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

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**Information provided by the DH-MIN Members on the regulations contained in electoral laws  
and the laws on political parties that are of relevance to national minorities**

**Informations fournies par les membres du DH-MIN concernant les régulations figurant dans  
la législation électorale et les lois sur les partis politiques qui sont pertinentes pour les  
minorités nationales**

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Original versions/ Versions originales

This document contains information on developments as regards specific regulations contained in electoral laws and the laws on political parties at national, regional and local levels that are of relevance for national minorities as they were submitted to the secretariat by members of the Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN). Some of the contributions provide comments to the Venice Commission study on electoral law and national minorities (CDL-INF(2000)4e).

The original document was prepared for the third DH-MIN meeting, held from 8 to 10 March 2006, Brasov, Romania.

This revised version has been prepared further to new contributions received from Member States and recent developments in electoral laws.

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Ce document inclut des informations sur les évolutions relatives aux régulations spécifiques figurant dans la législation électorale et les lois sur les partis politiques aux niveaux national, régional et local qui sont pertinentes pour les minorités nationales, telles que soumises au secrétariat par les membres du Comité d'Experts sur les questions relatives à la protection des minorités nationales (DH-MIN). Certaines contributions incluent des commentaires sur l'étude de la Commission de Venise sur le droit électoral et les minorités nationales (CDL-INF(2000)4f)

Le document original a été préparé pour la troisième réunion du DH-MIN, qui s'est tenue du 8 au 10 mars 2006, Brasov, Roumanie.

Cette version révisée a été préparée suite à de nouvelles contributions reçues de la part des Etats membres et des évolutions récentes dans le domaine des lois électorales.

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## Information submitted by Albania

The Albanian legislation guarantees a regular electoral process and the participation of minority groups in this process.

Article 46 of the Constitution states that “everyone has the right to organize collectively for any lawful purpose”. The Law 8580, dated 17.02.2000, “On Political Parties,” based on this constitutional right of the citizens, leaves space also for the creation of political parties based on ethnic grounds. Article 7 of this law prohibits only the registration of the political parties when their internal organization runs counter to the democratic principles, when their creation is in conflict with the constitutional provisions, when they incite and support racial, religious, regional or ethnic hatred and are based on totalitarian methods, etc. Another condition of this law for the creation of political parties is that the request for their registration should be signed by no less than 500 Albanian citizens, its founder members, with permanent residence in the Republic of Albania.

Actually there are two political parties representing minorities' interest in Albania: The Union for Human Rights (PBDNJ) and the Movement for Human Rights and Liberties.

In the Albanian Parliament (one-chamber People's Assembly) there are not reserved seats for minorities

The **Assembly of Albania** has 140 members, elected for a four year term. 100 are elected directly in single member constituencies with an approximately equal number of voters. 40 are elected from multi-name lists of parties or party coalitions according to their ranking. The total number of deputies of a party or a party coalition shall be, to the closest possible extent, proportional to the valid votes won by them on the national scale in the first round of elections. Parties that receive less than 2.5 % and party coalitions that receive less than 4 % of the valid votes on the national scale in the first round of elections do not benefit from the respective multi-name list.

When speaking about the minority political representation in the parliament, mention must be made to the fact that a number of persons belonging to minorities represent other political parties in the Parliament. There was always an average of 5-10 people belonging to minorities (especially the Greek one), who have been elected in the Parliament in the lists of other parties.

At the General Elections of July 2005, the Union for Human Rights Party gained 2 seats in the Assembly, favoured by the law, which has reduced the threshold to gain seats to 2.5%.

With regard to the level of representation in the local government, referring to the last local elections in October 2003, the Greek minority has its representatives in all the levels of the elected government, respectively 43 councillors in Gjirokastar district, 1 Communal Chairmen and 15 councillors in the Commune of Dropull i Seperm, 1 Communal Chairmen and 15 councillors in the Commune of Dropull i Poshtem, 1 Communal Chairmen and 13 councillors in the Commune of Pogon. There are also 2 members of the Greek national minority in the

Municipal Council and 5 representatives of the Greek minority in the Regional Council.

The Communal Councils in Aliko, Dhiver, Livadhja, Finiq, dhe Mesopotam in Vlora District are dominated by the Greek minority.

There are 8 councillors in the Commune of Finiqi and in the Commune of Mesopotam all the 13 members are from the Greek minority.

The Municipality Council of Saranda is composed by 5 councillors belonging to the Greek minority.

Regarding the Macedonian minority, in the commune of Liqenas, in the Region of Korça, inhabited by Macedonian national minority, all representatives of the local government are members of this minority. Representatives of this minority are also in the Regional Council of Korça.

*The regulations on language use in electoral procedures and campaigns*

The Albanian Central Electoral Commission considers a high priority the participation of all Albanian citizens in the political processes of the country. It is committed – within its competence - to motivating and encouraging persons belonging to minorities to participate in these processes.

By way of implementation of the amended Electoral Code, (The Electoral Code of the Republic of Albania was approved by Law no. 9087, dated 19 June 2003 and amended by Law no. 9297 dated 21 October 2004 and Law no. 9341, dated 10 January 2005 and Law no. 9371, dated 14 April 2005) the Central Electoral Commission, at the last general elections in July 2005 has implemented programmes on electoral education including also programmes on the electoral education of persons belonging to minorities. With the Decision No 6, 07.02.2005 “On the Adoption of the Central Electoral Commission 2005 Strategy for Public Relations” has been established a strategy for electoral education of voters, which envisaged also projects targeted to different groups of voters, including Albanian citizens of non-Albanian nationality.

To implement this commitment, the CEC - in close cooperation with relevant state structures such as the Ministry of Foreign Affairs, INSTAT and organizations which represent minorities – has collected data on minorities in Albania, their size and geographical distribution in the Albanian territory.

In this framework all information and awareness raising materials and TV spots have been in two languages – Albanian and the native language of the minorities – in the areas where the minorities are located. In drawing up and distributing these materials the CEC has cooperated with partners such as the Ministry of Local Government and Decentralization, the Faculty of Foreign Languages, and civil society groups and organizations which have made financial contributions to this process.

## Information submitted by Bosnia and Herzegovina

The Law on Protection of Rights of Persons Belonging to National Minorities of Bosnia and Herzegovina ("The Official Gazette of BiH", no: 12/03) dated 1st April 2003, Article 11, paragraph 1 reads as follows:

***"Bosnia and Herzegovina shall recognise and protect the right of every person belonging to National Minority in BiH to use their language freely and without impediment, privately and publicly, orally and in writing."***

Further use of Minority languages in electoral procedures is **elaborated in detail in Article 12, paragraphs 1 and 2** : "In the cities, municipalities and local communities (or populated area) in which persons belonging to National Minorities represent an absolute or relative majority of population, **the bodies of authority shall ensure the use of a minority language between such persons and the bodies of authority**, that the inscriptions of institutions be also displayed in a minority language; that the local names, street names and other topographic signs intended for the public be inscribed and displayed also in the language of minority that requested it.

Cities and municipalities may determine by their statutes that the rights recognised in the preceding paragraph may also be used by the persons belonging to those national minorities that do not constitute an absolute or relative majority of population, provided that they do constitute more than one third of the population of the city, municipality or populated area.

## Information submitted by Bulgaria

### With reference to the study of the Venice Commission on electoral law and national minorities

The Republic of Bulgaria adheres to the concept that the protection of minorities is most effectively ensured by fully guaranteeing the individual rights and freedoms of persons belonging to these minorities, including the right to participate fully in the political process. In this context, the interpretation of Article 11 (4) of the Constitution of the Republic of Bulgaria, introduced in Chapter III, Section A (a) on page 7. of the study is incorrect.

The Constitutional Court has clearly defined the content and the scope of the provision of Art.11(4) of the Constitution in two Judgments (№ 4 of 21.04.1992 & № 1 of 29.02.2000) resolving that the aim of this constitutional provision is not to establish a prohibition directed against a particular category (categories) of individuals of distinct ethnicity, race or religion". Only political parties organized "on ethnic, racial or religious lines" and "parties which seek the violent usurpation of state power" are prohibited under Art.11(4) of the Constitution. Referring to "ethnic", the restriction is applicable only to parties, the statutes of which would stipulate that their membership is open only to a particular ethnic group/groups.

The clear judgments of the Constitutional Court are supported by numerous practical examples, including by the existence of two political parties perceived as representatives of the members of the Turkish minority ("*Movement for Rights and Freedoms*" and "*Democratic Party of Justice*"), and 7 political parties, whose members and supporters are mainly Bulgarian Roma ("*Roma*", "*EuroRoma*", "*DROM*", "*Free Bulgaria*", "*A Future of All*", etc.). All these parties are duly registered under the Law on Political Parties.

Furthermore, in the elections for the 40<sup>th</sup> National Assembly in 2005, the Movement for Rights and Freedoms won 34 seats, and participates in the Government. According to the established democratic practice, each party or coalition, elected to the National Assembly, may nominate a deputy speaker which guarantees the participation of smaller parties and coalitions in the Assembly's affairs. Accordingly, in the current National Assembly, there is a member of the Movement for Rights and Freedoms elected as one of the deputy speakers. Likewise, in the last local elections in 2003, 34 mayors and 49 presidents of municipal councils - all Bulgarian citizens belonging to the Turkish minority - were elected.

With regard to Roma, in the parliamentary elections in 2005, the political movement "EuroRoma" participated with its own list, while several parties perceived as representing the Roma community, ran in coalitions with mainstream parties. For example, the political party "Roma" joined the "Coalition for Bulgaria", which won the majority of the votes (82 seats); "DROM" entered the coalition "Unified Democratic Forces" which won 20 seats, etc. It should be recalled in this regard that the US National Democratic Institute, in its report on Roma Political Participation in Bulgaria, has pointed out the following:

*"...while the June 25, 2005 Bulgarian parliamentary elections did not result in an increase of Roma representatives (...) Roma participation in the elections did increase in several important respects as compared to previous election cycles:*

*\* The number of Roma candidates on mainstream political party lists almost doubled from the 2001 parliamentary elections (...),*

*\* Roma were increasingly active in get-out-the-vote (GOTV) and election and media monitoring efforts through civil society organizations. Roma NGOs also interacted with mainstream parties through such efforts as the creation of a code of conduct (...),*

*\* For the first time in Bulgaria, a mainstream party (the Bulgarian Socialist Party), created a specific platform on Roma-related issues,*

*\* There was an increase in the public attention paid to the issue of Roma inclusion, as seen in media coverage, candidate debates and other campaign documents and events."*

## **Information submitted by Denmark**

Regarding the comments of the Government of Denmark to the Advisory Committee:

The bill on Municipal Division was adopted by the Parliament in June 2005 with a small, but important change compared to the information given in Denmark's comments to the Advisory Committee. After Denmark's transmission of the information to the Advisory Committee it was decided that the number of members of the municipal councils should be 31 after the local elections in 2005 and 2009 even though Schleswigsche Partei (SP) was not represented in the municipal councils in the last or the last but one election period.

The rules applied in connection with the local elections in November 2005 where SP obtained good results, which – according to the German minority – among other things were due to the special rules mentioned above and in Denmark's comments to the Advisory Committee. SP obtained one seat in two of the four municipal councils in South Jutland and two seats in one of the municipal councils. Furthermore SP got a delegate in the fourth municipal council in South Jutland.

Other special rules concerning the German minority's political representation

As regards special – but not new – rules concerning the German minority's political representation Denmark can also inform the Secretariat that according to the Parliamentary Elections Act new parties wishing to participate in a general election must file their registration with the Minister for the Interior and Health not later than noon 15 days prior to election day. The registration must be accompanied by declarations from voters whose number corresponds to 1/175 of all valid votes cast in the last general election as a minimum. However, no voters' declarations are required in the case of the party of the German minority.

The German minority has not been represented in the Danish Parliament for more than 40 years. The German minority concentrates its attention on obtaining political representation at the local level.



## **Information submitted by the Czech Republic**

The use of mother tongue in electoral affairs is determined by § 29/3 of Act N.491/2001 Coll. on elections for community councils and the amendment of some laws; if a community establishes a committee for national minorities in accordance with the Act on Communities, it is compulsory to inform of the time and place of elections in communal elections and prove identity and citizenship in the language of the respective national minorities. The same procedure is prescribed by § 15/4 of Act N.37/2002 Coll. which amends Act 247/1995 Coll. on elections for the Parliament of the Czech Republic and the amendment of some laws.

During the elections in 2004 (elections to the European Parliament, elections to the Senate of the Parliament of the Czech Republic, elections to the regional assemblies and new elections to the assemblies of certain municipalities), laws protecting the rights of minorities were respected throughout the Czech Republic (Act No 273/2001 on the rights of members of national minorities and on an amendment to certain laws, as amended by Act No 320/2002; Act No 247/1995 on elections to the Parliament of the Czech Republic and on an amendment to certain other laws, as amended; Act No 491/2001 on elections to municipal assemblies and on an amendment to certain laws, as amended; Act No 62/2003 on elections to the European Parliament and on an amendment to certain laws; Act No 130/2000 on elections to regional assemblies and on an amendment to certain laws, as amended).

In municipalities which, under the law, have set up a Committee for National Minorities (In a municipality in whose territorial district at least 10% of citizens claim nationality other than Czech nationality according to the last census, and in a region in whose territorial district at least 5% of citizens claim nationality other than Czech nationality according to the latest census, a Committee for National Minorities must be set up) members of national minorities were given the opportunity to receive notification of the time and place of elections and further information for voters in their minority language.

## **Information submitted by Finland**

There are no special provisions in Finland on representation of minorities in the Parliament or municipal councils, except Section 25.2 of the Constitution and provisions in the Election Act on the quota of one seat in the Finnish Parliament reserved for the autonomous, unilingually Swedish Åland Islands province. In Åland the Ålanders have the right to pass laws themselves concerning their own internal matters and to exercise budgetary powers. Their own legislative assembly is called the Lagting.

There are no political parties formed on ethnic grounds in Finland. Finnish minorities are too small in size to establish their own party. For that purpose signed support cards of at least 5 000 citizens entitled to vote in parliamentary elections are required. There are or have been at times some representatives of some minorities in the Parliament or in municipal councils, but they have been elected from the lists of general parties.

However, it is worth to be mentioned that there has been for a very long time in the country the Swedish People's Party, which has been constantly widely supported by the Swedish Finns. This party normally gets several seats in the Parliament and has participated in most post-war governments. Even if language questions still form the central and uniting element in the party, the party is today expressly open to speakers of other languages, too. In addition, one can say that formally the Swedish population is not considered a minority. Swedish language, along with the Finnish language, is a national language of the country and according to the Constitution these languages are formally and legally equal. In practice, however, the speakers of Swedish often meet similar problems in their every-day life as the speakers of minority languages. Thus, the Swedish-speaking population constitutes a "de facto" minority in the country. In addition to the Parliament, another channel for political participation for the Swedish-speaking population in the Swedish Popular Assembly (Folktinget), members of which are elected indirectly every four year on the basis of the outcome of the municipal elections.

Since 1973 the Sami in Finland have had their own elected body, the Sami Parliament. The elections are held every four year and the electoral roll includes only Sami people.

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There is an error in the appendix of the Venice Commission's report issued in 2000 (CDL-INF (2000)4) on the page 21 (English version). The column C "Constituencies" should be read as follows: Regional: from 6 to 33 seats + one seat for the Åland Islands.

## **Information submitted by Germany**

Synopsis of the law on elections and parties in Germany - Privileges for parties of national minorities provided for in federal and Land law

### **I. Federal law**

In federal law, the Federal Electoral Act (Bundeswahlgesetz) and the Parties Act (Parteiengesetz) place the parties of national minorities in a privileged position.

**1.1 Federal Electoral Act** (of 7 May 1956, Federal Law Gazette [Bundesgesetzblatt] 1956 Part I, pp. 383 et seqq., most recently amended by Act of 11 March 2005, Federal Law Gazette 2005 Part I, p. 674.)

The Federal Electoral Act contains the provision that parties of national minorities are exempted from the exclusion clause of the Elections Act.

According to this clause, on principle only those parties are considered in distributing the seats for the German Federal Parliament among the Land lists which receive at least 5 % of the second votes, or which have obtained a direct mandate in at least three constituencies. In accordance with section 6 subsection 6 sentence 2 of the Federal Electoral Act, however, this principle does not apply to parties of national minorities.

For these parties, the Federal Electoral Act also provides for special arrangements for district proposals (section 20 subsection 2 sentence 3: “The requirement of 200 signatures shall not apply to district proposals of parties of national minorities.”), as well as for the Land lists (section 27 subsection 1 sentence 3, in accordance with which parties of national minorities do not need to provide proof of 1/1000 of the registered voters, or of 2,000 signatures for non-established parties within the meaning of section 18 subsection 2 of the Federal Electoral Act).

**2. Parties Act** (of 24 July 1967, Federal Law Gazette 1967 Part I, pp. 773 et seqq., most recently amended by Act of 22 December 2004, Federal Law Gazette 2004 Part I, p. 3673)

The Parties Act also considers the special situation of parties of national minorities. These parties have a right to state funding in accordance with section 18 subsection 3 even if they have not achieved the specific vote shares designated in subsection 4; section 18 subsection 4 sentence 3 of the Parties Act. In accordance with section 25 subsection 2 No. 3 (b) of the Parties Act, the parties of national minorities also have the privilege of being able to collect donations from abroad, which other parties are on principle prohibited from doing: They may accept foreign donations if they come from states “which border the Federal Republic of Germany and in which members of their ethnicity live”.

These provisions contained in the Federal Electoral Act and in the Parties Act take into account the fact that, in particular as a consequence of their minority status, parties of national minorities do not have the same potential to obtain votes and financial support as the other parties. The provisions favouring the parties of national minorities hence do not signify “preferential treatment” in the legal, highly-specific sense of the word, but constitute measures intended to compensate for the difficult situation faced by these parties.

### **II. Land law**

#### **1. Brandenburg**

The Land Brandenburg provides special regulations for the national minority of the Sorbs (Wends):

**Electoral Act for the Brandenburg Land Parliament (Wahlgesetz für den Landtag Brandenburg – BbgLWahlG)**, (in the version of the proclamation of 28 January 2004, Law and Ordinance Gazette [GVBl.] 2004, Part I, p.30)

The Brandenburg Electoral Act provides the following privileged position for the Sorb people:

In accordance with section 3 subsection 1 sentence 2 of the Brandenburg Electoral Act, the 5%-hurdle is not applied to “the Land lists submitted by parties, political associations or List associations of the Sorbs”. Whether a Land list is Sorbian is decided by the Land election committee at the proposal of the Presiding Committee of the Land Parliament after hearing the Domowina – Federation of Lusatian Sorbs; section 3 subsection 1 sentence 3 of the Brandenburg Electoral Act.

**Election Campaign Cost Refund Act (Wahlkampfkostenerstattungsgesetz – WKKG)**, (of 4 July 1994, Law and Ordinance Gazette 1994, Part I, p. 261)

In contradistinction to other List associations, Sorbian (Wend) List associations have their campaigning costs refunded even if they have not achieved 1 % of the second votes or 10 % of the first votes; section 1 subsection 4 of the Election Campaign Cost Refund Act. Accordingly, political associations of the Sorbs (Wends) also receive public subsidies in accordance with section 3 subsection 5 of the Election Campaign Cost Refund Act irrespective of their election result.

## **2. Schleswig-Holstein**

The Danish minority in Schleswig-Holstein is placed in a privileged position by the **Electoral Act for the Land Parliament of Schleswig-Holstein (Wahlgesetz für den Landtag von Schleswig-Holstein – LWahlG)**, (in the version of 7 October 1991, Schleswig-Holstein Law and Ordinance Gazette [GVBl. SCH.-H.] 1991, p. 442, most recently amended by Act of 1 February 2005, Schleswig-Holstein Law and Ordinance Gazette 2005, p. 57).

In accordance with section 3 subsection 1 sentence 2, the 5%-hurdle applicable to the other parties does not apply to parties of the Danish minority (“Every party shall take part in the compensation of shares for which a Land list has been drafted and admitted insofar as one Member has been elected for it in at least one constituency, or insofar as it has achieved a total of five percent of the valid second votes cast in the Land. These restrictions shall not apply to the parties of the Danish minority”).

## **II. Election results in Brandenburg and in Schleswig-Holstein**

### **1. Brandenburg**

No party or political association of the Sorbs stood in the most recent Land Parliament elections held in Brandenburg on 19 September 2004. The Domowina only stood for a seat in a Land Parliament election, on 14 October 1990, which it did not obtain (0.1% of the first votes and 0.09 % of the second votes).

The official statistics on the local elections held on 26 October 2003 do not contain a summary of whether the representatives who were elected stood as Sorbs.

### **2. Schleswig-Holstein**

The Danish minority, the South Schleswig Voters' Association (SSW), obtained two out of a total of 69 seats in the Land Parliament elections in Schleswig-Holstein on 20 February 2005.

The SSW received eleven seats out of 43 in Flensburg in the Schleswig-Holstein local elections (municipal and district elections) held on 2 March 2003. In the municipal elections in the Northern Friesland district, it received 51 seats out of a total of 1,409, also obtaining four out of 1,875 seats in the Rendsburg-Eckernförde district, and 69 out of 1,576 seats in the Schleswig-Flensburg district in the respective municipal

representative bodies. In the district elections, the SSW obtained four out of 52 seats in the Northern Friesland district, and 6 out of 46 seats in the Schleswig-Flensburg district.

### **Electoral law, election procedures and electioneering activities, and minority languages**

Is it possible, or allowed, to use minority languages in electioneering materials/activities of political groupings and parties running for the elections to the German Bundestag and, in the Länder of Brandenburg, Saxony and Schleswig-Holstein, to the respective Landtag [state parliament] and to local councils?

Given the constitutional guarantees regarding the status of political associations and parties (cf. Articles 9, para. 1, and 21, para. 1, of the Basic Law), freedom of expression (cf. Article 5, para. 1, of the Basic Law), and general freedom of action [personal freedom] (cf. Article 2, para. 1, of the Basic Law), and in the absence of any law containing different provisions, political associations and parties are generally free (within the scope of the general laws) to choose and design their electioneering materials and thus may use any language of their choice. However, the only political party of a national minority in Germany, which over the past few years successfully ran for elections to a Landtag [state parliament] and/or for local government elections, i.e. the party of the Danish minority in Schleswig-Holstein: Sydslesvigsk Vælgerforening (SSV, South Schleswig Voters' Association), is often elected also by voters who are not Danish and do not understand the Danish language. In this respect it would, on mere practical grounds, seem to be more effective to draft electioneering materials also in the German language.

Do the Federal Republic of Germany or the Länder of Brandenburg, Saxony and Schleswig-Holstein currently have any provisions allowing use of a minority language in the written documents required in connection with elections (e.g. electoral registers, election writs [appeals to the electorate to vote]), nominations of candidates, ballot papers, publication of the established election results, etc.)?

#### **II.1. Elections to the German Bundestag**

The legal provisions governing the elections to the German Bundestag -- i.e. the Federal Electoral Act (Bundeswahlgesetz, BWG) in the version published on 23 July 1993 (Federal Law Gazette, Part I, pp. 1288, 1594), last amended by the Notice on the Delimitation of Constituency Boundaries for the Elections to the German Bundestag of 21 July 2005 (Federal Law Gazette, Part I, p. 2180); and the Federal Election Regulations (Bundeswahlordnung, BWO) in the version promulgated on 19 April 2002 (Federal Law Gazette, Part I, p. 1376), most recently amended by the Regulation of 30 June 2005 (Federal Law Gazette, Part I, p. 1951) -- do not contain any rules of law that would allow the use of a minority language for drafting written documents required in connection with elections. All pertinent documents are in the German language. Throughout the territory of the Federal Republic of Germany, use of German as the official language is mandatory for all government agencies and services. While the Basic Law does not contain any explicit language-specific provision (because - in contrast to Switzerland, for example - there was no need for such a regulation), established constitutional law requires the agencies of the State [state organs] to use the German language both in their mutual relations and vis-à-vis the citizens. (Kirchhof in: HdbStR (Public Law Manual) II, Section 20, note no. 100). Also, the provisions of Section 23 of the Administrative Procedure Act (Verwaltungsverfahrensgesetz, VwVfG) and Section 184 of the Organisation of the Courts Act (Gerichtsverfassungsgesetz, GVG) imply the general legal concept that, also in contexts other than the aforementioned procedures, the language to be used by government agencies in dealings with the citizens is the German language.

## II.2. Elections in the Land of Brandenburg

The electoral law of Brandenburg Land -- i.e. the Act on Elections to the Brandenburg Landtag (BbgLWahlG) in the version published on 28 January 2004 (Gazette of Laws and Ordinances 2004, Part I, p. 30); the Act on the Reimbursement of Election Campaign Expenses (Wahlkampfkostenerstattungsgesetz, WKKG) of 4 July 1994 (Gazette of Laws and Ordinances 1994, Part I, p. 261); the Brandenburg Ordinance on Local Government Elections (Brandenburgische Kommunalwahlverordnung, BbgKWahlV) of 5 July 2001 (Gazette of Laws and Ordinances 2001, Part II, p. 306), most recently amended by Article 8 of the Act to Relieve Local Governments of Mandatory Functions (Gesetz zur Entlastung der Kommunen von pflichtigen Aufgaben) of 4 June 2003 (Gazette of Laws and Ordinances 2003, Part I, pp. 172, 177); and the Act on Local Government Elections in Brandenburg Land (Gesetz über die Kommunalwahlen im Land Brandenburg, Brandenburgisches Kommunalwahlgesetz - BbgKWahlG) in the version published on 10 October 2001 (Gazette of Laws and Ordinances 2001, Part I, p. 198), most recently amended by Article 7 of the Act amending the Land Civil Servants Act and Other Provisions of Public Service Law of 22 March 2004 (Gazette of Laws and Ordinances 2004, Part I, pp. 59, 66) -- also does not comprise any statutory provisions that would allow use of a minority language in written documents required in connection with elections. All such documents have been, and are, written in the German language.

While Section 23, para. 5, of the Brandenburg Administrative Procedure Act (in the version promulgated on 9 March 2004, Gazette of Laws and Ordinances, Part I, p. 78) provides for the possibility that parties to administrative proceedings in settlement areas of the Sorbs may be exempted from interpretation and translation fees, such administrative proceedings are exclusively proceedings aimed at an administrative act or a public law contract (cf. Section 9 of the Brandenburg Administrative Procedure Act).

## II.3. Elections in the Free State of Saxony

### II.3.1. Elections to the Landtag (state parliament)

Similarly, the Act on Elections to the Saxon Landtag (Gesetz über die Wahlen zum Sächsischen Landtag) of 15 September 2003 (Saxon Gazette of Laws and Ordinances, p. 525) does not contain any legal rule that would allow drafting of written documents required in connection with elections in a minority language. All related documents have been, and are, written in German.

The Administrative Procedure Act for the Free State of Saxony (of 10 September 2003, Saxon Gazette of Laws and Ordinances, p. 614), which essentially contains the same provisions as the Federal Act on Administrative Procedure, does not contain any specific rules regarding the use of a language other than German.

### II.3.2. Popular initiatives, petitions for a referendum, and referendums

Section 76 of the Ordinance issued by the Saxon State Ministry of Justice for the Implementation of the Act on Popular Initiatives, Petitions for a Referendum, and Referendums (Gesetz über Volksantrag, Volksbegehren und Volksentscheid, VVVG, of 2 July 2003, Saxon Gazette of Laws and Ordinances, p. 199) contains special regulations governing popular initiatives, petitions for a referendum and referendums in the Sorbs' settlement area. Under this provision, public notices, voters' notifications and the text included on ballot papers may, "in addition, also be published in the Sorbian language". The phrasing "may" implies that this provision is a discretionary regulation.

### II.3.3. Local government elections

Similarly, the Ordinance issued by the Saxon State Ministry of the Interior for the Implementation of the Act on Local Government Elections in the Free State of Saxony of 5 September 2003 (Saxon Gazette of Laws and Ordinances, p. 62) contains special regulations for the Sorbs' settlement area as regards elections to local and parish councils, elections of mayors, elections to Kreistage [councils of Kreise = administrative districts], and elections of Landräte [chief executive officials of Kreise]. Section 63 of this

Ordinance provides that public notices, voters' notifications and ballot papers in the Sorbs' settlement areas and "signposting and marking of polling stations" "shall be complemented by explanations in the Sorbian language" or even "include the full Sorbian text". The wording of this provision indicates that these are so-called "mandatory decisions" [i.e. "non-discretionary decisions": if the specified requirements are met, the administrative authorities must take the respective action]: therefore, when local government elections are held in the Sorbian settlement areas, the Sorbian language must be used in addition to German.

#### II.4. Elections in the Land of Schleswig-Holstein

Similarly, electoral law in Schleswig-Holstein -- i.e. the Act on Elections to the Landtag of Schleswig-Holstein (LWahlG) in the version published on 7 October 1991 (Schleswig-Holstein Gazette of Laws and Ordinances 1991, p. 442), most recently amended by the Act of 1 February 2005 (Schleswig-Holstein Gazette of Laws and Ordinances 2005, p. 57); the Land Ordinance on Schleswig-Holstein Landtag Elections (Landeswahlordnung, LWO) of 1 November 1991 (Gazette of Laws and Ordinances 1991, p. 459), most recently amended by the Ordinance of 12 March 2004 (Gazette of Laws and Ordinances 2004, p. 82); the Act on Elections in the Municipalities and Kreise of Schleswig-Holstein (Gemeinde- und Kreiswahlgesetz – GKWG) in the version promulgated on 19 March 1997 (Gazette of Laws and Ordinances 1997, p. 151, most recently amended by the Act of 15 June 2004 (Gazette of Laws and Ordinances 2004, p. 165); and the Land Ordinance on Elections in the Municipalities and Kreise in Schleswig-Holstein (Gemeinde- und Kreiswahlordnung, GKWO) of 19 March 1997 (Gazette of Laws and Ordinances 1997, p. 167) -- does not contain any legal rule that would allow drafting, in a minority language, of written documents required in connection with elections. All related documents have been, and are, written in German.

Under Section 82 a of the General Public Administration Act for the Land of Schleswig-Holstein (in the version promulgated on 2 June 1992, Schleswig-Holstein Gazette of Laws and Ordinances 1992, p. 243, most recently amended by the Act of 15 December 2005, Schleswig-Holstein Gazette of Laws and Ordinances 2005, p. 542), the official language is German.

## **Information submitted by Hungary**

No changes in Hungarian legislation have lately affected the preferential parliamentary representation of national and ethnic minorities.

However the 2005 amendment of the Act on the rights of national and ethnic minorities brought about important changes in the procedure of electing minority self governments at local, regional and national level. On the other hand the ongoing modification of the act concerning municipal governments will specify the way how minority representatives can obtain preferential seats in these bodies.

As for preferential representation in Parliament, a working group composed of the representatives of the four parliamentary parties is dealing with issues concerning the modification of the Parliament before the elections in 2010, including the reduction of the number of MPs. One of the issues on the agenda of this working group is the preferential representation of national and ethnic minorities.

It is important to note that besides obtaining preferential seats or establishing their own minority political parties, minority representatives can get into Parliament - as several of them actually did in 2002 - in their capacity of minority politicians on the lists of other political parties.



## **Information submitted by Ireland**

With regard to paragraph 95 of the ACFC Opinion on Ireland (1st cycle), the Irish authorities would like to highlight that steps have been taken to facilitate participation OF PEOPLE WITH LITERACY DIFFICULTIES, WHICH WOULD INCLUDE, INTER ALIA, TRAVELLERS, AS WELL AS VISUALLY IMPAIRED PEOPLE, in the election process by enabling, for example, ballot papers to show the party emblem, if applicable, and the photograph of a candidate.

The Irish authorities also make the following observations in regard to the contents of paragraph 95:

" The work of a High Level Group appointed to review the way that supports and services are provided for Travellers is important in relation to Traveller participation. The Group will make a detailed report to Government in the near future and its recommendations will help support the greater participation of Travellers in Irish Society."

## **Information submitted by Italy**

In the region Trentino-Alto Adige, the elections of municipal bodies are governed by regional legislation. Relevant legislation is contained in a consolidated text of regional laws on the composition and election of municipal bodies (Testo Unico delle leggi regionali sulla composizione ed elezione degli organi delle amministrazioni comunali), adopted by President's of the Region Decree No. 1/L dated 1st February 2005, posted on the Internet site of the Region ([www.regione.taa.it](http://www.regione.taa.it))

With reference to the subject under discussion, it is worth mentioning that article 3 of the Consolidated Text provides, among others, that each linguistic group living in the municipalities of the Bolzano province is entitled to be represented in the municipal government (giunta), provided at least two councilors belonging to the interested group are members of the municipal council (consiglio comunale), even in case this circumstance occurs after the mandate of the municipal government has begun. Anyhow, the above provision reflects the content of the Special Statute of Trentino Alto-Adige (article 61), which includes numerous provisions for the protection and representation of linguistic groups living in the province of Bolzano.

As regards municipalities with more than 13,000 inhabitants in the province of Bolzano, in case the municipal council includes representatives of several linguistic groups, the deputy mayor must belong to the most numerous linguistic group, with the exception of the one to which the mayor belongs. In order to make it possible to implement the above mentioned provision on the representation of linguistic groups in the municipal government (giunta comunale), in the municipalities of the Bolzano province, candidates who accept to run for the elections must submit the relevant declaration of acceptance together with the certificate of membership or affiliation to a linguistic group, which at present is issued in compliance with article 20-ter of President's of the Republic Decree No. 752/1976 (including subsequent adjustments and supplements). Article 20-ter was introduced by legislative decree No. 99, dated 23<sup>rd</sup> May 2005, which lays down implementing provisions with regard to the declaration of membership or affiliation to a linguistic group in the Bolzano province, thereby modifying and supplementing a number of provisions contained in the above mentioned President's of the Republic Decree No. 752.

In the municipalities of the Bolzano province, mayors are elected with direct universal suffrage. Municipal councilors are elected with a party list proportional representation system based on the largest remainder method. Lists can join together to be allocated the largest remainder.

## **Information submitted by the Netherlands**

Using the questionnaire on ‘Participation of Members of Minorities in Public Life’ as a reference document, with reference to Dutch Electoral Law as to the participation of the Frisian-language minority in the Netherlands, and also to other relevant pieces of legislation.

### **Participation of members of the Frisian minority in public life in the Netherlands**

**(Answers to the Questionnaire on Participation of Members of Minorities in Public Life – Ref: CDL-INF (2004) 4, p. 15-16)**

#### **A. Electoral systems in general**

Q1 – Proportional representation. For the Senate a different system of elections is applied. The 75 members of the Senate of the Dutch Parliament are elected by the members of the twelve Provincial Councils. These elections are indirect: the voters elect the members of the Provincial Councils, who in turn elect the members of the Senate.

#### **B. Constituencies**

Q2a – In the Province of Friesland (Fryslân), Frisians form a majority of the population.

Q2b – No

Q3a/b – the “one man – one vote” principle is implemented. Therefore, the size of constituencies is not relevant for the representation of the Frisian minority at national or provincial level. For national parliament elections (House of Parliament), the Province of Friesland forms one electoral district. For provincial council elections, the Province of Friesland is divided into a number of electoral districts. For the local council, municipalities form one electoral district. Here again, the “one man – one vote” principle is implemented at provincial and local levels.

Q4a/d – See answer for question 3.

Q5a/d – See answer for question 3.

#### **C. Allocation of seats**

Q6a – For national and provincial elections, the formula of largest remainders is applied. For local elections, the system is similar, but the allocation of residual seats is somehow different in **smaller** local councils having less than 17 seats (the formula of largest shares).

The threshold for national elections is 0.6667 per cent out of all votes cast, which equals to one seat out of 150 seats. For the provincial elections in the Province of Friesland one seat out of 55 seats is the threshold, i.e. 1.8182 per cent out of all votes cast.

Q7 – National remainder system. For provincial elections: provincial remainder system.

Q8a – All constituencies are multi-member constituencies. Preferential voting is permitted to allow voters to express their preferences for individual candidates.

Q8b – Seats are allocated to individuals on a proportional basis. In order to be directly elected as MP, a candidate needs to collect a quarter of the electoral quotient on the condition that his/her party as a whole will pass the threshold of 0.6667 per cent. For provincial elections, a similar system is applied.

Q9 – Quite similar.

## D. Others

Q10a – No

Q10b – Yes, the Frisian National Party (FNP). At the moment, the FNP has 7 out of 55 seats in the Provincial Council of Friesland. At local level, in a number of councils the FNP has one or more seats.

In other parties, several Frisian-speaking persons are candidates standing for elections and members of local and provincial councils in Friesland. At national level, some Frisian-speaking MPs are found both in the House of Parliament and the Senate.

To swear in MP's or members of local and provincial councils, members are free to take the oath through the medium of the Frisian language.

Q11a – No. If the election is to the Provincial Council of Friesland or the municipal councils in the Province of Friesland, appellations on the list of candidates may be worded in Frisian. For the precise text of this **Electoral Decree** provision, see the Appendix. Since 1956, the Frisian-language oath formula is provided for in the **Use of Frisian (Judicial Matters) Act**. For the precise text of this provision, see the Appendix. The Municipalities Act and Provinces Act contain a similar Frisian-language oath provision. In provincial and local councils in the Province of Friesland, the Frisian language is at an equal footing with the Dutch language in conformity with the provisions in the **General Administrative Law Act** (see Appendix, in particular section 2:12). This legal provision dates back to 1995. In practice, however, since 1945 the Frisian language was already used in meetings of administrative authorities located in the Province of Friesland.

Q12 – In the Province of Friesland, this is not a real issue.

Q13 – No

Q14 – In the Province of Friesland, this is not a real issue.

Q15 – Yes, there is an ongoing public debate on reorganising the electoral system for elections at the national level.

Q16a – The 'one man – one vote' principle allows for a representation of Frisian minority political tendencies. This is in particular the case at provincial and local level.

Q 16b – No.

## Elections Decree (The Netherlands)

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**Elections Decree establishing new rules governing the implementation of the Elections Act (Bulletin of Acts and Decrees 1989, 471, as amended by decree of 15 December 1997, Bulletin of Acts and Decrees 1997, 712)**

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### Article H 2

1. A candidate shall be entered on the list of candidates under his or her family name, initials, date of birth, address and place of residence. The name by which he is commonly known may be indicated in brackets after his initials.
2. (...)
3. (...)
4. (...)
5. If the election is to the Provincial Council of Friesland or the municipal councils in the province of Friesland, appellations on the list of candidates may be worded in Frisian.

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**Text of the Use of Frisian (Judicial Matters) Act, as it reads effective from 1 January 1997**


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**Section 1**

1. Anyone who is required, pursuant to a statutory regulation, verbally to take an oath, or make a solemn affirmation or reaffirmation shall be authorised to use, instead of the text prescribed by law, the equivalent text in the Frisian language, unless the text of the oath, solemn affirmation, or reaffirmation is partly or wholly laid down in the Constitution.
2. In the case referred to in the previous subsection, the following texts shall be used:
  - a. when an oath is taken, the text "Sa wier helpe my God Almachtich" instead of the text "Zoo waarlijk helpe mij God Almachtig";
  - b. when a solemn affirmation is made, the text "Dat ûnthijt ik" instead of the text "Dat beloof ik", and when a reaffirmation is made, the text "Dat ferklearje ik" instead of the text "Dat verklaar ik" .

**General Administrative Law Act**


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**Act of 4 May 1995, providing for the amendment of the General Administrative Law Act in connection with the introduction of rules concerning the use of the language in administrative matters**


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....

Whereas We have considered that it is desirable for the further elaboration of Article 107, paragraph 2 of the Constitution to incorporate into the General Administrative Law Act rules concerning the use of Dutch and Frisian in administrative matters, in order to safeguard the position of the Dutch language and to attach greater importance to the principles of equal treatment and equivalence of the Frisian language in the province of Friesland;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as we hereby approve and decree:

**SECTION I**

In the General Administrative Law Act a new part shall be inserted following part 2.1, reading as follows:

**PART 2.2 USE OF THE LANGUAGE (ADMINISTRATIVE MATTERS)****Section 2:6**

1. Administrative authorities and persons working under their authority shall use Dutch, unless statutory regulations stipulate otherwise.
2. Notwithstanding subsection 1, another language may be used if its use is more appropriate and would not unduly prejudice the interests of third parties.

**Section 2:7**

1. Everyone may use Frisian in their dealings with administrative authorities, insofar as these are located in the province of Friesland.
2. Subsection 1 shall not apply in cases where the administrative authority has requested the use of Dutch on the grounds that the use of Frisian would impose a disproportionate burden on the administrative process.

#### **Section 2:8**

1. Administrative authorities may use Frisian in oral communications within the province of Friesland.
2. Subsection 1 shall not apply in cases where the other party has requested that Dutch be used on the grounds that the use of Frisian would hinder effective communication.

#### **Section 2:9**

1. Administrative authorities located in the province of Friesland that are not part of central government may make rules on the use of Frisian in written documents.
2. Our minister concerned may make rules on the use of Frisian in written documents for central government bodies whose purview extends to the province of Friesland or part of it.

#### **Section 2:10**

1. A written document drafted in Frisian shall also be drafted in Dutch if it
  - a. is intended or partly intended for administrative authorities outside the province of Friesland or administrative authorities forming part of central government,
  - b. includes generally binding regulations or policy rules, or
  - c. has been specifically drafted for the preparation of the regulations or rules specified in b.
2. The publication, notification, or submission for inspection of a written document as referred to in subsection 1 shall also take place in Dutch, unless it can be reasonably assumed that this is not necessary.

#### **Section 2:11**

1. When a written document has been drafted in Frisian, the administrative authority shall provide a Dutch translation upon request.
2. The administrative authority may charge a fee for the translation which may not exceed the costs thereof.
3. No fee may be charged for the translation if the written document either:
  - a. includes the minutes of a meeting of a representative body, where the party making the request has a direct interest in the content of those minutes, or includes the minutes of a meeting of a representative body and concerns the adoption of generally binding regulations or policy rules, or
  - b. includes a decision or other proceeding which directly concerns the party making the request.

#### **Section 2:12**

1. Everyone may use Frisian in meetings of administrative authorities located in the province of Friesland.
2. That which is said in Frisian shall be recorded in Frisian in the minutes.

## **Information submitted by Poland**

### **Electoral law in respect of the national minorities**

There is no specific regulation in the Polish electoral law and the law of political parties that relates exclusively to the national minorities. However, the *Electoral Ordinance for the Sejm and Senate of the Republic of Poland* of 12 April 2001 (Journal of Laws from 2001, No 46, item 499) stipulates releasing electoral committees established by national minority organization from the 5 % electoral threshold requirement.

There is no either special regulation which covers the issue of the regulations on a language use in electoral procedures and campaigns. Consequently, the candidates who run in elections are obliged to use the official language, i.e. Polish.

In order to register a national or ethnical minority organization, the interested citizens of the Republic of Poland must comply with the same conditions as all remaining citizens of Poland when registering any other organization. These conditions were recorded in the Associations Law of 7 April 1989 (Journal of Laws from 2001, No. 79, item 855).

## Information submitted by Romania

According to Art.59 para.2 of the Constitution, the national minorities which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each. However, they have to obtain at least 5% of the average number of votes required for one seat. The minority organisations are treated as political parties during elections, nevertheless, each national minority is entitled to be represented by one organisation only. During the electoral campaign the minorities' candidates are treated in the same manner as all other candidates and political parties with regard to their access to and treatment by the public radio and television and with regard to the financing of their campaign out of public resources.

In case of participation of persons belonging to the national minorities in the local elections, everybody's conditions shall apply.<sup>1</sup> Thereto they receive an access to the public radio and television programmes in proportion to their share of population within the constituencies in the district

After the elections that took place in November 2004, in the Chamber of Deputies 18 seats were given, according to the Constitution, to the national minorities' organizations which have not managed to enter Parliament directly as a result of the elections. The 18 seats granted to national minorities account for 5.4% of all Chamber of Deputies seats. The Democratic Union of the Hungarians living in Romania (UDMR) gained 22 seats (6.7%).

In the Senate, out of the 137 seats, UDMR won 10 seats (7.2%).

\* \* \* \* \*

The recension of the Constitution of Romania in 2003 represented the legal framework for the preservation, consolidation and arrangement of the rights of citizens belonging to national minorities to participate to public life.

**According to the art. 62 paragraph (2) of the Constitution revised in 2003,** "The organizations of citizens belonging to national minorities which do not gather in the elections the number of votes in order to be represented in the Parliament have the right to a mandate of deputy according to the electoral law. The citizens of a national minority may be represented by one organization."

**According to the art. 128 paragraph (2) of the Constitution revised in 2003,** "The Romanian citizens belonging to national minorities have the right to express themselves in the mother tongue before the law courts, according to the organic law."

### **The Law no. 67/2004 for the election of the authorities of the local public administration**

#### **Art. 7**

"(1) According to this law, by national minority we understand the ethnic group represented in the Council for National Minorities.

(2) The organizations of citizens belonging to the national minorities represented in the Parliament can present their candidate-ships.

(3) Other organizations of citizens belonging to national minorities legally established may presents their candidate-ships, with the condition to present to the Central Electoral Bureau a list of members. The

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<sup>1</sup> Law no 25 of 12 April 1996 on local elections (Romania Report 1999: 43).



number of members cannot be under 15% from the total number of citizens registered at the last census as belonging to the respective minority.

(4) If the number of necessary members for fulfilling the conditions mentioned in paragraph (3) is higher than 25 000 persons, the list of members must contain at least 25 000 persons domiciled in at least 15 counties around the country and in Bucharest municipal town , but not less than 300 persons for every county and for Bucharest municipal town.

(5) The list of members is established on localities and on counties and must contain: the denomination, the series, the number of the identity document, their signatures as well as the name and surname of the person who made it. The person who made the list is obliged to make a statement on his responsibility attesting the truthfulness of the members' signatures."

### **The Law no. 373/2004 for the election of the Chamber of Deputies and the Senate**

#### **Art. 4**

"(1) According to this law, by ethnic minority we understand the ethnic group represented in the Council for National Minorities.

(2) The organizations of citizens belonging to a national minority defined according to paragraph (1), legally established, that did not reach at least a mandate of deputy or senator have the right, according to article 62 paragraph (2) from the Constitution of Romania to hold a mandate together if they obtained a number of votes equal to at least 10% of the medium level of votes lawfully expressed on the country for the election of a deputy.

(3) The organizations of citizens belonging to national minorities represented in the Parliament can present candidatures.

(4) Other organizations of citizens belonging to national minorities defined in paragraph (1) and legally established can present their candidature to the Central Electoral Bureau with the condition to present within 3 days a list of members containing at least 15% from the total number of citizens which, at the last census, declared themselves as belonging to the respective minority.

(5) If the number of necessary members in order to fulfil the conditions mentioned at paragraph (4) is higher than 25 000 persons, the list of members must contain at least 25 000 persons domiciled in at least 15 counties around the country and in Bucharest municipal town, but not less than 300 persons for every county and for Bucharest municipal town.

(6) The list of members is established on localities and on counties and must contain: the denomination of the organization, the name and surname of the members, their dates of birth, domicile, denomination, the series, the number of the identity document, their signatures as well as the name and surname of the person who made it. The person who made the list is obliged to make a statement on his responsibility attesting the truthfulness of the members' signatures as well as the fact that the list was created in order to take part to the parliamentary elections from that year.

(7) According to this law, the same juridical regime as the one for the political parties applies to the organizations of citizens belonging to national minorities, mentioned at paragraphs (3) and (4).

(8) The organizations of citizens belonging to the national minorities that took part at the elections on a common list of two or three organizations also benefit from the provisions of paragraph (2); in this case, if no candidate from the common list was elected, one mandate is given to all the organizations which proposed a mandate of deputy, according to the provisions of paragraph (2).

(9) The provisions of paragraph (2) do not apply to the organization of citizens belonging to national minorities which took part in the elections on the common list with a political party, political alliance or electoral alliance or on common lists as well as on exclusively singular lists.

(10) The mandate of deputy attributed according to paragraph (2) is granted over the total number of deputies resulted from the representation norm.

(11) The organisations mentioned in paragraphs (3) and (4) can take part to the elections and can present lists of candidates only under the name and with the electoral sign of the respective organization.

(12) By derogation from the provisions of article 5 paragraph (8), the organisations of citizens belonging to national minorities can present the same list of candidates for the Chamber of Deputies in several electoral districts. "

### **The law of the local public administration no. 215/2001, with the subsequent modifications and completions**

#### **Art. 17**

In the administrative-territorial units where the citizens belonging to national minorities have a percentage of over 20% from the total number of inhabitants, the authorities of the local public administration will ensure the use in the relationship with them their mother tongue according to the provisions of the Constitution, this law and the international conventions to which Romania is part.

#### **Composition of the parliamentary groups of national minorities after the 2004 general elections**

##### Parliamentary group of UDMR from the Senate

- |                          |                                |
|--------------------------|--------------------------------|
| 1. PETE ISTVÁN           | 6. SÓGOR CSABA                 |
| 2. ECKSTEIN-KOVÁCS PÉTER | 7. MARKÓ BÉLA                  |
| 3. PUSKÁS BÁLINT ZOLTÁN  | 8. FRUNDA GYÖRGY               |
| 4. NÉMETH CSABA          | 9. FEKETE SZABÓ ANDRAS LEVENTE |
| 5. VERESTÓY ATTILA       | 10. SZABÓ KÁROLY               |

##### Parliamentary group of UDMR from the Chamber of Deputies

- |                           |                                |
|---------------------------|--------------------------------|
| 1. KIRÁLY ANDRÁS GYÖRGY   | 12. ANTAL ISTVÁN               |
| 2. LAKATOS PÉTER          | 13. BECSEK-GARDA DEZSO KÁLMÁN  |
| 3. SÓKI BÉLA              | 14. ASZTALOS FERENC            |
| 4. KOVÁCS ATTILA          | 15. BÓNIS ISTVÁN               |
| 5. KÓNYA-HAMAR SÁNDOR     | 16. KERESKES KÁROLY            |
| 6. MÁTÉ ANDRÁS LEVENTE    | 17. BORBÉLY LÁSZLÓ             |
| 7. ANTAL ÁRPÁD ANDRÁS     | 18. KELEMEN ATILLA BÉLA LÁSZLÓ |
| 8. TAMÁS SÁNDOR           | 19. SERES DÉNES                |
| 9. MÁRTON ÁRPÁD FERENC    | 20. VARGA ATTILA               |
| 10. SZÉKELY LEVENTE CSABA | 21. ERDEI-DOLOCZKI ISTVÁN      |
| 11. KELEMEN HUNOR         | 22. TORÓ TIBOR                 |

## Parliamentary group of national minorities from the Chamber of Deputies

No	Organizations belonging to the national minorities from Romania	Deputy
1.	The Democratic Forum of Germans from Romania	Ovidiu Ganț
2.	The Roma Social-Democrat Party from Romania	Nicolae Păun
3.	The Bulgarian Union from Banat - Romania	Nicolae Mircovici
4.	The Community of Lippovan Russians from Romania	Miron Ignat
5.	The Union of Croats from Romania	Mihai Radan
6.	The Union of Ukrainians from Romania	Ștefan Tcaciuc
7.	The Association of Macedonians from Romania	Liana Dumitrescu
8.	The Union of Armenians from Romania	Varujan Pambuccian
9.	The Federation of Jewish Communities from Romania	Aurel Vainer
10.	The Association of Italians from Romania RO.AS.IT.	Mircea Grosaru
11.	The Union of Polish from Romania „Dom Polski”	Ghervazen Longher
12.	The Union of Serbs from Romania	Slavomir Gvozdenovici
13.	The Hellenic Union from Romania	Sotiris Fotopolos
14.	The Democratic Union of Slovaks and Czechs from Romania	Adrian-Miroslav Merka
15.	The Democratic Union of Turkish-Muslim Tartars from Romania	Amet Aledin
16.	The Turkish Democratic Union from Romania	Ibram Iusein
17.	The Cultural Union of Ruthenians from Romania	Gheorghe Firczak
18.	The Association League of Albanese from Romania	Oana Manolescu

**The results obtained by the minorities at the 2004 local elections:**  
(the source: official data communicated by the Central Electoral Bureau)

After the local elections from the 6th of June 2004, the results were as follows:				
<b>A. County counsellors</b>				
<b>Name of the organization belonging to national minorities</b>	<b>Number of mandates</b>	<b>%</b>	<b>Number of votes</b>	<b>%</b>
The Democratic Magyar Union from Romania	112	7,80	513.165	5,67
The Democratic Forum of Germans from Romania	11	0,77	76.843	0,85
<b>B. Local Counsellors</b>				
<b>Name of the organization belonging to national minorities</b>	<b>Number of mandates</b>	<b>%</b>	<b>Number of votes</b>	<b>%</b>
The Democratic Magyar Union from Romania	2.481	6,20	455.625	4,92
The Roma Social Party from Romania	189	0,47	69.293	0,75
The Democratic Forum of Germans from Romania	96	0,24	77.573	0,84
The Union of Ukrainians from Romania	29	0,07	5.448	0,06
The Community of Lippovan Russians from Romania	21	0,05	4.309	0,05
The Democratic Union of Slovaks and Czechs from Romania	20	0,05	3.048	0,03
The Union of Serbs from Romania	11	0,03	2.12	0,02

The Union of Croats from Romania	6	0,01	760	0,01
The Bulgarian Union from Banat-Romania	5	0,01	1.645	0,02
The Democratic Union of Turkish-Muslim Tartars from Romania	3	0,01	5.589	0.06
The Union of Polish from Romania DOM POLSKI	2	0,00	533	0,01
<b>C. Mayors</b>				
<b>Name of the organization belonging to national minorities</b>	<b>Number of mandates</b>	<b>%</b>		
The Democratic Magyar Union from Romania	186	5,96		
The Democratic Forum of Germans from Romania	9	0,29		
The Union of Ukrainians from Romania	2	0.06		
The Community of Lippovan Russians from Romania	1	0,03		
The Union of Croats from Romania	1	0,03		
The Bulgarian Union from Banat - Romania	1	0,03		

## Information submitted by Slovenia

### 1. With reference to the study of the Venice Commission on electoral law and national minorities

#### Page 3

The first sentence under the item 2, which refers to Slovenia, mentions only members of the Italian minority in ethnically mixed areas.

Slovenia guarantees also the representation of members of the **Hungarian minority** in ethnically mixed areas.

#### Page 25

#### **B Electoral system: details**

The threshold required for election to the National Assembly is **4%** and not 3%.<sup>2</sup>

#### Page 30

#### **G Preferential vote**

**Yes (one preference)** instead of no. See also the text on the page 9, item b 2 (... *Austria, Estonia, Finland, Poland, Slovenia (where each voter has one vote, which counts for a candidate and the list to which the candidate belongs)*)).

#### Page 35

#### **L Concerns about the representation of minorities**

#### **Comment:**

**Constitution of the Republic of Slovenia in Article 64, Paragraph 5**, stipulates that “*Laws, regulations and other general acts that concern the exercise of the constitutionally provided rights and the position of the National Communities exclusively, may not be adopted without the consent of representatives of these National Communities.*” Self-Governing Ethnic Communities Act (Official Gazette RS, No. 65/94) in Article 15, Paragraph 2, further stipulates that “*as to matters related to status of the members of National Communities, state bodies are obliged to acquire prior opinion of the self-governing national communities.*”

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<sup>2</sup> Constitution of the Republic of Slovenia  
(Official Gazette RS, No. 33/91-I, 42/97, 66/2000 and 24/03)

#### **Article 80**

(Composition and Election)

“...

*Deputies, except for the deputies of the national communities, are elected according to the principle of proportional representation with a **four-percent** threshold required for election to the National Assembly, with due consideration that voters have a decisive influence on the allocation of seats to the candidates....”*

**It has to be noted that this does not mean that members of the Italian and Hungarian National Community can not take part in parliamentary debates which do not directly concern the rights of minorities.**

**Both representatives of the Italian and Hungarian National Community, who represent the minorities in the Slovenian Parliament, have the same rights as other members of the Parliament.**

\* \* \* \* \*

**2. Comments on the document “Selected excerpts from the Opinions of the Advisory Committee on the Framework Convention and from the comments of the Governments concerned relating to the issue of the legal standards in electoral law and the law governing political parties at the central, regional and local levels that are of relevance for national minorities”**

### **Page 32**

Article 15

#### **Participation by Hungarians and Italians in decision-making at central level**

Recommendations

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**More than 60 sector-specific laws, other legal acts, ordinances and statutes of the municipalities in the ethnically mixed areas, treaties or interstate agreements, as well as international conventions that have been ratified by the Republic of Slovenia regulate beside the Constitution of the Republic of Slovenia the status of the Hungarian and Italian National Community.**

It must be stressed that Slovenia during the legislative process considers the active participation of the representatives of the Hungarian and Italian National Communities (see also the comment on the page 2 – L Concerns about the representation of minorities).

Here are listed the most important acts, related to special rights of the Italian and Hungarian National Communities.

1. Constitution of the Republic of Slovenia (Official Gazette RS, No. 33/91, ..., 69/04), especially Articles 5, 11, 61, 62 and 64,
2. Self-Governing Ethnic Communities Act (Official Gazette RS, No. 65/94),
3. Establishment of Municipalities and Municipal Boundaries Act (Official Gazette RS, No. 60/94, ..., 52/02),
4. Radiotelevizija Slovenija Act (Official Gazette RS, No. 96/05),
5. Public Media Act (Official Gazette RS, No. 35/01, ..., 123/04),
6. Statute of Radiotelevizija Slovenija (Official Gazette RS, No. 66/95, 54/05),
7. Act on Enforcing Public Interest in the Field of Culture (Official Gazette RS, No. 96/02),
8. Financing of Municipalities Act (Official Gazette RS, No. 80/94, ..., 90/05),
9. Cultural Heritage Protection Act (Official Gazette RS, No. 7/99, ..., 126/03),
10. Local Self-Government Act (Official Gazette RS, No. 72/93, ..., 100/05),
11. National Assembly Election Act (Official Gazette RS, No. 44/92 in 73/03),
12. Act on the Establishment of Voting District for Elections of Deputies to the National Assembly (Official Gazette RS, No. 46/92, 80/04),

13. Local Elections Act (Official Gazette RS, No. 72/93, ..., 100/05),
14. Voting Rights Register Act (Official Gazette RS, No. 52/02, ..., 73/03),
15. Institutes Act (Official Gazette RS, No. 12/91, ..., 36/00),
16. Public Administration Act (Official Gazette RS, No. 52/02, ..., 93/05),
17. Public Use of the Slovene Language Act (Official Gazette RS, No. 86/04),
18. Instruction on the organisation of public events in which the use of foreign languages is allowed (Official Gazette RS, No. 93/05),
19. Police Act (Official Gazette RS, No. 49/98, ..., 53/05),
20. Register of Deaths, Births and Marriages Act (Official Gazette RS, No. 37/03),
21. Personal Name Act (Official Gazette RS, No. 16/74, ..., 29/95),
22. Identity Card Act (Official Gazette RS, No. 75/97, ..., 100/05),
23. Passports Act (Official Gazette RS, No. 65/00, 98/05),
24. Decree on Keeping and Maintaining of the Central Register of Population and on the Procedures of Data Flow from the Central Register of Population (Official Gazette RS, No. 70/00, 28/02),
25. Act regulating Naming and Registration of Settlements, Streets and Buildings (Official Gazette RS, No. 5/80, ..., 66/93),
26. General Administrative Procedure Act (Official Gazette RS, No. 80/99, ..., 73/04),
27. Decree on administrative operations (Official Gazette RS, No. 20/05),
28. Courts Act (Official Gazette RS, No. 19/94, ..., 100/05),
29. Notary Act (Official Gazette RS, No. 13/94, ..., 73/04),
30. State Prosecutor Act (Official Gazette RS, No. 63/94, ..., 14/03),
31. Penal Code (Official Gazette RS, No. 63/94, ..., 95/04),
32. Court Rules (Official Gazette RS, No. 17/95, ..., 74/05),
33. Criminal Procedure Act (Official Gazette RS, No. 63/94, ..., 96/04),
34. Act on the Coat-of-arms, the Flag and the Anthem of the Republic of Slovenia and on the Flag of the Slovene Nation (Official Gazette RS, No. 67/94, ..., 14/99),
35. Organisation and Financing of Education Act (Official Gazette RS, No. 12/96, ..., 98/05),
36. Kindergarten Act (Official Gazette RS, No. 12/96, ..., 100/05),
37. Elementary School Act (Official Gazette RS, No. 12/96, ..., 70/05),
38. Gimnazije Act (Official Gazette RS, No. 12/96, ..., 59/01),
39. Matura Examination Act (Official Gazette RS, No. 15/03),
40. University of Primorska Charter (Official Gazette RS, No. 13/03, ..., 79/04),
41. Ordinance on the Establishing Centro Italiano di Promozione, Cultura, Formazione e Sviluppo – Promocijsko, kulturno, izobraževalno in razvojno italijansko središče (Official Gazette RS, No. 84/05),
42. Vocational and Technical Education Act (Official Gazette RS, No. 12/96, ..., 86/04),
43. Act Implementing Special Rights of Members of the Italian and Hungarian Ethnic Communities in the Field of Education (Official Gazette RS, No. 35/01),
44. Fund for Amateur Cultural Activities of the Republic of Slovenia Act (Official Gazette RS, No. 1/96, ..., 22/00),
45. Librarianship Act (Official Gazette RS, No. 87/01 in 96/02),
46. Act Regulating the Use of Funds Arising from the Proceeds Based on the Transformation of Companies Ownership Act (Official Gazette RS, No. 45/95, ..., 47/02),
47. Decree laying down criteria, conditions and procedures for the allocation of funds for the purpose of creating economic basis for indigenous national communities (Official Gazette RS, No. 33/97, 16/99),
48. Decree laying down criteria, conditions and procedures for the allocation of funds for the purpose of creating economic basis on ethnically mixed areas for year 2001 (Official Gazette RS, No. 62/01),
49. Promotion of Balanced Regional Development Act (Official Gazette RS, No. 93/05),

50. Decree Ratifying the Agreement between the Government of the Republic of Slovenia and the Government of the Italian Republic on Cooperation in Culture and Education (Official Gazette RS, No. 49/02),
51. Consumer Protection Act (Official Gazette RS, No. 20/98, ..., 98/04),
52. Statutes of ethnically mixed municipalities (Izola, Koper, Piran, Lendava, Moravske Toplice, Dobrovnik, Hodoš, Šalovci) in the Republic of Slovenia,

To review the implementation of all these acts in practice the Slovenian Government adopted on July 2004 “**Analysis on the Situation and Implementation of Special Rights of the Italian and Hungarian National Communities in the Republic of Slovenia in the scope of the implementation of legal and other regulations and definition of possible measures for its preservation**”. The Italian and Hungarian National Community actively participated in the process of the preparation of this Analysis.

Beside the above mentioned efforts, the Slovenian Government dedicated one chapter (11<sup>th</sup>) of the Coalition Agreement (November 2004) to the Italian and Hungarian National Community.

The main points of the chapter eleven:

- The existing level of the financing of the special rights of the national communities should present the starting-point for their further development;
- The Coalition commits itself to take measures against the assimilation in all fields, which are very important for the existence and further development of both national communities, including the stimulation of the economic development and development of infrastructure of the ethnically mixed areas with the emphasis on the creating new working places and the economic basis for the national communities;
- The special attention goes to the strengthening of the minority institutions, their languages and cultures;
- The Coalition also commits itself to the creation of favourable social atmosphere for the implementation of policy regarding the Italian and Hungarian National Community

According to the above mentioned commitments the Slovenian Government is now preparing the **Resolution about the situation of the Italian and Hungarian National Community in Slovenia**.

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#### **Participation by Roma in public affairs**

Recommendations

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The Secretary General of the Slovenian Government issued on 3 March 2003 instruction No. 023-12/2001 concerning the involvement of national communities in the **decision-making** affecting their members – Article 15, paragraph 2 of the Self-Governing Ethnic Communities Act (Official Gazette, No. 65/1994), which appeals to **all state bodies** (the Government, ministries and others) to comply consistently with all procedural and relevant statutory provisions. The instruction stipulates, among other things, that **prior to adopting executive regulations and other legal acts within the framework of the executive (the Government, the ministries and other authorities), state bodies are obliged**, under Article 15, paragraph 2 of the Self-Governing Ethnic Communities Act, **to acquire a preliminary opinion** of the governing bodies of national communities, as follows: a) in matters concerning the Italian national



community, the opinion is provided by its highest body: the Littoral Italian Self-governing National Community, Koper, Župančičeva 39; b) in matters concerning the Hungarian national community, the opinion is provided by: the Hungarian Self-governing National Community of Pomurje, Lendava, Glavna ulica 124; **(c) in matters involving the Roma community in the Republic of Slovenia, the statutory provisions and executive regulations under (a) and (b) apply mutatis mutandis to the Roma community. The opinion of the Roma community is provided by its highest body, i.e. the Roma Union of Slovenia.**

**The Roma Union of Slovenia is the umbrella organisation of Roma societies** and represents them in the dialogue with national authorities.

**In accordance with the provisions of the Statute of the Roma Union of Slovenia, the "Forum of Roma Councillors" was established at the presidency session in Murska Sobota on 21 November 2002. The Forum of Roma Councillors is a working body within the Roma Union of Slovenia linking Roma councillors and municipalities in which Roma are represented.**

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In differentiating between autochthonous and non-autochthonous Roma, it must be taken into account that "autochthonism" is a notion used by Slovenia's legal code; it exists and is utilised. In Slovenia's Constitution, the notion of autochthonism is mentioned in Articles 5 and 64, however, it is not fully defined. It must be underlined that this notion is **not defined in international legal codes either**. The autochthonism or historic settlement of a community may be talked about only in cases where the community has been present in an area for at least two generations or more. In the case of the Italian and Hungarian national communities, we may talk about an exactly defined ethnically mixed territory, where members of both national communities have lived for centuries and are only separated from their country of origin by a national border. They have historically lived in this area but have ended up within the borders of another country owing to historic and political developments.

The situation of Roma ethnic community is different, as it does not have the status of a national minority in the Republic of Slovenia. It is an ethnic community or minority, which has specific ethnic characteristics (language, culture and other ethnic features).

The legal basis for the regulation of the status of the **autochthonous Roma ethnic community in the Republic of Slovenia** is provided by Article 65 of the Constitution of the Republic of Slovenia, which stipulates as follows: "*The status and special rights of Roma community living in Slovenia shall be regulated by law.*" Article 65 of the Constitution is still being implemented through sector-specific legislation and the protection of the rights of Roma community has thus far been regulated by eleven (11) sector-specific acts. The above mentioned constitutional basis relates **only to members of traditional Roma ethnic community living in the territory of Slovenia for centuries**. The Act Amending the Local Government Act also defines the territory, where Roma in Slovenia reside **historically and traditionally**, that is **autochthonously**, and it is **only in these areas** determined by the borders of the relevant municipalities that Roma **enjoy special rights** (special facilities and privileges) ensured to them by the legislator through individual laws. **Article 101a of the Local Government Act** explicitly lists the areas of the following municipalities: **"Beltinci, Cankova, Črenšovci, Črnomelj, Dobrovnik, Grosuplje, Kočevje, Krško, Kuzma, Lendava, Metlika, Murska Sobota, Novo mesto, Puconci, Rogašovci, Semič, Šentjernej, Tišina, Trebnje and Turnišče."**

It is evident that Roma in the Republic of Slovenia residing **outside the 20 municipalities listed in the Local Government Act do not enjoy special rights**; however, they have **equal rights and obligations as any other citizen of the Republic of Slovenia**, provided that they have this status, otherwise, they enjoy

the rights to which they are entitled as aliens in compliance with international regulations and internal legislation. They can exercise some additional rights **under Articles 14, 61 and 62 of the Constitution**.

As regards the ensuring of **all-round cultural and linguistic development** of Roma not residing in the Republic of Slovenia traditionally or historically, we would like to emphasize that they enjoy equal rights as other citizens and are in addition subject to **special measures and assistance in the fields of culture and education** aimed at their all-round cultural and linguistic development. All provisions of national acts (including Articles 61 and 62 of the Constitution) apply to them, except for some regulations (eleven) defining special rights of Roma historically and traditionally residing in the territory of the twenty municipalities determined by law. In this context, within the competence of the relevant state bodies (e.g. the Ministry of Culture, the Ministry of Labour, Family and Social Affairs), the distinction between autochthonous and non-autochthonous Roma is not very pronounced.

The Ministry of Culture of the Republic of Slovenia implements number of measures for Roma who immigrated to Slovenia (e.g. financing of various cultural projects, scholarship awarded to the Roma musician Brizani, who now runs music workshops and has supported Roma cultural animators for several years). The same is true of social welfare benefits – anyone with permanent residence in the Republic of Slovenia is entitled to them – and the co-financing of preventive development programmes in the fields of social affairs and family policy as well as various forms of employment and training programmes.

## **Information submitted by Sweden**

### **Background**

The objective of Sweden's policy on national minorities is to protect national minorities, promote their participation in community affairs and public decision-making and help keep long established minority languages alive. Sweden's national minorities include the Sámi – who are also an indigenous people – the Swedish Finns, the Tornedalers, the Roma and the Jews. The minority languages are Sami, Finnish, Romany Chib and Yiddish.

### **General elections in Sweden**

No special rules or regulations applies for the national minorities when it comes to general elections in Sweden. General elections are held every four years. Elections are held at national, regional and local levels to the Riksdag, county councils and municipal councils respectively.

All Swedish citizens who have reached the age of 18 on or before election day and who are currently or were previously resident in the country may vote in general elections and referendums. Citizens of EU member states, Norway and Iceland who are registered as resident in Sweden and who have reached the age of 18 on or before election day are eligible to vote in municipal and county council elections. Non-Swedish citizens from other countries must have been registered as resident in Sweden for more than three consecutive years before election day to be eligible to vote in municipal and county council elections.

Every fifth year elections are held in Sweden, as in other EU member states, to the European Parliament. In this country, all citizens of EU member states who are registered as resident in Sweden may vote in these elections.

### **Political parties**

There are no rules prescribing how to form a political party. A group of voters who takes part in an election under a common party name is considered to be a party and is treated as a non-profit-making association.

A party may register its party denomination (the party name on the ballot paper) with the Election Authority and notify candidates prior to an election. In this way the party protects its name and its ballot papers. However, a political party does not need to have its name registered in order to take part in an election.

Although there are no better known political parties founded on minority basis in Sweden it is worth mentioning that special funds are allocated to organisations representing national minorities in order to give them better opportunities to exercise an influence.

#### **Translation of information**

The Election Authority is responsible for information regarding when, where and how voting is to be carried out. In this connection voters with different ethnical and cultural background are prioritized. Information is in most cases translated to all of the national minority languages.

### **The Sámi Parliament**

In 1993 the democratically elected Sámi Parliament was established by the Swedish government in order to give the Sámi the potential to influence both the development of society and their own culture. The Sami

Parliament also promotes the sense of identity and togetherness among the Sami and stimulates interest for social and political issues among all Sami.

Election turnout at Sámi Parliament elections indicates, as is the case with other elections, the degree of legitimacy in the political system. To be eligible to vote, a person must be enrolled on The Sámi Parliament electoral register. Election turnout increased to 66 per cent in the latest election, but has fallen overall by 6 per cent since the first election in 1993. The trend in the number of people enrolled on the electoral register indicates, however, that the Sámi Parliament is gradually gaining in legitimacy among the Sámi population. Election turnout has increased in terms of actual numbers as a result of an increasing number of Sámi enrolling in the electoral register. The trend also points to greater trust being shown in the Sámi Parliament and its efforts to promote Sámi culture and Sámi business and industry.

## Informations fournies par la Suisse

### A. La législation électorale pertinente pour les minorités nationales

1° ***Au niveau fédéral***, la participation aux organes élus de l'Etat des personnes appartenant aux minorités nationales est d'abord assurée par l'application des règles générales du droit électoral. Il n'existe pas de règles prévoyant de façon définie une représentation spéciale des minorités. De même, il n'existe pas de partis politiques de minorités nationales proprement dits.

S'agissant du pouvoir *législatif*, *i.e.* l'Assemblée fédérale, la participation des minorités nationales est assurée par le système du bicamérisme et les règles qui en découlent: le Conseil national est composé de 200 députés du peuple, les sièges étant répartis entre les cantons proportionnellement à leur population de résidence. La Constitution prévoit que chaque canton a droit à au moins un siège (cf. art. 149 al. 4 Cst.). Le Conseil des Etats est formé de 46 députés des cantons, dont nécessairement deux par canton (les demi-cantons ayant un siège chacun), quelle que soit la superficie et la population de celui-ci (cf. art. 150 Cst.).

S'agissant de la participation à l'autorité *exécutive* suprême de la Confédération, *i.e.* le Conseil fédéral, il faut signaler l'art. 175 al. 4 de la Constitution fédérale, selon lequel «les diverses régions et les communautés linguistiques doivent être équitablement représentées au Conseil fédéral». La tradition veut que la minorité latine (francophone et italophone) ait au moins deux représentant(e)s sur sept au sein du Conseil fédéral.

En ce qui concerne l'élection des juges auprès de la plus haute instance *judiciaire* du pays, *i.e.* le Tribunal fédéral, on peut également mentionner l'art. 188 al. 4 de la Constitution fédérale, qui prévoit que le Parlement fédéral (compétent pour ces élections) «veille à ce que les langues officielles soient représentées».

2° ***Au niveau régional (cantonal)***, pour ce qui est de la participation à l'organe *exécutif*, il est intéressant de mentionner le cas du canton de Berne<sup>3</sup>, où la constitution cantonale (art. 84 al. 2) garantit au Jura bernois (entité composée de trois districts francophones à laquelle un statut particulier est reconnu par la constitution cantonale) un siège sur sept au sein du gouvernement cantonal. De même, dans le canton du Valais<sup>4</sup>, un siège sur cinq auprès du gouvernement cantonal est assuré par la constitution cantonale (art. 52 al. 2) aux cinq districts germanophones. La tradition veut toutefois que ces derniers bénéficient de deux sièges.

Pour ce qui est de la participation au pouvoir *législatif*, on peut également citer le cas du canton de Berne, qui prévoit que, pour les élections au Grand Conseil (parlement cantonal), parmi les 160 mandats, 12 sont garantis au cercle électoral du Jura bernois (art. 24c al. 1 let. a de la loi du canton de Berne sur les droits politiques du 5 mai 1980). Par ailleurs, des mandats sont garantis à la population de langue française du cercle électoral de Bienne-Seeland, proportionnellement à la population totale du cercle électoral (art. 24c al. 2 de la loi du canton de Berne sur les droits politiques du 5 mai 1980).

### B. La question de l'utilisation des langues dans les procédures électorales

<sup>3</sup> bilingue allemand-français, la minorité francophone représentant 7,8 % de la population cantonale.

<sup>4</sup> bilingue français-allemand, le français représentant 62,8 % de la population et l'allemand 28,4 %.

Le droit *fédéral*, de même que par exemple la législation du canton bilingue de *Berne*, ne traitent pas la question de la langue du matériel de vote<sup>5</sup>. Dans ces cas, c'est des principes constitutionnels sur l'usage des langues officielles qu'est déduit le droit d'une personne appartenant à une minorité linguistique officielle de recevoir la documentation électorale dans sa langue.

Dans les autres cantons plurilingues, la question est réglée de la manière suivante: la loi du canton de *Fribourg*<sup>6</sup> du 6 avril 2001 sur l'exercice des droits politiques prévoit qu'«en matière fédérale et cantonale, les personnes ayant l'exercice des droits politiques ont le droit d'obtenir le matériel de vote dans la langue officielle de leur choix. Il en va de même en matière communale, dans les communes où une pratique bilingue est généralisée» (art. 12 al. 3). D'un point de vue pratique, c'est dans les registres électoraux tenus par les communes qu'est consignée l'indication quant à la langue choisie pour la réception du matériel de vote (cf. art. 2 let. h du Règlement du 10 juillet 2001 sur l'exercice des droits politiques). Dans le canton du *Valais*, la loi du 13 mai 2004 sur les droits politiques prévoit que, pour les élections cantonales, «chaque citoyen peut exiger de recevoir le matériel de vote dans l'une des deux langues officielles du canton». Dans le canton des *Grisons*<sup>7</sup>, selon la législation sur les droits politiques du 17 juin 2005 (art. 23), le matériel électoral au plan cantonal est établi en allemand, romanche et italien et il est distribué aux communes selon l'appartenance linguistique de celles-ci. Les électeurs peuvent ensuite déterminer dans quelle langue ils souhaitent obtenir les documents.

#### *English Translation*

### **Information submitted by Switzerland**

#### **A. Electoral legislation applicable to national minorities**

1. *At federal level*, participation of members of national minorities in elected state bodies is ensured first of all through the application of the general rules of electoral law. There are no rules specifically providing for special representation for minorities. Nor are there any national minority political parties in the true sense of the term.

In the case of the *Legislature*, ie the Federal Assembly, the participation of national minorities is ensured through the bicameral system and the resulting rules: the National Council is made up of 200 members of parliament representing the people, with seats apportioned among the cantons in proportion to their resident population. Under the Constitution, each canton is entitled to at least one seat (see Article 149, paragraph 4, of the Constitution). The Council of States is made up of 46 members of parliament representing the cantons, two per canton (the half-cantons having one seat each), regardless of the area and population of the canton (see Article 150 of the Constitution).

As regards participation in the supreme *executive* authority of the Confederation, ie the Federal Council, attention is drawn to Article 175, paragraph 4, of the Federal Constitution, which stipulates that “care shall be taken that the various geographical and language regions are adequately represented on the Federal Council”. By tradition, the Latin (French-speaking and Italian-speaking) minority has at least two representatives out of seven on the Federal Council.

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<sup>5</sup> A ce sujet, voir la réponse du 14 décembre 2005 du Conseil exécutif du canton de Berne à l'interpellation Pauli.

<sup>6</sup> Bilingue français-allemand.

<sup>7</sup> Trilingue allemand-romanche-italien.

With regard to the election of judges to the highest *court* in the land, the Federal Court, Article 188, paragraph 4, of the Federal Constitution provides that the Federal Parliament (which is responsible for electing them) “ensures that the official languages are represented”.

2. *At regional (cantonal) level*, it is worth mentioning, in connection with participation in the *Executive*, the case of the canton of Bern<sup>8</sup>, where the cantonal Constitution (Article 84, paragraph 2) guarantees the Bernese Jura (a unit composed of three French-speaking districts which has been afforded special status under the cantonal Constitution) one seat in seven in the cantonal government. Similarly, in the canton of Valais<sup>9</sup>, one seat in five in the cantonal government is guaranteed by the cantonal Constitution (Article 52, paragraph 2) to the five German-speaking districts. By tradition, however, the latter have two seats.

As regards participation in the *Legislature*, it is also worth mentioning the case of the canton of Bern, where twelve of the 160 seats on the Grand Council (cantonal parliament) are reserved for the Bernese Jura constituency (Section 24c, paragraph 1a, of the Bern cantonal law on political rights of 5 May 1980). Furthermore, seats are guaranteed to the French-speaking population in the constituency of Biel-Seeland, in proportion to the total population of the constituency (Article 24c, paragraph 2, of the Bern cantonal law on political rights of 5 May 1980).

## **B. The use of languages in electoral procedures**

*Federal* law and, for example, the legislation of the bilingual canton of *Bern* do not deal with the question of the language of electoral documentation<sup>10</sup>. In these cases, the right of a person belonging to an official language minority to receive electoral documentation in his or her own language is inferred from Constitutional principles on the use of official languages.

In other multilingual cantons, the question is settled as follows: the law of the canton of *Fribourg*<sup>11</sup> of 6 April 2001 on the exercise of political rights provides that “for the purposes of federal and cantonal matters, persons enjoying political rights are entitled to obtain electoral documentation in the official language of their choice. The same is true for the purposes of municipal matters in municipalities where bilingualism is generally practised” (Section 12, paragraph 3). In practice, it is the electoral rolls kept by the municipalities that record the language chosen for the receipt of electoral documentation (see Rule 2.h of the Regulation of 10 July 2001 on the exercise of political rights). In the canton of *Valais*, the law of 13 May 2004 on political rights provides that, in cantonal elections, “every citizen may ask to receive electoral documentation in either of the canton’s two official languages”. In the canton of *Graubünden*<sup>12</sup>, under the legislation on political rights of 17 June 2005 (Section 23), cantonal electoral documentation is drawn up in German, Romansh and Italian and distributed to the municipalities according to their language. Voters may then decide in which language they want to receive the documents.

<sup>8</sup> Bilingual German-French, with the French-speaking minority accounting for 7.8% of the canton’s population.

<sup>9</sup> Bilingual French-German, with French accounting for 62.8% of the population and German 28.4%.

<sup>10</sup> See, in this connection, the reply of 14 December 2005 from the Executive Council of the Canton of Bern to the question from Pauli.

<sup>11</sup> Bilingual French-German.

<sup>12</sup> Trilingual German-Romansh-Italian.