions of criteria for secrecy of statistics than data protection laws;
- Laws on the census describing in detail the procedures for carrying out this operation and also specifying the status of the data collected, supplementing data protection laws, or filling in where such laws do not exist, such as in Georgia⁵
- Laws on passports and identity papers, determining under what conditions personal information may appear in official documents, including "nationality" or religion;
- Laws on population registers, administrative documents, civil status etc;
- and, first and foremost, constitutional provisions establishing a higher reference for the collection of data on ethnic affiliation and religion.

⁵ In Georgia, issues related to personal data are also regulated by the General Administrative Code

Table 3 summarises the main legal references quoted in the questionnaires, supplemented by information drawn from the report prepared for the ECRI (Simon, 2007). Within the scope of this study, these different legal references determine whether it is possible to process data revealing ethnic affiliation or religion, and the technical conditions for processing them. There are no particular restrictions regarding linguistic affiliation.

The architecture generated by these laws is complex to sketch out⁶, as not only is it the case that statistical information may be covered by different legal references (such as the criminal code, the constitution, the law on data protection, the law on the rights of national minorities), but it may also occur that these references contradict one another, to the extent that it is difficult to determine which clause applies. And then the texts have to be compared with the case-law in this sphere, i.e. how they are applied in reality, and this *practical* aspect of data protection is not included in the questionnaire.

⁶ The reply from Finland states that "A great number of provisions on the processing and on the collecting of personal data are also included in special legislation. The number of such regulations is, by a rough estimation, about 600."

Table 3: Legal framework of data collection

Countries	International conventions on data protection	Law on statistics	Data Protection	Other relevant provisions
Azerbaijan	No ratification of CETS 108	The Law of the Azerbaijan Republic on Statistics, Adopted: 18 February 1994, Additions and amendments: 1. 16 May 2000	Law of Azerbaijan Republic on Data and Data Protection, 3/4/1998; on Legal protection of data collection, 14/9/2004; on Information freedom, 19/6/1998	
Bosnia & Herzegovina	CETS 108 (1/7/2006)	LAW ON STATISTICS OF BOSNIA AND HERZEGOVINA, n°34/2002	Law on the Protection of Personal Data, enacted December 28 2001; Freedom of Access to Information Act, adopted October 2000	Law on Central Registry and Data Exchange, December 28, 2001 Law on the Personal Identification Number, December 28, 2001 Law on Identity Cards of Citizens of Bosnia and Herzegovina, December 28, 2001
Czech Republic	CETS 108 (1/11/2001) Directive 95(46) (4/4/2000 ?)	Act No. 89/1995 Coll., on the State Statistical Service	Consolidated version of the Personal Data Protection Act 101 of April 4, 2000 on the Protection of Personal Data and on Amendment to Some Acts	Act No. 365/2000 Coll. on Information Systems of Public Administration and on the Amendment to Certain Laws, as amended, and special laws regulating the conditions of keeping and scope and method of processing of data in specific information systems maintained by public administration (e.g. Act No. 133 /2000 Coll. on Population Register and Birth ID Numbers and on the Amendment to Certain Laws (the Population Register Act), as amended)

Finland	CETS 108 (1/4/1992) Directive 95(46) (1/12/200)	The Statistics Act, 280/2004	Personal Data Act (523/1999), amendment in 2000; Data Protection Board and the Data Protection Ombudsman (389/1994, partly amended; 524/1999), the Decree on the Data Protection Board and the Data Protection Ombudsman (432/1994, partly amended; 529/1999)	Act on the Openness of Government Activities (621/1999)
Germany	CETS 108 (1/10/1985) Directive 95(46) (18/5/2001)	Gesetz über die Statistik für Bundeszwecke, (Bundesstatistikgesetz - BStatG) 1)2)3)4)5)6), Vom 22. Januar 1987, (BGBl. I S. 462, 565) zuletzt geändert durch Artikel 3 des Gesetzes vom 7. September 2007 (BGBl. I S.2246),	Federal law of 21 January 1977 affording protection against the abuse of personal identification data in the framework of data processing, modified by the federal data protection law of 20 December 1990 and amended by the law of 14 September 1994; Legislations in the Länder; Federal data protection law - 2001 (Bundesdatenschutzgesetz (BDSG)). Bekanntmachung der Neufassung (revised version) des Bundesdatenschutzgesetzes, Vom 14. Januar 2003, (BGBl. I S. 66) zuletzt geändert durch Artikel 15 Absatz 53 des Gesetzes vom 5. Februar 2009 (BGBl. I S. 160)	
Georgia	CETS 108 (1/4/2006)	Law of Georgia on Statistics, 1997	Article 9. Protection of Personal Data (Law on General Census of Population of Georgia, 2001)	
Hungary	CETS 108 (1/2/1998) Directive 95(46) (requirements already met)	Act XLVI of 1993 On Statistics	Act LXIII of 1992 on the Protection of Personal Data and Public Access to Data of Public Interest	Act LXXVII of 1993 on the Rights of National and Ethnic Minorities

Italy	CETS 108 (1/7/1997) Directive 95(46) (08/05/1997)	D.Lgs. 6/9/1989, n. 322 (Gazz. Uff. 22 settembre 1989, n. 222) Norme sul Sistema statistico nazionale e sulla riorganizzazione dell'Istituto nazionale di statistica, ai sensi dell'art.24 della legge 23 agosto 1988, n. 400	Law no. 675 on personal data protection - 31/12/1996 (amended by several legislative decrees of 1997, 1998 and 1999) DataProtectionCode-30/6/2003	
Lithuania	CETS 108 (1/10/2001) Directive 95(46) (21/3/2003)	REPUBLIC OF LITHUANIA LAW ON THE AMENDMENT OF THE LAW ON STATISTICS 23 December 1999 No VIII-1511 Vilnius	Law on legal protection of data 21/1/2003, No. IX-1296 amendments of 13/4/ 2004	LAW ON THE POPULATION AND HOUSING CENSUS 2001 10/6/1999. No VIII - 1222 Vilnius; Resolution n°907, 19/9/2006, on statistical information by nationality
Republic of Moldova	CETS 108 (1/6/2008)	"Law of the Republic of Moldova on Statistics" (approved on December 18, 1990)	Law on Personal data protection, n°17, 15/2/2007; Law on Identification Acts of National Passport System, n°273-XIII, 9/11/1994	Law on registers , n°1320-XIII, 25/9/1997; Law on Civil Status, n°100-XV, 26/4/2001
Romania	CETS 108 (1/6/2002)	Ordinance Concerning the Organization of the Public Statistics Creation date 2000	Law no. 677/2001 for the Protection of Persons concerning the Processing of Personal Data and Free Circulation of Such Data	Government decision n°680/2001 on Population census
Russian Federation	CETS 108 (signed 7/11/2001, not ratified)		Russian federal law on Information, Informatisation and information protection, January 25 1995	Federal Law n°8-FZ, 25/1/2002 on "Russia-wide population census"
Serbia	CETS 108 (1/1/2006)		DECREE ON ENACTMENT OF LAW ON PROTECTION OF PERSONAL DATA - 1998 -	Law on the Protection of Rights and Freedom of National Minorities; Law on Personal Identification Card
Slovakia	CETS 108 (1/1/2001) Directive 95(46) (1/5/2004)	Act on State Statistics November 29, 2001	Act n°428/2002 on Protection of Personal Data	Act n°460/1992, Constitution; Act n°40/1964, Civil Code; Act n°300/2005, Penal Code

Slovenia	CETS 108 (1/9/1994) Directive 95(46) (6/7/2000)	The Slovenian National Statistics Act, OJ RS n°45/95, 9/2001	Personal Data Protection Act (Published in Official Gazette of the Republic of Slovenia No. 59/1999; Entry into force: 07.08.1999) Amended in 07/2001 (No. 57/2001) and replaced by a new Personal Data Protection Act in 01/2005	Act regulating the Census of Population, Households and Housing (OJ RS 66/2000, 26/2001)
Sweden	CETS 108 (1/10/1985) Directive 95(46) (3/9/1998)	Official Statistics Act Promulgated on 15 March 2001.	Personal data act (SFS 1998:204) of 29.4.98 and regulation SFS 1998:1191 of 03.09.98	
Switzerland	CETS 108 (1/2/1998)	Law on federal statistics (LSF)	Art. 13 al. 2 of the Federal Constitution of 18 April 1999 (Cst.) Art. 28 et sq. Swiss Civil Code (CC) of 10 December 1907 Federal law on data protection (LPD) of 19 June 1992 Ordinance on the federal law on data protection (OLPD) of 14 June 1993	Articles 28 et sq. of the Civil Code; Ordinance on statistical data, art 7 et sq.; Federal Law on the population census of 22 June 2007; Federal Ordinance on the population census of 19 December 2008; Law on the harmonisation of the registers on inhabitants and other official population registers of 23 June 2006 (LHR); Ordinance on the harmonisation of registers of 21 November 2007 (OHR); Art. 10 Ordinance on the organisation of the federal statistics of 30 June 1993; Art. 7 et sq. Ordinance on compiling federal statistical data of 30 June 1993
"The Former Yugoslav Republic of Macedonia"	CETS 108 (1/7/2006)	ACT ON STATE STATISTICS, The Law was adopted by the Parliament of the Republic of Macedonia and published in "The Official Gazette of the Republic of Macedonia" No. 54/97	Law on personal data protection, No. 07-378/1 January 25, 2005 Skopje "Official Gazette of RM" No. 12/94	Law on Census of Population, Households and Dwellings in the Republic of Macedonia, 2001 ("Official Gazette of the Republic of Macedonia" No 16/ 2001 and changes and supplements to this Law published in the "Official Gazette of the Republic of Macedonia" No 37/2001, 70/2001 and 43/2002).
Ukraine	No ratification of CETS 108	"On State Statistics"	"On information, other laws and legal acts which regulate relations in the spheres of statistics, information and computerisation, scientific and technical activity and state standards"	Constitution

2.2 Situation of data on ethnic, religious and linguistic affiliation

Article 6 of CETS 108 defines "special categories of data" for which the collection conditions are subject to "appropriate safeguards":

"Personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards. The same shall apply to personal data relating to criminal convictions".

Directive 95/46/EC, is even more restrictive, with article 8 enshrining a prohibition in principle on processing "special categories of data":

"Member States shall prohibit the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life".

However, that prohibition is tempered by exceptions or exemptions which ultimately make it tantamount to a conditional authorisation (Simon, 2007). The real significance of these clauses concerning "special categories of data" is that there is specific identification of data revealing "racial origin" or "religious beliefs" and, under CETS 108, their collection is to be subject to the introduction of a system providing appropriate safeguards (to be defined in each signatory country). This vagueness concerning guarantees is partly clarified in the countries subject to Directive 95, which sets out an exhaustive list of exemptions.

The interpretation of the consequences of this *relative prohibition* varies from country to country. The replies of Germany and Sweden, for example, stress that it is impossible to collect data on ethnic origin within the framework of data protection laws. Italy sees itself in a slightly different position owing to the case of Bolzano province where a specific regime applies (presidential decree no. 752/1976). For that province, and for that one only, data are collected on an ethnic and linguistic basis, not only in the census but also in many other files. As we have seen, the Directive 95 framework does not prohibit this type of collection where it is required by binding legal provisions.

The reply from Finland clearly states under which conditions it is possible to collect ethnic data, which does not mean that such data are actually collected, except in the case of asylum seekers and to organise Sami parliamentary elections (chapter 4 of the law on the Sami Parliament, 974/1995). There are similar provisions in Hungary for the compilation of electoral lists for the election of local governments of national minorities.

Electoral registers in Hungary:

"At the time of local elections the minority voters' register is drawn up. The following minorities are specified by the law and can be recorded in the minority voters' register: Bulgarian, Gypsy, Greek, Croatian, Polish, German, Armenian, Romanian, Rusyn, Serb, Slovak, Slovene, and Ukrainian. The enrolment in the minority voters' registrar is optional. The register is destroyed after the elections."

Another criterion is mentioned by Finland in its reply: that of "necessity", which may or may not justify the collection of sensitive data. As shown in the excerpt below, it would be for the

Data Protection Ombudsman to assess the expediency of transgressing the prohibition on collection and, in the case of personnel files, he considered that that expediency was not proven.

Example of the argument of "necessity" given by Finland:

According to Section 3 (Necessity requirement) the employer is only allowed to process personal data directly necessary for the employee's employment relationship. [...] No exceptions can be made to the necessity requirement, even with the employee's consent. According to Data Protection Ombudsman statement, the collection of data concerning national or ethnic origin does not generally fulfil the necessity requirement and prohibition of discrimination requirements in the field of employment. The data concerning nationality might be necessary for the purpose of controlling the working permits of employees.

The case of the Czech Republic is even more complicated. While aligning itself with Directive 95 and reiterating the prohibition on processing data revealing "sensitive" information, the Czech Republic runs a census in which national and religious affiliation are recorded. This is a dispensation specific to the census as, apparently, these data are not collected in the statistics on education, employment or justice. Finally, Slovakia draws a distinction between ethnic affiliation, which does not constitute sensitive data, and race or religion which do. This distinction appears to derive, in our view, essentially from the legal framework established by the Constitution and the recognition of national minorities.

Sensitive data, interpretation in Slovakia:

"Affiliation to a national minority or ethnics does not constitute special category of personal data (sensitive data) and has purely declarative character.

However, affiliation to race (data revealing ethnic or racial origin) or to religion is already considered to be of sensitive nature and that is why the processing of such data in accordance with the law shall be basically prohibited, with some exceptions (§8 Subpar. 1, §9 Subpar. 1 of the Act. No 428/2002 Coll. as amended by later provisions)."

2.3 Justification and use of the data collected

The countries which do not collect data revealing ethnic, religious or linguistic affiliation mostly cite grounds of the legal framework of prohibition, and stress that there is no political motive or ethical justification for doing so. In their view, neither combating discrimination nor protecting minorities provide justification for collecting this type of data.

Inversely, the countries collecting this type of data, which are very much in the majority among the 19 replying to the survey, cited specific needs defined either by the Constitution or commitments linked to specific policies.

Lithuania:

Statistical information on the population structure by nationality is prepared based on Resolution No. 907 of the Government of the Republic of Lithuania of 19 September 2006 on the approval of the national anti-discrimination programme for 2006-2008.

Ethnic data is collected for the purposes of implementation of the Government policies toward national minorities.

Finland:

Section 25 a of the Act on the Sami Parliament (1279/2002) contains special regulations on the confidentiality of the electoral roll and documents relating to the drafting of the electoral roll, which include data on the ethnic origin of a person.

Conclusion

The collection of data on ethnic, religious and linguistic affiliation is undeniably of key importance for the purposes of combating discrimination and protecting national minorities. ECRI points out that "it is difficult to develop and effectively implement policies ... without good data" and recommends collecting, "in accordance with European laws, regulations and recommendations on data-protection and protection of privacy, where and when appropriate, data which will assist in assessing and evaluating the situation and experiences of groups which are particularly vulnerable to racism, xenophobia, anti-Semitism and intolerance". In the specific field of the protection of national minorities, as covered by the Framework Convention of which the committee is the guarantor, it is possible to identify several potential uses for statistics that make data collection essential. There are articles in the Framework Convention that explicitly or implicitly refer to the use of statistical or numerical data (numbers, percentages, proportions, etc). In a paper on the monitoring of the implementation of the fundamental rights of minorities, J Schokkenbroek, who was at the time the Head of the Human Rights Law and Policy Development Division, distinguished between two categories of obligations in the convention⁷: "negative obligations" relating to the protection of universal rights and obligations concerning specified objectives. According to Schokkenbroek, the use of statistics is probably not crucial for obligations in the first category, whereas the honouring of those in the second category necessitates the use of quantitative data.

On reading the Framework Convention, we find that implementation of Article 4, which concerns equality before the law and in the various fields of life in society, is necessarily based on statistics reflecting the situation of minorities in these fields. The ideas behind Article 15, concerning the "effective participation" of persons belonging to minorities, and Article 12, paragraph 3, on equal opportunities for access to education, are similar. More particularly, Article 10, paragraph 2, Article 11, paragraph 3 and Article 14, paragraph 2, refer to areas inhabited by "substantial numbers" of persons belonging to a national minority, a concept which is meaningful only in quantitative terms. It implies not only a definition of what is "substantial" but also the possibility of ascertaining the existence of substantial numbers by means of a census of persons belonging to national minorities.

Whether in the form of supervision to ensure that rights are effective in practice or in the positive sense of measures catering for members of national minorities, the protection of national minorities objectively requires the collection and processing of data in order to obtain statistical descriptions of the communities concerned. Such statistics are collected very unevenly from one Council of Europe country to the next. In many countries, ethnic, religious and linguistic affiliation is simply not entered in reference sources of information concerning the population (censuses and population registers). In countries that do collect such information, its use for purposes relating to the Framework Convention is not often assured.

⁷ Schokkenbroek J (2000) "What Kind of Information Do We Need for Monitoring the Implementation of Fundamental Rights of Minorities? A Council of Europe Experience", paper presented at the Conference on "Statistics, Development and Human Rights", Montreux, ISI, IAOS. www.portal-stat.admin.ch/iaos2000/schokkenbroek_final_paper.doc

Usually a demographic picture of minorities is drawn up without its giving rise to analyses of inequalities in access to education, employment and political office or of geographical segregation.

The questionnaires of which the results are summed up in this study make it possible to identify a series of "good practices" based on experience. These good practices do not form a systematic whole, and other means of proceeding could be suggested if it were necessary to define a detailed framework for data collection and action.

1) In accordance with Article 3 of the Framework Convention and the unanimous opinions of international human rights bodies, steps must be taken to ensure that people may make declarations freely when statistics concerning membership of minorities are collected. Replies to questions concerning ethnic and religious affiliation should therefore be optional in censuses, and the optional nature of the replies should be explicitly stated on the form. Questionnaires should be available in the main languages used in the country concerned.

The sensitive nature of language seems less well-established, although it can also be used for ethnic identification and for inappropriate purposes that are contrary to the rights of minorities. The advisability of making questions concerning language optional should be discussed with representatives of civil society, in particular with organisations representing minorities.

2) The collection of data on ethnic and religious affiliation should meet clearly defined objectives relating to means of combating discrimination and protecting minorities. These objectives should be transcribed into legislation and active policies and be specified when data are collected.

3) The form of the questions may be "open" (with no reply categories suggested) or "closed" (with a list of categories that can be ticked), but it is important to allow people to choose several replies in order to indicate multiple affiliation. Classification carried out on the basis of multiple replies must comply with clear methodology and be in keeping with defined objectives.

4) The distinction between statistical data and files containing personal information must be scrupulously respected. Measures to ensure that the data are rendered anonymous must be based on a protocol overseen by a data protection authority. In particular, police records must not contain sensitive data likely to stigmatise minorities.

5) Data concerning ethnic, religious and linguistic affiliation should be compiled during a wide-ranging consultation process involving representatives of civil society. When the categories of minorities are defined, efforts must be made to use the terminology on which there is the widest consensus.

References

Council of Europe (2000), « Roma and statistics », MG-S-ROM (2000) 13.

Haug W., Courbage Y. et Compton P. (Ed.) (1998) *Les caractéristiques démographiques des minorités nationales dans certains États européens*, Strasbourg, Conseil de l'Europe (Études démographiques, n° 30).

Kriszan A. (Ed.) (2001) *Ethnic monitoring and data protection: the European context*, Budapest, CEU Press – INDOK

Makkonen T. (2007) *Measuring discrimination: Data collection and EU Equality Law*, report for the European Network of Legal Experts in the non-discrimination field, Luxembourg, European Commission.

Makkonen T. (2007) *European handbook on equality data*, European Commission, DG Employment, Social Affairs and Equal Opportunities, Luxembourg.

Rallu J-L., Piché V. et Simon P. (2004) « Démographie et ethnicité : une relation ambiguë », in *Démographie : analyse et synthèse* (Vol VI : Population et société), Caselli G., Vallin J. et Wunsch G. (Ed.), Paris, INED-PUF, 2004, p.481-516.

Schokkenbroek J. (2000) "What kind of information do we need for monitoring the implementation of fundamental rights of minorities? A Council of Europe experience", paper presented at the Conference "Statistics, Development and Human Rights", Montreux, ISI, IAOS. www.portal-stat.admin.ch/iaos2000/schokkenbroek_final_paper.doc

Simon P. (2007) « *Statistiques ethniques* » et *protection des données dans les pays du Conseil de l'Europe*, Strasbourg, ECRI, Conseil de l'Europe.