

STRENGTHENING THE PROTECTION OF NATIONAL MINORITIES IN UKRAINE: EXECUTIVE STRUCTURES AND SPECIALISED DIALOGUE MECHANISMS IN AN INTERNATIONAL PERSPECTIVE



Report prepared under project: PGG “Strengthening the Protection of National Minorities in Ukraine”
Printed and disseminated under Council of Europe Action Plan for Ukraine 2018–2021:
Project “Protecting National Minorities, including Roma, and Minority Languages in Ukraine”

Partnership for Good Governance



EUROPEAN UNION

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STUDY

**STRENGTHENING THE PROTECTION OF
NATIONAL MINORITIES IN UKRAINE:
EXECUTIVE STRUCTURES AND SPECIALISED DIALOGUE
MECHANISMS IN AN INTERNATIONAL PERSPECTIVE**

November 2018

This study was commissioned by the Council of Europe, Department of Anti-Discrimination, No Hate Speech and Cooperation Unit under contracts Nos. 4450/2018/5, 4450/2018/6, 4450/2018/7, in the framework of the PGG project “Strengthening the protection of the national minorities in Ukraine.”

This study was printed and disseminated in the framework of the Project ‘Protecting national minorities, including Roma, and minority languages in Ukraine’ implemented under Council of Europe Action plan for Ukraine 2018–2019.

The views expressed in this Report are solely those of the authors based on the Terms of Reference they were engaged to undertake, and do not necessarily reflect the official positions of any Council of Europe department, agency or body.

The original version of this Report is in English. Official translation will be made available in Ukrainian. In cases of variations, the English version should be considered authoritative.

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EXECUTIVE SUMMARY

This report presents the results of a study on executive structures and consultative mechanisms for national minority protection in Ukraine, analysed in a comparative perspective with four European countries. The results are presented in four parts. Parts 1 and 2 provide a mapping of executive structures and consultative mechanisms in Ukraine, respectively, covering the central administration and the regional and local administrations in four regions (oblasts). Part 3 presents the comparative examples through a similar but less detailed mapping of the systems in the Czech Republic, Germany, Romania, and Serbia. Part 4 provides the final comparative analysis and a set of 15 recommendations divided in three categories: general, policy and technical recommendations. The study was commissioned by the Council of Europe's Department of Anti-Discrimination and was conducted by three experts during the period from June to October 2018.

The government of Ukraine is in the process of revising the current specialised legislation on national minority protection. This is a process that has taken some years and thus has created a setback in the quest to develop a comprehensive framework for minority protection. However, Ukraine has signed and ratified all relevant international treaties related to the protection of national minorities, including the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (ECRML). The monitoring committees of the two treaties have both urged the Ukrainian authorities to improve the structures and mechanisms related to national minority protection. This Study has only examined Ukraine's compliance with regard to Article 15 of the FCNM, and Article 7(4) of the ECRML. All references to minorities in this report refer to persons belonging to national, ethnic or religious groups, as envisaged by the Council of Europe treaties.

With regard to **executive structures** at the central level, Ukraine has established structures both at the level of the head of state (Office of the President) and the head of government (Cabinet of Ministers) but the function at the level of the head of state only addresses Crimean Tatar issues. Within the line ministries, Ukraine has established separate units or parts of units in four ministries (Foreign Affairs, Interior, Education, Culture). In the legislative branch, Ukraine has established one permanent function (committee in the parliament) and one *ad hoc* function (ombudsperson's office). At the regional level, the mapping found units or designated persons in the regional administrations in all four oblasts (Odessa, Lviv, Chernivtsi, Transcarpathia). However, the regional assemblies (councils) have not established any functions to monitor national minority protection, neither have the districts in the four regions.

With regard to **consultative mechanisms** at the central level, Ukraine has established specialized consultative bodies for consultation with national minorities at the level of the head of state (Office of the President) and in two line ministries (Education and Culture). In the legislative branch, Ukraine has established two expert advisory bodies (parliament and ombudsperson's office) and one consultative body with a monitoring mandate (parliament). While all ministries have established public councils for general issues, only two line ministries have established specialised bodies addressing national minority issues (Education and Culture). At the regional level, three oblasts administrations (Odessa, Lviv, Chernivtsi) have established specialised consultative bodies, whereas none of the regional legislative assemblies have. At the district level, no consultative bodies exists.

To put the Ukrainian efforts in a comparative perspective, four international examples are provided following the same method of research. The examination of executive structures and consultative mechanisms in the Czech Republic, Germany, Romania and Serbia show that there are good practice examples for executive structures to be found in Serbia and Romania, while there are good practice examples for consultative mechanisms in the Czech Republic and Germany.

With regard to the FCNM and ECRML standards guiding this Study, the following

General recommendations suggest:

- (1) safeguarding national minority rights through mainstreaming,
- (2) building a comprehensive minority governance framework, and
- (3) securing equitable minority representation in territorial governance.

Policy recommendations suggest:

- (4) ensuring equality of all minority groups at the central level,
- (5) ensuring consistency in human rights monitoring,
- (6) ensuring a coherent and consistent approach at the central level,
- (7) enhancing clarity on division of powers in the central administration,
- (8) ensuring clear delegation of powers in sensitive areas,
- (9) ensuring clear delegation of powers to regional, local and communities,
- (10) enhancing access to decision-makers at the central level,
- (11) expanding and strengthening consultative mechanisms in the central administration, and
- (12) expanding and establish new bodies at the regional and local levels.

Technical recommendations suggest:

- (13) raising awareness about Ukraine's international minority rights obligations,
- (14) improving capacities and capabilities at all levels of government, and
- (15) providing basic tools for participation and communication.

INTRODUCTION

The right of national minorities in Ukraine to be consulted on issues relevant to national minorities and the promotion of their regional or minority languages, is protected through the signature and ratification of Ukraine of the Council of Europe instruments, the Framework Convention for the Protection of National Minorities (FCNM)¹ and the European Charter for Regional or Minority Languages (ECRML).²

With regard to participation and representation of national minorities in public affairs decision-making, Article 15 of the FCNM provisions that

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

According to the Explanatory Report of the FCNM, implementation of this provision “requires Parties to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them. It aims above all to encourage real equality between persons belonging to national minorities and those forming part of the majority. In order to create the necessary conditions for such participation by persons belonging to national minorities, Parties could promote – in the framework of their constitutional systems – inter alia the following measures:

- ▶ Consultation with these persons, by means of appropriate procedures and, in particular, through their representative institutions, when Parties are contemplating legislation or administrative measures likely to affect them directly;
- ▶ Involving these persons in the preparation, implementation and assessment of national and regional development plans and programmes likely to affect them directly;
- ▶ Undertaking studies, in conjunction with these persons, to assess the possible impact on them of projected development activities;
- ▶ Effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels; – decentralised or local forms of government.”

With regard to consultation of national minorities on language issues, Article 7(4) of the ECRML provisions that

In determining their policy with regard to regional or minority languages, the Parties shall take into consideration the needs and wishes expressed by the groups which use such languages. They are encouraged to establish bodies, if necessary, for the purpose of advising the authorities on all matters pertaining to regional or minority languages.

According to the Explanatory Report of the ECRML, implementation of this provision requires that

“... in each State mechanisms should exist whereby the public authorities take account of the needs and wishes expressed by the speakers of regional or minority languages themselves. Consequently, it is recommended that for each regional or minority language there should be a promoting body responsible for representing the interests of the language at national level, carrying out practical measures to promote it, and monitoring the implementation of the charter in relation to that particular language. The expression “if necessary” indicates *inter alia* that, where such institutions already exist in one form or another, it is not intended to encourage States to establish new ones which would duplicate them.”

1. Framework Convention for the Protection of National Minorities, Treaty No. 157 adopted 1 February 1995. Available at: <https://www.coe.int/en/web/minorities/text-of-the-convention> [accessed 12 October 2018]

2. European Charter for Regional or Minority Languages, Treaty No. 148 adopted 5 November 1992. Available at: <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/text-of-the-charter> [accessed 12 October 2018]

Ukraine has also signed and ratified the Council of Europe's European Charter of Local Self-Government (ECLSG),³ which provisions in Article 5 (Protection of local authority boundaries) that

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

The Additional Protocol to the ECLSG on the right to participate in the affairs of a local authority adds a new dimension by providing an international legal guarantee of the right to participate in the affairs of a local authority.⁴ The right to participate in the affairs of a local authority denotes the right to seek to determine or to influence the exercise of a local authority's powers and responsibilities. Parties to this protocol are required to take legal and other measures to facilitate the exercise of and give effect to this right. The Protocol also requires measures be taken which are necessary to ensure that the ethical integrity and transparency of the exercise of local authorities' powers and responsibilities are not jeopardised by the exercise of the right to participate. The measures for the exercise of the right to participate must, according to Article 2 of the ECLSG, include:

- ▶ Empowering local authorities to enable, promote and facilitate the exercise of the right to participate set out in the Protocol;
- ▶ Securing the establishment of procedures for involving people which may include consultative processes, local referendums and petitions and, where the local authority has many inhabitants and/or covers a large geographical area, measures to involve people at a level close to them; procedures for access, in accordance with the Party's constitutional order and international legal obligations, to official documents held by local authorities; measures for meeting the needs of categories of persons who face particular obstacles in participating; and mechanisms and procedures for dealing with and responding to complaints and suggestions regarding the functioning of local authorities and local public services;
- ▶ Encouraging the use of information and communication technologies for the promotion and exercise of the right to participate set out in this Protocol.

Over the years, democratisation of the Ukrainian society involved developing norms and standards for the protection of national and ethnic as well as religious minorities. Cooperation with international organisations has helped further the development and implementation of minority rights instruments and ethno-cultural governance policies. In addition to the Council of Europe treaties, Ukraine has signed and ratified universal human rights obligations relevant for national minorities, such as the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the Convention of the Rights of the Child.⁵

3. European Charter of Local Self-Government, Treaty 122 adopted 15 October 1985. Available at: <https://rm.coe.int/168007a088> [accessed 12 October 2018]

4. Additional Protocol European Charter of Local Self-Government, Treaty 207 adopted 16 November 2009. Available at: <https://rm.coe.int/168008482a> [accessed 12 October 2018]

5. The European Convention on Human Rights, Treaty 5, adopted 4 November 1950. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005> [accessed 12 October 2018].

The International Convention on the Elimination of All Forms of Racial Discrimination. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx> [accessed 12 October 2018].

The International Covenant on Civil and Political Rights. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> [accessed 12 October 2018].

The Convention of the Rights of the Child. Available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> [accessed 12 October 2018].

BACKGROUND TO STUDY

The Council of Europe Action Plan for Ukraine 2018–2021 addresses the need to further develop “effective co-ordination of governmental work on combating racism and racial discrimination.” According to the Action Plan, the expected outcomes of the Council of Europe’s support with regard to national minorities will be that

“the rights of national minorities are promoted and protected through effective co-ordination between authorities and civil society which contributes to preservation of the cohesion and unity of Ukrainian society, taking into account gender-dimension.”

With this in mind, the Council of Europe’s No Hate Speech and Cooperation Unit commissioned a study in June 2018 to take stock of the current status of Ukraine’s diversity governance, specifically with regard to how the executive structures and consultative mechanisms deal with national minority issues. The tasks of the experts were to:

1. Take stock, including via a questionnaire and/or face-to-face interviews, which executive structures, institutions and processes exist in Ukraine at the central, regional and local levels to protect and promote the rights of national minorities in conformity with the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages,
2. Take stock, including via a questionnaire and/or face-to-face interviews, which institutions and processes exist in Ukraine in conformity with the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages enabling the authorities to consult national minorities on the issues relevant to the protection of minorities’ rights and the promotion of regional or minority languages,
3. In the context of the findings under point 1) and 2), propose best practices existing in various Council of Europe Member States in the two areas mentioned,
4. Based on the points 1–3) and their findings, make a proposal for possible improvements in both the existing executive structures and consultation process, for the necessary institutional infrastructure to protect and promote the rights of national minorities and to consult national minorities, in line with the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, and assess their feasibility in the context of Ukraine.

In the final report, the experts should also take into account and refer to the findings of the Council of Europe’s evaluation of the ongoing consultation process on the draft Law on Secondary Education of Ukraine.

The present report, *Strengthening the Protection of National Minorities in Ukraine: Executive Structures and Specialised Dialogue Mechanisms in an International Comparative Perspective* (hereafter the Report) constitutes the delivery of the commissioned study under project ID JP1856.⁶

6. The authors would like to thank Craig Willis for invaluable assistance with language and copy editing, including proof reading, as well as the handling and formatting of the text and appendices.

GENERAL SITUATION OF NATIONAL MINORITY PROTECTION IN UKRAINE

Ukraine is a country populated by many national groups. Article 11 of the Constitution of Ukraine stipulates that

The State promotes the consolidation and development of the Ukrainian nation, of its historical consciousness, traditions and culture, and also the development of the ethnic, cultural, linguistic, and religious identity of all indigenous peoples and national minorities of Ukraine.

As recorded in the 2001 census, the main national groups living in Ukraine (apart from Ukrainians, which constitute the majority) include among others Russians, Belarusians, Moldovans, Crimean Tatars, Bulgarians, Poles, Hungarians, Romanians, Armenians, Jews; altogether 100 different national groups according to the 2001 census.⁷ In some territories of Ukraine, national minorities live so compactly that in some settlements (towns or villages) they comprise the majority or over one-third of the population. This is the case in the Transcarpathia, Chernivtsi and Odessa regions, as well as the Crimean Autonomous Republic, which was annexed by Russia in March 2014. People of Russian ethnic origin constitute a large share also in the Donetsk (38,2%), Luhansk (39%), Kharkiv (25,6%), Zaporizhia (24,7%) and Odessa (20,7%) regions. In this study, any reference to minorities refers to persons belonging to national, ethnic or religious groups, including Crimean Tatars, but not to individuals' sexual orientation, age or disabilities.

Like in many countries, ethnic and linguistic borders do not necessary coincide in Ukraine: many of those who think of themselves as belonging to certain national groups (as reported by 2001 census), speak another language. Thus, although 4,6% of the Ukrainian population reported they belonged to another than the Ukrainian or Russian national groups, only 2,9% named other than Ukrainian and Russian as their native language. Only 0,1% of them considered Ukrainian to be their native language. Between 1% and 89% of them (depending on ethnicity) consider Russian to be their native language. For instance, among Hungarians this share is 1% and among Greeks – up to 89%. While 17% of the Ukrainian population said they were of Russian national affiliation, 26,6% named Russian as their native language, indicating that a share of people who consider themselves to be of other than Russian affiliation, regard Russian as their native language.⁸ More recent reliable data is not available. There have been several opinion polls on this topic, but they are less accurate in terms of registering the number of people belonging to different national minorities than the census. The next census is planned for 2020.

One also has to distinguish between national minorities in Ukraine, between those which have kin-states and are associated with political and economic support from those states and those who might fall under the definition of indigenous people. In the latter case, the relationship to the land of original habitation seems to be an important factor.⁹ Moreover, the languages of this group, unlike those of national minorities who have the support of kin-states, are recognised by the UNESCO as being in danger.¹⁰ This group includes Crimean-Tatar, Krymchak, Karaim and Urum, who used to populate predominantly the Crimean peninsula. The Roma population in Ukraine constitute 0,1% of the population of Ukraine, according to the 2001 census, although in the Transcarpathian region, this population constitutes 1,1%. As in many countries home to Roma population, the actual number of persons of Roma affiliation is likely to be considerably larger.¹¹

7. One of the objectives of the census is, according the organizers, “to create the information base of demographic and socio-economic data about the population, its distribution by age, gender, nationality, language signs, family composition, citizenship, education... for the country as the whole and all its administrative and territorial divisions”, http://www.ukrcensus.gov.ua/eng/advant/advant_main.php. Therefore, among the numerous questions the respondents were asked, were the questions of their nationality and their native language (both defined subjectively and without a given list from which one has to choose).

8. Data based on 2001 census. Available at: <http://www.ukrcensus.gov.ua/eng> [accessed 28 October 2018].

9. See Ulrike Barten, “What’s in a Name? Peoples, Minorities, Indigenous Peoples, Tribal Groups and Nations”, *Journal on Ethnopolitics and Minority Issues in Europe*, Vol 14, No 1, 2015, 1–25. <http://www.ecmi.de/fileadmin/downloads/publications/JEMIE/2015/Barten.pdf>

10. See UNESCO Atlas of the World’s Languages in Danger. Available at: <http://www.unesco.org/languages-atlas/index.php> [accessed 28 October 2018].

11. A report issued by the Council of Europe’s Ad Hoc Committee on Roma and Traveller Issues (CAHROM) estimates there are between 200,000 and 400,000 Roma persons in Ukraine. CAHROM THEMATIC VISIT ON CHALLENGES AND BEST PRACTICES IN IMPLEMENTING ROMA INCLUSION STRATEGIES (WITH A FOCUS ON SOLVING THE LACK OF PERSONAL IDENTIFICATION DOCUMENTS AND IMPROVING ACCESS TO SOCIAL SERVICES, INCLUDING HEALTH CARE) 20 October 2017. Available at: <https://www.coe.int/en/web/portal/cahrom#%7B%2218184355%22%5B%2218184968%22%3A%2218185197%22%3A%2218199406%22%3D%7D> [accessed 24 October 2018].

In spite of the conflict in Eastern Ukraine and Crimea, the Ukrainian government has shown good faith and continued to seek to enhance national minority protection and support national minority promotion. During the past three years, a number of policy areas that impact directly or indirectly on the protection of national minorities has been undergoing reform. Most importantly, there has been, and continue to be, ongoing efforts to review and reform human rights legislation and policy programming that has direct impact on national minority protection. These efforts are progressing but at a slow pace. In addition to the improvements implemented in the area of anti-discrimination, national minority representatives have recently asked the parliament to address the need for updated and efficient legislation, including elaboration of a comprehensive strategy for ethno-cultural relations. This is no easy task given that the legislative acts that involve provisions relative to national minority protection are numerous and disparately scattered across the spectrum of the legal system. Directly relevant instruments range from national minority and IDP acts to criminal codes on hate speech and hate crime; they also involve legislation on education, elections and party representation as well as legislation on territorial reform. Legislation for language policy, indigenous peoples and Crimean Tatars has also been proposed.

Specifically, with regard to legislation, Ukraine adopted in 1992 a Law on National Minorities.¹² The state of the art of this Law is of concern to many observers, including the Advisory Committee to the FCNM (ACFC), which

notes with deep concern that the situation has not changed in relation to the lack of legislative framework on the protection of national minorities since the 2nd monitoring cycle. The now-outdated 1992 Law “On National Minorities” is widely considered badly focused and too vague to regulate complex issues connected to the protection of national minorities in contemporary Ukraine, and the existing legislation is disjointed, contradictory and piecemeal. A coherent policy on national minorities is still lacking at the state level. National minority concerns are not given adequate consideration and the possible effects of changing legislation on access to rights by persons belonging to national minorities are not taken into account.¹³

With regard to executive structures, the FCNM has observed that

... the Division for National Minorities and Ukrainian Expatriate Community of the Department for Religions and Nationalities at the Ministry of Culture remains the principal state body responsible for co-ordination and implementation of state projects addressed to national minorities. Regrettably, this structure, which is inadequately resourced and financed, cannot develop a fully-fledged action for the benefit of persons belonging to national minorities. The fact that the division, in addition to national minorities, is also responsible for the Ukrainian expatriate community (with the overwhelming part of its budget being devoted to the latter) seriously hampers the authorities’ scope for conducting a coherent, co-ordinated and long-term policy towards national minorities.¹⁴

The ACFC further notes that

[the] division, with a staff of 24, only some of whom work on national minority issues, is unable to adequately respond to the concerns of national minorities or carry out any coherent long-term policy on national minorities. As its field of competence is limited to culture, it is also not in a position to be an interlocutor of minority communities in other fields.¹⁵

Thus, the ACFC recommends that

... the authorities ... re-establish a specialised and stable government body with sufficient financial and human resources to co-ordinate all issues relating to national minority protection, in order to ensure transparency and build confidence that adequate attention is paid by the state to minority protection issues.¹⁶

With regard to consultative mechanisms, the ACFC has recommended that

The authorities should expand the consultation structures for minority representatives beyond the cultural and educational spheres and ensure effective opportunities for persons belonging to national minorities to participate in public affairs and play an active part in all decision-making processes affecting them.¹⁷

12. Law “On National Minorities” of Ukraine of 25 June 1992. Available at: <http://zakon.rada.gov.ua/laws/show/2494-12> [accessed 29 October 2018].

13. ACFC Fourth Opinion on Ukraine, paragraph 45, adopted on 10 March 2017. Available at: <https://rm.coe.int/fourth-opinion-on-ukraine-adopted-on-10-march-2017-published-on-5-marc/16807930cf> [accessed 22 September 2018].

14. Op. cit., paragraph 18

15. Op. cit., paragraph 173

16. Op. cit., paragraph 176

17. Op. cit., paragraph 177

The Committee of Experts (COMEX) of the ECRML has made a general recommendation encouraging “the Ukrainian authorities to adopt a structured approach for the implementation of each undertaking under the Charter, in co-operation with the representatives of the minority language speakers.”¹⁸ The COMEX further urges the Ukrainian authorities “to allow the Council of all-Ukrainian public minority associations to play a more active role in legislative and policy work carried out by the Ukrainian authorities in the field of minority languages.”¹⁹

A separate Council of Europe Report has indicated that the state of affairs of consultation with national and linguistic minorities, especially with regard to current review and amendment to education legislation, including amendments to the right to receive education in minority languages, resembles a ‘dialogue of the deaf’ (*dialogue de sourds*).²⁰ According to the Report, on the one side, the authorities are willing to listen to representatives of national and linguistic minorities, but they consider that the legislation in its revised form satisfies the teaching needs, including facilitating bilingual education. On the other hand, the representatives of the minorities have cried foul alleging that the legislation will lead to assimilation. Apparently, according to the Report, the two sides are talking at cross-purposes.²¹

18. COMEX Report “Application of the Charter in Ukraine. Second monitoring cycle” of 15 January 2014. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806dc600> [accessed 22 September 2018].

19. Op. cit., paragraph 99

20. Jean-Marie Woehrling, “Avis sur la mise an aeuve des consultations prevues par la Charte Europeenne des Langues Regionales our Minoritaires dans le cadre de la modification de la legislation ukrainienne sur l’education” undated, paragraph 66.

21. Ibid.

METHODOLOGY

The study had the following main components:

- ▶ Assessment
- ▶ Data collection
- ▶ Analyses
- ▶ Internal review
- ▶ Consultation with stakeholders
- ▶ Finalization

The assessment visits took place in several stages:

- ▶ Kyiv: June 2018
- ▶ Odessa: July 2018
- ▶ Lviv: July 2018
- ▶ Chernivtsi: July 2018

Data collection pertained to two aspects of the study, (1) the Ukrainian analysis and (2) the analysis of international case studies.

1. The collection of data for the Ukrainian analysis began during the assessment visits and continued through questionnaires. Two questionnaires were developed before the assessment visits. One questionnaire was designed for authorities with a view to collect information about structures addressing national minority protection at all levels of government. Questions related to both executive, advisory and consultative structures. See further Appendix 17. The second questionnaire was designed for representatives of national minorities and organisations working in the area of national minority protection. Questions related to current activities involving cooperation between national minority representatives and authorities as well as the level of satisfaction with current structures both at the executive and consultative level and at all levels of government. See further Appendix 18. Both questionnaires were distributed in Ukrainian and replies were submitted in Ukrainian.
2. Data collection for the international cases was carried out as desk work.

Data analysis was complex and complicated due to the hierarchical structure of the Ukrainian executive branch. Letters of invitation to public servants were not always answered, especially if they were not addressed or submitted correctly. Important interlocutors did not always reply, and some that replied, did not turn up at meetings. Moreover, it has not been possible to assess in full and comprehensively the effectiveness of specialised structures. Where ever possible, occasional statements by interlocutors have been included, but not according to any systematic analysis. A comprehensive analysis of the effectiveness of structures would require in-depth interviews and surveying, thus, a major separate study.

The questionnaires were translated into Ukrainian and distributed by emails and by hand during assessment visits. Many did not answer or return the questionnaires.

The two analyses were carried out in parallel. The Ukrainian analysis was carried out by a local Ukrainian expert to avoid extensive translation requirements. The analysis took longer than expected; responses arrived late due to the Ukrainian summer holiday season falling in the contract period. The international case analysis was finalised on time with preliminary results reported to the Council of Europe Kyiv office on 1 September as per the Terms of Reference. The comparative analysis was delayed due to the late arrival of the Ukrainian analysis.

The internal review by the Council of Europe took place from 28 September to 12 October 2018.

The consultation with stakeholders took place in Kyiv on 15 November 2018.

PART 1. EXECUTIVE STRUCTURES

According to the Constitution of Ukraine (1996), Ukraine is a semi-presidential unitary state. Executive power is exercised by both the president and the government, while legislative power is vested in the parliament (*Verkhovna Rada*). In 2004, amendments to the Constitution were introduced that shifted power-sharing between the president and the prime minister – giving more powers to the latter. This 2004 version of the Constitution is valid today.²² The members of the parliament and the president are elected by direct popular vote. The parliament is unicameral and consists of 450 deputies, of which 225 are elected in single-mandate constituencies (or majority vote) and 225 through party lists. Since the 2014 elections, 28 seats have been vacant, because they belong to single-mandate constituencies in annexed Crimea and the occupied territories in Eastern Ukraine. The president is elected through the two-round electoral system and a candidate must win an absolute majority of all votes cast. If no candidate obtains an absolute majority in the first round of voting, the two highest polling candidates contest a run-off second ballot. The prime minister is nominated by the president of Ukraine upon suggestion from the ruling parliamentary coalition (a simple majority of MPs is required to form a coalition) and subsequently approved by the parliamentary vote (a simple majority of MPs).

Although the prime minister formally heads the executive branch of government, the president controls some ministries and the General Prosecutor's Office, and appoints key positions in the country, such as regional governors. The direct popular mandate of the President and his powers sets the Ukrainian political system apart from other premier-presidential systems by giving higher authority to the president compared with the government.

In this Part, the executive structures relevant for governance of national minority affairs at the central, regional and local levels will be discussed. Where possible, the legal and institutional status of the structures will be described as well as their competences. The capacity of the specific functions that implement national minority protection will also be explained. See further Table 1, Appendix 5. It should be noted that the relevant structures and mechanisms in the Ukrainian parliament are described within the two categories of the methodology, executive structure and consultative mechanisms, as the Terms of Reference did not call for a separate category on the legislature.²³

CENTRAL LEVEL

The Ukrainian system of governance in the field of national minorities is very complex and reflects an administrative system and governance in constant transition.

Office of the President

In the Office of the President, there are two main structures relevant for national minority protection:

1. Department for Internal Policy;
2. Commissioner for the Affairs of Crimean Tatars.

Given the size of Ukraine and the high number of national minorities living in the territory, it is surprising that the President's Administration only assigns 1 person to monitor explicit national minority protection. The placement of the Commissioner for the Affairs of the Crimean Tatars in the President's Office is clearly political. It is all the more curious that there has not been adopted a policy of equality between Crimean Tatars and other minority groups, such as national minorities and Roma communities. The favouritism of the Crimean Tatars over other minority groups sends an unfortunate message not only to the implicated groups but to all observers of diversity and ethno-politics in Ukraine.

22. Between 2010 and 2014 under the Presidency of Viktor Yanukovich, the 1996 version was at place, but in February 2014 it was recognised as not valid, thus restoring the 2004 version.

23. See further appendices 1 to 4 for organigrams mapping the executive structures and consultative bodies and the central, regional and local levels in Ukraine.

Parliament (Verkhovna Rada)

In the Verkhovna Rada there are two main structures dealing explicitly with national minority protection and one dealing partially with it:

1. The Committee on Human Rights, Rights of Minorities and International Relations;
2. The Committee on Culture and Spirituality;
3. The Commissioner for Human Rights (Ombudsperson)

The structures within the parliament appear in comparison well-developed and with relevant remits to address national minority protection within committees (see further Part 3 on International Examples). It should be noted that the low number of members and the fact that deputies with national minority affiliation may not be active in the Committee could be cause for concern. However, the Committee's work seems to be very productive. The Committee meetings are always open to everyone, including the press, and comments are usually solicited from the audience in attendance as well as consequently received in writing. Meetings are announced one week in advance and according to interlocutors the work of the Committee is generally transparent.

It is unfortunate that the Commissioner for Human Rights does not have a specific mandate to monitor national minority protection. The fact that one member of staff is designated to monitoring national minority rights is positive, but it is not clear how firmly this function is established within the structure of the Commissioner's administration. Without a clear legal remit for such a function, there is a risk that it will be up to the individual Commissioner to decide whether or not to appoint such an officer.

Cabinet of Ministers

State institutions in charge of national minorities have undergone several waves of reorganisation:

1991–93: the Committee on Nationalities under the Cabinet of Ministers was created in July 1991, before Ukraine even proclaimed its independence.²⁴ The Committee's major tasks were to create conditions (together with other authorities) for national minorities to satisfy their socio-economic and non-material needs, for the revival and development in Ukraine of national cultures, languages and traditions; to promote employment practices by public authorities that would ensure representation of citizens of Ukraine of various nationalities; and to support Ukrainians who live abroad in satisfying their national-non-material needs (Resolution of the Cabinet of Ministers of Ukraine No. 71, 1992). The status, function, and powers of this authority were in constant flux and the President of Ukraine took all decisions related to its reorganisation.

1993–96: the Ministry of Ukraine on Nationalities and Migration; Ministry on Nationality, Migration and Religions. The former was created in 1993²⁵ and replaced the above Committee. As of 1994, inter-religious relations were added to the portfolio of the ministry and it was renamed.²⁶ In 1996, it returned to its original remit.

1996–99: the State Committee on Nationalities and Migration.²⁷ In 1996, the ministry was reorganised into the Committee which was abolished in 1999 and replaced by the State Department within the Ministry of Justice of Ukraine.

1999–2001: the Department on Nationalities and Migration in the Ministry of Justice of Ukraine. The State Committee on Nationalities and Migration was created again in 2001 on the basis of this Department.²⁸

24. See <http://zakon3.rada.gov.ua/laws/show/79%D0%B0-91-%D0%BF> and <http://zakon3.rada.gov.ua/laws/show/118-91-%D0%BF> for resolutions of July and August 1991, respectively [accessed 28 October 2018].

25. Resolution of the Cabinet of Ministers of Ukraine No. 487, 1993

26. Указ Президента України № 703/94 „Про затвердження Положення про Міністерство України у справах національностей, міграції та культурів“ [Decree of the President of Ukraine №703/94 „On the Ministry of Ukraine on Nationalities and Migration and Cults“], 26.11.1994. <http://zakon3.rada.gov.ua/laws/show/703/94> [accessed 28 October 2018].

27. Указ Президента України № 1001/96 „Про Положення про Державний комітет України у справах національностей та міграції“ [Decree of the President of Ukraine №1001/96 „On State Committee of Ukraine on Nationalities and Migration“], 28.10.1996.<http://zakon3.rada.gov.ua/laws/show/1001/96> [accessed 28 October 2018].

28. Указ Президента України № 836/2001 „Про Державний комітет України у справах національностей та міграції“ [Decree of the President of Ukraine № 836/2001 „On State Committee of Ukraine on Nationalities and Migration“], 13.09.2001. <http://zakon2.rada.gov.ua/laws/show/836/2001> [accessed 28 October 2018].

2007–10: the State Committee on Nationalities and Religion was established in 2007 to replace the State Committee on Nationalities and Migration, as migration-related issues were transferred to other executive authorities.²⁹ This Committee was subordinated to the Cabinet of Ministers through the vice-prime minister of Ukraine. Its functions were fairly similar to those of the previous Committee.

2010–present: when Yanukovich became the President of Ukraine he conducted an administrative reform, aimed at 'optimising the system of central executive authorities'.³⁰ The State Committee on Nationalities and Religion was abolished and re-emerged as the Department of Religions and Nationalities of the Ministry of Culture. In 2010, the Ministry of Culture became the special central executive authority responsible for interethnic relations, religions, and the protection of national minority rights.³¹ Some issues that were previously in the hands of one authority (the Committee) were transferred to other ministries. Thus, the issues of integration of previously deported people became the responsibility of the Ministry of Social Policy, while the issues of education in minority languages became the responsibility of the Ministry of Education and Science of Ukraine (particularly the Department of Secondary and Preschool Education). The Ministry of Interior and the Security Service of Ukraine also have respective departments and functions.

2014–15: a short-lived institution of the Plenipotentiary on Ethnonational Policy (also known as Commissioner) was set up. Under the decision of the Cabinet of Ministers, the Plenipotentiary was granted broad but ambiguously defined functions related to ethno-national policy. The office holder was to initiate, organise and coordinate the preparation of draft laws, other normative legal acts, and state programmes in the field of ethno-national policy as well as to participate in their preparation. They would initiate and coordinate measures to foster tolerance and prevent the rise of national, racial or religious hatred, xenophobia, including manifestations of discrimination, intolerant attitudes towards ethno-national communities and individuals. The Commissioner was also tasked with initiating the creation and to take part in bilateral and multilateral government commissions and their Ukrainian counterparts in the field of ethno-national policy, coordinating the preparation of periodical reports on ethno-national policy in Ukraine as well as maintaining contacts between the government and Ukrainians abroad, including initiating and coordinating measures to protect their collective rights. At the official level, the position was equal to the status of Deputy Minister and was classified as the first category of state service positions. The office holder coordinated actions with the Ministry of Culture and was able to vote in the meetings of the Cabinet of Ministers when considering issues that belong to their competence. The Plenipotentiary's office was very small and was never completely staffed, plus attempts to acquire new formal powers were not successful. In April 2015, the institution was abolished without consultations with minorities and without an alternative being created.

April 2016: a new Ministry on Temporarily Occupied Territories and Internally Displaced Persons was established by merging the State Agency on Restoration of Donbas and the Government Service on the Autonomous Republic of Crimea and City of Sevastopol, both previously established in 2014–2015.³² The issues of Crimean Tatars and national minorities in the temporarily occupied territories became partly a responsibility of this new ministry.

There is also an Inter-departmental Working Group on Roma, which was established in November 2015 as a part of implementation of the 'Strategy for Protection and Integration of Roma National Minority into Ukrainian Society till 2020'.³³

2018–present: Article 73 of the 2017 Law on Education foresees the establishment of the institution of an educational ombudsperson, the purpose of which would be determined as ensuring proper conditions for

29. See Постанова Кабінету Міністрів України №1575 „Про утворення Державного комітету України у справах національностей та релігій” [Resolution of the Cabinet of Ministers of Ukraine №1575 “On State Committee of Ukraine on Nationalities and Religions”], 08.11.2006. <http://zakon3.rada.gov.ua/laws/show/1575-2006-%D0%BF> [accessed 28 October 2018]. Its functions were outlined by Постанова Кабінету Міністрів України №201 „Про затвердження Положення про Державний комітет України у справах національностей та релігій” [Resolution of the Cabinet of Ministries of Ukraine №201 “On Ordinance On State Committee of Ukraine on Nationalities and Religions”], 14.02.2007. <http://zakon3.rada.gov.ua/laws/show/201-2007-%D0%BF> [accessed 28 October 2018].

30. See Указ Президента України № 1085/2010 „Про оптимізацію системи центральних органів виконавчої влади” [Decree of the President of Ukraine № 1085/2010 „On Optimising the System of Central Executive Authorities”], 09.12.2010. <http://zakon2.rada.gov.ua/laws/show/1085/2010> [accessed 28 October 2018].

31. Resolution of the Cabinet of Ministers No. 495, 2014. See information about the Department (structure, composition and contact information) on the web-site of the Ministry of Culture: http://mincult.kmu.gov.ua/control/uk/publish/article?art_id=245168495&cat_id=244910117 [accessed 28 October 2018].

32. Постанова Кабінету Міністрів України №299-2016-п „Питання діяльності Міністерства з питань тимчасово окупованих територій та внутрішньо переміщених осіб” [Resolution of the Cabinet of Ministries of Ukraine №299-2016-п “On Activities of the Ministry on Temporarily Occupied Territories and Internally Displaced Persons”], 20.04.2016. <http://zakon2.rada.gov.ua/laws/show/299-2016-%D0%BF> [accessed 28 October 2018].

33. Decree of the Cabinet of Ministers No. 993 as of 25 November 2015. www.kmu.gov.ua/control/uk/cardnpd?docid=248677547 [accessed 28 October 2018].

implementation of the rights of the person to education. Thus, the main role of the office holder would be to promote the implementation of the child's right to education. In June 2018, the Cabinet of Ministers instructed the Ministry of Education and Science to draw up a profile for such a position to be effective 1 January 2019. The office holder will be appointed by the Cabinet of Ministers for a term of 5 years without the right of re-appointment. At the time of writing, it remains unclear exactly where this position will be placed in the executive structures and which competences they will have.

In September 2018, the Cabinet of Ministers also agreed to create a new and independent executive structure for national minority issues. At the time of writing, it is not clear how the new structure will be incorporated in the central government structure.

Currently there are two structures within the Cabinet of Ministers dealing with national minority protection:

1. The Department for Ethnonational Policy, Religions and Ukrainians living Abroad;
2. The Inter-departmental Working Group on implementation of the Roma Strategy.

The Cabinet of Ministers has had an uncoordinated approach to national minority protection since independence. Responsibilities have migrated around from one body of the central administration to another and relevant structures have been established and abolished without logic. Since the appointment of the Ministry of Culture as key responsible agency in 2010, some consistency if not permanency seems to have been achieved. It remains to be seen what the recent decision in September 2018 will provision. It is positive that the Cabinet assigns a separate department for technical aspects in the area of inter-ethnic policy-making. It would, however, be important to make sure that the Department is accessible for representatives of national minorities *inter alia* through a strong policy of transparency in its daily work. The fact that the Cabinet has created an inclusive working group on the implementation of the Roma Strategy is very positive. It sends a good signal that Roma inclusion is at the top of the agenda of the government, and the fact that Roma representatives participate in the Working Group communicates a democratic and transparent approach.

The establishment of the new position of an 'Education Ombudsperson' is particularly welcome. It is important that the position holder is assigned independent powers and abilities to act, including to issue recommendations on current and future legislation. The placement and mandate must be neutral and clear. It is to be hoped that the assignment of 15 staff will make the grounding for a good start.

Ministry of Foreign Affairs

Within the Ministry of Foreign Affairs one department is responsible for national minority issues, religious communities and Ukrainians abroad, the Department of Ethnic and Confessional Dialogue. The Ministry of Foreign Affairs has adopted a perfunctory approach to addressing issues related to national minorities. The functions that need to be covered in regard to Ukraine's international obligations appear to exist. It is not clear, however, whether any staff working in these functions are experts on national minority issues or generalists in the area of human rights. Given the large number of national minorities residing in Ukraine, the Ministry of Foreign Affairs will need to be involved in a number of international and bilateral fora related to national minority protection. Specifically, with regard to the bilateral relations, it is not clear that the Ministry has any powers other than a coordinating role. This may be detrimental especially in the relations with kin-states to national minorities living in Ukraine. To avoid that national minority issues ping-pong between agencies, the parliament and the President's Administration, or get high-jacked by one of these, it is important to assign adequate powers to the Ministry of Foreign Affairs.

Ministry of Culture

Since 2010, the Ministry of Culture has been the main responsible structure within the executive branch in charge of national minority protection. Within the Ministry, the Department of Ethnic/National Minorities and Religious Affairs handles the day-to-day implementation of the government's policies. The Department divides its responsibility among three divisions:

1. Division of Informational and Analytical Work on Issues of Ethnopolitics;
2. Division of International Cooperation on National Minorities;
3. Division of Interaction with national Communities of Ukraine and Ukrainians abroad.

In the years since the Ministry took over the main responsibilities regarding national minorities, it has managed to create relevant functions to cover the many tasks assigned. Given the number and sizes of national minorities in Ukraine, it could be questioned whether a staff of 11 is adequate to cover the three main functions: analysis, international cooperation and stakeholder relations both within and outside the country. The fact that the Ministry is responsible for the bilateral relations with kin-states, including the implementation of bilateral treaties could also be questioned. Processes of international negotiations require specific skills, especially in sensitive areas of kin-state issues. These responsibilities could well be placed in the Ministry of Foreign Affairs, whose staff should have greater experience in this field.

Specifically, with regard to implementing Ukraine's international obligations with regard to the protection of the language rights of national minorities as well as the protection and promotion of minority and regional languages, it is surprising that these functions are not placed in the Ministry of Culture. These functions are placed in the Ministry of Education and Science, while it is the Ministry of Culture which is overall responsible for Ukraine's implementation of the FCNM and the ECRML. While it is to be expected that a certain degree of coordination takes place every time an international instrument is monitored, this division of tasks poses a risk to the quality of internal policy-making, such as in the case of revision of legislation on education.

Ministry of Education and Science

The Ministry of Education and Science ensures the formation and implementation of state policy in the areas of education and science, scientific, technical and innovative activities. There are two departments, one office and a number of working groups in the Ministry, which deal with national minority protection:

1. Department of General Secondary and Pre-School Education;
2. Unit of Content of Education, Language Policy and Education of National Minorities;
3. Department of the International and Strategic Planning and European Integration;
4. Working Groups.

The Ministry of Education and Science holds the arguably most important portfolio with regard to the protection of the rights of national minorities. Education is considered the best tool to securing the survival of national minority communities. Given the large number of national minorities in Ukraine whose first language is not Ukrainian, the competences of the Ministry in the area of national minority education are vital to the democratic development of language policies. It is thus welcomed that the Ministry has established a number of working groups to support its mandate. The fact that only 2 members of staff are assigned to national minority education is of concern. It has been pointed out by interlocutors that it is only due to the strong personal dedication of the 2 persons that national minority issues receive attention.

Especially important is the Working Group on Article 7 of the Law on Education. It remains to be seen how this working group will follow the implementation of the right of national minorities to speak and learn in their first language through primary and secondary education. The composition of the Working Group is also important. The Ministry must assure that the Group receives adequate funding to monitor and support regional and local administrations in implementing the new legislation in a fair manner. The Group should also be able to receive feedback from school masters and teachers so that they can propose amendments to the Minister for Education. There should be a good budget for traveling to the regions and areas where national minority education is under threat of being eliminated. The timeframe of the Group is not clear. If it is considered a temporary mandate, the Group will not be able to develop good oversight and practices, nor will it achieve recognition as a tool *for* national minorities as opposed to a tool *about* national minorities. Finally, it should be made clearer whether it functions both as a support structure for the executive branch and as a consultative body.

Ministry of Internal Affairs

Within the Ministry of Internal Affairs there are 2 entities relevant for the protection of national minorities:

- ▶ The Department for the Protection of Human Rights;
- ▶ The Working Group on Law Enforcement and Migration.

The lack of information about the Ministry of Internal Affairs' approach to law enforcement prevents the experts from assessing an important aspect of domestic policy-making, the fair treatment of all citizens and residents irrespective of their race, colour, ethnicity, nationality, language or religion. The fact that the Ministry's Working Group on Law Enforcement participates in the implementation of the Roma Strategy is thus difficult to assess. A securitisation of Roma issues should be avoided.

Ministry on Temporarily Occupied Territories and Internally Displaced Persons

The Ministry ensures the formation and implementation of state policy in temporarily occupied territories in the regions of Donetsk and Lugansk and the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol. It does not hold competences in the area of national minorities but covers aspects of the protection of Crimean Tatars in these regions. Only one office, the Office of the Autonomous Republic of Crimea and Sevastopol, is tasked with working with protection of Crimean Tatars and indigenous peoples.

The assessment visits did not include meetings with representatives of the Ministry. However, it is important to the overall picture of protection of human rights, especially Ukraine's obligations under international treaties, to assess how this Ministry cooperates with other executive structures in charge of protection of national minorities, such as the Ministry of Culture and the Ministry of Education as well as the Office of the President and other institutions dealing with the protection of Crimean Tatars.

REGIONAL AND LOCAL LEVEL

With regard to distribution of functions and responsibilities between the central and other levels (regional, local), Ukraine inherited a centralised system of governance from being a part of the Soviet Union for a long time. When Ukraine became an independent state in 1991, it had 24 regions (*oblasts*) as well as three areas with a special status: the Autonomous Republic of Crimea and the cities of Kyiv and Sevastopol. At the next level down, there were 490 districts (*raions*), including 458 towns, 783 smaller settlements, and 10,279 villages. This used to be a system of vertical executive authority, whereby regional and raion administrations were all subordinate to the national government in Kyiv and the heads of regional administrations or governors were nominated by the Cabinet of Ministers and then appointed by the President of Ukraine. Locally elected authorities used to play a marginal role if any. Taxes were collected centrally in Kyiv, and regional/local administrations received budget allocations directly from Kyiv.³⁴

Today, the administrative system of Ukraine consists of 24 regions (*oblasts*), one autonomous region (Republic of Crimea/*Avtonomna respublika Krym*) which has been annexed by Russia in 2014, two cities with a special statute (Kyiv and Sevastopol), and 10,885 municipal (district) councils, among them 9,644 village councils (*sil'ska rada*), 783 town councils (*selyshchna rada*) and 458 city councils (*miska rada*).³⁵ Thus, sub-national government in Ukraine is composed of regional and district councils as well as city, town, village councils and their executive bodies.

The central executive power is represented by regional and district state administrations (*oblasni, rayonni derzhavni administracii*). The existence of two different systems of local government: local administrations, representing the executive power, and local self-government, can be a source of conflict. It is important to recall that while the implementation of the FCNM and the ECRML is the obligation of the Ukrainian state and government, the day-to-day implementation is the responsibility of the Regional State Administrations and the local districts under guidance by the central administration.

In 2014 the Cabinet of Ministers approved the "Concept of local government and territorial organisation reform."³⁶ Ukraine is guided in this process by the standards contained in the European Charter on Local Self-Government. A three-tier territorial system for administrative units plus a trans-territorial unit was laid out:

34. Balázs Jarábik, Yulia Yesmukhanova, "Ukraine's Slow Struggle for Decentralization", Carnegie Endowment for International Peace, March 8, 2017. Available at: <http://carnegieendowment.org/2017/03/08/ukraine-s-slow-struggle-for-decentralization-pub-68219> [accessed 28 October 2018].

35. Committee of the Regions website: <https://portal.cor.europa.eu/divisionpowers/countries/EasternPartnershipcountries/Ukraine/Pages/default.aspx> [accessed 22 September 2018].

36. Концепція реформування місцевого самоврядування та територіальної організації влади в Україні [Concept of reforming local self-governance and territorial organization of authority in Ukraine], Resolution of the Cabinet of Ministers of Ukraine No. 333-p, 01.04.2014. <http://zakon2.rada.gov.ua/laws/show/333-2014-%D1%80> [accessed 28 October 2018].

1. Regional (*oblasts*, Autonomous Republic of Crimea, Kyiv and Sevastopol);
2. District (*raions*);
3. Basic (*hromadas*);
4. Unified territorial communities (UTC) – horizontal.

Article 140 of the Constitution stipulates that local self-government is exercised through local councils in villages, towns and cities and their executive bodies. Although the Constitution (Art. 140) does not determine village's and hamlet's heads as local authorities, in the Law "on Local Self-Government" (Art. 5) they are defined as local governments, "the main authorities of the territorial community" (Art. 12), enforced with the power to solve local issues (Art. 42), to manage local budgets and extra-budgetary resources, and to enforce contracts etc. Thus, municipal heads at the basic level act as independent entities responsible for resolving local issues. Regional and district councils represent the interests of communities and do not have their own executive bodies. Instead, the Law "On Local State Administrations" stipulates that regional and district state administrations exercise executive powers in the relevant policy areas.

Deputies of hamlet, village, town, city, district and regional councils are elected by local residents through general, equal and direct voting, by secret ballot. Chairmen of the Regional and District Councils are elected by the respective council's members and preside over the executive staff of their councils. Heads of the regional and district state administrations are proposed by the Cabinet of Ministers and appointed by the President; their tenure remains valid during the presidential period.

Ukraine's legislation on self-government is complex, in certain parts contradicting itself and at times not particularly clear. There is some contradiction between the Constitution and other laws, e.g. "Law on Local Self-Government" (1997). Under Ukrainian legislation, municipal authorities can decide on their policies independently. In reality, as most of the village and some urban communities do not have enough financial resources to provide all necessary services to their residents, these functions are managed and financed by the district level – state administrations. Thus, enormous administrative powers are concentrated at the level of regional and district administrations; the former are directly subordinated to the President and are not accountable to the voters and the political forces in the regions.

The local exclusive competences are governed by the Constitution (Art. 143) and the Law on Local Self-Government. District and regional councils do not have executive powers, thus their ability to act is limited. They approve the programmes of socio-economic and cultural development and control their implementation; approve (but not compile) district and regional budgets. According to the 'Law of Ukraine on Local State Administrations' the main competences are shared with the central government. The Constitution entitles central executive authorities to delegate functions to local councils. Delegated responsibilities include administrative, financial, personnel, etc. (74 positions according the Law). Delegated responsibilities are accompanied by enhanced control by the central government over local authorities. The government supports the exercise of such delegated powers in full from the state budget. The share of own revenues of local budgets directed to cover delegated responsibilities is steadily growing: 2009 – 26.3%, 2010 – 25.6%, 2011 – 33.4%, 2012 – 42.6%, 2013 – 43.4%.³⁷

With the passing of the Law of Ukraine 'On voluntary amalgamation of territorial communities' in 2015, a trans-territorial administration unit was added.³⁸ The Law allows for the amalgamation of existing communities (*hromadas*) into bigger units. According to experts, the decentralisation reform in Ukraine is unique and does not copy the experience of other countries. The main objective of the reform is to create the right conditions for the development of communities and bring services closer to the public through the formation of wealthy communities, delegating most powers to the basic level, clearly dividing responsibilities between different branches of government, and ensuring proper resource provision for local self-government. Thus, communities would be in charge of primary and secondary education, primary healthcare, housing and utilities, construction, local roads, and infrastructure. Executive powers will be delegated from regional administrations to executive committees of local councils, while prefects will substitute chairpersons of regional state administrations, according to the European Charter of Local Self-Government.³⁹

37. <https://portal.cor.europa.eu/divisionpowers/Pages/Ukraine-.aspx> [accessed 19 September 2018].

38. Закон України No. 676-VIII 'Про добровільне об'єднання територіальних громад' [The Law of Ukraine No. 676-VIII 'On Voluntary Amalgamation of Territorial Communities'], 04.09.2015. <http://zakon2.rada.gov.ua/laws/show/157-19> [accessed 28 October 2018].

39. Ukrainian Center for Independent Political Research, "Decentralisation in Ukraine Achievements, expectations and concerns," International Alert (2017) https://www.international-alert.org/sites/default/files/Ukraine_Decentralisation_EN_2017.pdf [accessed 22 September 2018].

The amalgamation opens the door for the use of resources from the State Fund for Regional Development (SFRD). Under the law, the amount of SFRD funds constitutes 1% of planned state budget revenues and will lay the foundation for funding regional development projects on a competitive basis and in compliance with regional development strategies and action plans for their implementation. Furthermore, community projects should be in line with priorities set out in the Regional Development Strategy to be adopted in accordance with the law 'On the principles of state regional policy.'⁴⁰ Specifically, with regard to national minorities and their participation in the amalgamation process, there are no guidelines to back up Article 4 of the 'Law on voluntary amalgamation of territorial communities,' which unfortunately is rather vague.

As of July 2018, 705 UTCs and a further 48 planned are waiting for approval by the Central Election Commission.⁴¹ It is expected that 1,500 UTCs will be created. With regard to the regions surveyed in this Report, the pace of amalgamation is average in the regions of Odessa and Chernivtsi, with Chernivtsi showing the best results in ethnically diverse communities. In the Odessa Region, the slower processes are found in the southern part of the Region. The region with the worst indicators of amalgamation is the Transcarpathia Region, where only 6 out of 13 districts have managed to create UTCs, with 3 of these 8 are home to national minorities. Unfortunately, the strategic documents for decentralisation rarely reflect the need to address national minority issues, except with regard to cultural issues.

The newly established UTCs that have held elections (201 on 29 October 2017)⁴² received new powers that permit them to determine the size and structure of their own executive administrations, even though the central government still decides on the salary levels of local employees.⁴³ Thus, a clear delineation of powers and responsibilities between the central, regional, and local levels is still in the making: while the old administrative division is still there and decentralisation reform has not touched upon the powers of regional administrations, the newly created communities gain resources and powers for local governance. Contradiction and tensions (for instance, between regional administrations and communities, between elected authorities at the local level and those that are appointed within the centralised vertical executive, between mayors and local councils) are common, as well as some issues that are not being dealt with at all, since it is not clear who is in charge.⁴⁴

Regional State Administration (oblasts)

The activities of Regional State Administrations (RSA) are defined and regulated by a number of laws and legislative acts, the main of which is the Law of Ukraine on Local State Administrations. In RSAs, the functions and tasks of ethno-political management are implemented by relevant structural units, departments or offices dealing with national minorities, usually named Department of Culture, Nationalities and Religions. These are formed by the Head of the RSA and report to the Head but are also accountable to the Ministry of Culture of the central administration. Analysis of the institutional setting of regional administrations and respective structural entities that deal with national minority governance, shows that regional administrations currently have the following structural entities: departments (*departament*), which is the highest-level, directorates (*upravlinnia*) – a somewhat lower level – units (*viddil*) and sectors (*sektor*). In some regional administrations there are sectors that deal exclusively with the issues of national minorities; in others they have other tasks as well. In some administrations the sectors and units that deal with minority issues are parts of departments; in others they are parts of directorates. In both cases, the relevant departments and directorates are responsible for a range of issues, national minorities being only a small portion of those. The competences of these Departments include ensuring the implementation of state policy. Depending on the region and the possible compact residence of national minorities, these structures may vary in terms of their staff and level of authority. However, in some RSAs, activities are mainly aimed at monitoring and analysing the socio-political and cultural life of ethnic communities and preparing proposals for addressing any emerging issues.

Currently all structural entities of regional administrations are guided by special ordinance (*polozhennia*), which is decided upon by the Governor based on the standard ordinance (*typove polozhennia*) about structural entities

40. Op. cit., p. 5.

41. Homepage of the government, <https://decentralization.gov.ua/en/news/8947> [accessed 23 September 2018].

42. Вибори в об'єднаних територіальних громадах. Що це і для чого потрібно. [Elections in amalgamated communities. What are they about and why are they needed] Еспресо.tv October 31, 2017. Available at: https://espresso.tv/article/2017/10/30/vybyory_v_obyednanykh_terytorialnykh_gromadakh_scho_ce_i_dlya_chogo_potribne [accessed 28 October 2018].

43. The salaries of civil servants in Ukraine are defined centrally. See Iryna Piontkivska, Oleksandr Kashko, "What is Wrong with the Remuneration of Labour of Civil Servants and How to Change That?", Vox Ukraine, August 31, 2017. Available at: <https://voxukraine.org/2017/08/31/what-is-wrong-with-the-remuneration-of-labour-of-civil-servants-and-how-to-change-that/> [accessed 28 October 2018].

44. See Balázs Jarábik and Yulia Yesmukhanova, op. cit.

of state local administrations, adopted by the Cabinet of Ministers in 2012.⁴⁵ The standard ordinance does not contain specific provisions on entities that deal with national minorities. Before 2012, there was a standard ordinance about Directorates on Nationalities and Religions of regional state administrations, which was adopted in 2008.⁴⁶ It was very elaborate and tasked the relevant units of regional administrations with the entire range of issues pertaining to the implementation of state policy on inter-ethnic relations. However, the number of civil servants working in relevant structural entities is also small: a department (dealing with a broad spectrum of issues, including national minorities) might consist of five staff members (head of department, three major specialists, and a leading specialist); in sectors relating to national minority issues (if they exist) it is often only two (head of sector and a major specialist).

With regard to Ukrainians living abroad, the departments are also tasked with creating the conditions for meeting the cultural, linguistic, educational and informational needs of expat Ukrainians; promoting the preservation and development of the Ukrainian nation's culture; ensuring the functioning of the Ukrainian language and culture in all spheres of public life in Ukraine.

Regional Councils (oblast assemblies)

Regional and district councils (parliaments, assemblies) approve programmes of social, economic and cultural development and control their implementation. They approve budgets, which are formed from the state budget funds for respective distribution between territorial communities or for implementation of joint projects, and funds borrowed on a contractual basis from local budgets for implementation of joint social, economic and cultural programmes. They control the implementation of these and decide other issues assigned by law to their competence. Most regional councils have budget committees attached.

The Ombudsperson for Human Rights has established 21 satellite offices. Unfortunately, there is no information as to how these work on protecting national minority rights at the regional and district levels.

In the following, the regional and district level will be discussed in terms of four regions of relevance: Odessa, Lviv, Chernivtsi and Transcarpathia, the regions visited by the experts. Other regions were surveyed through deskwork and questionnaires. Appendices 5 and 6 (Tables 1 and 2) provide further information about other regions of relevance to national minority protection.

Regional Administration of Odessa

The Region of Odessa is a large province in southwestern Ukraine, located along the northern coast of the Black Sea. The Region is also the largest in Ukraine by area; it approximates the size of either Belgium or the Netherlands, occupying an area of around 33,300 km². It consists of the eastern part of the historical area of Novorossiya and the southern part of the historical area of Bessarabia. Its administrative center is the city of Odessa, which is the third largest city in Ukraine. The Region is sub-divided into 26 districts and 7 cities which are directly subordinate to the RSA, as well as 1138 villages. The population of the region is estimated at 2.4 million (2004), nearly 40% of whom live in the city of Odessa. Significant Bulgarian (6.1%) and Romanian (5.0%) minorities reside in the Region, and it has the highest proportion of Jews of any oblast in Ukraine (although less than the Autonomous City of Kiev). There is also a small Greek community in the city of Odessa. 42% of the Region's territorial hromadas have not been able to establish UTCs. 28 UTCs have been established with only few in areas where national minorities or ethnic groups live (Starokozatska and Krasnosilska both mixed population). The strategy for amalgamation in the Region of Odessa includes a reference to the need to support the cultural centres of national minorities (within one paragraph).

45. Постанова Кабінету Міністрів України No. 887 "Про затвердження Типового положення про структурний підрозділ місцевої державної адміністрації" [Resolution of the Cabinet of Ministers of Ukraine No. 887 "On adopting the Standard ordinance about structural units of state local administrations"], 26.09.2012. <http://zakon2.rada.gov.ua/laws/show/887-2012-%D0%BF> [accessed 28 October 2018].

46. Постанова Кабінету Міністрів України No. 171 "Про затвердження Типового положення Типового положення про управління у справах національностей та релігій Київської міської, управління (відділ) у справах національностей та релігій обласної, відділ у справах національностей та релігій Севастопольської міської державної адміністрації" [Resolution of the Cabinet of Ministers of Ukraine No. 171 "On adopting the Typical Ordinance about the Directorates on Nationalities and Religions of the Kyiv City Administration, Directorate (unit) on Nationalities and Religions of regional administrations and the Directorates on Nationalities and Religions of the Sevastopol City State Administration"], 12.03.2008. <http://zakon4.rada.gov.ua/laws/show/171-2008-%D0%BF> [accessed 28 October 2018].

The District of Budjak (the southern part of Bessarabia) is one of the most diverse districts in Ukraine. It is home to many Bulgarians and Romanians, representing 21% and 13% of the population respectively, but also Russian and Moldovan communities have lived in Budjak for many years. After the annexation of Crimea by Russia in 2014, there were strong separatist movements in Budjak but these have apparently disappeared. Although it is the most western district of Ukraine, bordering Moldova and close to Romania, a large proportion of its population maintain nostalgic feelings for Russia and the former Soviet Union. Russian remains the lingua franca of the district. Observers have noted that Budjak is not a “melting pot”; villages are mono-ethnic, inter-marriage rates are low, and economic sectors are segregated according to nationalities.⁴⁷ While the southwestern area of Ukraine is not deemed conflict-prone, economic factors top the list of discontents. In spite of the area’s rich soil and high-quality fruit and vegetables, the agricultural sector has suffered recently due to lack of investment. It is one of the districts that still has not found successful solutions to amalgamation. Reasons mentioned for this stalemate in the process include resistance among regional and local decision-makers and gaps in communication and information of national minority communities. Thus, decentralisation is a contentious issues, as is also the new Law on Education and its restrictions on the teaching of minority languages. The conflict potential in the Odessa Region is clearly high.

In the RSA for Odessa there are two divisions under the Department of Culture, Nationalities, Religions, and the Protection of Cultural Heritage addressing national minority issues:

- ▶ Division of Culture, Nationalities and Religions;
- ▶ Division of the Protection of Cultural Heritage.

It is positive that there are 2 divisions in the Odessa RSA which can address national minority issues, even if they do not exclusively cover national minorities. However, with a population of 2.4 million of which more than 10% belong to national or religious minorities, it is questionable if 2 public servants are adequate to cover the broad spectrum of both protection and inter-ethnic relations. It is also to be questioned why there is no function in the Regional Council that addresses inter-ethnic relations and minority protection, even if the Council does not have competences in this regard. Specifically, with regard to budgeting, it might be fruitful to have a function that takes into account the needs of national minorities. Similarly, in the ongoing amalgamation process, it is questionable that there are no public functions that will secure that the needs of national minorities are addressed during the process. The fact that there are no provisions in the regional decentralisation strategy is indicative of the lack of attention to the needs of national minorities. There is no information about committees at the Regional Council of Odessa addressing national minority protection. The Ukrainian Commissioner for Human Rights has established an office in Odessa.

During the assessment visits and through the questionnaires on executive structures, it was emphasised that there is a lack of linkages and a low level of coordination between the central level of executive power and the regional level of implementation of ethno-national policy. Specifically, it has been pointed out that there is a need for joint activities for civil servants within the framework of the Department of Religious Affairs and Nationalities of the Ministry of Culture. Events should include the exchange of good practices and the issue of further training of regional staff. Linkages at the regional and local levels are also a problem. There is a need to establish exchange of information and good practices, and joint meetings at least biannually between the RSAs and the city state administration responsible for the implementation of the state national policy at the regional level. In general, there is a lack of information flowing to civil servants, whose competence includes the authority to implement state policy in the field of inter-ethnic relations and the protection of the rights of national minorities, including information sharing among themselves about successful practices and problem-solving in the regions. Particularly, in the area of education, a need for information sharing was voiced. The respondents called for joint meetings between the structural units, whose responsibilities include the issues of education of national minorities, the issue of work with youth and the issue of inter-ethnic relations.

Information exchange seems a high priority among many respondents. Thus, many highlighted that there is a need for a common information resource for the exchange of information between national minorities and the relevant state structures. Some noted that the creation of a good practice database for representatives of ethnic groups cooperating in projects aimed at developing local communities would be helpful.

Finally, respondents emphasised that there is a need to increase the number of employees, the official duties of which include ensuring the implementation of state policy in the sphere of state language policy, interethnic relations and the protection of the rights of national minorities. Specifically, with regard to the amalgamation process, some expressed the necessity to establish the position of adviser on protection of national minority rights

47. Thomas de Waal and Balazs Jarabik, “Bessarabia’s Hopes and Fears on Ukraine’s Edge”, Carnegie Europe, 24 May 2018. Available at: <https://carnegieeurope.eu/2018/05/24/bessarabia-s-hopes-and-fears-on-ukraine-s-edge-pub-76445> [accessed 19 September 2018].

in the amalgamation processes at the level of the Department of Religious Affairs and Nationalities of the Ministry of Culture, and to establish a structure and staff responsible for interacting with advisers on national minorities in UTCs.

Regional Administration of Lviv

The Region of Lviv is a western province of Ukraine bordering Poland, covering 21,833 km². It is sub-divided administratively into 20 districts and 9 cities, which are directly subordinate to the RSA government. The population of the Region is estimated at 2,5 million (2016). 94.8% of the Region's population are Ukrainians, 3.6% Russians, and 0.7% Poles. There are also smaller German, Jewish, and Roma minorities. As of February 2018, there had been 35 UTCs amalgamated in the Region of Lviv.

In the RSA for Lviv, there are two offices under the Department of Culture, Nationalities and Religions addressing national minority issues:

- ▶ Office of Nationalities, Religions and Financial Planning
- ▶ Division of Religions and Nationalities

In comparison with the 2 staff assigned to national minority issues in Odessa Region, the Lviv RSA has the same capacity with less than 10% belonging to national minorities. The number of relevant departments is the same and there is no function in the Council. The approaches of Odessa RSA and Lviv RSA are similar in spite of the dissimilarities in issues and number of minorities. Respondents to the questionnaires and during the assessment visit to Lviv indicated the need to introduce a post of Counsellor on issues of inter-ethnic relations at the city level. Whether this request is related to the ongoing amalgamation process is not clear. There is no information about committees at the Regional Council of Lviv addressing national minority protection. However, the Ukrainian Commissioner for Human Rights has established an office in Lviv.

Regional Administration of Chernivtsi

The Region of Chernivtsi is the smallest region in Ukraine, situated in western Ukraine bordering Romania and Moldova. It also includes the northern parts of the historical area of Bessarabia. Chernivtsi spans 8,100 km² and is sub-divided administratively into 11 districts and 2 cities, directly subordinated to the RSA. The population of the Region is approximately 910,000 (2015) consisting of 75% Ukrainians, 12.5% Romanians, 7.3% Moldovans, and 4.1% Russians. Other national minorities include Poles, Belarusians and Jews, who represent up to 1.2%. One third of the Region has been amalgamated (31 UTCs) with 10 UTCs representing ethnic communities, some mixed and some mono-ethnic. The strategy for amalgamation in the Region of Chernivtsi addresses the inter-ethnic fabric of the Region as an asset in terms of tourism but does not reveal how it would support the development of for instance ethnic entrepreneurs in tourism. The conflict potential is clearly lower than in the Odessa Region.

In the RSA for Chernivtsi, there are 3 units and one adviser addressing national minority issues:

- ▶ Department of Culture;
- ▶ Division for the Protection of Cultural Heritage, Nationalities and Religions;
- ▶ Department of Education;
- ▶ Advisor to the Head of the RSA.

Compared to the regions of Odessa and Lviv, the approach taken by the Chernivtsi RSA is similar; there are 3 persons tasked with addressing national minority issues. This is a low number given that 25% of the population belong to national minorities. Of course, it is a small region with less than a million inhabitants. However, the fact that there are members of national minorities employed in the RSA is positive. It is also to be commended that a deputy head holds a seat in the bilateral commission with Romania. Moreover, the fact that the strategy on decentralisation has addressed the multi-ethnic composition of the Region, at least on paper, is positive. The high rate of amalgamation is also positive and could perhaps be indicative of good practice. There are no committees attached to the Regional Council of Chernivtsi addressing national minority protection. However, the Ukrainian Commissioner for Human Rights has also established an office in Chernivtsi.

Regional Administration of Transcarpathia

The Region of Transcarpathia (Zakarpattia in Ukrainian) is the most western and one of the most ethnically diverse regions of Ukraine. It is situated in the southwestern part of the country. It includes the historical area of Carpathian Ruthenia. It covers almost 13,000km² and directly borders Poland, Slovakia, Hungary and Romania. It has a population of approximately 1.25 million and is home to many national minorities. The largest ethnic group is the Ukrainian (80%) which in census taking also includes the national minority of the Rusyns (0.8%) because they are not officially recognised. The next largest is the Hungarians (12.1%), followed by the Romanians (2.6%), the Russians (2.5%), the Roma (1.1%), the Slovaks (0.5%) and the Germans (0.3%). Administratively, it is sub-divided into 13 districts, 5 cities, 19 towns, and more than 579 villages, which are directly subordinate to the oblast government. Uzhhorod is the administrative centre and seat of the RSA. Out of 337 local communities, only 6 UTCs have been formed; three of these represent national minorities either mixed or mono-ethnic. The Region's strategy for amalgamation does not address national minority protection but a number of disparate programmes address ethno-cultural issues, especially in the area of Roma protection.

In the RSA for Transcarpathia, a Department of Nationalities and Religions has recently been created. Given the high diversity of the population of the Region of Transcarpathia, it is positive but was also urgently required that the number of staff assigned to addressing national minority issues and inter-ethnic relations has been increased from 6 to 11. However, with 20% of the population of 1.25 million belonging to national minorities, it seems inadequate that only one department is assigned to ensure minority protection. The fact that the RSA has implemented a number of cultural programmes would also indicate that there is a high need to address national minority issues. Moreover, the low rate of amalgamation and the lack of reference to the Region's multi-ethnic and multicultural population, would indicate that the RSA is not capable of addressing the issues that arise for national minorities in relation to amalgamation.

Specifically with regard to amalgamation in the Region of Transcarpathia, there are reasons to be alarmed. According to observers, the main obstacle to amalgamation is the current head of the RSA, who has openly opposed the process. This has basically blocked any progress in this regard, and those national minorities who agree with the RSA Head did not wish to discuss the issue during assessment visits. One good example does exist; early in the amalgamation process, the community of Tyachiv, which is home to both Hungarians and Ukrainians, managed to get approval as a UTC. There is no information about committees at the Regional Council of Transcarpathia addressing national minority protection. However, the Ukrainian Commissioner for Human Rights has established an office in Uzhhorod.

District and Basic Administrations (raions and hromadas)

At the moment there is no legal basis that obliges the local executive authorities to address issues of national minorities. The legislation on decentralisation requires potential UTC actors to take into account historical, natural, ethnic and cultural factors, but it does not contain specific provisions on those issues. Thus, while the decentralisation reform opens up many possibilities through increased local budgets and bringing local authorities closer to their constituencies, there is a risk that district administrations will not consider national minority issues a priority. This has resulted in representatives of national minorities applying alternative, informal methods of gaining influence (see further Part 2).

The experts visited only two district level entities, Bolhrad in Transcarpathia and Melitopol in the Region of Zaporizhya. Below is a short description of the Bolhrad district. For Melitopol, see Appendix 6, Table 2.

Bolhrad (district)

The District of Bolhrad is situated in the Region of Odessa. The district is only 94 km² and directly borders the southern part of Moldova. The population is approximately 15,000 (2015) with 61% belonging to the Bulgarian minority. It is also home to a Gagauzian minority. At the time of writing, there has been no amalgamation in this district or in this part of the Odessa Region. The district administration has assigned 1 person within the Department of Culture to manage national minority issues. It is not clear if this person or any other public servants are members of national minorities. There are no committees attached to the Local Council addressing national minority issues.

Given that almost two thirds of the population is affiliated to national minorities, it is surprising that there are not more structures in the administration and the Council that address national minority issues. With 61% of the population belonging to one national minority, education in the minority language would seem to have high priority. One person assigned to the Department of Culture does not seem adequate to address the implementation of the new Law on Education. Moreover, the proximity to the border with Moldova would require structures that address cross-border issues, including cultural exchanges and inter-state cooperation regarding kin-minorities.

PART 2. CONSULTATIVE AND ADVISORY BODIES AND OTHER DIALOGUE MECHANISMS

In the early 2000s, Ukraine initiated a process of establishing consultative bodies across the board of public administration departments at the central, regional and local levels. With the President's Decree No. 854 "On Ensuring the Conditions for Wider Public Participation in the Formation and Implementation of State Policy" of 31 July 2004, the policy of mandatory creation of public councils at the executive level was initiated. The Cabinet of Ministers followed suit with Resolution No. 1378 "Some Issues Concerning Public Participation in the Formation and Implementation of State Policy" of 15 October 2004. With these legal acts, the government has regulated new mechanisms for the implementation of the constitutional rights of citizens to participate in the management of state affairs. While this initiative opened for persons belonging to national minorities to participate directly in forming the basis for the government's decisions, it did not guarantee special representation for representatives of national minorities. Moreover, a number of problematic issues have arisen in the implementation of public councils, especially related to the representation of civil society organisations (CSOs), thus resulting in restructuring the councils as elected bodies rather than providing open representation. This has created obstacles particularly for small size minorities with a low level of politically active members. Other concerns have included formalities of the activities of public councils, the slow process of formation and the low level of civic participation. On the other hand, there has also been some positive results. CSOs have learned new tools, such as dealing with administrative documents, forming well-reasoned public positions, delivering independent assessment and expertise, including competent advice to officials and providing consolidated opinions on behalf of civil society. The government has further developed and amended its public council policy in 2009, 2011, and 2014. These amendments relate mainly to the processes of establishing public councils through elections and to the internal voting processes of the councils. They also established that the maximum number of members of public councils could be 35.

In this Part, consultative and advisory bodies relevant for governance of national minority affairs at the central, regional and local levels will be discussed. Where possible, the legal and institutional status of the structures will be described as well as their competences. The capacity of the specific functions will also be explained.

CENTRAL LEVEL

In order to reorient the state policy towards a dialogue with civil society and meet the demands of civil society organisations, for the renewal of state authorities at all levels through anti-corruption reforms and decentralisation of power in accordance with the practices of democratic governance, the government and the parliament have adopted a number of legislative acts aimed at reinforcing the dialogue with civil society. With regard to advisory and consultative bodies specifically assigned to the protection of minority rights and promoting regional or minority languages, there are a number of relevant structures across the central administration. See also Appendix 2.

Office of the President

Taking into account an increasing role of civil society in various spheres of activity of public authorities and local self-government bodies, the President of Ukraine signed a decree in 2016 approving the National Strategy for Civil Society Development in Ukraine for 2016–2020 and establishing the Coordination Council for Civil Society Development as an advisory body to the office of the President.⁴⁸ The National Strategy for Civil Society Development is to be welcomed, but it seems to have a rather broad remit that could well result in national minority issues ranking low in the priority of the activities implemented.

48. Signed on February 26, 2016.

Within the Office of the President there are two relevant advisory bodies:

- ▶ The Coordinating Council for Civil Society Development;
- ▶ The Council of Representatives of the Crimean Tatars;

The ability of representatives of national minorities to access the President's Administration seems limited. There are no national minority organisations represented in the Coordinating Council, and the Council for Crimean Tatars does not include other minorities. The establishment of the Council for Crimean Tatars has led to tensions and feelings of disrespect among national minorities because an earlier body for national minorities, which was abolished, was not re-established. This leaves the Office of the Presidency very remote and inaccessible to national minorities. It has not been possible to establish if there are any other non-formal channels to the Presidency that national minorities can use, or symbolic practices that might give national minorities a feeling of being welcome. This is likely not the case, as respondents to the questionnaire on consultative bodies voiced a desire to have a body (re)established within the President's Administration or in the Council of Ministers.

Parliament (Verkhovna Rada)

The relevant advisory and consultative bodies under the Ukrainian parliament are established by the Human Rights Committee and the Parliament Commissioner for Human Rights.

Unfortunately, there is little information about national minorities' interaction with the parliament and its monitoring bodies, and the questionnaire on consultative mechanisms did not provide any indications of how national minorities relate to these. With regard to the recent consultations on education legislation, according to respondents of the questionnaires on consultative mechanisms, in concurrence with a Council of Europe report on the implementation of the ECRML during the drafting of the Law of Education, there have been several hearings in the parliament regarding the proposed legislation on education (primary as well as secondary education) in which representatives of minorities were able to participate.⁴⁹ The fact that representatives had approved the draft legislation on primary education was confirmed by the interlocutors and completed questionnaires received by the experts. It was also confirmed that the final version adopted by the parliament was different and not accepted by the representatives of the minorities. This has resulted in the process of consultations losing legitimacy in the view of the national minorities.

With regard to the Advisory Board of the Commissioner for Human Rights, some respondents of the questionnaires have voiced concerns that developing a quality proposal to become experts can be difficult, while others have indicated that they were more interested in protecting culture than protecting individual human rights. Given that the Commissioner for Human Rights holds a special mandate that requires independence, the only body that allows consultation with national minorities is the parliament's Civic Monitoring Platform, which is open to all representatives.

Cabinet of Ministers

Within the Cabinet of Ministers, there is currently only one advisory body assisting the government in ensuring participation and representation in decision-making, the Council of Heads of Public Councils. Like the Office of the Presidency, the Cabinet of Ministers is a body that is very remote and inaccessible to national minorities. No consultative mechanisms exist by which national minorities could bring their issues to the Cabinet. Respondents to the questionnaire on consultative mechanisms indicated that they would like to reinstall the Council of International Harmony. Moreover, there is no information as to non-formal channels or mechanisms in use, and the questionnaire on consultative mechanisms did not provide any indications of how national minorities relate to the Cabinet.

Ministry of Foreign Affairs

There is no specific advisory or consultative mechanism for national minority protection under the Ministry of Foreign Affairs. Given that the responsibilities of the Ministry of Foreign Affairs with regard to national minorities

49. "Jean-Marie Woerhling, "Avis sur la mise en œuvre des consultations prévues par la Charte Européenne des Langues Régionales ou Minoritaires dans la cadre de la modification de la législation ukrainienne sur l'éducation" undated.

are linked only to international affairs, it is not surprising that there are no specialised dialogue mechanisms, and by the same token, the interest among national minority organisations to sit on the Public Council has likely diminished. If the Ministry had greater competences in bilateral relations with kin-states, this might well create a need for national minorities to have direct access to the Ministry. Unfortunately, the questionnaire on consultative mechanisms did not provide any indications of how national minorities relate to this Ministry.

Ministry of Culture

Given that the Ministry of Culture is the key responsible agency for national minority protection and inter-ethnic relations, it has a quite elaborate system of advisory and consultative mechanisms. The following bodies address national minority issues directly:

1. The (Public Council) Commission on Inter-Ethnic Relations and Cultural Diversity;
2. The Expert Council;
3. The Council of Ethnic Ukrainian Organisations.

The Commission on Inter-Ethnic Relations is arguably the most important consultative body for the national minorities residing in Ukraine. It was thus also the body that yielded the most reaction in the questionnaires on consultative bodies. The comments received can be catalogued under 4 headings:

- ▶ Representation
- ▶ Procedural issues
- ▶ Legitimacy
- ▶ Code of conduct

With regard to representation, respondents noted that the numerical limitation on the membership of the Commission has made it difficult to ensure maximum representation.

With regard to procedural issues, respondents have noted that members had been dissatisfied with the manner in which the Presidium was formed and that the Chairman was assigned certain powers without the consent of the members. Others had noted that the decision-making process had at times bypassed members of the Commission. There were also respondents who were concerned with the inability of representatives from the regions to take an active part in the meetings of the Commission. Some respondents voiced concern that the work of the Commission was of poor quality, that it was difficult to develop the agenda for the meetings, and that circulation of information for consideration by the members was inadequate. It was also noted that many of the decisions of the Commission were not implemented but remained only on paper.

The legitimacy of the Commission was attacked by some respondents, who felt that the Commission should be independent of the control of the Council of Heads of Councils; they moreover felt that their views on this were not respected by the Chairperson. Another aspect that hampers the legitimacy of the Commission is the lack of transparency, especially with regard to making public information about the Commission's work in order that non-members might be able to follow the work of Commission. For this reason, some non-member organisations had a feeling that the aim of the Commission was to placate the authorities and to not include national minorities in decision-making.

With regard to the code of conduct of members of the Commission, respondents had noted that competition among members and internal conflicts had negatively affected the overall quality of the work of the Commission. Respondents also indicated that there remained a low level of personal responsibility among the members of the Commission, including a lack of discipline with regard to attending the meetings of the Commission.

With regard to the Expert Council, respondents to the questionnaire voiced a dissatisfaction with the absence of representatives of national minorities. Although the Ministry of Culture maintains that it is an expert body with tasks to elaborate a draft Concept of Ethno-national Policy and a draft Law on National Minorities, which should have a purely academic approach, there has been strong opposition to this argument. In spite of the consultations that the Expert Council has held with representatives of national minorities in the regions and the proposals from minorities that have collected and considered, there remains, however, opposition among representatives of national communities that the process of organising work on the draft Concept of Ethno-national Policy is not inclusive enough. Such statements were heard both at meetings with representatives of national minorities in Kyiv and at the regional level.

The Council of Ethnic Ukrainian Organizations seems to provide excellent opportunities for national minorities to be heard. However, the process by which the Council was formed had given rise to some dissatisfaction among national minority organisations, and according to some respondents to the questionnaire on consultative bodies, the practice of inviting only heads of umbrella organisations was not ideal. In addition to limited membership, respondents raised issues, such as the lack of transparency of the body and its activities. The regular sessions of the Council are not communicated in advance and are not announced on the website of the Ministry of Culture or on its Facebook page. The sessions of the Council are closed; representatives of national communities that are not members of the Council are not invited to its meeting. Meetings are held at the Ministry of Culture, where people can enter only if their name is on the list of meeting participants. The reports on the meeting of the Council are not informative. Thus, to many, the Council is perceived as tool of the Ministry for the simplified approval of decisions in favor of the Ministry, rather than as a consultative body for national minority organisations.

Ministry of Education and Science

Within the Ministry of Education and Science, there are two advisory/consultative mechanisms:

1. The Public Council;
2. The Council of Representatives of Civic Associations of Indigenous Peoples and National Minorities.

Interlocutors have reported that before the Public Council became inactive, it indeed held very intense meetings regarding the new legislation proposed. Its substitute, the Council of Representatives of Civic Associations, appears a well-suited body for consultations with national minorities (and indigenous peoples) on educational issues. Importantly, it appears to be the only body where national minorities can voice their concerns regarding legislation on education and language rights. This may raise some concern given the importance of minority language education in Ukraine. In so far that the Ministry of Culture does not have any competences in the area of minority language education, even though the international treaties that the Ministry is tasked with implementing (such as the FCNM and the ECRML) include provisions on minority education in minority languages, it is all the more important that the Ministry of Education has adequate mechanisms to allow for consultations with national minorities. The Council of Representatives seems somewhat limited in this regard. The Council of Europe expert report considers it important that each language group has a focus point or a consultative body through which the linguistic issues can be discussed; issues related to the rights of linguistic minorities as well as issues related to the protection of the languages.

However, during the assessment meetings and from the responses to the questionnaire on consultative bodies, it is clear that the Ministry of Education has been very active in organising consultations in the regions during the recent redrafting of secondary education legislation. Most of the interlocutors attending the meetings during the assessment visit have confirmed that they have given comments to the draft legislation. The same interlocutors also confirmed that the version that they had commented on was different than the one which appeared in public on 5 September 2017.

Some interlocutors have informed the experts about the poor functioning of the former Public Council under the Ministry of Education. It would appear that some members were working counter-productive to the rights of persons belonging to national minorities and especially against their rights to education in minority languages. This is also pointed out by the Council of Europe expert report on the implementation of the ECRML during the drafting of the Law on Education.⁵⁰

Ministry of Temporarily Occupied Territories and Internally Displaced Persons

The Ministry established a Public Council, which currently consists of 26 members representing mostly human rights NGOs. There is no information made available for this study.

50. Jean-Marie Woerhling, "Avis sur la mise en œuvre des consultations prévues par la Charte Européenne des Langues Régionales ou Minoritaires dans la cadre de la modification de la législation ukrainienne sur l'éducation" undated.

REGIONAL LEVEL (Oblast)

There is no uniform policy on national minority issues at the level of RSAs and local self-governing authorities. There are no laws or regulations that oblige regional and local authorities to establish certain units or consultative bodies, nor to adopt specific programmes of support for national minorities. In some cases, consultative bodies with national minorities and support programmes exist, in others they do not. This depends on a number of factors, such as the number of national minorities in a region and their ability to be active players in governance. At the regional and local levels, national minorities have several general tools available to access regional and local political decision-making processes, including public councils (as described in Part I), public hearings (open consultations) and public examinations. These do not, however, constitute specialised bodies and are not capable of adequately implementing the right to participation and representation outlined in the FCNM and the ECRML.

Regional State Administration of Odessa

The RSA of Odessa does not have a public council for general affairs; it works directly with CSOs through signing memorandums. With regard to national minorities, it has established

- ▶ A Council of Representatives of National and Cultural Societies;
- ▶ A Working Group on the Roma Strategy.

There are also a number of cultural centres throughout the territory of the region.⁵¹ The RSA supports national minorities financially through various cultural programmes. There are no consultative mechanisms attached to the Regional Council of the Odessa region.

Given the diversity of communities in the Odessa Region, and especially the fact that the Region is home to many Roma communities, it is welcomed that there are two specialised bodies established by the RSA. Notwithstanding, the Odessa Region is also an example of many of the common issues that other regions experience. According to respondents of the questionnaires, there is a general feeling that there is a lack of strategic vision and integrated institutional support for the implementation of the rights of national minorities. Respondents feel that providing clarification of the initiatives of public authorities within the communities, in order to better inform the representatives of national minorities on current events and initiatives of the government and local administrations, is much needed. Some also fear that instrumentalisation of ethnicity and ethnic groups by political actors can lead to escalation of tensions, especially if these actors use the meetings with national minorities related to education or the amalgamation processes. The latter is particularly urgent in the Odessa Region where manipulation by deputies and influence on the community of national minorities have resulted in the rejection of the processes of decentralisation and amalgamation as well as a high level of distrust of the central government.

For this reason, there is also a need to increase the awareness of representatives of ethnic groups in relation to political, economic and social processes, and to increase their ability to counteract the destructive effects of propaganda, in particular, aimed at the instigation of inter-ethnic conflicts. It is thus imperative that national minorities and ethnic communities not only participate in joint projects aimed at supporting cultural diversity, preserving and developing their own ethno-cultural, linguistic and religious identity, but also in all socially significant integration projects. Respondents have in this connection voiced strong dissatisfaction with the situation regarding the financing of programmes.

One specific aspect voiced by respondents in the Odessa Region is the lack of premises for the activities of national communities. The requirements of the representatives of national minorities to self-finance premises were heard in all regions but loudest in Odessa. An essential solution to the problem from the point of view of national minorities is the provision of a House of Nationalities. Such premises are already established in the Transcarpathia and Chernivtsi regions, and are a good signal that cooperation with representatives of national communities reaches a qualitatively different level when the communities know that there are prospects for realising such premises.

51. These represent the Gagauz, the Bulgarians, the Polish as well as multi-groups centres.

Regional State Administration of Lviv

The RSA of Lviv has established a public council for general affairs. Education matters, cultural and religious issues, as well as national minorities are among its responsibility areas. It also reviews the reports on the implementation of the regional “Integrated Program for the Development of Lviv Region in 2017–2020”, and its work plan includes the involvement of creative unions, national cultural societies and public organisations (including children’s and youth) in the implementation of educational programmes. Until recently, the Public Council was not very operative. There has been an increase in funding opportunities for national minorities.⁵² In addition, a specialised body exists within the Department of Culture, Nationalities and Religions to represent the interests of national minorities, the Council of National Communities. There are no consultative mechanisms attached to the Regional Council of the Lviv Region.

The existence of the Council of National Communities at the RSA is positive. However, respondents have voiced concern that there is no such body under the Lviv City Administration. Therefore, it is a concern that the Region of Lviv is lacking a specialised consultative body at the level of the Regional Council. It is positive that, according to respondents, there has recently been a positive change in cooperation. Taken into consideration that around 94% of the population are Ukrainians, there is all the more reason to be concerned that the small portion of national minorities do not have access to participation in regional and local governance.

Regional Administration of Chernivtsi

The RSA of Chernivtsi has established several public councils as well as the following special bodies of relevance to national minority protection and participation:

- ▶ Regional Council on Ethno-National Policy;
- ▶ Board of Headmasters;
- ▶ Coordination Council for the promotion of civil society;
- ▶ Department of Science and Education Public Council.

The RSA supports national minorities financially through various cultural programmes. There are no consultative mechanisms attached to the Regional Council of the Region of Chernivtsi.

There seems to be good opportunities for national minorities to access the administrative processes in the Region of Chernivtsi, while access to decision-making processes is not available. Given that 25% of the population represent national minorities, it is imperative that such a large part of the population also has a special voice in decision-making. According to respondents to the questionnaire on consultative bodies as well as interlocutors during the assessment visits, good relations exist between national minorities and the authorities.

Regional Administration of Transcarpathia

The RSA of Transcarpathia has established a public council representing 120 organisations and 16 commissions, which include 8–10 members each. Issues are discussed in the Public Council in quarterly meetings whereas the decisions are usually taken by the various commissions. No commission is specifically assigned to national minority issues. Specifically with regard to ethnic relations, the RSA has established a public council for Roma affairs. It represents 36 Roma organisations from both the Region and the districts. Unfortunately, the Roma Council is not funded by the RSA, so its activities are limited to events that do not require travelling. The RSA is preparing to establish a public council for youth organisations. The RSA has financed a number of programmes directly relevant for national minorities. There are no consultative mechanisms attached to the Regional Council of the Transcarpathian Region.

In spite of the fact that the Region of Transcarpathia has no specialised consultative mechanism for national minority participation in decision-making, there seems to be, according to the respondents and interlocutors, good relations between national minorities and the authorities.

52. In 2017, 14 projects were funded, and in 2018, 16 were funded.

LOCAL LEVELS (districts/hromadas)

Article 13 of the Law “On Local Self-Government in Ukraine” provides for public hearings at the level of local government.⁵³ According to the Law, a territorial community (hromadas) is granted the right to meet with deputies of the relevant council and officials of local self-government, during which members of the territorial community can raise issues and make suggestions concerning local matters, which belong to the competence of local self-government. The legislation requires that public hearings are held at least once a year. Proposals elaborated during public hearings are subject to mandatory review by local authorities. Par 4 of Article 13 claims that the procedure for organising public hearings is determined by the statute of a territorial community. That is, this function has been delegated to local councils, which make relevant decisions in order to approve the statute and create provisions governing the conduct of public hearings (an ideal variant). In practice, the procedure of public hearings is very often defined in separate local documents (regulations, orders), which are approved by the decisions of local councils. In practice, public hearings are often held before a decision is made by the public councils. It has not been possible to establish whether national minorities have used public hearings to voice their concerns.

District Administration of Bolhrad

The District Administration has established a public council with 18 CSOs of which about 50% represent national minorities. There is no body with specific national minority remit. The Council has discussed and considered the Law on Education and issues of decentralisation. It also supports the development of cultural and educational activities within the framework of the regional target programme. A programme for the preservation of languages of national minorities (textbooks, Bulgarian, Albanian, Russian, internships in Bulgaria) is financed exclusively from local budgets. The cultural development programme of the town of Bolhrad is approved by the decision of Bolhrad local council. There are no consultative mechanisms attached to the Local Council addressing national minority issues.

It would seem that the Public Council under the District Administration is well positioned to address national minority issues, given that 50% of the members represent minorities. This is, however, not established as a formal requirement for the Public Council thus putting the representation of national minorities in risk. At the same time, the by-laws of the Council should ensure that the Ukrainians have equal access to the Council. Even though the Council does not have any competences in minority issues, it has discussed recently proposed legislation on education as well as issues related to amalgamation. Given that the District is home to 61% Bulgarians, it is all the more relevant that issues, such as minority education, are discussed in the Council.

53. No. 280/97-VR adopted 21 May 1997.

PART 3. INTERNATIONAL EXAMPLES

The international standards of minority protection do not set any model for institutional structure, but they do set objectives that states parties should meet – taking into account their specific circumstances. Article 15 FCNM, a central international norm in this respect, is very laconic and calls for the effective participation of persons belonging to national minorities in public affairs, particularly those affecting them. The substance of the Article 15 FCNM is partly explained in the Explanatory Report to the FCNM, but is extensively developed in the opinions of the ACFC and consolidated in its Second Thematic Commentary.⁵⁴ Additional information about the “European understanding” of minority participation is provided in the Lund Recommendations of the OSCE HCNM.⁵⁵ However, all these documents contemplate numerous instruments that can facilitate and foster minority participation, but they do not set a strict model that countries need to follow in order to meet the standard established in Article 15 FCNM. It is up to states to develop their institutional structures taking into account, on the one hand, the ‘national’ specifics (constitutional and institutional frameworks and traditions, demographic situation, social dynamics, just to name a few) and, on the other hand, the need to establish institutionalised channels for the **effective participation** of national minorities in public affairs. Therefore, institutional structures relevant for national minorities vary across Europe, but they are not completely different and it is possible to identify similarities and some general patterns. It is important to bear in mind that it is not possible to set one country with its respective institutional structure as a model for minority protection. What works in one ‘environment’, might be inappropriate and ineffective in some other ‘environment’. Thus, prior to establishing institutions relevant for minority protection it is necessary to analyse the general institutional power-structure within the state, to identify what issues are most pressing for national minorities, but also the demographic criteria, the level of mobilisation of national minorities and the quality of interethnic relations in the country. It is also desirable to avoid the pattern to put minority issues into the competence of either the institution in charge of culture or the institution in charge of security issues. The institutional setup should not follow the wrong perception of national minorities through either folkloristic culture or as a security treat. Furthermore, institutional set-ups should foster integration and also involve national minorities in decision-making that affects society as a whole, not limiting participation of national minorities to those issues directly relevant for the preservation of their national identity.

In this Part, we discuss the comparative analysis of the following four international practices: Czech Republic, Germany, Romania and Serbia.⁵⁶ In preparation for this analysis, a preliminary mapping of executive structures and consultative bodies in these four countries, but also in Croatia, Poland, Slovakia and Slovenia has been performed.⁵⁷ Out of the eight countries initially covered with the mapping, four have been selected on ground of the most developed institutional structure (at least quantitatively, i.e. taking account the density of the institutional structure). None of these countries has an ideal institutional structure and can thus not be recommended as a whole to be institutionally “transplanted”. The strength of Romania lies in a very developed executive structure at the central level of governance. However, it shows weakness at the regional and local levels, where executive structures for national minorities are not consequently developed. Similarly, Romania has an institutionalised and centralised consultative body, which provides forum for dialogue between the central authorities and minorities, which is surely positive. Yet, again, there are no consultative mechanisms at the regional and local levels. The most significant strength of the Serbian executive structure is the institutional set-up for national minorities at the regional level, i.e. in the Autonomous Province of Vojvodina. The tradition of multiethnicity (and multiconfessionality) has a positive impact on the institutional structure and Vojvodina indeed has a developed institutional structure for minority issues. At the central level of governance, Serbia also has a satisfactory institutional structure, but slightly less dense than in Romania. The most significant feature of the Serbian consultative mechanism is the existence of the national councils of national minorities, which are conceptualised as the bodies of minority cultural autonomy, although most of their competences are of a consultative nature. Their major weakness is their centralised nature; although they can address authorities at all three levels of governance,

54. “Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs”, ACFC/31DOC(2008)001. Available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800bc7e8> (accessed 4 December 2018).

55. “The Lund Recommendations of the Effective Participation of National Minorities in Public Life”, available at <https://www.osce.org/hcnm/32240> (accessed 4 December 2018).

56. See further appendices 7 to 14 of this document for organigrams mapping the executive structures and consultative mechanisms of each of the four countries analysed in this section of the report.

57. The authors would like to thank Sergiusz Bober, Stanislav Černega, Polina Sulima, Andreea Carstocea, and Sonja Wolf for their assistance in mapping the international examples.

the decision-making in the councils is centralised and detached from the local levels. Partly to compensate this weakness, councils for interethnic relations have been established at the local level, but these are underdeveloped. While the major strengths of Romania and Serbia lie in the executive structures, Czech Republic and Germany show good examples of developed consultative mechanisms. In the Czech Republic, dialogue between state authorities and national minorities is facilitated through the Government Council for National Minorities. Moreover, there is also the Government Council specialised for Roma, as well as the existence of advisory bodies within several ministries. Furthermore, there is a legal obligation for regions and municipalities to establish Committees for National Minorities. Germany has also a dense network of consultative mechanisms, both at the central level (a minority umbrella organisation and several advisory bodies within the Ministry of the Interior) and the level of the federal units. A developed system of consultative mechanisms in Germany to a great extent compensates its weaknesses in the executive structures. These four countries provide a wide range of possible examples of executive institutions and consultative mechanisms for national minorities. Of course, they cannot all be transferred to Ukraine: this could not only be impossible, but would also be counter-productive. However, individual institutional examples that can be found in these countries might be indicative and potentially also applicable in the Ukrainian context.

CZECH REPUBLIC

1. General Overview

The Czech Republic has about 10.5 million inhabitants, out of which approximately 64% have declared in the last census of 2011 to belong to the Czech nationality. This however does not mean that the other 36% of the Czech population belong to national minorities. Interestingly enough, the number of persons who did not claim any nationality was very high in the census of 2011 and reached more than 25%. The structure of the national minority share in the Czech population can be generally described as variety of groups that are individually small in numbers. The numerically largest minority are Slovaks with 1.41% of the total population. They are followed by the Ukrainian minority (0.51%), Polish minority (0.37%) and Vietnamese (0.28%).⁵⁸ The Czech legal framework on national minorities does not contain a list of groups which enjoy the protection as national minorities. The criteria for 'recognition' are set in the definition stipulated in Article 2.1 of the Law on national minorities (Law No. 273/2001, OJ 104/2001).⁵⁹ In practice, the representation of a group in the (Government) Council for National Minorities is considered as a recognition of the group being a national minority. According to this parameter, at present there are 14 national minorities in the Czech Republic: Belarusian, Bulgarian, Croatian, Hungarian, German, Polish, Roma, Ruthenian, Russian, Greek, Slovak, Serbian, Ukrainian and Vietnamese.⁶⁰

The rights of national (and ethnic) minorities are set out in the Charter of Fundamental Rights and Freedoms (which forms a part of the Czech constitution, Articles 24–25) and further regulated in a separate law mentioned above.

Legislative powers in the Czech Republic are vested in the bicameral parliament, consisting of the Chamber of Deputies and the Senate. There are no affirmative measures for national minorities in the elections, for either of the houses of the Czech Parliament. Until 2012, in the Committee on Petitions in the Chamber of Deputies there was a Subcommittee on National Minorities, but it does not exist at present.⁶¹ Executive powers in Czech Republic are vested in the President of the Republic (directly elected) and the Government. Within the office of the President there is no specialised unit which deals (exclusively or in combination with other issues) with national minorities. Under the Office of the Government there is the Section for Human Rights which is divided in two departments, which deal (among other issues) with national minorities and Roma. In addition to that, minority issues are dispersed among several ministries, among which ministries in charge of education, culture and interior are most prominent. There is an Ombudsman (Public Defender of Rights) in the Czech Republic, but it does

58. The data on the demographic structure of Czech inhabitants is taken from the Fourth Report on the FCNM submitted by the Czech Republic in 2014 (ACFC/SR/IV(2014)011), pp. 28–29. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDC TMContent?documentId=09000016800922bb> [accessed 25 October 2018].

59. "Zákon o právech příslušníků národnostních menšin a o změně některých zákonů". Available (in Czech) at: <https://www.zakonyprolidi.cz/cs/2001-273> [accessed 25 October 2018].

60. "Government Council for National Minorities". Available at: <https://www.vlada.cz/en/pracovni-a-poradni-organy-vlady/rnm/historie-a-soucasnost-rady-en-16666/> [accessed 25 October 2018].

61. The Fourth Report on the FCNM submitted by the Czech Republic in 2014, p. 2.

not have separate organisational units for the rights of national minorities. It is indirectly relevant for the protection of national minorities through its work on combating discrimination.

Czech Republic is territorially organised into regions (“*kraj*”) and municipalities (“*obec*”). The organs in the regions are the representative assembly (legislative powers), the council (executive powers), the governor (executive powers, outward representative of the region) and the regional office (administration).⁶² There are 13 regions in the Czech Republic, with the City of Prague also having the status of a region.⁶³ Interestingly, none of the regions has an institutionalised unit within its executive structure which deals with national minorities. The regions are only legally obliged to manage and coordinate (through the regional office) the implementation of state policy addressing the integration of Roma (Article 6.7 of the Law on national minorities) and to appoint a Roma coordinator (Article 67.1 (f) of the Law on regions). The organisational structure in the municipalities is the same as in the regions and is composed of an assembly, council, mayor and municipal office.⁶⁴ With 6258 municipalities,⁶⁵ the territorial division in the Czech Republic is very dense. Generally, municipalities have no executive structures to deal with national minorities, but it might occur that individual municipalities have some units within the municipal administration or a committee within the municipal assembly that are in charge of national minorities. The law on national minorities also obliges municipalities (with extended competences) to facilitate the exercise of rights of the Roma and their integration in the society (Article 6.8), but there are no legally set (institutional) frameworks for performing this duty.

In the Czech Republic, the focus in the institutional framework relevant for national minorities is put on consultative mechanisms. At the central level, the Government Council for National Minorities is crucial in this respect, and at the regional and local levels committees for national minorities have been established. Within various ministries there are different coordination and advisory bodies, committees, commissions and similar. There are also various bodies in charge of the Roma affairs.

2. Executive Structures

The central executive body dealing with national minorities is the **Section for Human Rights** within the **Office of the Government**. The Section deals with several issues, including national minorities, but also: human rights, Roma, NGOs, people with disabilities and social inclusion. The departments in the Section cooperate with public authorities at the state, regional and local levels, as well as NGOs and experts on the issues, within its scope of work. The Section provides professional and administrative support for the established advisory and consultative bodies. The Section is divided into two departments: Department for Human Rights and Minority Protection and Department for Social Inclusion in Roma Localities (which has the status of an agency). The *Department for Human Rights and Minority Protection* performs conceptual, analytical, legislative and training activities in the field of human rights, rights of national minorities and Roma, status of persons with disabilities and the work of NGOs. The Department provides support for the work of several governmental councils, among which also includes support to the Government Council for National Minorities and the Government Council for Roma Minority Affairs. The department also administrates five funding programs, among which also a few support national minorities: prevention of social exclusion and community work, support for Roma coordinators and support for the implementation of the European Language Charter. The department is further divided into four divisions out of which one is directly relevant for national minorities. The respective division acts as the office for the Government Council for Roma Minority Affairs and the secretariat for the Government Council for National Minorities. In addition to providing support for the two councils, the division coordinates the position/approach of public authorities in the area of rights and status of national minorities and the integration of Roma and the cooperation between central and regional authorities, and ensures cooperation at the international level. It further deals with conceptual, analytical and educational activities in the field of national minorities and Roma, plus it comments on governmental material related to rights of minorities and Roma; develops for the government the Concept of Roma Integration and regulation related to national minorities; annually produces for the government the Report on the Situation of Roma and the Report on the Situation of National Minorities; prepares information on the fulfilment of international obligations with regard to national minorities and Roma (including reports on the FCNM and the European Language Charter); and administrates the above mentioned granting

62. In Czech, the terms are “Zastupitelstvo” for the legislative body, “Rada” for the executive body, “Hejtman” for the head of the region, and “Krajský úřad” for the regional office. In several sources these have been translated into English differently, which might cause confusion. Legal basis provides the Law 129/2000 on Regions (Chapter 4 of the law regulates the institutional structure in the regions).

63. Detailed information about the regions in the Czech Republic can be found on the web page of the Association of Regions of the Czech Republic, <http://www.asociacekrajů.cz/association-of-regions-of-the-czech-republic/> [accessed 25 October 2018].

64. In detail regulated in Chapter 4 of the Law No. 128/2000 on Municipalities.

65. <https://www.oecd.org/regional/regional-policy/profile-Czech-Republic.pdf> [accessed 25 October 2018].

programmes. The *Department for Social Inclusion in Roma Localities (Agency for Social Inclusion)* helps municipalities to identify the problems of socially excluded localities and their populations, to prepare and establish long-term processes to address these problems and helps them in fundraising for this. It further links together local actors (authorities, NGOs, schools, the labor office, police etc.) to cooperate in social inclusion. It collaborates with ministries, transfers information from the local level to the state administration, and participates in the development of the state policy on social inclusion and in its coordination. The department operates in two divisions: Division of Local Concepts and Division of Management and Coordination. The first one intensively works with municipalities on social inclusion and manages the work and the network of local consultants for social inclusion. The other one monitors current trends in housing, education, employment, social services and crime prevention, and provides professional and educational support for the work of local consultants. It also provides comments on drafted legislation.⁶⁶

The Office of the Government also provides support for the **Government Commissioner for Human Rights**, whose area of work also covers issues relevant for national minorities, and more directly the improvement of the position of Roma. The main tasks of the Commissioner are to develop concepts of long-term development of human rights protection at the national level; prepare proposals for individual measures and initiatives to improve the situation regarding the observance of human rights in general, and to improve the position of Roma communities in society; put together information, proposals and opinions concerning the observance of human rights and the position of Roma communities; draw up reports on meeting the commitments resulting from international human rights treaties, presented by the Czech Republic to the individual treaties' control mechanisms at the level of the UN and the Council of Europe, and prepare background materials for EU bodies related to human rights; and to assess in an interdepartmental comment procedure, materials of a legislative and non-legislative nature concerning human rights and the position of Roma communities.⁶⁷ The Commissioner chairs the Government Council for Human Rights and, as the First Vice-Chairman, participates in the management of the Government Council for Roma Community Affairs.⁶⁸

At the ministerial level there are several ministries which deal with national minorities. Within the **Ministry of Education, Youth and Sports**, the *Sector of primary education* (which operates under the Department of Pre-school Education, Primary Education, Primary Art Education and Special Education) methodologically manages the Pedagogical Centre for Polish National Minority Schools.⁶⁹ The Ministry of Education also controls the National Institute of Education, which is relevant also for minority education.⁷⁰ Within the **Ministry of Culture** there is the *Department of Regional and Minority Culture*. Its most prominent task refers to the funding of cultural projects of national minorities.⁷¹ Within the **Ministry of Interior**, the *Department of Crime Prevention* (within the Section for Homeland Security and Police Education) is of relevance, because among other tasks it deals with security and crime prevention in socially excluded localities and facilitates the work of the Czech Police in relation to minorities.⁷²

3. Consultative Mechanisms

The key consultative body at the **central level** is the **Government Council for National Minorities**. The legal basis for the establishment of the Council is Article 6 of the Law on national minorities. The law envisages the Council as a channel for national minorities to exercise their participatory rights (Article 6.2 in conjunction with Article 6.1). The Council is conceptualised as a consultative and initiative-taking body for matters concerning national minorities (Article 6.4). The law outlines the structure of the Council's members: it is a mixed body, composed of representatives of national minorities and public authorities (Article 6.4). At least half of the members must be representatives of national minorities (Article 6.4), but the head of the Council is a representative of the government (Article 6.3). A detailed regulation on the organisation and the work of the Council is stipulated in the Statute of the Council, which is adopted by the government in the form of a resolution. The Council has

66. Description of the Section for Human Rights and its two departments rests on the information available online at: <https://www.vlada.cz/cz/ppov/zmocnenec-vlady-pro-lidska-prava/organizace-sekce-lp/organizace-sekce-lidskych-prav-107606/> [accessed 20 August 2018].

67. "Government Commissioner for Human Rights". Available at: <https://www.vlada.cz/en/ppov/zmocnenec-vlady-pro-lidska-prava/government-commissioner-for-human-rights-17253/> [accessed 20 August 2018].

68. Ibid.

69. "Příloha č. 1 k Organizačnímu řádu Ministerstva školství, mládeže a tělovýchovy (č. j. MSMT-30147/2018-1)", p. 54, point (z). Available at: <http://www.msmt.cz/file/48657/> [accessed 25 October 2018].

70. Detailed information is available at: <http://www.nuv.cz/all-about-nuv> [accessed 25 October 2018].

71. "Regionální a národnostní kultura". Available at: <https://www.mkcr.cz/regionalni-a-narodnostni-kultura-1243.html> [accessed 25 October 2018].

72. "Odbor prevence kriminality" at <http://www.mvcr.cz/clanek/odbor-prevence-kriminality.aspx> [accessed 25 October 2018].

two vice-chairs: one representing the authorities and other representing national minorities. The Council has 32 members appointed by a government resolution. Seven ministries are represented in the Council; these are in charge of: finance, culture, education, labor and social affairs, interior, justice and foreign affairs. These are represented on the level of deputy ministers. Three more institutions are represented in the Council: the Office of the President of the Czech Republic, the Office of the Ombudsman, and the Commissioner for Human Rights. Sub-state authorities are also represented in the Council through representative(s) of the Association of Regions and/or Unions of Cities and Municipalities. One member of the Council represents experts and is appointed among the candidates nominated by academic institutions in the area of linguistic studies. Fourteen national minorities are represented in the Council: Belarusian, Bulgarian, Croatian, Hungarian, German, Polish, Roma, Ruthenian, Russian, Greek, Slovak, Serbian, Ukrainian and Vietnamese. German, Polish, Roma and Slovak minorities are represented with two members each, and other minorities have one member each. The Council has two standing committees: the Committee on Subsidies Policy and the Committee for Cooperation with Self-government Bodies. At present, the Council has two temporary working groups dealing with minority (relevant) media, one for radio and one for TV.⁷³

The competences of the Council are set in Article 6.5 of the law and further regulated with its statute. The Council participates in preparation of governmental measures concerning the rights of persons belonging to national minorities, gives opinions on drafts of regulations and measures relevant for national minorities, prepares reports on the situation of national minorities, prepares recommendations with regards to improvement in the areas of education, culture and media, using the minority languages, and social and cultural life; cooperates with local self-government bodies in the implementation of state policies; and proposes distribution of financial means allocated in the budget for the activities of national minorities.⁷⁴

Another relevant body which operates on the central level is the **Government Council for Roma Minority Affairs** (the Roma Council). The Roma Council is a consultative and initiative body of the Czech government on issues related to Roma integration. It was established in 1997 as the Interdepartmental Commission for Roma Community Affairs and in 2001 renamed as the Roma Council. The structure of the Roma Council resembles the structure of the Council: it is a mixed body composed of representatives of the state authorities (ministries, the Commissioner for Human Rights, the Ombudsman), representatives of regional and local authorities, the director of the Museum of Romany Culture, representatives of academic community and representatives of NGOs who actively work to improve the status of the Roma in the society and their integration (Article 3.3 of the Statute of the Roma Council).⁷⁵ Again, the rule is that at least a half of the members must be Roma (Article 3.1 of the Statute). "The (Roma) Council assists on a systematic basis in the integration of the Roma community into society. It supports cooperation of ministries responsible for the implementation of partial measures and the fulfilment of tasks arising from Government Resolutions and international treaties to which the Czech Republic is a party. It collects, considers and submits to the Government information, groundwork documents and proposals for the creation and application of the Government policy in the area of integration of Roma communities."⁷⁶ The Roma Council has the Committee for cooperation with local authorities and within it the Working group of regional coordinators.⁷⁷

Also relevant for national minorities are **advisory bodies within several ministries**, first of all the Advisory Body on Minority Schools within the Ministry of Education and the Advisory Body on Minority Culture within the Ministry of Culture.⁷⁸ Within the Ministry of Interior there is the Interministerial Commission on the fight against extremism, racism and xenophobia.⁷⁹ Within the Ministry of Education there is also the Joint Czech-German Working Group for History Textbooks. There are also three (general) Joint Commissions: the Czech-Bavarian, the Czech-Saxon and the Czech-Polish.⁸⁰ Within the Ministry of Culture there are also three grant commissions dealing with media in minority languages, minority culture and Roma integration respectively. Within the

73. The description of the Government Council for National Minorities is based on the norms stipulated in the Law on national minorities and the information online. Available at: <https://www.vlada.cz/cz/ppov/rnm/historie-a-soucasnost-rady-15074/> [accessed 25 October 2018].

74. Article 2 of the Statute. Available at: https://www.vlada.cz/assets/ppov/rnm/Statut_narodnostni_mensiny_2018.pdf [accessed 25 October 2018].

75. Available at: https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/Statut_Rady_romska_mensina-_2018__1.pdf [accessed 25 October 2018].

76. "Inter-ministerial Commission for Roma Community Affairs". Available at: <https://www.vlada.cz/en/ppov/zalezitosti-romske-komunity/the-council-for-roma-community-affairs--50634/> [accessed 20 September 2018].

77. Regions are legally obliged to deal with the integration of Roma and to establish the position of a Coordinator for Roma affairs. See Article 67.1 (f) of the Law on Regions in conjunction with Article 6.7 of the Law on national minorities.

78. The Third State Report of the Czech Republic on the FCNM (ACFC/SR/III(2010)008), p. 5. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008b7ec> [accessed 25 October 2018].

79. Ibid, p. 28.

80. The Fourth State Report of the Czech Republic on the FCNM, p. 59.

Ministry of Education there is a commission for the programme of support of education in minority languages. Representatives of national minorities are among the members of these commissions.⁸¹

The most important consultative mechanism at the **regional and local** levels are the **Committees for National Minorities**. The legal basis for the establishment of the committee at the local level is the Law No. 128/2000 on Municipalities, which in Article 117.3 obliges municipalities with at least 10% of citizens belonging to a nationality other than the Czech to establish such a committee, under the condition that the association representing the interests of a national minority submits a written request. The law stipulates that at least a half of members of the committee must belong to national minorities. This condition does not have to be met if there is a lack of candidates from national minorities. A similar provision contains Article 78.2 of the Law No. 129/2000 on Regions. The only difference is that here the demographic threshold is set at 5%. According to the Fourth State Report on the FCNM, in 2011 there were 62 committees at the municipal level, whereas four municipalities, which were not obliged by law to establish a committee have established Commissions for national minorities. In 2012, the number of respective municipal committees decreased by three, but five municipalities established their Commissions. Three statutory towns have established the respective committee, whereas one became obliged to meet this obligation. Four more towns have established a commission, because they do not fall under the legal obligation to establish the committee. When it comes to the regions, three of fourteen regions have established committees. Two more regions have established commissions or panels named differently. Eight regions have appointed coordinators for national minorities. According to the Fourth Report, the imperfect formulation of the respective norms in the laws on municipalities and regions respectively have caused confusion and problems in the implementation in practice. For that reason, the laws have been amended in the sense that the conditions for the establishment of the committee are both set as the demographic threshold (10% of inhabitants in the municipality and 5% in the regions to belong to national minorities), plus also the request of an association representing the interests of the national minority. It has been argued that there should be an interest expressed by the national minority to establish the committee. The amendments of the law have also loosened the criterion for at least half of the members of the committee needing to belong to national minorities. The rationale of this solution is to avoid that the lack of (individual) interest for membership in the committee blocks its establishment.⁸²

GERMANY

1. General Overview

According to the results of the population census of 2011, population of Germany is about 80.2 million.⁸³ In Germany, collecting of data on affiliation with a national minority is not permitted, whilst there is no statistical data on national structure and the share of national minorities in the German population. Protection as national minorities is enjoyed by Danes, Sorbs, Frisians and Sinti and Roma.⁸⁴

Germany is a federal state composed of sixteen federal units (Länder). The federal structure affects both the legal and institutional frameworks relevant for national minorities. The federal constitution (das Grundgesetz) does not contain references to national minorities and their rights, whereas constitutions of several federal units do contain such norms.⁸⁵ Similarly, at the federal level there is no law on national minorities and/or their rights, but

81. The legal basis for the establishment of the grant commissions is provided in Article 7 of the Government Regulation No. 98/2002. Available at <https://www.zakonyprolidi.cz/cs/2002-98/zneni-20070301> [accessed 28 October 2018]. According to it, when appointing the grant commissions, the respective ministries have to take into account the proposals of the Government Council for National Minorities and the Roma Council for the projects aimed at integration of Roma. The information about the existence of the above mentioned commissions rest on the information provided in the document DH-MIN(2005)010 and there is a risk that it is not accurate. Document available at: <https://rm.coe.int/16806bf5a2> [accessed 25 October 2018].

82. The Fourth State Report on the FCNM submitted by the Czech Republic, pp. 25–26.

83. "In Deutschland leben 80 219 695 Menschen". Available at: <https://ergebnisse.zensus2011.de/#StaticContent:00> [accessed 25 October 2018].

84. See the German Declaration for the FCNM. Available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/157/declarations?p_auth=ncwKGAIX [accessed 25 October 2018].

85. General norms can be found in the constitutions of Brandenburg (Article 7), Mecklenburg-Western Pomerania (Article 18), Rhineland-Palatinate (Article 17.4), Saxony (Article 5), Saxony-Anhalt (Article 37) and Schleswig-Holstein (preamble and Article 6). The constitutions of Brandenburg (Article 25) and Saxony (Article 6) contain a catalogue of rights for the Sorbian minority.

in the federal units of Brandenburg and Saxony there is the law on the status of Sorbs,⁸⁶ and Schleswig-Holstein has the Frisian Act.⁸⁷

The division of competences between the federal state and the federal units with regards to national minorities also affects the institutional structures. At the federal level, the ministry in charge of the interior is the central institution dealing with national minorities. The ministry is in charge of more general issues, whereas the executive structures of the federal units have more specific competences with regards to national minorities. The ministry does not have any body or unit dealing exclusively with national minorities, but within the ministry a special Commissioner exists. He is appointed by the federal government, but is not part of the administration. In addition, the ministry also provides an institutional framework for several advisory bodies for national minorities. When it comes to the German federal parliament (der Bundestag), it has no specific committee dealing with national minorities, but they fall under the very wide area of competences of the committee on internal affairs. On the other hand, the federal parliament facilitates a dialogue with national minorities in the form of periodical roundtables. At the office of the president (who in Germany indeed has a limited and protocolary function) there are no units dealing with national minorities. Interestingly, in Germany the institution of an Ombudsperson does not exist.

Regarding the federal units, the most developed institutional structures can be found in those where national minorities live (Brandenburg, Saxony, and Schleswig-Holstein). Although none of these federal units has a body or unit within the executive structure that deals exclusively with national minorities issues, they do have other channels for dealing with them. First, it is in the portfolio of various ministries and other administrative bodies to deal with specific aspects of minority issues (usually culture and education). Second, in Brandenburg and Schleswig-Holstein, there is a commissioner in charge of national minorities. Furthermore, several advisory and consultative mechanisms have been established in these three federal units, plus also in Baden-Württemberg.

2. Executive Structures

At the **federal level**, national minorities fall under the competences of the **Federal Ministry of the Interior, Building and Community**. It “has the primary responsibility for matters of minority law and for implementing, at the national level, the protection of national minorities”.⁸⁸ The Ministry has also the overall responsibility for ensuring the implementation of the FCNM and the ECRML.⁸⁹ The relevant unit within the ministry is the Department (“Referat”) “H I 6”, which covers resettlers policy and national minorities in Germany. The department is part of the wider section “H I” established for the social cohesion and integration, under the portfolio “Community” (“Heimat”).⁹⁰ The department is in charge of implementing the FCNM and the ECRML including the follow-up events and the consultations in connection with state reports. It also services the Federal Government Commissioner for Matters Related to Ethnic German Resettlers and National Minorities.

Within the Ministry there is the **Federal Government Commissioner for Matters Related to Ethnic German Resettlers and National Minorities**. The Commissioner was established in 1988 covering solely ethnic German resettlers, but in 2002 its competences were extended by including the commissioning on national minority issues. The commissioner is appointed by the minister of interior, whereas the appointment has to be approved by the federal government. The commissioner provides an independent and professional support for the ministry and the federal government in the areas of their competence and is not a part of the administrative hierarchy. The term of the commissioner is generally linked to the term of the government. The commissioner is the central contact person at the federal level regarding matters related to national minorities. They represent the federal government in existing and possible future contact groups, advisory bodies and councils etc. They also act as a chairman of the minority advisory body within the ministry of interior. Finally, the commissioner also coordinates awareness-raising campaigns about national minorities in Germany.⁹¹

86. See GVBl I/94 (Nr.21) and SächsGvbl. 7/99.

87. GVOBl. 481/2004.

88. First State Report of Germany on the FCNM, ACFC/SR (2000)1, p. 33. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008af08> [accessed 26 October 2018].

89. Ibid. p. 13 and Initial Periodical Report of Germany on the European Language Charter, MIN-LANG/PR (2000) 1, p. 11. The latter is available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c87ff> [accessed 26 October 2018].

90. https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/ministerium/organigramm-bmi.pdf?__blob=publicationFile&v=13 [accessed 4 December 2018].

91. The description of the Commissioner is provided on ground of the information available at: https://www.aussiedlerbeauftragter.de/AUSB/DE/Beauftragter/beauftragter_node.html and <https://www.bmi.bund.de/DE/ministerium/beauftragte/beauftragte-node.html> [accessed 26 October 2018].

Also worth mentioning here is **the Federal Ministry of Justice** (and Consumer Protection), which, according to the German state reports on the FCNM and European Language Charter, is responsible for “human rights aspects of the protection of minorities”.⁹² Yet, it does not have internal units dealing specially with national minority rights.⁹³

Additionally, the **Federal Government Commissioner for Culture and Media**, might have indirect relevance, but there are no clear indications of their tasks directly pertaining to national minorities.⁹⁴

In **Brandenburg**, within the **Ministry of Science, Research and Culture**, the sub-department (“Referat”) 14 deals, among other issues, with Sorbs/Wends.⁹⁵ Within the **Ministry of Education, Youth and Sports**, the sub-department (“Referat”) 31 also deals with Sorbs/Wends.⁹⁶ In addition to that, since 2014 there has been a *Commissioner for Issues of Sorbs/Wends* under the Brandenburg government. At present, a state secretary in the Ministry of Science, Research and Culture holds the position of the Commissioner. The Commissioner supports the coordination of ministries in all matters concerning the Sorbs/Wends. They also pursue further development of the legal framework, nourishes and establishes contacts with Sorbian/Wendish associations, and acts as a contact person in all questions concerning national identity and expression of Sorbian/Wendish language and culture. The commissioner is also responsible for preparing the report on the situation of the Sorbian/Wendish people to be presented by the state government at the middle of each legislative period.⁹⁷ Several municipalities in Brandenburg have also established a commissioner for Sorbian/Wendish issues.⁹⁸ In Cottbus (a city in Brandenburg) there is a Department of Sorbian/Wendish Educational Development. It is part of the school authority (“*Schulamt*”). Its tasks include the preparation and revision of the Sorbian/Wendish teaching curricula; development of the Sorbian/Wendish teaching and learning materials, and Sorbian/Wendish (bilingual) instruction in 1–12 grades; teacher training and counseling for further development of the Sorbian/Wendish instruction; and bilingual teaching in the state of Brandenburg.⁹⁹

In **Saxony**, within the **Ministry of Science and Arts** there is a sub-department (Referat) 21, which deals with *general cultural issues, Sorbs and commemorative culture*.¹⁰⁰ In several districts and towns in Saxony a Commissioner for Sorbian issues has been established.¹⁰¹

The main part within the executive structure of **Schleswig-Holstein** dealing with national minorities is the **Commissioner of the Minister President on the Issues of National Minorities and Ethnic Groups, Border Cooperation and Low German**. The office of the commissioner falls under the organisational structure of the State Chancellery. The scope of activities of the Commissioner covers the Danish minority in Schleswig, the German minority in the Danish Nordschleswig, Frisians and Sinti and Roma. The focus of the work is put on the partnership between minority and majority and on a successful cross-border cooperation. The Commissioner provides consultative services for the Prime Minister of Schleswig-Holstein on minority issues, engages in cooperation with all ministries of the Schleswig-Holstein government, maintains and supports communication and networking between minorities, as well as prepares the Minority report and the Language Charter Report together with the government. The commissioner also represents the Schleswig-Holstein government in the respective advisory committees of the Federal Ministry of Interior.¹⁰²

92. First State Report on the FCNM, p. 33 and the Initial Report on the European Language Charter, p. 11.

93. https://www.bmjbv.de/DE/Ministerium/Abteilungen/Abteilungen_node.html [accessed 26 October 2018].

94. For details see: “Staatsministerin Monika Grütters – Die Beauftragte der Bundesregierung für Kultur und Medien”. Available at: <https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien/staatsministerin-und-ihr-amt/aufgaben> [accessed 26 October 2018].

95. The sub-department is under Department 1 (Central Department). Referat 14: Angelegenheiten der Kirchen, Religionsgemeinschaften, Sorben/Wenden und des Niederdeutschen. Available at: <https://mwfk.brandenburg.de/sixcms/detail.php/504531> [accessed 26 October 2018].

96. The sub-department is under Department 3 (School and Education of Teachers). It covers various areas of work: quality development and quality control, general issues, monitoring of schools, etc. Available at: https://mbjs.brandenburg.de/media_fast/6288/organigramm-deutsch.pdf [accessed 26 October 2018].

97. Description of the Commissioner rests on the information provided at: <https://mwfk.brandenburg.de/sixcms/detail.php/662611> [accessed 26 October 2018].

98. <https://mwfk.brandenburg.de/cms/detail.php/bb1.c.398721.de> [accessed 26 October 2018].

99. Information available at: <https://schulaemter.brandenburg.de/sixcms/detail.php/lbm1.c.374018.de> and https://www.cottbus.de/wissenswert/sorbische_institutionen/arbeitsstelle_fuer_sorbische_wendische_bildungsentwicklung_cottbus_zelanisco_za_serbske_kublanske_wuwijanje_chosebuz.html [accessed 26 October 2018].

100. The sub-department 21 is under the department 2 (Art), http://www.smwk.sachsen.de/download/O_100_01.04.18.pdf [accessed 26 October 2018].

101. Bautzen: <http://www.landkreis-bautzen.de/90.html>, Görlitz: http://www.kreis-goerlitz.de/city_info/webaccessibility/index.cfm?waid=394&modul_id=18&record_id=12405 and Hoyerswerda: <https://www.hoyerswerda.de/rathaus/verwaltung/geschaeftsverteilung/stabsstellen-privat/beauftragte-fuer-sorbische-angelegenheiten/> [accessed 26 October 2018].

102. Description of the Commissioner rests on the information available at: https://www.schleswig-holstein.de/DE/Fachinhalte/M/minderheiten/minderheiten_minderheitenbeauftragter.html [accessed 26 October 2018].

3. Consultative Mechanisms

Consultation is extensively used as a method of dialogue between the authorities and national minorities. A network of advisory and consultative bodies is dense, both at the federal level and the level of *Länder*. Generally, there are two channels for consultations. One is provided through the establishment of minority umbrella organisations, and the other is provided through various (more or less institutionalised) dialogue platforms (forums) within public institutions.

The central minority (umbrella) organisation at the federal level is the **Minority Council** (*"Minderheitenrat"*). It gathers four national minorities in Germany, with the main task to facilitate communication between them and coordination of their activities and positions, as well as to establish joint statements on topical issues. It further works on protection and promotion of national minorities in Germany and represents their interests vis-à-vis the Federal Government and the German Federal Parliament. Each of the four national minorities are represented in the Minority Council with a chair and two representatives. These representatives (including a chair) are delegated by the respective minority organisations: SSF and SSW for the Danish minority, Central Council of German Sinti and Roma, Domowina (the umbrella organisation of Sorbs) and Frische Rädj/Frisian Council Section North and Seelter Bund (representing Frisians). The chairmanship of the Minority Council is arranged according to the principle of rotation, whereby each minority organisation provides a chair for a period of one year. Regular meetings of the Minority Council take place at least twice each year. The organisational and substantial support for the work of the Minority Council is provided by the Minority Secretariat.¹⁰³

The **Minority Secretariat** (*"Minderheitensekretariat"*) was established in 2005 with the aim to provide support for the minority associations in Germany. It acts as a focal point for minority associations for contact with federal institutions (the government and the parliament) and monitors the parliamentary activity (both in the plenary and in the committees) with regards to minority interests and problems. It also identifies interests of national minorities in implementing provisions to the laws and permits, and develops common positions and opinions of minority associations. The Minority Secretariat acts as a representative of minority associations in various national and international fora. It also works on public relations in the issues relevant for minorities and on dissemination of information on the four minorities in Germany. As already mentioned, it serves as a secretariat for the Minority Council. Support for the work of the Minority Secretariat is provided by the Ministry of Interior, and the financial means necessary for its work are secured in the federal budget.¹⁰⁴

At the federal level, the most significant fora for discussion on minority issues are established under the **Ministry of the Interior**. There are five advisory committees which separately deal with issues relevant for the Danish minority, Frisians, Sorbs, Sinti and Roma, and the Low German language group. The **Advisory Committee on Issues Related to the Danish Minority** has a task to discuss all issues related to the Danish minority that have a bearing on German internal policy. The committee shall guarantee access for the Danish minority to the German Federal Government and Federal Parliament. Its members are the German Federal Minister of the Interior and a State Secretary in the Federal Ministry of the Interior, two Members each from the political groups in the German Federal Parliament, three members of the Danish minority in Germany and the Minority Commissioner as representative of the Land of Schleswig-Holstein. The **Advisory Committee on Issues Related to the Frisians** deliberates issues relevant for this minority. The committee is composed of one representative each from Frische Rädj – Frisian Council Section North, the North Frisian Association, Seelter Buund and the director of the Nordfriisk Instituut, and furthermore of representatives of the Federal Ministry of the Interior and the governments of the *Länder* of Lower Saxony and Schleswig-Holstein. The **Advisory Committee on Issues Related to the Sorbian People** discusses the issues relevant for the Sorbian people. The committee consists of three persons belonging to the Sorbian people appointed by the Domowina and one representative of the Foundation for the Sorbian People, and furthermore by representatives of the Federal Ministry of the Interior and the governments of the *Länder* of Brandenburg and Saxony. Since 2015, there is also the **Advisory Committee on the Issues Related to German Sinti and Roma** that deals with issues relevant for this minority. The committee consists of two representatives of the Central Council of German Sinti and Roma, two representatives of the Sinti Alliance Germany, one person from the Minority Secretariat, as well as representatives of the Federal Ministry of the Interior, the Federal Government Commissioner for Culture and the Media and the governments of all the *Länder*. The chair of all above mentioned advisory committees is the Federal Government Commissioner for Matters Related to Ethnic German Resettlers and National Minorities. Since 2014, the Minority Secretariat has been attending the meetings of the above-mentioned advisory committees as a permanent observer. Members of the German

103. Description of the Minority Council rests on the information available at: <https://www.minderheitensekretariat.de/minderheitenrat/taetigkeit/> [accessed 26 October 2018].

104. "Minderheitensekretariat: Tätigkeit". Available at: <https://www.minderheitensekretariat.de/minderheiten-sekretariat/taetigkeit/> [accessed 25 October 2018].

Federal Parliament and representatives of other federal ministries can be invited to the meetings of the advisory committees. Meetings of the advisory committees are held at least once a year or upon request (if at least three members call for a meeting to be convened). The meeting agenda is prepared by the chair in consultation with the members of the committee.¹⁰⁵

A forum for consultation between national minorities and public authorities is also provided within the German Federal Parliament. The format of consultation here is a roundtable. The **periodical roundtables of the national minorities at the German Federal Parliament** are held several times a year and gather MPs, supported by the chair of the Committee for Internal Affairs, with the representatives of the umbrella organisations of national minorities.¹⁰⁶

A channel for a dialogue between the federal authorities, authorities of the *Länder* and national minorities is also provided through the **Joint conferences of the German Federal level with the regions (*Länder*) and the minorities on the FCNM and the European Language Charter (Implementation Conferences)**. The subject of these conferences is the implementation of the FCNM and the European Language Charter. The participants in these meetings are the German federal ministries responsible for minority protection and for the minority and regional languages, the authorities responsible for these issues in the *Länder*, representatives of the umbrella organisations of the minorities who are protected by these instruments, as well as language groups and academic institutions.¹⁰⁷

In addition to the advisory/consultative mechanisms at the federal level, such mechanisms can also be found in several federal units (*Länder*). At the Parliament (*Landtag*) of **Brandenburg**, the **Council for Sorbian/Wendish Issues** exists. It has five members, who must be persons belonging to the Sorbian minority. Members are nominated by Sorbian organisations. The task of the council is to observe and participate in all important issues concerning the Sorbs. It also has a power to give comments on drafted legislation relevant for the Sorbian minority. In general, the council provides a channel for representation of the Sorbian minority (interests) in Brandenburg.¹⁰⁸ In **Baden-Württemberg**, at the level of the State Chancellery there is the **Council for the Issues of the German Sinti and Roma**. The members of the council are, on a parity basis, representatives of the “regional” authorities and representatives of minorities. The council discusses issues that Sinti and Roma face, as well as project ideas and other relevant political/social measures.¹⁰⁹ In **Saxony**, there is the **Council for Sorbian Issues** at the regional parliament (*Landtag*). Its structure and tasks are same as in Brandenburg.¹¹⁰ At the *Landtag* of **Schleswig-Holstein** three fora are active. The **Forum on the Issues of the Frisian Ethnic Group in Schleswig-Holstein** gathers the Commissioner, representatives of the *Landtag* fractions, MPs in the German Federal Parliament from Nordfriesland, representatives of the regional government and representatives of the Frisian minority. The Forum meets two times in a year.¹¹¹ The **Forum on the Issues concerning Sinti and Roma** also has a similar structure.¹¹² These two forums are chaired by the president of the *Landtag*. The **Dialog Forum Norden** gathers four national minorities from Schleswig-Holstein and Nordschleswig/Region Syddanmark. In this forum, minority-related institutions, organisations and politicians come together to exchange information and, if necessary, take a stand together as far as minority issues are concerned. Thus, the aim of the forum is to enhance communication, cooperation and coordination between national minorities in the two regions. The chair of the Forum is the Commissioner for national minorities.¹¹³

105. Description of advisory committees rests on the information provided online at: https://www.protokoll-inland.de/DE/Themen/Gesellschaft-Verfassung/Nationale-Minderheiten/Gremien/gremien.html?jsessionid=E63BD5F0CF3FBE2018FEC62AC578A262.2_cid373?nn=4182660#doc8861924bodyText1 and <https://www.minderheitensekretariat.de/grundlagen/politische-gremien-fuer-minderheitenfragen/> [accessed 26 October 2018].

106. “Gesprächskreis nationale Minderheiten beim Deutschen Bundestag”. Available at: <https://www.protokoll-inland.de/DE/Themen/Gesellschaft-Verfassung/Nationale-Minderheiten/Gremien/gremien.html?nn=4182660#doc8861924bodyText7> and <https://www.minderheitensekretariat.de/grundlagen/politische-gremien-fuer-minderheitenfragen/> [accessed 26 October 2018].

107. “Bund-Länder-Konferenzen mit den Minderheiten zum Rahmenübereinkommen zum Schutz nationaler Minderheiten und zur Europäischen Sprachencharta (Implementierungskonferenzen)”. Available at: <https://www.protokoll-inland.de/DE/Themen/Gesellschaft-Verfassung/Nationale-Minderheiten/Gremien/gremien.html?nn=4182660#doc8861924bodyText7> and <https://www.minderheitensekretariat.de/grundlagen/politische-gremien-fuer-minderheitenfragen/> [accessed 26 October 2018].

108. https://www.landtag.brandenburg.de/media_fast/5701/LBB-Sorbenrat.pdf [accessed 26 October 2018].

109. <https://stm.baden-wuerttemberg.de/de/themen/sinti-und-roma/> [accessed 26 October 2018].

110. For more details see https://www.landtag.sachsen.de/dokumente/landtagskurier/SLT_FL_RatSorb_18_DR.pdf [accessed 26 October 2018].

111. <https://www.landtag.ltsh.de/parlament/friesengremium/> [accessed 26 October 2018].

112. <https://www.landtag.ltsh.de/parlament/sinti-und-roma-gremium/> [accessed 26 October 2018].

113. “Dialog Forum Norden”. Available at: https://www.schleswig-holstein.de/DE/Fachinhalte/M/minderheiten/Downloads/161114_Flyer_DialogForumNorden.pdf?__blob=publicationFile&v=1 [accessed 26 October 2018].

ROMANIA

1. General Overview

Romania has a total population of about 20.1 million of people (2011 census), of which 83% have declared their affiliation with the Romanian identity and 6% have not declared any national affiliation.¹¹⁴ The rest of the population belong to minority groups, however, not all enjoy protection as national minorities. Romania has no special law on national minorities and no definitions or lists of groups which fall under the minority protection. The condition for groups to receive minority protection is for the groups to be represented in the Romanian parliament. Those groups which enter Parliament (under the regime of the reserved seats) also receive recognition as national minorities. At present (as of the 2016 elections) the following groups/national minorities are represented: Albanian, Armenian, Bulgarian, Croatian, Czech and Slovak, German, Greek, Italian, Jewish, Lipoveni, Macedonian, Polish, Roma, Ruthenian, Serbian, Turkish, and Ukrainian.¹¹⁵ The Hungarian minority, which is numerically the largest, has entered the Parliament (both chambers) under the general rules.

As already noted, Romania does not have a separate, comprehensive, law on national minorities. The legal basis for minority protection is set in Article 6 of the Constitution, and minority relevant provisions are dispersed in relevant sectoral laws.

Legislative powers are vested in the bicameral Parliament, which is composed of the Chamber of Deputies and the Senate. Minority representation in the Parliament is secured through the reserved seats (in the Chamber of Deputies). A minority organisation which runs in the elections and does not win representation in either of the chambers on general conditions, is entitled to one seat each in the Chamber of Deputies if it obtains at least 5% of the average number of valid votes casted for an elected MP.¹¹⁶ There is no prescribed number of reserved seats and they can vary from one election to another. At present, there are 17 MPs in the Chamber of deputies who hold their seats under this rule.¹¹⁷ The Hungarian minority can meet the general electoral rules and is represented with 21 MPs in the lower house and 9 MPs in the upper house of the Parliament.¹¹⁸ In both houses of the Parliament there is a Commission on Human Rights, Cults and National Minorities. The executive powers are vested in the President and the Government. Interestingly, at present the President is a person belonging to a national minority (German minority).¹¹⁹ Under the presidential administration there is the Department of Culture, Religion and Centenary, which has some responsibility in the area of minority protection. Yet, the Government remains central for dealing with national minorities. Two independent institutions are also relevant for national minorities. The Romanian People's Advocate (ombudsman) has a Deputy for human rights, gender equality, religious cults and national minorities. Whilst, indirectly relevant is the National Council for Combating Discrimination, an autonomous state authority that works on combating discrimination. Romania has also established several institutions that deal with Roma issues, which is not surprising given the relevant demographic factors: Roma is the second largest minority in the country (after Hungarians)¹²⁰ and its share of the total population of Romania is among the largest in Europe.¹²¹

The territory of Romania is administratively divided into 41 counties (plus the city of Bucharest), 320 cities (urban communities), and 2,861 communities (rural areas).¹²² The powers in the county are divided between the prefect and the county council. The prefects are appointed by the Government, representing them at the local level and directing the decentralised public services of central bodies in territorial-administrative units (Article 123 of the Constitution). The county councils are elected bodies and, according to Article 122.2 of the Constitution, are "the

114. "Volumul II: populația stabilă (rezidentă) – Structura etnică și confesională". Available at: <http://www.recensamantromania.ro/noutati/volumul-ii-populatia-stabila-rezidenta-structura-etnica-si-confesionala/> [accessed 28 August 2018].

115. "Grupul parlamentar al minorităților naționale". Available at: <http://www.cdep.ro/pls/parlam/structura.gp?idg=7> [accessed 28 August 2018].

116. Article 56.1 of the Law no. 208/2015 on the election of the Senate and the Chamber of Deputies. From 2008 to 2015 the threshold was set at 10% (Article 47.4 of the Law No. 35/2008 on the elections of the Chamber of Deputies and the Senate, which is no longer valid).

117. "Grupul parlamentar al minorităților naționale". Available at: <http://www.cdep.ro/pls/parlam/structura.gp?idg=7> [accessed 26 October 2018].

118. See <http://www.cdep.ro/pls/parlam/structura.gp?idl=2&idg=4> and <https://www.senat.ro/ComponentaGrupuri.aspx?Zi&GrupID=ec108697-5212-442b-830e-c289b9b6fd36> [accessed 26 October 2018].

119. "President Klaus Iohannis". Available at: <http://www.presidency.ro/en/president/klaus-iohannis> [accessed 26 October 2018].

120. See the results of the census of 2011 in Romania available at <http://www.recensamantromania.ro/noutati/volumul-ii-populatia-stabila-rezidenta-structura-etnica-si-confesionala/> [accessed 4 December 2018].

121. See "Estimates on Roma population in European countries" at: <https://www.coe.int/en/web/portal/roma> (accessed 4 December 2018). The share of Roma in the general population is higher only in Bulgaria, Macedonia and Slovakia, but taking account the estimated numbers of Roma in all these countries, the Roma population in Romania is the biggest one.

122. See "Romania" at: <https://portal.cor.europa.eu/divisionpowers/Pages/Romania.aspx> [accessed 26 October 2018].

public administration authority coordinating the activity of commune and town councils, with a view to caring out the public services of county interest". There is no legal obligation to establish internal units neither within the prefecture nor the county council that deal with national minorities and the situation in this respect varies in counties. In general, Romania is centralised, and counties have only limited powers. When it comes to national minorities, more relevant than the regional authorities are the regional offices of the central government. Of relevance in this respect are the regional offices of the (governmental) Department for Interethnic Relations and regional offices of the National Agency for the Roma. The powers at the local level are divided between the local councils (legislative) and the mayor (executive).¹²³ The most common channel to deal with national minorities at the local level is a commission for human rights and national minorities, which a local council can establish.

The main channel for consultation between authorities and national minorities is provided through the Council of National Minorities. It operates at the national level. There are no institutionalised structures for consultations with national minorities at the regional and local levels.

2. Executive Structures

Within the **Presidential Administration**, the body that is central for dealing with minority issues is the **Department of Culture, Religion and Centenary**. It is "responsible for supporting the President's political action in order to safeguard the constitutional right to identity, spiritual development and the access to culture."¹²⁴ The main task of the Department with regards to national minorities is to observe "the proper functioning of the public institutions responsible for conserving the values of national culture and the protection of cultural inheritance of the minorities", whereas these two (values of national culture and cultural inheritance of the minorities) have been considered as "an expression of freedom and an example of intercultural dialogue".¹²⁵

The key institution at the level of the **Government** that is dealing with national minorities is the **Department for Interethnic Relations**. It is subordinated to the Prime Minister, does not have legal personality, and is coordinated by the Minister Delegate for the Coordination of the General Secretariat of the Government. The Department implements the relevant governmental policies, elaborates and submits strategies and policies, elaborates or endorses drafts of the relevant regulation, monitors the implementation of relevant domestic and international regulation, encourages dialogue between majority and the minorities, promotes diversity, provides project grants for the activity of relevant NGOs and provides financial assistance to 19 NGOs that are represented in the Council for National Minorities. It also cooperates with other domestic and international bodies active in the field of human rights and minority rights. The Department maintains permanent contacts and collaborates with the local public administration through five representatives with territorial competence (in Cluj-Napoca, Timișoara, Constanța, Miercurea Ciuc and Turnu Severin).¹²⁶

The **National Agency for Roma** is subordinated to the Prime Minister, has a legal personality, but is nevertheless coordinated by the Minister Delegate for the Coordination of the General Secretariat of the Government. The Agency has a wide range of tasks. It approves drafts of laws and other normative acts that affect the rights and duties of Roma and develops governmental strategies and policies in the field of Roma protection and inclusion. In further monitors the implementation of the respective legal framework and policies, and performs analytical work on the needs and position of the Roma minority. As a result, it provides information, training and consulting services to and about Roma. Under its scope of work falls also to promote and organise programs on preservation, expression and development of ethnic, cultural, linguistic and religious identity of the Roma minority. One of the essential tasks in this respect is also to finance and co-finance programs and projects in the field of Roma inclusion. The Agency has regional offices, which are coordinated by its headquarters.¹²⁷

In addition to these two institutions dealing in general with national minorities and with Roma, within several ministries there are units which deal respectively with sectoral aspects of minority protection. In this respect, within the **Ministry of Culture and National Identity** there is the **Compartment for National Minorities**, which is directly subordinated to the minister. The Compartment deals with various aspects of support for minority culture, such as: facilitating financial support for realisation of minority programs, projects and manifestations;

123. See Article 121 of the Constitution.

124. "Department of Culture, Religion and Centenary". Available at: <http://www.presidency.ro/en/presidential-administration/departments/departament-of-culture-religion-and-centenary> [accessed 23 August 2018].

125. Ibid.

126. Description of the Department rests on the information provided online at: <http://www.dri.gov.ro/en/despre-noi/> [accessed 26 October 2018].

127. Description of the National Agency for Roma rests on the information provided online at: <http://www.anr.gov.ro/> [accessed 26 October 2018].

providing financial support of cultural magazines and publications in minority languages; providing methodological support for the organisation of minority cultural activities; participating in the establishment of cultural institutions for preservation of minority culture; and also providing analytical and informational activities related to minority cultures.¹²⁸ Within the **Ministry of National Education** there is the **Directorate for Minorities**, which operates under the General Directorate for Minorities and the Relation with the Parliament. The main task of the Directorate is to coordinate the organisation and content of education for national minorities. Further, it organises national school competitions for pupils of schools offering education in or of minority languages, and monitors teaching units which teach in the languages of national minorities or the teaching of a minority language as a mother tongue. For the fulfilment of its tasks, the department collaborates with other departments within the ministry of education, as well as other ministries and governmental institutions, but also with NGOs and professional associations which promote education for national minorities.¹²⁹ Finally, within the **Ministry for Public Administration and Regional Development** there is the **National Contact Point for the Roma**, which operates under the Directorate for Communication. Its main tasks refer to the inclusion of Roma and to the activities related to the implementation of the respective strategy.¹³⁰

At the central level there is also the **Prime Minister's State Advisor on Roma Issues**. The Advisor represents the Prime Minister in meetings on Roma issues with foreign representatives and maintains contacts with other public authorities on issues related to Roma. Interestingly, one aspect of the advisor's work is solving problems of petty crimes and dismantling criminal networks, with regard to crime committed by Romanian citizens of Roma origin in foreign countries.¹³¹

Also worth mentioning here is the **Inter-Ministerial Committee for the Evaluation of the Implementation of the National Roma Inclusion Strategy**. It consists of high-level representatives of central institutions and has the role of evaluating and monitoring the National Roma Inclusion Strategy (NRIS). The responsibilities of the Inter-Ministerial Committee are to analyse the Action Plan's implementation every half year, and to identify and implement solutions reducing the risk that the objectives of the NRIS will not be achieved.¹³²

As already stated above, **both houses** of the Romanian **Parliament** have a **Commission for Human Rights, Cults and National Minorities**, as one of the permanent parliamentary commissions. The commission of the Chamber of Deputies can have 11 to 25 members, and at present has 17 members. Under its competence fall the issues of human and citizen's rights, minority issues, freedom of conscience, religious matters, and freedom of expression by means other than the press. It has four sub-commissions on: the Hungarian minority, elderly people, anti-discrimination and Roma.¹³³ The commission of the Senate has 11 members at present.¹³⁴ Its main tasks are to examine draft legislation on human rights, national minorities and religious denominations, with a view to writing up reports or approvals; to request reports, information, and documents from public authorities; to carry out parliamentary inquests, at the request of the Permanent Bureau, to which it reports; and to verify whether relevant ministries and other public administration bodies abide by human rights, national minority rights, and religious rights. Interestingly, jointly with the respective commission in the Chamber of Deputies it interviews the candidates for the positions of Minister, where those positions involve responsibilities in the field of human rights, religious rights, and national minority rights. The commission may setup sub-commissions, plus it can invite experts and representatives of public authorities to its debates.¹³⁵

Two independent institutions are also relevant for national minorities. One is the **Ombudsman**, who has a **Deputy** specialised in human rights, equal opportunities, religious denominations and national minorities.¹³⁶ The other is the **National Council for Combating Discrimination**; an autonomous state institution that works on combating discrimination. Its main tasks cover awareness raising, mediation in the cases of discrimination,

128. More information is available at: <http://www.cultura.ro/diversitate-minoritati-nationale> [accessed 26 October 2018].

129. "Direcția Generală Minorități și Relația cu Parlamentul". Available at: <https://www.edu.ro/Direcția%20Minorități> [accessed 26 October 2018].

130. "Punctul National de Contact pentru Romi". Available at: <http://www.mdrap.ro/punctul-national-de-contact-pentru-romi> [accessed 26 October 2018].

131. <http://gov.ro/fisiere/echipa-pm/dana.rozalia.varga.pdf> [accessed 26 October 2018].

132. "Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Romania", p. 13. Available at: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-1-romania-2018.pdf> [accessed 23 August 2018].

133. See "Committee for Human Rights, Cults and National Minorities Issues". Available at: <http://www.cdep.ro/pls/parlam/structura.co?idl=2&idc=5> [accessed 26 October 2018].

134. "Comisia pentru drepturile omului, egalitate de șanse, culte și minorități". Available at: <https://www.senat.ro/ComponentaComisii.aspx?Zi=&ComisiileID=57D70A5F-F421-45B7-B355-E11AE37CA421> [accessed 26 October 2018].

135. See Article 3 of the Regulation on the Organisation and Work of the Commission. Available at: https://www.senat.ro/PAGINI/comisii/Regulamente_2014/Comisia_Drepturile_omului.pdf [accessed 26 October 2018].

136. http://www.avp.ro/index.php?option=com_content&view=article&id=55&Itemid=163&lang=ro-ro [accessed 26 October 2018].

investing, detecting and sanctioning the cases of discrimination, follow-up of cases in which discrimination has been found, and providing legal assistance to victims of discrimination.¹³⁷

When it comes to the **county level**, there is no legal obligation for the authorities to establish institutions dealing with national minorities. However, there are two general possibilities: to establish a department within a prefecture and/or to establish a commission at the county council. An example for the first possibility is the Sibiu County, in which there is a Minority Department.¹³⁸ Its main tasks are to implement the policy in the field of interethnic relations, promote diversity and combat discrimination, promote actions to guarantee, preserve and develop minority rights, prepare reports on the situation of national minorities, and perform analyses.¹³⁹ An example for the second method can be found in the Caras-Severin County, in which within the county council there is a commission for education, culture, family, religious denominations, and minorities.¹⁴⁰ However, both these counties are areas with a significant share of minority population, and similar structures cannot be found in counties with a smaller share of minorities.

As mentioned above, the Department for Interethnic Relations and the National Agency for Roma both have their **regional offices**. The former has five such offices and the latter has seven. These offices are institutionally linked to their headquarters in Bucharest, but cooperate with county and local authorities. Thus, the purpose of regional offices is to provide “territorial coverage” for the two central institutions. Regional offices monitor the situation in regions and local communities, monitor minority press and local press, and cooperate with NGOs and regional institutions.¹⁴¹

When it comes to the **local level**, the most used channel to deal with national minorities is a **commission of the local council**. Yet, defining the internal structure of a local council falls under the competence of municipalities and they are not obliged to establish a commission for national minorities. Thus, it is under their margin of appreciation to decide whether to establish such a commission or not and how to organise it (either as a commission dealing exclusively with minority issues or a commission dealing with several issues among which minority issues are a part).

3. Consultative Mechanisms

The central consultative body in Romania is the **Council of National Minorities** (hereafter the Council). It is composed solely of representatives of national minorities. Represented in the Council are minority organisations that are represented in the Romanian Parliament. Each organisation has three representatives in the Council. The Council does not have legal personality and is coordinated and supported by the Department for Interethnic Relations. The Council can submit, through the Department for Interethnic Relations, proposals of measures for: the improvement of the social and cultural life of citizens, the correct representation of minority issues in media, and the development of the minority education. It further submits proposals to the Department for Interethnic Relations for adoption of administrative and financial measures to efficiently solve problems (of minorities) that fall under its competence. One important aspect of the Council’s activities is cooperation with minority associations and providing support to their work, as well as cooperation with relevant international bodies. The Council works in plenary sessions and in specialised committees. The plenary sessions should take place quarterly. The Council has five committees, on: culture, cults and media; financial affairs; legislation and public administration; education and youth; and social and economic affairs.¹⁴²

There are no consultative mechanisms at regional and local level.

137. “Consiliul national pentru combaterea discriminarii”. Available at: <http://cncd.org.ro/home> [accessed 26 October 2018].

138. <https://sb.prefectura.mai.gov.ro/wp-content/uploads/sites/28/2017/12/organigrama.png> [accessed 26 October 2018].

139. See Article 44 of the Regulation on the Organisation and the Work of the Prefecture Sibiu. Available at: <https://sb.prefectura.mai.gov.ro/wp-content/uploads/sites/28/2017/12/ROFweb.pdf> [accessed 26 October 2018].

140. <http://www.cjcs.ro/comisii-de-specialitate.php> [accessed 26 October 2018].

141. See Articles 17 and 18 of the Regulation on the Organisation and the Work of the Department for Interethnic Relations. Available at: http://www.dri.gov.ro/wp-content/uploads/2016/08/ROF_DRI.pdf (accessed 26.10.2018) and Article 21 of the Regulation on the Organisation and the Work of the National Agency for Roma. Available at: <http://www.anr.gov.ro/docs/Structura/regulament.pdf> [accessed 26 October 2018].

142. Description of the Council of National Minorities is based on the information provided online at: <http://www.dri.gov.ro/consiliul-minoritatilor-nationale/> [accessed 26 October 2018].

SERBIA

1. General Overview

The total population of Serbia is about 7.2 million people (census of 2011), of which 83.32% are Serbs. The numerically biggest minorities are Hungarians (3.53% of the total population), Roma (2.05%) and Bosniaks (2.02%). Croats (0.81%), Slovaks (0.73%), Vlachs (0.49%), Romanians (0.41%) and Bulgarians (0.26%) are also important puzzles in the Serbian ethnic mosaic.¹⁴³ Albanians are also an important part, although there is no accurate data on their share in the total population (due to the boycott of the census in 2011). Almost all (bigger) minorities in Serbia (with exception to Roma) live in concentrated areas and their share in regional and local populations is respectively much higher than taken in total. This is important for the exercise of those minority rights which are linked to the demographic threshold, but has no impact on 'recognition' of a group as a national minority. The Serbian legal system contains a definition of a national minority, without any lists of 'recognised' minorities and theoretically every group which meets the criteria set in the legal definition can enjoy the protection as a national minority. In practice, however, the establishment of a national council of a national minority is sort of an informal recognition of a group as a national minority. The system is generally liberal and 21 minorities have established their national councils so far.

The legal regulation on national minorities is extensive in Serbia. First, the Constitution contains an extensive catalogue of minority rights (Articles 75–81). Then, there is the law on national minorities (OJ 11/2002, amended in 2018), and the law on national councils of national minorities (OJ 72/2009, amended in 2014 and 2018). In addition to that, many sectoral laws contain regulations relevant for national minorities and the exercise of their rights.

The legislative powers are vested in the unicameral parliament ("*Narodna skupština*"). Representation of national minorities in the parliament is facilitated with the affirmative measure of the lower threshold. Minority lists do not have to meet the general 5% threshold, but have to win the number of votes needed to get one seat in the Parliament.¹⁴⁴ At the moment, 10 MPs (out of 250) have been elected according to the rule for minority lists.¹⁴⁵ The Parliament has a committee for human and minority rights and gender equality. The executive powers are vested in the President of the Republic and the Government. The office of the President has no institutionalised structures to deal with national minorities. The Government provides the most significant institutional framework for dealing with minority issues at the central level. Two institutions are central in this respect: the Ministry of Public Administration and Local Self-Government and the Office for Human and Minority Rights. In addition to this, the ministry of education has a group for minority education. Several other ministries also deal with minority issues, but do not have internal units specialised for this. An important element in the institutional structure at the central level is the Ombudsman, who has a Deputy specialised solely for national minority rights. This institution has (thanks to the personal authority and engagement) significantly contributed to the protection of minorities in Serbia. In addition to the Ombudsman, Serbia has also established the specialised Commissioner for Protection of Equality, an institution that is also significant for combating discrimination on grounds relevant for the affiliation with a national minority.

An important element in the territorial organisation of Serbia is the autonomy status of the province of Vojvodina. This is of great significance for national minorities, bearing in mind the traditionally multi-ethnic and multi-confessional structure of the population of Vojvodina. Vojvodina has a tradition of managing multi-ethnic relations and thus the province's development of institutional structures for dealing with national minorities is not surprising. It should be born in mind that the autonomy of Vojvodina is not based on national/ethnic grounds, but on territorial grounds: it is a territorial autonomy and not a minority autonomy. Legislative powers in Vojvodina are vested in the provincial assembly ("*Skupština*"). Representation of minorities in the provincial parliament is also facilitated with the affirmative measure of the lower threshold (the 5% threshold does not apply in this case).¹⁴⁶ The provincial assembly has a Committee on national equality. Interestingly, it also has a Committee on establishing equal authenticity of provincial legislation in languages in official use. The executive powers are vested in the provincial government, which consists of provincial secretariats. The Provincial secretariat

143. Data on the ethnic structure of population have been published in "Ethnicity. Data by municipalities and cities". Available at: <http://pod2.stat.gov.rs/ObjavljenePublikacije/Popis2011/Nacionalna%20pripadnost-Ethnicity.pdf> [accessed 10 August 2018]. A comprehensive table is provided on p. 15 of the publication.

144. See Article 81.2 of the Law on General Elections (OJ 35/2000 and consequent amendments).

145. http://www.rik.parlament.gov.rs/doc/izbori-2016/rezultati/1.%20Zbirni_rezultati.pdf [accessed 26 October 2018].

146. Article 47.4 of the Provincial Assembly Decision on Provincial Elections (OJ APV 23/2014).

for education, regulations, administration and national minorities-national communities, is central for minority issues. The Provincial secretariat for culture, public information and relations with religious communities also has a division for minority culture. Improvement of the position of Roma falls under the competences of the Provincial secretariat for social policy, demography and gender equality. There is also a specialised Office for Roma Inclusion. Vojvodina has established the Provincial Ombudsman, who has a Deputy for Protection of Minority Rights.

Local self-governance is organised in cities and municipalities. The main institutions at the local level are: the city/municipal assembly (legislative powers), mayor (executive powers) and city/municipality council (executive powers).¹⁴⁷ An important segment is the local administration that performs administrative tasks in the city/municipality (but is not an organ of city/municipality). It falls under the self-government of the city/municipality to define their own internal organisation. Thus, it is up to city/municipality authorities to decide whether there shall be separate structures within the local administration dealing with minority issues. However, there is the obligation for ethnically mixed cities/municipalities to establish the council for inter-ethnic relations.¹⁴⁸ The nature of this body is hybrid, because it might be categorised both as a permanent working body of the local assembly and as a consultative body within the city/municipality.

Dialogue between public authorities and national minorities is facilitated through the national councils of national minorities.¹⁴⁹ These councils are bodies of minority cultural autonomy and consultative bodies through which national minorities participate in the decision-making process of public authorities (at all three levels of government: national, provincial and local). In addition to this, there is the Council for National Minorities (as a mixed and joint body) at the national level¹⁵⁰. Finally, the above mentioned local councils for interethnic relations are also an available (but unfortunately under-used) channel for consultation at the local level.

2. Executive Structures

The key institutions dealing on the **central level** with national minorities are the Ministry of Public Administration and Local Self-Government and the Office for Human and Minority Rights of the Government of the Republic of Serbia.

At the Ministry of Public Administration and Local Self-Government there is a **Group for Human and Minority Rights** (under the Sector for Human and Minority Rights and Freedoms). The core of the work of the Group relates to national councils of national minorities: it maintains the register of national councils of national minorities, keeps special voters' registers of national minorities, organises elections for national councils of national minorities, oversees the lawfulness of the work of national councils of national minorities and the acts they adopt, and generally supports these in performing their functions. In addition to that, the group participates in drafting the laws and other regulations pertaining to national councils of national minorities in particular and national minorities in general, monitors the application of regulations and the situation in the field of national minority rights, including the compliance with international instruments in the field of minority rights. In the context of the latter, the group participates in reporting on the state of human and minority rights in the EU accession process and as a part of the commitments to international organisations.¹⁵¹

The other key institution is the **Office for Human and Minority Rights of the Government of the Republic of Serbia**. It is a governmental office, with a director as the head of the office, who is not a member of government. Generally, the office has lower status than a ministry and does not have competences of administrative decision-making. Within the internal structure of the Office, the **Sector for National Minorities** is relevant for national minorities. The sector has two units: the Department for promotion of the rights of national minorities and the group for the improvement of the position of Roma and assistance to migrants. The Office performs professional activities for the purposes of the Government and competent ministries related to: protection and promotion of human and minority rights; monitoring compliance of domestic regulations with international treaties and other international acts on human and minority rights, and initiation of amendments of domestic regulations; general issues concerning the status of persons belonging to national minorities; monitoring the status of persons

147. See Articles 28 and 42 of the Law on the Local Self-Governance (OJ 129/2007 and consequent amendments).

148. *Ibid.*, Article 98.

149. Article 75.3 of the Constitution, Article 19 of the Law on national minorities (OJ 11/2002 and consequent amendments) and the Law on National Councils of National Minorities (OJ 72/2009 and consequent amendments).

150. Article 18 of the Law on national minorities.

151. Competences of the Group are legally stipulated in Article 33 of the Rulebook of the Ministry of administration on internal organization and job classification. Available at: <http://www.mduls.gov.rs/doc/Skeniran%20Pravilnik%20o%20unutrasnjem%20uredjenju%20i%20sistemizaciji%20radnih%20mesta.pdf> [accessed 10 August 2018].

belonging to national minorities living in the territory of the Republic of Serbia, and exercising minority rights; establishing connections between national minorities and their kin countries.¹⁵²

In addition to these two institutions, several other ministries contain structures which deal with issues relevant for national minorities. At the **Ministry of Education, Science and Technological Development** there is a **Group for Education of Minorities, Social Inclusion and Protection from Violence and Discrimination** (which operates under the Division for Areas of Pre-school and Primary Education in the Sector for Pre-school and Primary Education). The Group: deals with coordination, planning, development, implementation and monitoring of activities aimed at the full implementation of legal measures and policies in the areas of education of national minorities and vulnerable groups; provides professional assistance in developing strategies, regulations and in coordination of measures in these areas; supports children, families, employees, educational institutions and local municipalities in implementation of measures; coordinates initiatives, programs and projects with national council of national minorities in areas of respect for human and minority rights in education; coordinates activities related to development of documents, handbooks, forms, flyers and calls in respective areas; initiates procedures for improvement of education in languages of national minorities; coordinates projects in these areas the Ministry is participating in; and supports to capacity building of school administrations for assistance to educational institutions.¹⁵³

Without further elaboration, several other ministerial units that might be relevant should be referred to: the Directorate for Cooperation with Churches and Religious Communities (at the Ministry of Justice; which also works on “the support in protection of religious elements in cultural and ethnic identity of national minorities”);¹⁵⁴ the Sector for Information and Media within the Ministry of Culture (which among other issues covers “implementation and promotion of the right to information of persons belonging to national minorities”);¹⁵⁵ the Department for Neighbouring Countries and South-East Europe at the Ministry of Foreign Affairs (under the Sector for Bilateral Cooperation; the department covers “border relations and position of national minorities”);¹⁵⁶ and the Division for Political Criteria and Justice, Freedom and Security at the Ministry of European Integration (which covers also the EU negotiation Chapter 23 that includes minority protection).¹⁵⁷

When it comes to the **National Assembly** (the parliament), the key unit is the **Committee on Human and Minority Rights and Gender Equality**. The tasks and the number of members are regulated in Article 52 of the Rules of Procedure of National Assembly. The Committee shall consider bills and proposals of other general acts, as well as other issues in the following areas: realisation and protection of human rights and freedoms and the rights of the child; implementation of ratified international treaties which regulate the protection of human rights; exercising of the freedom of religion; the status of churches and religious communities; realisation of ethnic minority rights and inter-ethnic relations in the Republic of Serbia (Article 52.1). The Committee shall cooperate with National Minority Councils (Article 52.2). The Committee shall have 17 members (Article 52.5).

Two independent institutions important for minority protection at the central level are the Ombudsman and the Commissioner for Protection of Equality. The institution of the **Ombudsman** is legally entrenched in the Serbian Constitution (Article 138) and plays an important role in protecting human and minority rights in Serbia. The relevance of the Ombudsman for national minorities reaches beyond the mere protection from discrimination, as they can also intervene in the cases of the violation of minority rights as such. In identifying “systematic” shortcomings and addressing them with recommendations to the public authorities, the Ombudsman has significantly contributed to the improvement of the quality of minority protection in Serbia. The Ombudsman has four deputies, among which also a deputy for national minority rights. The deputies are also elected by the National Assembly and have a strong institutional position.¹⁵⁸ The **Commissioner for Protection of Equality** has been established with the Law on Protection from Discrimination of 2009,¹⁵⁹ with the main task to monitor the implementation of this law and to provide a channel for protection from discrimination. Because the Ombudsman can also monitor the compliance with the right to equality and prohibition from discrimination, one of the main practical challenges at the beginning of the activity of the Commissioner was to draw a division line between the competences of these two institutions. The focus of the Commissioner lies on the prohibition of dis-

152. “O Kancelariji”. Available at: <http://www.ljudskaprava.gov.rs/sh/o-kancelariji> [accessed 10 August 2018].

153. Competences of the Group are legally stipulated in Article 9 of the Rulebook of the Ministry of Education on internal organization and job classification. Available at: <http://www.mpn.gov.rs/wp-content/uploads/2018/01/Pravilnik-2.pdf> [accessed 10 August 2018].

154. <https://www.mpravde.gov.rs/tekst/834/crkve-i-verske-zajednice.php> [accessed 26 October 2018].

155. http://www.kultura.gov.rs/lat/informisanje%20%20B5-i-mediji/o_sektoru [accessed 26 October 2018].

156. <http://www.mfa.gov.rs/sr/index.php/o-ministarstvu/organizacione-jedinice/bilateralal?lang=cyr> [accessed 26 October 2018].

157. <http://www.mei.gov.rs/src/ministarstvo/sektori/sektor-za-koordinaciju-procesa-pristupanja-koordinaciju-pripreme-i-sprovođenja-nacionalnog-programa-za-usvajanje-pravnih-tekovina-evropske-unije-i-pracenje-sporazuma-o-stabilizaciji-i-pridruživanju/> [accessed 26 October 2018].

158. See Article 6 of the Law on the Ombudsman (OJ 54/2007).

159. OJ 22/2009.

crimination and especially on the cases in which the perpetrator is not a public authority. The relevance of the Commissioner for the protection of national minorities comes from the fact that affiliation to a national minority is an important protected ground in the prohibition of discrimination. However, the complaints on this ground are less numerous than those based on other grounds (disability, age, gender, health condition). According to the Report for 2017, 9.8% of all complaints to the Commissioner have been related to affiliation to a national minority in that year. Interestingly, 53.2% of these complaints were related to affiliation with the Roma national minority.¹⁶⁰

At the **provincial** level (Vojvodina) the key institution is **Provincial Secretariat for Education, Regulations, Administration and National Minorities-National Communities**. Among several divisions there is also the *Division for National Minorities-National Communities and Translation/Interpretation Services*, which is again divided into two internal units, one for the exercise of rights of national minorities and one for translation and interpretation services. The Division “performs general legal, study and analytical and administrative tasks in the area of exercise, protection and promotion of human and minority rights in the province; preparation and implementation of projects in the field of culture, education, information and official use of languages and scripts, fostering of inter-regional relations, preserving and nurturing inter-ethnic tolerance, as well as tasks in other areas relevant for the exercise of the rights of national minorities – national communities; cooperation with associations of citizens, persons belonging to minority ethnic communities and other associations of citizens whose projects focus on the exercise of human and minority rights and preservation and nurturing of inter-ethnic tolerance and providing support to these associations; cooperation with national councils of national minorities; cooperation with scientific and other institutions engaged in studying and monitoring the exercise of human and minority rights; cooperation with authorities responsible for the area of human and minority rights, provincial administration authorities and local self-government authorities in the performance of tasks in the scope of work of this Division; furthermore, it carries out translation and interpretation as required by provincial authorities, from the Serbian language into the languages of national minorities-national communities that are in the official use in the work of AP Vojvodina authorities, in fact into Hungarian, Slovak, Romanian, Ruthenian and Croatian language, along with translation and interpretation from the previously specified languages into the Serbian language; translation of documents from Serbian into English language and vice versa; proofreading of the material written in the Serbian language; translation of regulations and other documents, by-laws published in the “Official Journal of the Autonomous Province of Vojvodina”, publications required by the Provincial Government, Assembly of the AP Vojvodina and provincial authorities, along with other materials; provision of simultaneous interpretation in AP Vojvodina Assembly sessions, conferences and events involving foreign participants, as well as consecutive interpretation in international meetings.”¹⁶¹

At the **Provincial Secretariat for Culture, Public Information and Relations with Religious Communities** there is the *Division for Culture of National Minorities-National Communities*. It performs analytical, administrative and statistical tasks related to culture and art of national minorities for the needs of the Provincial Government and the Provincial Assembly; monitors the implementation of minority rights in the area of culture; indicates at the problems in the implementation of guaranteed rights and recommends solutions for these problems; monitors implementation of the Cultural Strategy of the Province; publishes and implements calls for funding and co-funding of programs and projects in the area of culture and art of national minorities; develops the program of cooperation with touristic organisations with regards to presentation of monuments and manifestations; keeps the register of foundations, funds and endowments in Vojvodina; and monitors and coordinates the work of the institutes of culture of national minorities.¹⁶²

At the **Provincial Secretariat for Social Policy, Demography and Gender Equality** there is *Division for the improvement of the position of Roma*. It shall perform tasks of the provincial administration, related to the: implementation and application of strategies for the integration of Roma and the realisation of action plans in the territory of the province; coordination of different projects of the integration of Roma people in the territory of the province; establishment of coordination with the Roma councils in the province and with corresponding organisations and bodies at the international level; encouragement and improvement of women and human rights and the rights of Roma men and women, in the territory of the province; preparation of the analytical documentation for planning and programming of activities, regarding the integration of the Roma people in the province;

160. “Redovan godišnji izveštaj Poverenika za zaštitu ravnopravnosti za 2017. godinu”. Available at: http://ravnopravnost-5bcf.kxcdn.com/wp-content/uploads/2018/03/RGI-2017_PZR_FINAL_14.3.2018-1.pdf [accessed 10 August 2018].

161. Provincial Secretariat for Education, Regulations, Administration and National Minorities-National Communities, Information Booklet, Novi Sad: 2018, p. 8. Available at: http://www.puma.vojvodina.gov.rs/document_cat.php?cat=9&st=1 [accessed 10 August 2018].

162. Article 7 of the Rule of the internal organization and systematization of the jobs in the Provincial Secretariat for Culture, Public Information and Relations with Religious Communities. Available at: http://www.kultura.vojvodina.gov.rs/O_Sekretarijatu/sistem/prav_sistemizacija.pdf [accessed 10 August 2018].

establishment of cooperation and consultations with the governmental and non-governmental organisations and authorities, in the field of the integration of the Roma and the improvement of their position; realisation of projects which were founded on the goals, defined in strategies and action plans, coordination of the implementation and the realisation of domestic and international programmes for the integration and improvement of the Roma position; information-documentation activities and record keeping, regarding the integration of the Roma in the territory of the province; monitoring and gathering of information regarding the measures taken in the Republic of Serbia and other countries, for the purpose of improvement of the expertise, regarding the integration of the Roma, as well as monitoring of the training and professional improvement of experts, in the field of Roma integration.¹⁶³

Within the **Assembly of AP Vojvodina** there is the **Committee on National Equality**. It shall consider motions for decisions and general acts with the purpose to monitor exercising the full equality between persons belonging to national minorities – national communities and those belonging to the Serbian ethnic group that is guaranteed by the Constitution; propose measures in the areas of education, culture, information and official use of languages and scripts and other issues; monitor the exercise of the rights of the national minorities – national communities in accordance with the national legislation and international standards in the area of national equality. The committee has a president and 14 members, four of which are (according to their titles) presidents of the committees, the purview of which are the issues in the area of education, culture, information, official use of languages and scripts, and safety.¹⁶⁴

There is also a **Committee on Establishing Equal Authenticity of Provincial Legislation in Languages in the Official Use**. It shall determine the accuracy of texts of regulations, decisions and general acts enacted by the Assembly in the languages whose official use has been established by the Statute in Serbian language and shall inform the Assembly about it. The Committee shall form sub-committees for the languages of national minorities – national communities.¹⁶⁵

Three more committees are of relevance for national minorities: the Committee on Education and Science (which considers the issues related to the facilitation of the conditions for education of persons belonging to other ethnic groups and national minorities – national communities in their own languages),¹⁶⁶ the Committee on Culture and Public Information (which considers the issues related to the operation of media in the languages of national minorities – national communities, the issues related to ensuring proper conditions to enable public informing also in the languages of ethnic groups and national minorities – national communities in the Province, and considers motions for decisions and general acts and other issues relevant to ensuring the development of culture of people belonging to minority national communities);¹⁶⁷ and the Committee on Organisation of Administration and Local Self-Government (which considers official use of language and script).¹⁶⁸

At the provincial level, the **Provincial Ombudsman** has also been established. The legal/institutional position of the Provincial Ombudsman is set in Article 56 of the Statute of the AP Vojvodina.¹⁶⁹ They have the competence to protect rights of the citizens and monitor the work of provincial institutions and organisations with regards to implementation of these rights. Furthermore, the Provincial Ombudsman is elected by the Provincial Assembly, and has several deputies, among which also the Deputy for Protection of Minority Rights. The Provincial Ombudsman maintains no hierarchical relation to the Ombudsman at the central level.

Also, a relevant institution established at the provincial level is the **Office for Roma Inclusion**. It has a legal personality. The main task of the office is to coordinate and monitor the implementation of the Roma Inclusion Strategy on the territory of Vojvodina. To the aim of supporting Roma inclusion, the office coordinates projects, fosters implementation of human rights of Roma (especially of the Roma women), organises seminars, workshops and trainings, and performs analytical work necessary for monitoring the position of Roma in Vojvodina.

163. Article 9 of the the Rule of the internal organization and systematization of the jobs in the Provincial Secretariat for Social Policy, Demography and Gender Equality. Available at: <http://www.socijalnapolitika.vojvodina.gov.rs/wp-content/uploads/2016/08/Pravilnik-sistemizacija-dec2016.pdf> [accessed 10 August 2018].

164. "Committee on National Equality". Available at: <http://www.skupstinavojvodine.gov.rs/RadnaTela.aspx?id=44&s=organizacija&j=EN> [accessed 10 August 2018].

165. "Committee on Establishing Equal Authenticity of Provincial Legislation in Languages in the Official Use". Available at: <http://www.skupstinavojvodine.gov.rs/RadnaTela.aspx?id=57&s=organizacija&j=EN> [accessed 10 August 2018].

166. "Odbor za obrazovanje i nauku". Available at: <http://www.skupstinavojvodine.gov.rs/RadnaTela.aspx?id=51&s=organizacija> [accessed 26 October 2018].

167. "Odbor za kulturu i javno informisanje". Available at: <http://www.skupstinavojvodine.gov.rs/RadnaTela.aspx?id=54&s=organizacija> [accessed 26 October 2018].

168. "Odbor za organizaciju uprave i lokalnu samoupravu". Available at: <http://www.skupstinavojvodine.gov.rs/RadnaTela.aspx?id=56&s=organizacija> [accessed 26 October 2018].

169. OJ APV 20/2014.

It cooperates with the National Council of the Roma National Minority and with respective domestic and international stakeholders relevant for Roma inclusion.¹⁷⁰

When it comes to the **local authorities**, they can freely decide whether the local institutional structure will contain separate units which deal with national minorities. There is no uniform solution in this respect. However, the Law on local self-governance sets the obligation for ethnically mixed cities and municipalities to establish a **Council for Interethnic Relations**. According to Article 98 of the Law, ethnically mixed municipalities (i.e. those with 5% of local population belonging to one national minority or 10% of local population belonging to all national minorities) are obliged to establish such a council. Its nature is controversial: the law conceptualises a council as a “working body”, but it does not specify to which municipal institution it should serve as a working body. In practice, such councils are attached to the municipal assembly. However, the law explicitly regulates that MAs cannot be members of the council, bringing additional confusion in the categorisation of the council. It should serve as a forum for inter-ethnic dialogue and as an instrument of “control” over decisions of local authorities which relate to “national equality”. Its members are representatives of both the majority and minorities. Its functions are mostly consultative, and, thus, it can be easily labelled as a consultative body at the local level.

The Law on local self-governance also stipulates the possibility for municipalities (and cities) to establish (elect) a Local Ombudsman (Article 97). This possibility is not envisaged only for ethnically mixed municipalities, but for all municipalities. Yet, in ethnically mixed municipalities, the local ombudsman can play an important role in protecting minority rights. The main task of the local ombudsman is to control the compliance with the rights of the citizens and to identify violations that have been caused by the administrative bodies and public services, under the condition that the local regulations have been violated. The local ombudsman is not subordinated to the provincial or national ombudsman.

3. Consultative Mechanisms

The main channel for consultation with national minorities are the **national councils of national minorities**. They are legally entrenched in the Constitution (Article 75.3) and in the Law on national minorities, and in detail regulated with the Law on national councils of national minorities. Serbia has opted for a centralised concept of minority councils, and every minority can establish one national council. Although established as centralised bodies, national councils serve as minority autonomy bodies/consultative bodies at central, provincial and local levels of governance. They have a legal personality, but are of controversial legal nature. The Constitutional Court has defined them as “*sui generis* bodies of minority cultural autonomy”, which can exercise some public powers.¹⁷¹ A council can have 15 to 35 members, depending on the numerical capacity of the national minority. As a rule, members of the council are elected in direct elections, under condition that 40% of persons belonging to the national minority have been registered in the special voters’ register. If this condition is not met, then the council can be elected through the electoral assembly. The council has limited scope of autonomous powers. Its powers mostly relate to the participation in the decision-making at the national, provincial and local levels. These are limited to the areas of education, culture, media and the official use of minority languages. The most significant instruments at the disposal of the council for the participation in the decision-making of public authorities are opinion, proposal and consent. The councils are funded from the means allocated in the state, provincial and city/municipal budgets, donations, grants and similar (support from kin states is also an important financial source).

An important channel for dialogue between the state authorities and national minorities is the **Council for National Minorities**. According to Article 18 of the Law on National Minorities, the Government of Serbia establishes the Council. With the amendment of the law in 2018, the Council has been defined as a permanent working body of the Government. The tasks of the Council are: to monitor and analyse the implementation of the rights of national minorities and the status of interethnic relations in the Republic of Serbia; to recommend measures for improvement of full and effective equality of persons belonging to minorities; to monitor cooperation between national minorities and state, provincial and municipal institutions; to analyse working conditions for national councils of national minorities and make recommendations in this respect; to analyse international treaties related to the status of national minorities and protection of minority interest in concluding these treaties; to analyse drafts of the laws and other regulations relevant for implementation of national minority rights and to give its opinion in this respect to the Government; and to confirm symbols, signs and holidays of national

170. Article 6 of the Decision on the Establishment of the Office for Roma Inclusion. Available at: <http://inkluzijaromavojvodina.rs/o-nama/> [accessed 10 August 2018].

171. Decision of the Constitutional Court: Uz-882/2010.

minorities on the proposal of national councils of national minorities (Article 18.2 of the Law). Members of the Council are the heads of the organs of public administration and of governmental services in charge of issues relevant for the status of national minorities, and the presidents of national councils of national minorities (Article 18.3 of the Law). With its decision, the Government appoints members of the Council and specifies which organ of public administration is in charge to provide professional and administrative support to the Council (Article 18.4). In its decision of 2017, the Government appointed the president of the government, the minister for public administration and local self-governance, the Minister of Foreign Affairs, the Minister of Justice, the Minister of Education, the Minister of Culture, the Head of the Directorate for Cooperation with Churches and Religious Communities, the Head of the Office for Human and Minority Rights and presidents of national councils of national minorities, as members of the Council. It was also specified that the professional and administrative support for the Council is provided by the Office for Human and Minority Rights.¹⁷²

Also worth mentioning is the **Council for Improvement of the Status of Roma and Implementation of the Decade of Roma Inclusion**. It was created for the purposes of efficient implementation of the Strategy for the Improvement of the Status of Roma and Action Plan for the Implementation of the Strategy. The Council consists of representatives of ministries implementing the Action Plan in relevant fields, as well as of representatives of Roma associations of citizens.¹⁷³ In 2017, the Government established the **Coordination Body for Monitoring the Implementation of the Strategy for the Social Inclusion of Roma**. Its main task is to coordinate tasks of the public administration in the area of social inclusion of Roma. Its members are governmental officials (mainly, ministers), but its secretary is a president of the national council of Roma national minority. As the operational support for the Coordination Body, an Expert Group was established; this Group is responsible for all tasks related to the current issues concerning the social inclusion of Roma. Apart from the representatives from the public administration, the Group includes the representatives from the National Council of Roma National Minority and civil society organisations.¹⁷⁴

The above-mentioned **Councils for Interethnic Relations** might be an important channel for consultation at the local level, but are neglected.

172. Decision is available at: http://www.ljudskaprava.gov.rs/sites/default/files/fajlovi/odluka_o_obrazovanju_saveta_za_nacionalne_manjine_-_sluzbeni_glasnik_rs_18.8.2017_0.pdf [accessed 10 August 2018].

173. "Odluka o obrazovanju Saveta za unapređenje položaja Roma i sprovođenje Dekade uključivanja Roma", OJ 46/2013.

174. "Odluka o osnivanju Koordinacionog tela za praćenje realizacije Strategije za socijalno uključivanje Roma i Romkinja u Republici Srbiji za period od 2016. do 2025 godine". Available at: http://www.mgsi.gov.rs/sites/default/files/Odluka_o_osnivanju_Koordinacionog_tela_Strategija_za_inkluziju_Roma_i_Romkinja.pdf [accessed 26 October 2018].

COMPARATIVE ANALYSIS AND KEY FINDINGS

The countries that have been analysed are different in their demographic capacity, the structure and share of national minorities in the total population, have different general institutional structures (both horizontal and vertical) and have different institutional set-ups for managing national minority issues. However, some conclusions can be drawn, patterns identified, and lessons learned.

Executive Structures

- ▶ Romania is the only state among those analysed that has a unit within the presidential administration, dealing also with the protection of the cultural inheritance of the minorities. It has no specific administrative tasks, but its main function is to monitor the proper functioning of the responsible public institutions and to provide support for the President's political action.

Generally speaking, the decision whether to establish a unit within the presidential administration that exclusively or partially deals with national minorities depends on the general separation of powers in the state and the executive competences that are vested into the President. Usually, the government is vested with the core executive powers and the competence to govern, and thus it provides the main institutional framework for administering the issues of relevance for national minorities. However, bearing in mind the symbolic function of the president as the head of the state, they can play an important role in promoting diversity and unity of the (civic) nation.

- ▶ When it comes to the governmental level, with the exception of Germany, all analysed states have established an (governmental) office in charge of national minorities. In Serbia, the office is a self-contained governmental institution headed by the director of the office (who, however, is not a member of the government, but can attend its sessions), and is attached directly to the government. In Romania, the Department for Interethnic Relations does not have a legal personality; it is subordinated to the prime minister and coordinated by the minister delegate for the coordination of the general Secretariat of the Government. In the Czech Republic, the Section for Human Rights is part of the (general) Office of the Government. In Serbia and in Czech Republic, the respective office/sector deals with both human and minority rights and has internal units specialised for national minorities. In Romania, the Department exclusively deals with national minorities.

Generally, the establishment of a governmental office is a useful instrument to secure the coordinated governmental activity and policy with regard to national minorities. Usually, the rationale for establishing an office is to substitute the ministry in charge of human and/or minority rights and to provide (some sort of) coordination of the activities relevant for national minorities in the sectoral ministries. When it comes to the former, it must be noted that an office is of lower status than a ministry and cannot perform all tasks that a ministry can. Nevertheless, it can indeed serve as a focal point for the governmental policy on national minorities and through a coordination role it can provide coherency for the activities of various sectoral ministries. To be able to perform this role, it is important that the office has open access to government and regular contact with the relevant ministries, plus its competences should exceed purely analytical or technical tasks. Finally, for the efficient working of the office, it is essential to be open to national minorities and to pursue regular dialogue with them. This can be achieved through the diversity of the staff and through the establishment of regular channels for consultation.

- ▶ In Germany, the central figure at the federal level dealing with national minorities is the Federal Government Commissioner for Matters Related to Ethnic German Resettles and National Minorities. The Commissioner acts as the central contact person and the focal point at the federal level regarding matters related to national minorities. However, they are not part of the administrative hierarchy and cannot make administrative decisions. Despite this, an engaged and active commissioner can, through facilitating dialogue between the federal government and national minorities, to some extent "advocate" for minority issues and bring these to the government's agenda.

The Czech Republic and Romania also offer examples of some sort of commissioners. In the Czech Republic, the Government Commissioner for Human Rights exists, and in Romania there is the Prime Minister's State Advisor on Roma Issues.

The concept of the commissioner can be considered as a "soft" instrument for dealing with national minorities. It can be successful only in countries with a developed dialogue culture and stable (and fully

institutionalised) power structures. In any case, as the German example shows, the existence of the commissioner cannot exhaust the need for other institutions dealing with national minorities. The function of a commissioner is of more supplementary nature.

- ▶ In both Serbia and Germany, a respective ministry is in charge of general aspects concerning the protection of national minorities. In Serbia, it is the Ministry of Public Administration and in Germany, it is the Ministry of Interior.

This is a good solution because it provides a strong (ministerial) institutional framework for dealing with minority issues. The strength of the support is also manifested in the fact that these two ministries are of more symbolic (if not formal) strength than for instance the ministries in charge of education or culture. However, positioning national minorities under the competence of the ministry of interior might be tricky as it can impose the security dimension of the issues. Yet, if the concept of the interior is understood as being wider and detached from the police and (internal) security, then the ministry of interior can also be a proper institution to generally deal with national minorities. The ministry of justice could be also a suitable ministry for dealing with general issues of protection of national minorities, if its portfolio covers also human rights and is not strictly focused on the management of the judicial system .

- ▶ In most of the countries, education seems to be the area of focus when it comes to management of minority issues. Within the Romanian Ministry of National Education there is the Directorate for Minorities and in Serbia within the Ministry of Education there is the Group for Education of Minorities, Social Inclusion and Protection from Violence and Discrimination. In the Czech Republic, the Sector of Primary Education within the Ministry of Education deals with some aspects of minority education. In Germany, because of the federal structure of the government, minority education lies in the competence of the federal units, and respective institutional arrangements can be found in the educational ministries of Brandenburg and Saxony.

Generally, establishing a separate unit within the ministry of education specialised for education of national minorities is welcome. The portfolio of the ministry of education is in all countries huge (ministries of education are usually among the biggest of ministries in a country), and in this conglomerate of tasks there is a risk for minority education to be neglected. For that reason, it is good to have a special unit that deals solely with minority education (of course, this depends on the level of the development of minority education per se and to what extent are minorities entitled to education in/of their language). It is also essential that national minorities are included in the work of the unit, both as staff members and through established consultative mechanisms.

- ▶ Minority culture is also an area for which countries establish separate departments or units within the relevant ministry. This practice can be found in Germany (at the level of Brandenburg and Saxony), the Czech Republic and Romania.

Culture is indeed one of the central elements of minority identity and is an inevitable element of the protection of national minorities. Thus, it is welcome that within the ministry of culture there is a separate unit that deals with minority culture. Again, openness for national minorities is essential, both through the diversity of the staff and establishment of a regular dialogue with national minorities. Despite the importance of minority culture, minority protection should not be perceived solely through the lenses of the culture, and thus the ministry of culture should not be positioned as a central institution for the protection of national minorities. It has its relevance as a sectoral ministry, but it should not perform the tasks of the central governmental body for the minority protection.

- ▶ Although parliament does not belong to the executive structure, it has been covered with the analysis because of its institutional relevance. Here, it has been analysed whether among the permanent working bodies of the parliament there is one such that deals with national minorities. Both in the chambers of the parliament in Romania and the parliament in Serbia, respectively, there is a committee dealing with national minorities. Interestingly, in the Czech Republic the Subcommittee on National Minorities with the Committee on Petitions was abolished in 2012. In Germany, minority issues fall into the competence of a (wide) committee of internal affairs; this might be insufficient for a claim that in the German Federal Parliament there is a committee for national minorities.

Generally, the practice of establishing a parliamentary committee for national minorities is welcome. Usually, the issues of national minorities are not an exclusive competence of the committee, rather it also covers human rights, anti-discrimination, culture and similar issues as well. It is important that in the variety of areas of activity, the national minorities' issues do not get neglected. Creation of a sub-committee specialised for national minorities' issues can be helpful in this respect. The institutional position of the

committee in the parliamentary structure is also important, i.e. its ability to influence the decision-making of the parliament.

- ▶ Apart from Germany, all countries have established an office of ombudsman. In the Czech Republic, there are no special units for national minorities and the relevance is indirect through the work on combating discrimination. The situation in Romania and Serbia is different, as in both countries there is the deputy ombudsman specialised for national minorities.

The ombudsman is a significant institution for protection of human rights, but their impact on protection of minorities might be only indirect; through protection from discrimination. For that reason, it is welcome to extend the mandate of the ombudsman to minority rights as well. Creation of internal units for monitoring violation of national minority rights is also welcome. In addition to that, accessibility of the institution for national minorities is also important. This can be achieved through diversity of the staff, the possibility to address the institution in a minority language and the regional presence of the institution.

- ▶ Romania and Serbia have also established a specialised equality body, though its relevance for national minorities is indirect – through combating discrimination on the grounds relevant for affiliation with a national minority.
- ▶ When it comes to the regional level, Germany and Serbia are positive examples. In both cases this is due to the vertical (territorial) separation of powers in these two states. The federal structure of government in Germany influences the division of competences between the federal state (Bund) and the federal units (Land) in the way that the latter are vested with more competences with regards to national minorities. For that reason, the federal units in which minorities live (predominantly: Brandenburg, Saxony and Schleswig-Holstein) have executive structures dealing with national minorities. These are either units within the ministries (of culture or education), plus the institution of a commissioner. In the case of Serbia, the long tradition of the multi-ethnic character of Vojvodina (which has the status of an autonomous province) is reflected in the remarkably developed institutional structure for dealing with minority issues: committees in the regional assembly, units within the regional administration, the ombudsman (having a deputy for national minorities) and a specialised office for Roma inclusion.
- ▶ When it comes to the executive structures at the local level, it is striking that there are no legal obligations for municipalities to establish executive structures dealing with national minorities. For example, in the Czech Republic there is no past track of existence of such structures. In Romania, municipalities tend to establish a committee at the municipal assembly (council), but this is rather seldom. In Serbia, municipalities can establish a committee at the local assembly or a unit within the municipal administration, but there is no clear track on this. In Serbia, municipalities can establish a local ombudsman, who can be of relevance for national minorities too.

According to the principles of decentralization and autonomy of local self-governance, municipalities should have a certain margin of discretion when defining their institutional set-ups. In municipalities where minorities traditionally live or they make a significant share of the local population, the establishment of structures that deal with minority issues within the local administration and local assembly comes naturally. As a matter of fact, the local level of self-governance provides a suitable forum for “minority mainstreaming”, because of the significance of the “local community” for the quality of interethnic relations and the protection of national minorities. It remains open whether the establishment of the structures at the local level dealing with national minorities should be set as a legal obligation or not. Setting a legal obligation allows for uniformity and stability, but at the same time bears a risk of rigidity and limitation of local authorities to establish a structure that responds to the local circumstances. Regardless of whether there is a legal obligation to establish structures at the local level to deal with national minorities, it is crucial that local authorities show interest and support to such structures and to acknowledge the benefits thereof for the local community.

Consultative Mechanisms

All countries subjected to this analysis have developed various types of consultative mechanisms. Interestingly enough, in some cases the density of the executive structures and consultative mechanisms is in disproportion. For example, Romania has very dense executive structures, but very limited consultative mechanisms. Whereas it is the other way around in Germany, which does not have very developed executive structures but has established numerous channels for consultation with national minorities. An interesting general remark is that

consultative mechanisms are more developed (at least quantitatively) at the central level and get less dense at the regional and local levels.

- ▶ When it comes to the central level, with the exception of Germany, all states have a national consultative body: the Czech Republic – the Government Council for National Minorities, Romania – the Council of National Minorities and Serbia – Council for National Minorities. In the Czech Republic and Serbia, respectively, members of the Council are both governmental officials and representatives of various minorities, while in Romania it is solely composed of minority representatives. In all three countries, the council provides the central institutionalised channel for dialogue between the authorities and national minorities.

The establishment of a centralised consultative body for national minorities is welcome. It provides minorities with the channel for a dialogue with high state officials (or at least their representatives) and the possibility to influence decision-making at the central level of governance. For its effective functioning, due respect must be taken for the composition and competences of such a body.

- ▶ In addition to this central consultative body, the Czech Republic and Serbia have established a national consultative body for Roma.

Establishment of consultative bodies for individual national minorities does not violate the standards, as long as there are objective reasons for such differential treatment. It is important that other national minorities do not feel excluded and have possibilities to participate in other forms of consultation.

- ▶ The central channel for consultation with national minorities at the federal level in Germany is provided within the Ministry of the Interior, which hosts five advisory committees. In the Czech Republic, the ministries of education and culture also have an advisory body for minority education and culture, respectively.

Establishment of advisory bodies within different ministries is welcome. The more channels for dialogue with national minorities, the better. Institutionalised channels for dialogue are desirable, because they enable a regular dialogue and should secure some impacts on decision-making.

- ▶ Other identified channels for consultation with national minorities are: minority umbrella organisations (Germany, to some extent Serbia), specialised (bilateral) joint commissions (the Czech Republic and Germany), and a roundtable at the federal parliament (Germany). The special model of consultation with national minorities can be found in Serbia, whereby national councils of national minorities have been established as the bodies of minority cultural autonomy.
- ▶ Channels for consultation with national minorities at the regional level are established in the Czech Republic, Germany and Serbia. In the Czech Republic, regions with at least 5% of population belonging to national minorities are legally obliged to establish a Committee for National Minorities. In several federal units in Germany, the respective parliaments have established councils and forums for dialogue with national minorities. In Serbia, national councils for national minorities, although established as centralised bodies, can also address provincial authorities and facilitate dialogue at provincial level.
- ▶ Consultation at the local level has been institutionalised in the Czech Republic and Serbia. In both countries, ethnically mixed municipalities are legally obliged to establish a specialised committee/council: in the Czech Republic – the Committee for National Minorities and in Serbia – the Council for Interethnic Relations. In Serbia, national councils of national minorities can also address the local authorities and engage in the dialogue at the local level.

A legal obligation for the ethnically mixed municipality to establish a body for national minorities is welcome, but might be ineffective. First, if the norm in the law is too vague and leads to confusion and misinterpretation, this severely hampers its implementation in practice. Second, the legal obligation per se is not of much help if, in the society (and in this particular case, in the local community), a minimum level of interest and engagement in intercultural dialogue does not exist. In both cases, a legal obligation could remain only as a useless provision in the law. Thus, in order to strengthen the effectiveness of this channel for dialogue, two things are of highest importance: a clear stipulation of the area of work and of competences of such a body, and developed culture of dialogue in a local community.

PART 4. CONCLUSIONS: UKRAINE IN AN INTERNATIONAL PERSPECTIVE

In comparison to the four international examples surveyed for this study, Ukraine is on a path to achieving a system of governance addressing national minority protection that is matching with the better examples in Europe. When differentiating between central and regional/local levels, the situation is somewhat negative with regard to Ukraine. However, and unfortunately, it should be noted that comparatively, most of the countries surveyed have poor performance at the regional and local levels. This may be mitigated in those counties and municipalities where members of national minorities are represented through their own political parties; these were not surveyed for this study. It is recalled also that the specific context of each case study is different and is not evaluated for effectiveness of functions. **Overall, when focusing comparatively on the types of executive structures and consultative mechanisms in Ukraine, the situation is not good at the regional and local levels, whereas the situation at the central level may be determined acceptable but not adequate.** Below follows a short comparative explanation of Ukraine's efforts to create governance structures for minority protection. See also Tables 3 and 4 (appendices 15 and 16).

Executive structures in comparison

Specifically with regard to Ukraine's executive structures, in comparison, only **Romania** has, like Ukraine, established a function related to national minority protection at the level of heads of state. Executive structures within the line ministries are found in all of the four countries and on par with Ukraine. With regard to commissioners which are specifically addressing national minority issues, some countries have established such functions, but not Ukraine. At the level of legislative functions, all countries except the **Czech Republic** have committees in parliaments, like Ukraine, addressing national minority protection. General ombudsperson functions and special equality bodies exist in all countries except Germany, while in **Romania and Serbia** the ombudspersons have furthermore separate units dealing with national minority protection. Here Ukraine's Ombudsperson stands alone, as there is only a person assigned *ad hoc* by the office holder, thus not a permanent function.

Moving to the regional level, Ukraine's record is less positive. Unlike the **Czech Republic, Romania and Serbia**, Ukraine does not have any committee attached to regional assemblies. It does have a unit within the regional administration similar to **Germany, Romania, and Serbia**. These units are, however, deemed irregular and limited in function across the board of all countries surveyed. Beyond these functions, only **Germany** has regional commissioners addressing national minority issues, while **Serbia** has furthermore established an ombudsperson function at the regional level. Interestingly, only **Serbia** has established a satellite office of the central government; in Serbia this office addresses Roma issues.

Consultative mechanisms in comparison

Specifically with regard to Ukraine's consultative mechanisms in comparison, most countries, with the exception of Germany and Ukraine, have permanent national consultative bodies at the central level, while the **Czech Republic and Serbia** furthermore have permanent consultative bodies for Roma issues at the central level. All countries, including Ukraine, have advisory bodies attached to institutions or ministries, and the **Czech Republic and Germany** have mixed commissions. At the regional level, all countries, including Ukraine, have consultative mechanisms, whereas at the local level, only the **Czech Republic and Serbia** have consultative mechanisms.

RECOMMENDATIONS

The challenges described in this report point toward a number of recommendations in three categories: general, policy and technical recommendations. The general recommendations point towards achieving sustainable national minority governance in three specific areas: (1) safeguarding national minority rights, (2) building a comprehensive minority governance model, and (3) securing equitable national minority representation in territorial governance. The policy recommendations provide options for improving the normative and institutional approach to protection of national minorities, while the technical recommendations provide options for improvement of the practical tasks related to the day-to-day management of minority issues. Proposals for Council of Europe action will be provided where relevant.

GENERAL RECOMMENDATIONS:

1. Safeguarding national minority rights

A mainstreaming of national minority protection provisions should be undertaken as part of a legislative review. Preferably all relevant primary law instruments should include provisions on national minority protection. These various provisions enshrined in primary law should derive their competence from one piece of legislation, a revised version of the Law on National Minorities, that provisions national minority rights and freedoms as well as guidelines for definitions of national minorities and equality for all national minorities in Ukraine. This will create clarity and prevent confusion. The focus should be on mainstreaming of ethno-cultural awareness and sensitivity across all pieces of primary and secondary law acts tangential to national minority existence in Ukraine, including all socio-economic sectors, education, territorial governance, cross-border cooperation as well as linguistic rights in public service provision and media. This process should be transparent and supported by an open consultation exercise inviting all relevant stakeholders to engage in a peaceful exchange of views; it should also involve awareness raising campaigns among the general public and ensure open access to information.

2. Building a comprehensive minority governance model

A cross-cutting and comprehensive model for the institutionalisation of ethno-cultural relations at both the central, regional and local levels is the pathway to good national minority governance with peaceful and stable inter-group relations. Announcing a goal-oriented strategy will immediately send signals to all stakeholders and set out an action plan for achieving the goals. Such strategy requires immediate action as well as longer term overarching objectives. As a first priority, performing the legislative review and getting the legal framework for national minority governance in place will ensure the sustainability of a comprehensive model. Secondly, and paralleled, performing a comprehensive review of the need for institutions and functions at all levels will provide a grand overview of needs for future action. This process should be transparent and supported by an open consultation exercise inviting all relevant stakeholders to engage in a peaceful exchange of views. In the meantime, strengthening and supporting existing institutions and functions by making them permanent will furthermore contribute to immediate improvement of the situation by creating trust. Establishing permanent institutions and functions in areas where such do not exist must also receive immediate attention following the outcome of a comprehensive review. Most importantly, it is necessary that the comprehensive review is undertaken in direct dialogue and full collaboration with national minority representatives. Finally, with specific regard to decentralisation, the strategy must furthermore include devising a set of guidelines for the delegation of national responsibilities from the central government to regional and local authorities, including guidelines for cross-border cooperation; it will help avoiding apathy and inaction, as it will raise trust and confidence among all stakeholders and set higher standards for dialogue, interaction and transparency.

3. Securing equitable minority representation in territorial governance

Going forward, it is also vital that RSAs and district administrations become sensitised about ethno-cultural issues and national minority protection, including Ukraine's obligations under international human rights law. They should be made aware about their role as key implementers of national legislation and policies in the field of national minority protection and promotion, including the right to trans-frontier cooperation with kin-states. While the amalgamation process has been successful in many cases, some national minorities have not been satisfied with the results, nor the processes, and in some cases discussions are not even taking place. Keeping an open ethno-cultural dialogue about the issues of national minorities' concern is a necessity in order to avoid tension and resentment. This will require establishing mechanisms for structured dialogue with efficient channels of communication leading to cooperation that enables national minorities to become active partners not only in the process of decentralisation but also in the future policy planning and implementation of programmes, including cross-border cooperation programmes. Effective and clear guidelines for the relations between the central and the local administrations are furthermore an important requirement. The latter should be transparent and openly accessible; this will ease any tension that might arise from stakeholders who feel excluded from the processes. An essential part is, therefore, to ensure national minority representation and participation at all stages of planning and decision-making through permanent and effective consultative and advisory mechanisms or direct participation.

POLICY RECOMMENDATIONS:

EXECUTIVE STRUCTURES

4. Ensure equality of all minority groups at the central level

Equality among minority groups prevents resentment and promotes peace. Size, denomination, official recognition, or political circumstances should not determine how minority issues are addressed ethically and morally within public administration. Article 4 of the FCNM requires states party to the Convention to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited. This principle requires states to treat all minorities in their territory equally with regard to moral recognition. Although different circumstances may require different policies, giving preference in status to one group may result in tension and dissatisfaction among other national minority groups. The institution of a Commissioner for the Affairs of Crimean Tatars in the Office of the President is therefore not in line with Article 4 of the FCNM as long as other national minorities do not have a similar position to which to refer.

- ▶ The Office of the President should consider establishing a structure/position that provides equal level recognition for national minorities and Crimean Tatars, such as the special Commissioners for National Minorities in Germany.
- ▶ The Office of the President could consider requesting assistance from the Council of Europe to facilitate knowledge-transfer from other member states, such as Germany.

5. Ensure consistency in human rights monitoring

Minority rights form an integral part of human rights. According to Article 1 of the FCNM, it is important that measures and mechanisms to address human rights issues and human rights violations take extra precaution to mainstream minority rights protection into all aspect of oversight. The Commissioner for Human Rights should therefore have a legal mandate to monitor minority rights within the scope of human rights monitoring.

- ▶ The Ukrainian parliament should consider amending the mandate of the Commissioner to include clear competences in regard to national minority protection, similar to the competences of commissioners in Romania and Serbia.
- ▶ The Ukrainian parliament could consider requesting assistance from the Council of Europe to facilitate knowledge-transfer from other member states, such as Romania and Serbia.

The planned establishment of an Education Ombudsperson from 1 January 2019 is a very good development. It remains to be seen what competences the position holder will be assigned. Ukraine has a history of establishing ombudsperson institutions, many, however, not assigned ombudsperson independence but rather functioning as commissioners. Given the sensitivity about minority education in Ukraine, it is to be hoped that the new position of Education Ombudsperson is secured independence and freedom to act. In addition, it is important to assign a clear division of competences between the Education Ombudsperson and other Ukrainian ombudspersons.

- ▶ The Cabinet of Ministers should ensure that this new function is fully independent and resourced to take on the new task.
- ▶ The Cabinet of Ministers could consider requesting assistance from the Council of Europe in facilitating knowledge-transfer on minority rights in education from countries with good educational structures for national minorities, such as Germany.

6. Ensure a coherent approach through stable executive structures

Uncoordinated and piecemeal policy-making creates confusion among stakeholders and beneficiaries. To avoid unrest and to promote stability, a coherent policy must be equitable and comprehensive in scope, and consistent in application. This requires a stable, broad-reaching executive structure. The Cabinet of Ministers seems to have taken a technical and administrative approach to developing its functions in regard to national minority protection. This approach should be reconsidered. A full-scale review of all executive structures in the central government could assist the Cabinet of Ministers in re-assessing its approach. It should be considered to include other line ministries, that do not have competences in diversity management but whose portfolio covers aspects of public administration involving day-to-day issues for members of national minorities, such as access to justice or infrastructure development in remote and rural areas. This could include the Ministry of Justice, the Ministry of Regional Development and others with competences that address non-cultural matters.

- ▶ The Cabinet of Ministers should consider establishing permanent executive structures with adequate powers, remits and resources to address in a coherent manner the protection of national minorities.

The above review and examination should ideally be executed in parallel with a full review of relevant legislation and policies with a view to upgrade these through mainstreaming minority rights as well as to elaborate new legislation in relevant areas. A full-scale review, as opposed to a piecemeal reform without a comprehensive overview, would avoid bad legislation and put Ukraine on a path to sustainable governance in the area of minority protection. Such an exercise should result in a full revision of the Law on National Minorities, which could promote a stable legal basis for a coherent policy towards national minorities in the future.

- ▶ The Cabinet of Ministers should consider withholding current proposals to amend legislation on national minorities until a full-scale review has been undertaken.
- ▶ The Cabinet of Ministers could consider requesting assistance from the Council of Europe in support of a full-scale review.

7. Enhance clarity on division of powers in the central administration

A clear division of powers and a coherent chain of command within the executive structures promotes clarity and consistency in policy-making on the protection of national minorities. The Cabinet of Ministers have endeavoured to achieve this through the dedication of the Ministry of Culture as the key responsible entity for minority protection. A ministry or agency does not, however, operate in a vacuum, and the Ministry of Culture is dependent on other central agencies in carrying out its mandate. This division of work and powers is not entirely clear, nor is it completely logical. For instance, on the one hand, the Ministry of Culture does not have competences in the area of education in minority languages; this is placed in the Ministry of Education and Science. On the other hand, it appears to have more powers than the Ministry of Foreign Affairs in the relations with kin-states and the cooperation in bilateral commissions. Unless there is very close coordination between ministries, this could lead to the production of bad policies and potentially to diplomatic failures.

While the Ministry of Culture is the entity responsible for Ukraine's international obligations, it is problematic that it does not hold competences in regard to education in minority languages. If policies on minority education are elaborated in the Ministry of Education without strong input from the Ministry of Culture, the policies

are likely to violate Ukraine's international obligations. With regard to kin-state relations, the Ministry of Foreign Affairs is responsible for Ukraine's international relations with other sovereign states, including respect for territorial integrity; thus, if policies of kin-state relations are elaborated in the Ministry of Culture without close cooperation with the Ministry of Foreign Affairs, the policies could violate the territorial integrity of foreign states. To avoid these drawbacks,

- ▶ the Ministry of Culture should establish a permanent working group with all relevant ministries in charge of minority protection.
- ▶ The Ministry of Culture could consider requesting expert assistance in designing a comprehensive remit for the working group.

8. Ensure clear delegation of powers in sensitive areas

Certain areas of minority protection warrant specific and detailed expertise within public administration. Lack of adequate expertise can lead to confused policy-making and eventually to bad legislation. Beneficiaries usually pay the highest price in such cases of inadequate approaches. Education and law enforcement are among the two most sensitive areas of policy-making with regard to minority protection.

Education is considered a main instrument in the protection and promotion of minority identities. Article 14 of the FCNM protects this right of persons belonging to national minorities to assert and preserve their identity through education. Mistakes in policy-making can lead to social unrest and disintegration of society. The Ministry of Education has correctly realised this risk by establishing the Working Group on the Implementation of Article 7 of the Law on Education. It is imperative that the Working Group gets adequate resources and expert support to carry out its mandate. The composition of the Working Group is also important. The Ministry of Education must assure that the Working Group receives adequate funding to support regional and local administrations in implementing the new legislation in a fair manner. The groups should also be able to receive feedback from school masters and teachers so that they can propose amendments to the Minister for Education. There should be a good budget for travelling to the regions and areas where national minority education is under threat of being eliminated. The timeframe of the Working Group should be made clear; if it is considered a temporary mandate, the Working Group will not be able to develop good oversight and practices, nor will it achieve recognition as a tool for national minorities as opposed to a tool about national minorities.

- ▶ The Ministry of Education should develop a full set of by-laws for the Working Group on the Implementation of Article 7 of the Law of Education, in order to communicate to national minorities and the public that it takes the matter very seriously.
- ▶ The Ministry of Education could consider requesting expert assistance from the Council of Europe in designing a comprehensive remit for the working group.

Law enforcement in areas where national minorities and ethnic groups reside requires a differentiated approach to take into account the ethno-cultural aspects of these groups and their homelands. Often these groups are more vulnerable to discrimination and hate speech/crimes. The Cabinet of Ministers has correctly realised this when including the Ministry of Internal Affairs in the implementation of the Strategy for Protection and Integration of the Roma. The fact that the inter-departmental Working Group also includes representatives of the Roma communities is positive. It is, however, imperative that the Working Group receives adequate support in this function in order to avoid that Roma issues become securitised, if the Ministry of Internal Affairs does not cooperate closely with the law enforcement units, such as the police. The OSCE High Commissioner on National Minorities' Recommendations on Policing in Multi-Ethnic Societies should be disseminated within the police.¹⁷⁵

- ▶ The Ministry of Internal Affairs should ensure that the powers delegated to the police require law enforcement units to remain sensitive to the protection of national minorities and vulnerable ethnic groups.
- ▶ The Ministry of Internal Affairs could consider requesting assistance from the Council of Europe and the OSCE to train law enforcement units in respectful policing.

175. OSCE HCNM Recommendations on Policing in Multi-Ethnic Societies. Available at: <https://www.osce.org/hcnm/policing-recommendations> [accessed 22 September 2018].

9. Ensure clear delegation of powers to RSAs, districts and communities

Clarity in powers delegated to regional and local administrations will promote trust in democracy as well as prevent unrest and tensions in society. Delegating state policies on ethno-cultural issues and minority protection are the responsibility of the Ministry of Culture. RSAs have competences to implement ethno-cultural policies, including minority protection in the regions, and most RSAs have established executive structures to that effect. There are, however, no guidelines and directives received from the Ministry of Culture to assist public servants at the regional and local levels in implementing state policies in their constituencies. It would appear that knowledge-transfer happens intermittently and without a clear strategic vision. This has resulted in RSAs focusing mainly on cultural policies, leaving aside important social integration policies that could promote inter-cultural understanding as well as social cohesion. Moreover, it is not clear that devolved powers are substantiated and supported by clear instructions about how to implement state policies, including instructions about Ukraine's international obligations with regard to national minority rights and protection. Finally, there is a lack of peer-learning between the regions, districts and communities.

- ▶ The Ministry of Culture should consider developing comprehensive guidelines and instructions on how to implement state policies at the regional and local levels, and it should develop programmes of peer-learning and exchange between regions with similar national minority issues.
- ▶ The Ministry of Culture could consider requesting expert assistance from the Council of Europe's FCNM and ECRML Secretariats, as well as its Congress of Regional and Local Authorities in Europe, to provide knowledge-transfer from relevant decentralisation examples in Europe.

Delegation of powers also emanates from other parts of the central administration. In the case of decentralisation, powers are delegated by the Ministry of Regional Development. While the legislation on decentralisation refers to ethno-cultural circumstances and the need to take into account cultural and national homelands, there seems to be few regional strategies referring to this fact and setting goals for protecting homelands. This has, in some cases, led to the process of voluntary amalgamation being halted due to ethno-cultural relations that could not overcome differences. This is unfortunate, as according to Article 16 of the FCNM, authorities must take into account the historical and cultural characteristics of national minority homelands when merging electoral and administrative districts. It is the responsibility of authorities to find solutions that protect cultural regions from assimilation. Amalgamation processes from Switzerland (2014, Ilanz/Glion) and Denmark (2007, Region Syddanmark) could function as good practice examples for Ukraine.

- ▶ The Ministry of Regional Development should consider elaborating clear guidelines and instructions of how to avoid violating Article 16 in the current amalgamation processes.
- ▶ The Ministry of Regional Development could consider requesting expert assistance from the Council of Europe's Congress of Regional and Local Authorities in Europe to facilitate knowledge-transfer on amalgamation processes from other member states, such as Switzerland or Denmark.

CONSULTATIVE MECHANISMS

10. Enhance access to decision-makers at the central level

Access to high level decision-makers for members of national minorities can have a symbolic value in securing the peace and foster social unity and cohesion. Distance can be misunderstood as indifference. The placement of the Coordinating Council for Civil Society Development in the Office of the President and the existence of a sub-group with the remit of harmonizing ethno-national policy, appear relevant. It is not, however, clear how this benefits national minorities. In comparison to the Council of Representatives of the Crimean Tatars, which can submit proposals directly to the President, the Coordinating Council does not represent national minorities. There is a clear dissatisfaction with the current situation among members of national minorities. Examples from Estonia and Latvia have shown that especially in transition periods, a roundtable for national minorities at the highest level of the executive branch has been conducive to open dialogue and exchange of views.

- ▶ The President's Administration should consider urgently to ameliorate the unequal situation that national minorities face in their relation with the highest level of the state, by establishing a permanent round table for national minorities.

- ▶ The Administration could consider requesting assistance from the Council of Europe in facilitation knowledge-transfer from other member states, such as Estonia or Latvia.

Access to parliamentarians is considered a democratic right, and is a core principle of Article 15 of the FCNM. It is important that hearings in parliament are easily accessible for all members of society. Hearings in the Human Rights Committee are of particular importance to representatives of national minorities. It is not clear, however, how frequent organisations representing national minorities, especially organisations in the regions and remote areas of Ukraine, are able to participate in these.

- ▶ The parliament should ensure easy access and ongoing dialogue with national minorities, possibly through a special committee or commissioner, such as the example from Germany (see also Recommendation 4).

The Cabinet of Ministers does not have any consultative mechanism specifically designed for dialogue with national minorities. This may be logical given the coordinating role that the Cabinet holds. It sends, however, a negative message to representatives of national minorities and other stakeholders representing minorities. An opportunity for keeping an open inter-cultural dialogue could counter the negative message and perhaps promote a message of equality.

- ▶ The Cabinet of Ministers should consider creating a dialogue function with organisations representing national minorities, following the examples of the Czech Republic (or Poland).
- ▶ The Cabinet of Minister could consider requesting assistance from the Council of Europe to facilitate knowledge-transfer from the Czech Republic about consultative mechanisms at the level of head of government.

11. Expand and strengthen consultative mechanisms in central administration

Day-to-day issues, such as education, family life issues, preservation of languages, culture and cultural heritage, are the most important issues for most members of national minorities, and especially relevant for the protection of their identities. The implementation of policies in these areas are thus of highest interest to national minorities. Open and structured consultations with national minorities in these areas of life will promote loyalty and social cohesion. Other issues inherent to identity formation, such as employment, welfare, security, health-care, and general well-being are also important to include in consultations. Such consultations must be offered in permanent platforms, with regular intervals, providing support and knowledge-transfer to the representatives who participate in the consultations. These bodies should be specialised bodies independent from the Public Councils. Often the policy areas cover complex matters that can be difficult for non-specialists to understand and follow. Such consultations must be genuine, non-manipulative and held in the spirit of cooperation, understanding and respect.

Furthermore, any political agenda should be avoided. Transparency of consultations will enhance their legitimacy. Adequate documentation and communication about them must have high priority. While both the Ministry of Culture and the Ministry of Education and Science have established specialised consultative bodies, there appear to be many obstacles for representatives of national minorities when seeking to participate in the meetings and events of these, especially representatives not residing in Kyiv. Obstacles emanating from inter-personal relationships should also be avoided as they can hijack the processes and thus impede consultations. Moreover, there appears to be no involvement of national minorities in the bilateral commissions with Germany, Romania, Hungary and Slovakia. These commissions consist of public officials and public servants only.

- ▶ The Cabinet of Ministers should consider drawing up detailed guidelines for specialised consultative bodies in order to achieve legitimacy and a higher rate of success.
- ▶ The Cabinet of Ministers could request expert assistance from the Council of Europe to elaborate a template of statutes and guidelines for consultative mechanisms.

It is imperative that these bodies function optimally and in line with the standards adopted in both Article 15 of the FCNM and Article 7(4) of the ECRML. According to Council of Europe standards, representatives of national and linguistic minorities should participate in the drafting of state reports in connection with the monitoring cycles under the FCNM and the ERCML. These processes should be kept very transparent and representatives should have access to full documentation and information. Specifically, with regard to education in minority languages and the preservation of languages, there appears to be more and greater need for consultations, especially for languages that are not from the main large language groups. Specialised expert groups for small

specialised languages could assist the consultative bodies with analysis and recommendations. There is also a lack of visibility within the central administration with regard to minority languages. They seem to have become 'collateral damage' in the language conflict between Ukrainian and Russian. This could be overcome by establishing an advocate for multilingualism.

- ▶ The Cabinet of Ministers should consider establishing and appointing a Language Commissioner position to promote multilingualism and protect smaller languages similar to such positions established in Canada, Kosovo and the United Kingdom.
- ▶ The Cabinet of Ministers could consider requesting assistance from the Council of Europe in facilitating knowledge-transfer from language commissioners in other countries.

12. Expand and establish new bodies at the regional and local levels

Consultations in the local and homeland communities are particularly important given that many communities are remote from the capital, and the fact that issues discussed in Kyiv may not always have relevance for the particular situations in local communities. While many RSAs have established public councils or specialised consultative bodies for national minorities, there appears to be very few regional and local councils/assemblies that have done so. With regard to the RSAs that have established consultative bodies, there appears to be a lack of strategic vision for how such bodies should function and which results they should achieve. Many have a tendency to focus mainly on cultural policies and programmes when in fact social integration programmes may also be of relevance for creating unity and a common national identity. Moreover, there seems to be limited knowledge among national minorities that such bodies exist. With regard to consultative bodies attached to regional and local councils/assemblies, there seems to be a total void of such. At least, it has not been possible for the experts to establish if such bodies exist and are functioning in the local communities. This indicates that the democratic rights of national minorities in the local communities are overlooked, and implementation of Article 15 of the FCNM neglected. There is, therefore, a general lack of access to decision-makers and a limited access to administrators at the regional and local levels.

- ▶ The Ministry of Culture should ensure that the devolved administrative powers regarding national minorities strengthen the existing specialised consultative bodies and establish new consultative bodies where these do not yet exist.
- ▶ The Ministry of Culture could consider requesting assistance from the Council of Europe in facilitating knowledge-transfer events (seminars, workshops, trainings) from the central administration to the regions and districts.

TECHNICAL RECOMMENDATIONS:

EXECUTIVE STRUCTURES

13. Raise awareness about Ukraine's international minority rights obligations

Lack of awareness is often the main cause for poor implementation of policies. This can be a challenge across public administration units at all levels of government not least regional and local levels but also tangential agencies, such as police corps, border patrols, medical staff, military units, etc. – all of which may at one point or another encounter members of national, linguistic, ethnic and religious minorities with special needs. Awareness raising among the general public can also foster better implementation of minority protection and understanding for the right of minorities to substantive equality through consultation. Article 6 of the FCNM requires states party to the Convention to promote tolerance and respect for minority groups and their rights to preserve their identities. A higher rate of awareness and understanding of minority rights will not only promote social cohesion but also enhance the work of the specialised units in administration and policy-making that are tasked with ensuring minority representation and participation.

Awareness raising about Ukraine's international obligations through information campaigns, communication platforms, trainings and other knowledge-transfer tools can not only contribute to better implementation of policies and but also to higher satisfaction among public servants, stakeholders and beneficiaries. Campaigns

and trainings must be tailored according to the needs of the recipients of these, and they should be undertaken at all levels of public administration and legislative functions.

- ▶ The Ministry of Culture and other central agencies should consider adopting a programme aimed at raising awareness about the rights of national minorities.
- ▶ The Ministry of Culture could consider requesting expert assistance from the Council of Europe in elaborating a state-wide information programme providing knowledge-improvement and capacity building in national minority rights protection and awareness about sensitive issues.

14. Improve capacities and capabilities at all levels of government

To make national minority governance sustainable, it is furthermore necessary to provide capacity building and training to all public servants and service providers dealing directly with national minorities; this will improve relations and provide the foundation for good implementation of the comprehensive model of national minority governance. The capacity level in many units, both at the central and regional/local levels, is too low for the tasks needed as well as for those tasks which are not carried out. At the central administration level, some ministries have appointed only a few public servants to deal with minority policies that may cover the entire territory of Ukraine. This is not tenable for a country as multicultural and diverse as Ukraine. At the regional and local levels, public servants are often assigned to minority protection only part-time and in many cases units are seriously under-staffed. In the local communities in the border regions, there are often no public servants specifically appointed to minority issues related to cross-border cooperation. Moreover, during the recent decentralisation process, there has not been additional staff or support with regard to the amalgamation negotiations in local communities. Interlocutors are also complaining that public servants, in addition to being overloaded with work due to the low number of staff, must also very often make do with antiquated equipment and lack of tools, including a lack of communication tools, handbooks, training materials and adequate space for meetings etc.

There is a general agreement among interlocutors that not enough resources are assigned to the units and consultative bodies that must implement the policies on minority protection. It is also important that the qualifications of the public servants fit the task; public servants who speak the relevant minority languages are an asset to the institutional capacity of the administration.

- ▶ The Ukrainian authorities should consider increasing the budgets for all departments and other units tasked with minority protection, especially those in multi-ethnic regions with special needs due to high numbers of minorities or many small language groups.
- ▶ The Ukrainian authorities could consider requesting technical assistance from the Council of Europe in support of capacity-building and diversity management in multi-ethnic societies.

CONSULTATIVE MECHANISMS

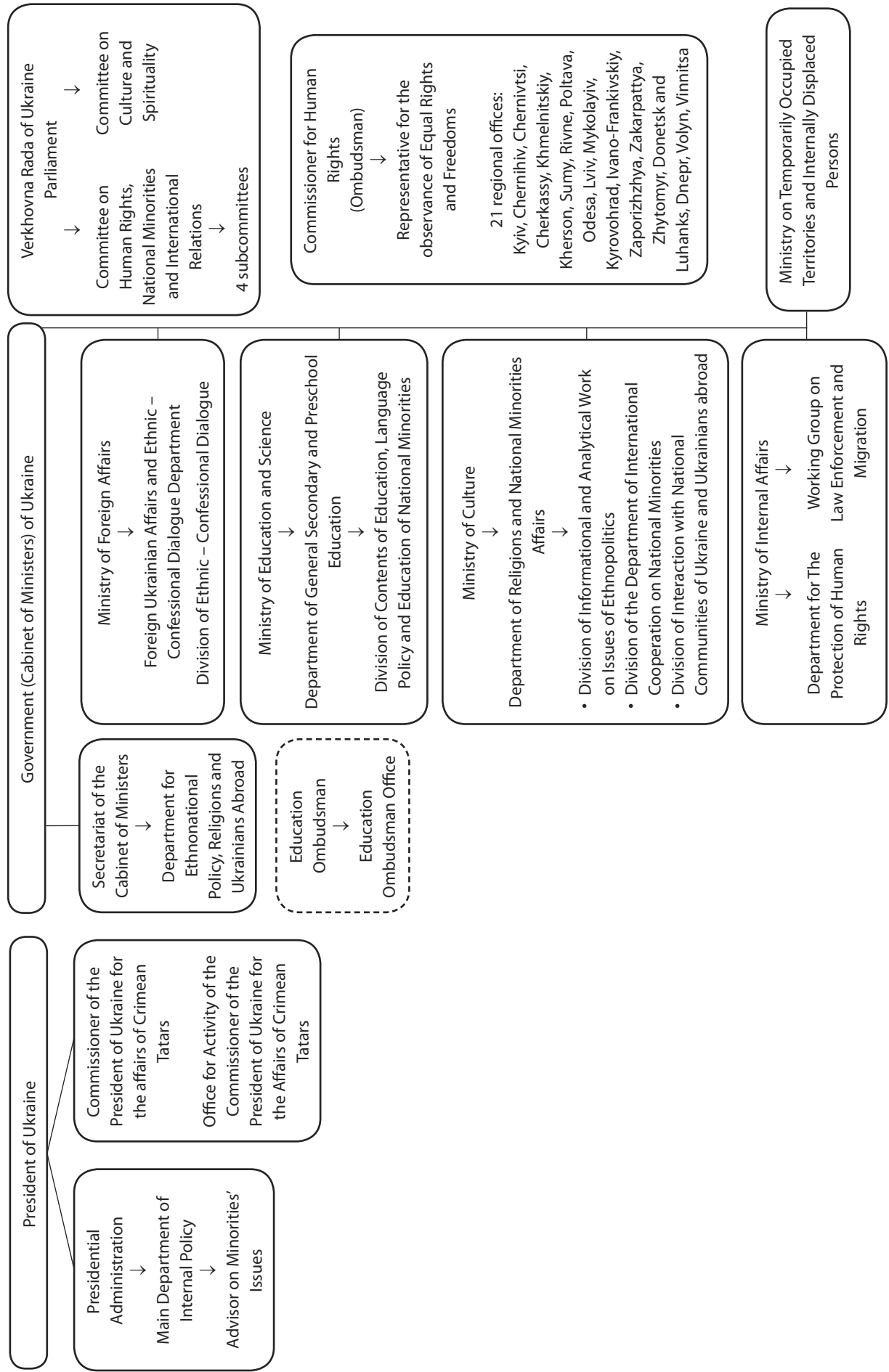
15. Provide basic tools for participation and communication

Participating in consultations requires knowledge about the processes, including schedules and topics as well as the means to participate in the actual events. One of the biggest concerns among interlocutors has been the lack of information and communication about consultation processes at all levels of government. At the central level, there has been a number of public consultations via the Internet which appear not to have reached all stakeholders and beneficiaries. At the regional and local levels, communication via the Internet is not always feasible due to the remoteness of some areas. Moreover, departments tasked with minority protection are not often skilled in communication or they do not have the manpower to undertake communication tasks. The result is often that representatives of national minorities are not fully aware of what opportunities they have, both at the central and regional/local levels, with regard to participating in meetings, hearings, consultations and information events. At the regional and local levels, interlocutors have also voiced concern that they do not receive information about funding opportunities or other programmes of interest. Finally, across the board of both central and regional/local levels, there has been a high frustration of not having the funds to travel to events whether in the region or to the urban centres. Minority activism has always been a voluntary undertaking, and most representatives do not expect remuneration. There is, however, a frustration that the highest burden for many is

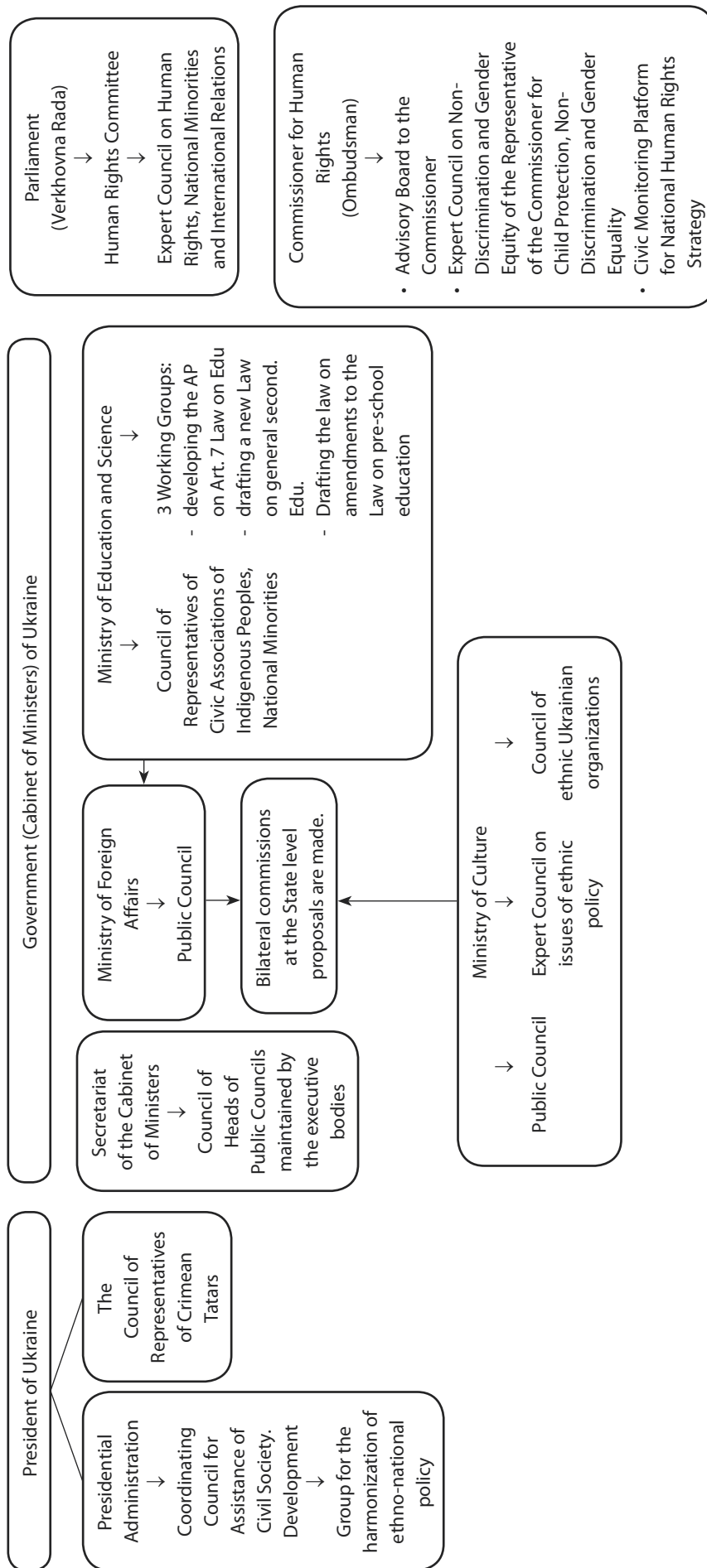
the cost not the time to cover participation. This fact can, therefore, hamper not only participation but the adequate implementation of minority protection.

- ▶ The respective administrative departments should make sure that they set aside enough funds for providing the basic tools for participation in consultations and for information about consultations.
- ▶ Administrative departments could consider requesting technical assistance from the Council of Europe in providing capacity-building and tools in the area of communication.

APPENDIX 1: ORGANIGRAM UKRAINE EXECUTIVE STRUCTURES CENTRAL LEVEL

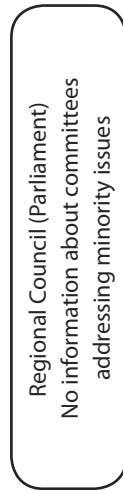
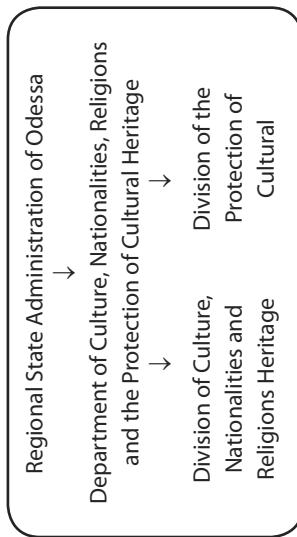


APPENDIX 2: ORGANIGRAM UKRAINE CONSULTATIVE BODIES CENTRAL LEVEL

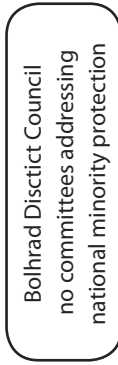
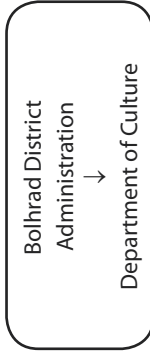


APPENDIX 3: ORGANIGRAM UKRAINE EXECUTIVE STRUCTURES REGIONAL AND LOCAL LEVELS

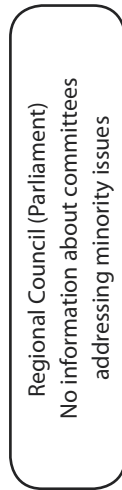
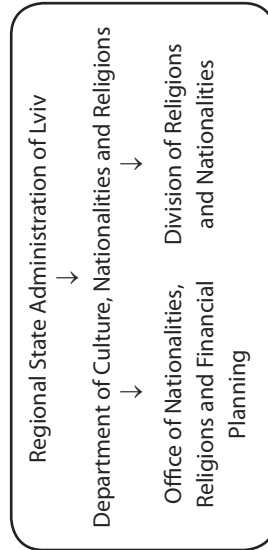
Odessa



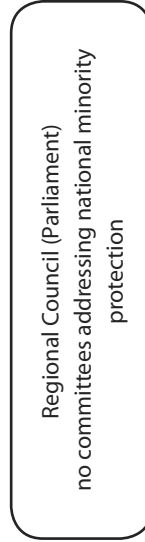
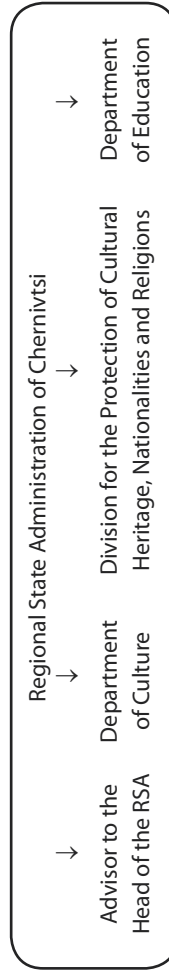
Bolhrad District



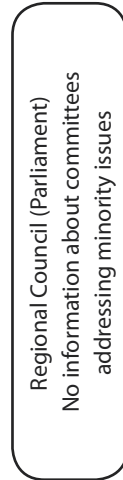
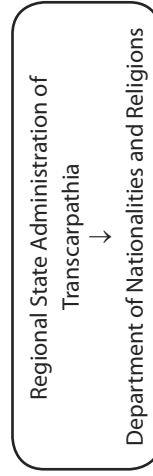
Lviv



Chernivtsi



Transcarpathia (Zakarpattya)



APPENDIX 4: ORGANIGRAM UKRAINE CONSULTATIVE BODIES REGIONAL AND LOCAL LEVELS

Odesa

Council of the Representatives of National and Cultural Societies of Odesa Region under the Division of Culture, Nationalities and Religions (in the Department of Culture, Nationalities, Religions and the Protection of Cultural Heritage)

Bolhrad District

Bolhrad Public Council under the Bolhrad District Administration

Lviv

Public Council Under the Lviv Regional State Administration

Council of National Communities under the Department of Culture, Nationalities and Religions

Chernivtsi

Regional Council on Ethno-National Policy under the First Deputy Head of the Regional State Administration

Board of Headmasters of institutions of general secondary education in the region under the Department of Education

Public Council for Education and Science under the Department of Education

Public Council under the Department of Culture

Coordination Council for the Promotion of Civil Society

Transcarpathia (Zakarpattya)

Public Council under the Regional State Administration

Public Council for Roma Affairs under the Regional State Administration

APPENDIX 5: TABLE 1 – REGIONS OF UKRAINE NOT VISITED

The following table lists the executive and advisory structures at the regional state administrations to which business trips of experts were not organised.

Region name	Name of the structural unit on the issues of interethnic relations	Number of persons working in a structural unit and dealing with the issues of interethnic relations	Legal basis of activity of the structural unit	The ability of the structural unit employees to speak the languages of national minorities	Name of consultative and advisory bodies (structures) on interethnic relations in the region existing at regional or district state administrations and city councils	Legal basis for the establishment and operation of advisory bodies	Sources and amounts of funding for regional programs in the field of ethnopolitics and advisory bodies
Dnipropetrovsk region	Office for Nationalities and Religions at the Department of Culture, Nationalities and Religions of Dnipropetrovsk Regional State Administration	2	Regulation on the Department of Nationalities and Religions (Order No. 95 of 01.12.2016)	Russian	none	none	No funding is provided
Donetsk region	Office for the Affairs of Nationalities and Religions at the Department of Internal Policy, the Department of Information and Internal Policy of the RSA	Total number – 3 persons, 1 person deals with the issues of national minorities	Orders of the Regional State Administration Ordinalances of the department	Russian	Council on the issues of ethno-national policy at the RSA	Orders of the Head of the Regional State Administration	No funding is provided
Zhytomyr region	Department of Culture and Tourism of the RSA Office of Religious Affairs and Nationalities at the Department of Culture and Tourism of the RSA	1	Department orders	none	none	none	No funding is provided

Region name	Name of the structural unit on the issues of interethnic relations	Number of persons working in a structural unit and dealing with the issues of interethnic relations	Legal basis of activity of the structural unit	The ability of the structural unit employees to speak the languages of national minorities	Name of consultative and advisory bodies (structures) on interethnic relations in the region existing at regional or district state administrations and city councils	Legal basis for the establishment and operation of advisory bodies	Sources and amounts of funding for regional programs in the field of ethnopolitics and advisory bodies
Ivano-Frankivsk region	Department of Culture, Nationalities and Religions (Office for Nationalities and Religions)	1	Regulation on the management of culture, nationalities and religions (Order of the Regional State Administration of 01.03.2018, No. 114)	Polish, Russian	Public council at the Regional State Administration; Public Council at the Department of Culture of Kolomyia Town Council.	Resolution of the Cabinet of Ministers of Ukraine of 03.11.2010 No. 996 "On Ensuring Public Participation in the Formation and Implementation of State Policy"; Resolution of the Regional State Administration of August 08, 2017 No. 467 "On the Approval of the Regulation on a Public Council at the Regional State Administration".	No funding is provided
Kyiv region	Office for Religious Affairs and Nationalities at the Department of Culture, Nationalities and Religions	2 persons deal with the issues of national minorities	Regulation on the Office	Russian	Public Council at the RSA, "Spirituality and Culture" block, "Spirituality and Religion" committee Regional Council for Promoting Civil Society Development at the Regional State Administration Public council at Brovary district state administration	Orders of the Head of the Regional State Administration	Civil Society Development Program in Kyiv region At the expense of general funds of the structural units of Kyiv RSA Regional programs in the field of ethnopolitics at the regional and district levels were not approved

Region name	Name of the structural unit on the issues of interethnic relations	Number of persons working in a structural unit and dealing with the issues of interethnic relations	Legal basis of activity of the structural unit	The ability of the structural unit employees to speak the languages of national minorities	Name of consultative and advisory bodies (structures) on interethnic relations in the region existing at regional or district state administrations and city councils	Legal basis for the establishment and operation of advisory bodies	Sources and amounts of funding for regional programs in the field of ethnopolitics and advisory bodies
Kirovohrad region	Department of Public Relations of Kirovohrad Regional State Administration. The Department includes the Office for Nationalities and Religions of the Department of Communication and Public Consultations	2 persons (head of the office and chief specialist).	Order of the Head of the Regional State Administration of January 2, 2018, No. 2-r "On the Approval of the Regulation on Managing Public Communication of Kirovohrad Regional State Administration".	1 person speaks English (with a dictionary), 1 person speaks German (with a dictionary)	Council of the Representatives of National and Cultural Societies at the Regional State Administration (23 persons).	Order of the Head of the Regional State Administration of May 31, 2008 No. 464-r "On the Formation of a Regional Commission at the Regional State Administration".	Resolution of the Regional Council of November 10, 2017, No. 386 "On the Program for the Development of Interethnic Relations and Promotion of National and Cultural Societies of Kirovohrad Region until 2022." In 2018, the funding from the regional budget UAH is planned in the amount of 256,000.00 hryvnias.
Luhansk region	Department of Culture, Nationalities and Religions of the RSA	2	Regulations on departments in Lugansk Regional Military and Civilian Administration		Council on the issues of ethno-national policy at the RSA		Regional Program for the Development of the Ukrainian Language, Culture and National Consciousness of Ukrainian Citizens on the territory of Luhansk region in 2016-2018. The section on national and cultural societies
Sumy region	Department of Information Activity and Public Communications	1	Regulation № 262-OD of 27.04.2018	Russian and Byelorussian	none	none	No funding is provided

Region name	Name of the structural unit on the issues of interethnic relations	Number of persons working in a structural unit and dealing with the issues of interethnic relations	Legal basis of activity of the structural unit	The ability of the structural unit employees to speak the languages of national minorities	Name of consultative and advisory bodies (structures) on interethnic relations in the region existing at regional or district state administrations and city councils	Legal basis for the establishment and operation of advisory bodies	Sources and amounts of funding for regional programs in the field of ethnopolitics and advisory bodies
Ternopil region	Department of Internal Policy, Religions and Nationalities of Ternopil Regional State Administration	3 persons	Regulation on the Department of Internal Policy, Religions and Nationalities of Ternopil Regional State Administration (Order of the Head dated 27.04.2016 № 256-OD)	Polish, German	Council of National and Cultural Societies of National Minorities at the Regional State Administration	Orders of the Head of the Regional State Administration "On the Council of National and Cultural Societies of National Minorities at the Regional State Administration" of November 13, 2013 №545-OD	No funding is provided, no program has been adopted
Khmelnitskyi region	Office for Nationalities and Religions at the Department of Culture, Nationalities, Religions and Tourism	2	Order of the Head of the Department of Culture	Russian	none	none	No funding is provided
Cherkasy region	Office for Public Relations and Socio-Political Issues of Public Relations and Information Management at the Department of Culture and Public Relations of Cherkasy Regional State Administration	3 persons	Regulation on the Office for Public Relations and Socio-Political Issues of Public Relations and Information Management at Cherkasy Regional State Administration		Office for Public Relations and Socio-Political Issues of Public Relations and Information Management at the Department of Culture and Public Relations of Cherkasy Regional State Administration	3 persons	Regulation on the Office for Public Relations and Socio-Political Issues of Public Relations and Information Management at Cherkasy Regional State Administration

APPENDIX 6: **TABLE 2 – REGIONS OF UKRAINE VISITED**

Kharkiv region

Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>Department of Mass Communications ↓ Head Office of Internal Policy ↙ ↘ Division (unit) of Analysis and Analytics Public Relations Division (unit)</p> <p>Only one specific specialist is responsible for national minorities Implementation of the Strategy for the Protection and Integration of the Roma National Minorities into the Ukrainian Society for the period up to 2020. Kharkiv Regional Action Plans, which contain quantitative indicators</p>	<p>No department assigned specifically for minority issues, there is just one specialist National minorities argue that there should be a SPECIFIC unit, more powerful in terms of technical support, staff provision and resources</p>	<p>Public Council: 35 persons, Have representative of national minorities – one person (Roma organization) He is also a Head of the public council Committee on the minority issues</p>	<p>Council of the national minorities leaders within the Department of Mass Communications, co-chairmen: a representative of the national minority and a representative of the Department Assemble once a quarter Conduct joint activities Other authorized civil servants (leaders of social protection services, culture, and education) are invited. The regulation does not display the composition, there is an open list. Agenda is formed via Facebook. Suggestions can be made even by telephone. An independent structure of national minorities Council of the leaders of national and cultural societies of Kharkiv region</p>	<p>Target regional civil society development program</p>	<p>The best plan for the protection and integration of the Roma national minority with the specified quality criteria and quantitative indicators OSCE Roma Documentation Program Merefyan community, Roma united territorial community (UTC) Roma in the ATO Facebook page</p>

Zaporizhzhya region

Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>Department of Culture, Tourism, Nationalities and Religions</p> <p>↓</p> <p>Head office of Interethnic Relations</p> <p>↓</p> <p>Division (Unit) of Nationalities and Religions</p> <p>2 persons</p>	<p>the issues of culture and international relations are splitted</p>	<p>Public Council in the RSA, coordinates the department and domestic policy</p> <p>There was a Public Council at the Regional Council, but it did not worked well</p>	<p>Coordination council of public associations of national minorities under the head of Zaporizhzhya RSA</p> <p>representatives of 28 national and cultural communities</p> <p>Independent organization of national minorities Public Association of national minorities of Zaporizhzhya region</p>	<p>Regional Program for the Promotion of Cultures of National Minorities in Zaporizhzhya region for the 2018–2022 period, funding: 600,000</p>	<p>Center of national cultures “Suzirya” of Zaporizhzhya Regional Universal Scientific Library</p> <p>The project “Multinational Zaporizhzhya. Meetings with interesting people”</p> <p>International relations are actively developing due to being supported by the Department</p>

The town of Melitopol (Zaporizhzhya region)

Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>Department of Culture of the Melitopol Town Council of Zaporizhzhya Region</p>		<p>Working group, approved by the mayor's order</p> <p>Implementation of the “Plan of Intercultural Integration of the Town of Melitopol for 2015-2020”, approved by Melitopol Town Council</p> <p>The working group includes representatives of the authorities, the deputy corps, scientific and educational institutions, public organizations, national and cultural societies, experts of the Program of Intercultural Cities of the Council of Europe.</p> <p>The working group is presided by the city mayor.</p> <p>Monitoring and evaluation of the Plan implementation is carried out by the Department of Strategic Development in the Executive Committee, the Department of Culture of Melitopol Town Council of Zaporizhzhya Region</p>	<p>Melitopol Union of Public Organizations “Council of National Societies”.</p>	<p>“Plan of Intercultural Integration of the Town of Melitopol for 2015-2020”</p>	<p>Intercultural Ethnographic “Kale” Museum, which was founded by the members of the NGO “Melitopol National and Cultural Karaites Society “Jamaat”.</p>

Mykolaiv region

Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>Department of Culture, Nationalities and Religions of Mykolaiv Regional State Administration</p>  <pre> graph TD A[Department of Culture, Nationalities and Religions of Mykolaiv Regional State Administration] --> B[Unit of Nationalities and Religions] A --> C[Unit of Cultural Institutions and Cultural Heritage Protection] </pre> <p>Unit of Nationalities and Religions</p> <p>Unit of Cultural Institutions and Cultural Heritage Protection;</p>	<p>The structure corresponds to the normative legislation</p> <p>The issues of protection of cultural heritage and nationalities have been separated</p> <p>National minorities speak of the need to increase the number of employees in specific minority structures</p>	<p>Public Council in Mykolaiv Regional State Administration (the representatives of national minorities are not elected)</p> <p>Minorities said they were not informed about the terms of documents submission. Thus no one submitted documents for elections.</p> <p>Permanent Deputy Commission of the Regional Council, which considers the issue of culture and approves the target national and cultural program</p> <p>Regional Council Deputies: Uzbeks, Koreans, Turkmen, Russians, Moldovans, Bulgarians, Byelorussians</p> <p>City Council of National Communities is an advisory body to the mayor on national minorities</p> <p>(all issues at the city level, which are not within the competence of the RSA)</p>	<p>Council of the representatives of public organizations of national minorities in the region cooperating with the head of the regional state administration, 19 persons (organizations of national minorities + umbrella organizations)</p> <p>They assemble once in half a year</p> <p>Public association "Council of National Societies of Mykolaiv Region"</p> <p>Nova Odesa Cultural and Educational Center for National Minorities</p>	<p>Target national and cultural program "Preservation and development of ethnic, cultural and linguistic identity of national minorities in Mykolaiv region</p> <p>Public association "Council of National Societies in Mykolaiv Region" is provided with financial support</p> <p>Action Plan on the Implementation of the National Strategy for Promoting Civil Society Development in Ukraine during 2016-2020 in Mykolaiv region</p>	<p>The head, methodologist and chief accountant of the public association "Council of National Societies in Mykolaiv Region" receive half-rate salaries from the regional administration</p> <p>Placed in the municipal board, have a separate office.</p> <p>Mykolaiv Development Strategy, 2016-2021</p> <p>Preservation of historical heritage and national traditions;</p> <p>Diversification of the cultural product,</p> <p>Orders of the Head of the Regional State Administration:</p> <ul style="list-style-type: none"> - On the approval of the plan of measures for the implementation of the Strategy for protection and integration of the Roma national minority in the Ukrainian society for the period of up to 2020 - On the introduction of the topic "National diversity of Ukraine" into the program of study in educational institutions - About the commemoration of the international Roma Holocaust Day <p>International cooperation (Belarus, Poland, Bulgaria, Croatia, Georgia)</p>

Odesa region

Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>Department of Culture, Nationalities, Religions and the Protection of Cultural Heritage</p>  <pre> graph TD A[Department of Culture, Nationalities, Religions and the Protection of Cultural Heritage] --> B[Division (Unit) of Culture, Nationalities and Religions] A --> C[Division (Unit) of the Protection of Cultural Heritage] </pre> <p>Division (Unit) of Culture, Nationalities and Religions</p> <p>Division (Unit) of the Protection of Cultural Heritage</p>	<p>2 persons deal with the issues of national minorities. It is necessary to enlarge the number of staff members. For Odesa region, this number of civil employees is not enough</p>	<p>The RSA and district administrations have their own Public Councils</p> <p>Odesa RSA is not satisfied with the work of the public council</p> <p>It is the period of electing new members now</p> <p>The regional state administration works directly with civil society organizations without using a public council through the memorandums</p> <p>No quotas, we conducted consultations, this quotation formula does not work well</p> <p>District state administrations also have Public councils.</p> <p>The representatives of national minorities were present in the councils of 11 district state administrations</p> <p>Now there are only 2 district councils</p> <p>Lyman district state administration has a separate consultative and advisory body for national minorities</p> <p>Formation of local public councils</p>	<p>City – Roma Strategy Working Group</p> <p>Assembles every quarter</p> <p>To solve urgent issues, they hold unscheduled consultative meetings with the authorities and the representatives of the Roma Congress</p> <p>Council of the representatives of national and cultural societies of Odesa region. 33 persons</p> <p>Considered the Concept of State Ethnic Policy, the Law on National Minorities, Roma integration strategy, language law</p> <p>Romanian-Moldovan confrontation, Polish confrontation between the organizations and Bulgarian societies</p> <p>There was the Youth Council in the executive committee of Odesa City Council, which is now liquidated</p>	<p>Regional program for the development of civil society in Odesa region until 2020</p> <p>There was a separate "Program for the promotion of national minorities and the activities of national and cultural societies in Odesa region, no longer funded</p> <p>They proposed a program for the development of national minorities</p> <p>the program includes culture (a separate section in the national minorities issue)</p>	<p>Signing memorandums with active civil society institutions instead of working with the Public Council.</p> <p>memorandum, involve NGOs in various events</p> <p>A questionnaire for the unified territorial community has been developed, concerning religious buildings and centers of national cultures as supported by the regional administration</p> <p>5 different centers of national cultures: Gagauz, Bolhrad (Bulgarians) Reni and Izmail Center for National Cultures (all of them), Ukrainian Cultural Center in Odesa and of Polish culture in Odesa</p>

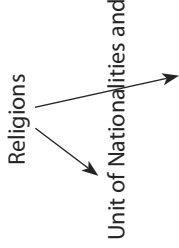
The town of Bolhrad, Odesa region

Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>Unit of Culture of Bolhrad District State Administration</p> <p>1 person</p> <p>National minorities require the expansion of human resources, emphasize the need for explanatory work with laws and support for socio-economic development.</p>	<p>District specifics: Bolhrad district raised the issue of independence at the referendum on independence in 1991, and the people of the district supported it. Attempts to create the People's Council of Bessarabia (Russian provocation) and the proposal to create Republic of Bujak, consisting of Bolhrad, Izmail, Tarutyn and other districts of Odesa region (separatist manifestations)</p>	<p>Public Council at Bolhrad District State Administration, 18 public organizations (50% of national minorities)</p> <p>The law on education and the issue of decentralization were considered</p>	<p>national minorities are involved in the work of the Public Council</p>	<p>Support and development of cultural and educational activities within the framework of the regional target program</p> <p>The cultural development program of the town of Bolhrad is approved by the decision of Bolhrad town council</p> <p>Program for the preservation of languages of national minorities (textbooks, Bulgarian, Albanian, Russian, internships in Bulgaria) financed exclusively from local budgets</p> <p>Previously, support was provided by the Program for supporting the development of national minorities and the activities of national and cultural societies in Odesa region</p> <p>United Nations Program for Restoration of Historic Buildings</p>	<p>Commission on the preservation of Bolhrad district</p> <p>Association of Local Authorities of Odesa Region</p>

Chernivtsi region

Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>Advisor to the Head of the Regional State Administration</p> <p>Department of Culture of the RSA ↓</p> <p>Unit for the Protection of Cultural Heritage, Nationalities and Religions</p> <p>1 person</p> <p>Employees of the Regional State Administration speak Romanian, Polish, German</p> <p>Department of Science and Education RSA</p>	<p>The first deputy head of the RSA is a member of the bilateral Ukrainian-Romanian commission at the state level; proposals are made. Head of the regional council is the representative of the national minority. In each department, there are representatives of national minorities</p>	<p>Each Department of the RSA has its own Public Council</p> <p>The Department of Culture includes two councils: the Public Council of the Department and the Board of headmasters of institutions of general secondary education of Chernivtsi region, 36 persons (8 persons from ethnic minorities)</p> <p>Assemble as needed</p> <p>There is the separate Public Council for Education, Science and Education of the Department of Science and Education – 24 persons (1 person belongs to a minority)</p>	<p>RSA Regional Council on the of ethno-national policy (under the regional state administration), established in accordance with the order of the RSA Head (not that regional Council which is people's local parliament)</p> <p>Presided by the first deputy head of the Regional State Administration. It includes political scientists, scholars, representatives of public organizations, and all national minorities; assemble systematically.</p> <p>Coordination council for the promotion of civil society</p> <p>Representatives of the government + 50% of non-governmental organizations, there are also national and cultural societies</p>	<p>Regional support program of the national and cultural societies of Chernivtsi region and Ukrainian diaspora</p> <p>Regional program of civil society development in Chernivtsi region, national minority programs are funded</p> <p>community projects competition</p>	<p>International Festival of National Cultures</p> <p>National and cultural societies are also represented at the international level</p> <p>Lack of methodological materials, they are printed and purchased, communities do not have to solve their problems by themselves, all communities cooperate with their mother countries</p>

Transcarpathian region

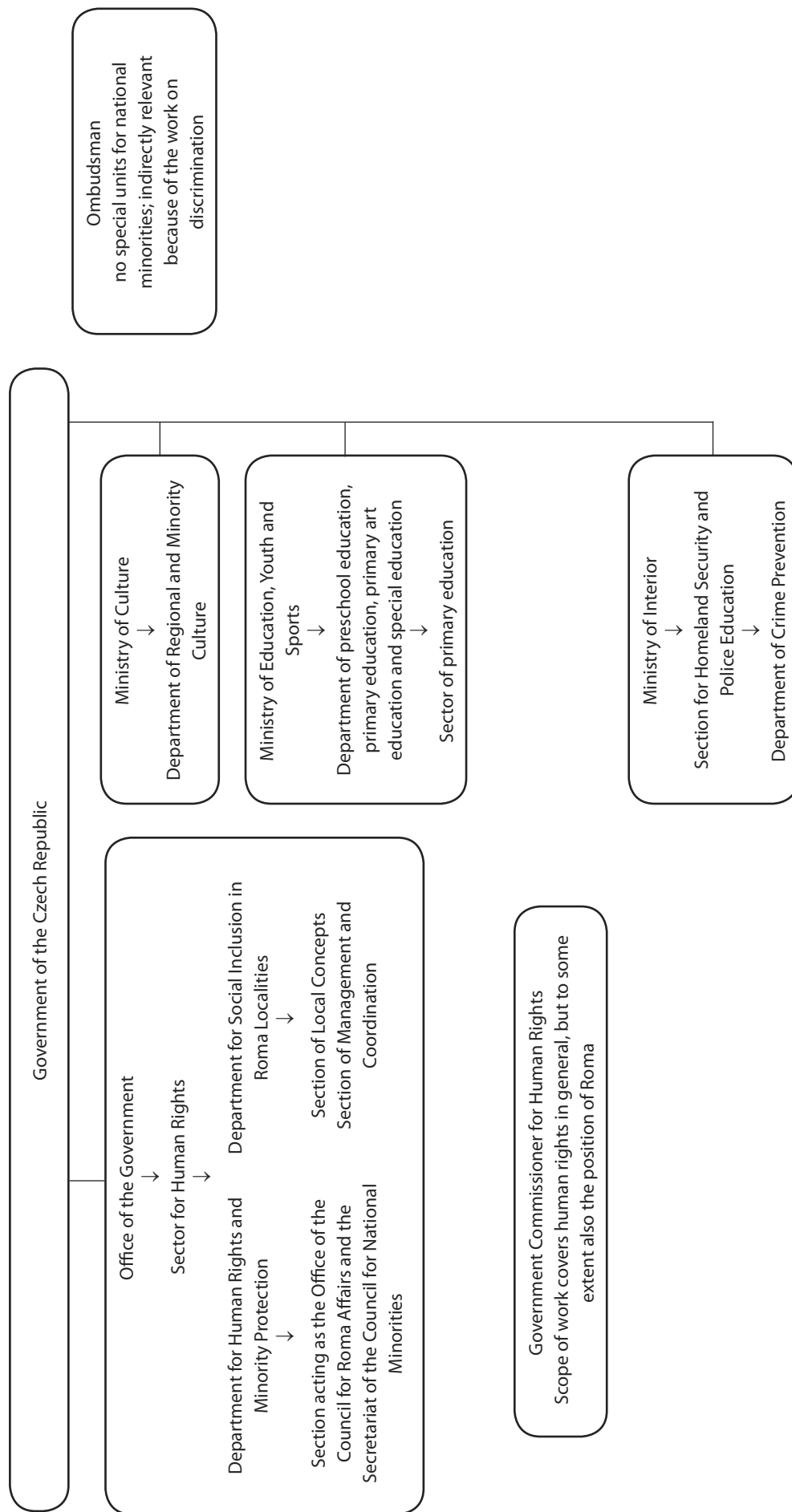
Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>A new structure, the Head of the RSA agreed to create a specific Department of Nationalities and Religions</p>  <pre> graph TD A[Department of Nationalities and Religions] --> B[Unit of Nationalities and Religions] A --> C[Unit of Religious Affairs and Financial Services] </pre> <p>Unit of Religious Affairs and Financial Services</p> <p>Department has 11 staff members, of which 10 are already employed (previously there were only 6 of them)</p> <p>There is a need to employ three more employees because people are needed. However, there is no financial capacity and no staffing regulation.</p> <p>They have a lawyer in the department dealing with religious issues, the registration of statutes, property issues, and court proceedings.</p>	<p>Previously, the structure was not focused on the result</p> <p>Optimization has taken place only recently</p> <p>Head of the Transcarpathian Regional State Administration, Governor, is a former Head of the State Committee for Nationalities and Migration of Ukraine</p> <p>Vynohradiv and Berehiv District State Administrations created structural units, one specialist in the department of culture; the issues concerning religions and national minorities were raised</p> <p>But the problem is with financing, no authority wants to give away its structural units</p> <p>They have problems with information coverage. They do not have a webpage, but there is a site for the Center for National Minorities, the head of the department uses his personal page on Facebook to distribute information (this is a normal practice in Ukraine)</p> <p>A separate website is expected</p> <p>A person ready to distribute the information about the activities conducted by the Office is needed. Cooperation between the departments of the regional administration. The problem of informing Head of the Roma public council attends and appeals to the district administration; two Roma advisers</p> <p>Activate youth issues. They have Tiachiv and Rakhiv projects and will contact international sources and youth</p>	<p>Public council at the Regional State Administration, 120 public organizations. 16 commissions, which are very small, so they hold meetings of several commissions. The number of people in a commission is 8-10 people. One person can simultaneously work in two commissions. Once a quarter, they hold meetings of the whole Public Council. Questions are discussed and decisions are taken by the commissions. Which means commissions have more freedom and competences than committees at the CEB's central level</p>	<p>A separate Roma Council in the RSA (36 Roma organizations, 13 districts of Transcarpathia, representatives of all Roma organizations) The Council has representatives in the districts. The council has existed for 2 years, it is funded for its own money, therefore it is not possible to travel when needed urgently. Planning to create another advisory body, the Council of Youth Organizations in Transcarpathia</p>	<p>Program "Center for the Cultures of national minorities in Transcarpathia" for 2016–2020</p> <p>888,500 hryvnias, maintenance of premises, salaries, stationery goods, the center publishes materials</p> <p>Program for the development of education, culture, traditions of national minorities of the region for 2016-2020 and cooperation with Ukrainians abroad for the period until 2020</p> <p>According to the Resolution of the Cabinet of Ministers of Ukraine of May 10, 2018, No. 344 "On Approval of the State Program for Cooperation with Ukrainians Abroad for the Period until 2020"</p> <p>The program "Roma population of Transcarpathia" for 2016-2020 (75,000)</p> <p>Program for improving the study of the Ukrainian language in the institutions of general secondary education where teaching is conducted in the languages of national minorities (170, 000)</p>	

Lviv region

Executive structure	Commentary	General consultative and advisory structures	Consultative and advisory structures dealing with the issues of national minorities	Funding	Local practices
<p>Department of Culture, Nationalities and Religions</p> <p>→</p> <p>Head Office of Nationalities, Religions and Financial Planning</p> <p>→</p> <p>Unit of Religions and Nationalities</p> <p>3 persons who are civil servants and one person, the lead expert, who is not a civil servant</p>	<p>Uneven distribution of the employees, many projects, folk houses</p> <p>There is a unit and a unit manager</p> <p>The existing structure is not effective, it is necessary to create an independent specific Department with two offices; the Roma issue, nationalities, religious issues, the issue of cultural heritage and the issue of new migrants should be dealt with separately</p> <p>Another structure of the executive body is needed</p> <p>The specialists who would work in other areas will need a financial resource</p> <p>There is no representative of national minorities in the city council</p> <p>In the city council, there is no person who would be responsible for the issues of national minorities; there are no structures and no active resources</p> <p>National minorities emphasize the fact that they want to independently choose a person who would represent the interests of national minorities at the city level.</p> <p>The idea of establishing an appropriate structural unit on the issues of national minorities in the city council is supported; a system of measures is needed, there should be meetings with the city mayor, and lobbying for projects.</p> <p>The city council distributed projects by the political principle, so national minorities do not cooperate with the city.</p>	<p>RSA Public Council The deputy head of RSA presides over it. No minorities There is an item in the work plan about the involvement of creative unions, national cultural societies, public organizations (including children's and youth) in the implementation of educational programs; the sphere of culture, religions and nationalities</p> <p>Reports on the implementation of the regional "Integrated Program for the Development of Lviv Region in 2017-2020" are reviewed</p> <p>The issue of restoration of the abandoned folk cultural craft in Lviv region is being raised by initiating the creation of the informational and exhibition center of historical and cultural monuments of Lviv region in the Powder Tower of Lviv with a permanent exhibition of tourist routes and architectural monuments of Lviv region.</p> <p>Conducting a competition of artistic projects among the public organizations, national societies, and creative unions of Lviv region</p> <p>The issues of education are considered by the Public Council on education in the RSA</p>	<p>The Council of national communities, existed merely on paper, no work has been done before 2016</p> <p>The work began in 2016, the National Community Council was restored by the Department</p> <p>The provisions are approved, but the council is not presided by the chairman</p> <p>Temporarily, while there is no chairman, the meetings are headed by the Head Office for Nationalities, Religions and Financial Planning</p> <p>They create a common event calendar (all minorities informed about events of each others)</p> <p>The public council assemblies once a month</p> <p>The Russians were aggressive at the meetings and enjoyed a privileged position, which they do not currently have.</p>	<p>It is only for the second year that there is a competition for financing projects. No financing before</p> <p>14 projects were funded; in 2018, 16 projects were submitted and all of them received funding</p> <p>Project Selection Commissions, National Minorities, representatives of the Department of Culture,</p> <p>Complex program of development of Lviv region 2018-2020; 250,000 hryvnias obtained this year</p> <p>Until 2017, there had been no minority support</p>	

APPENDIX 7: ORGANIGRAM CZECH REPUBLIC EXECUTIVE STRUCTURES

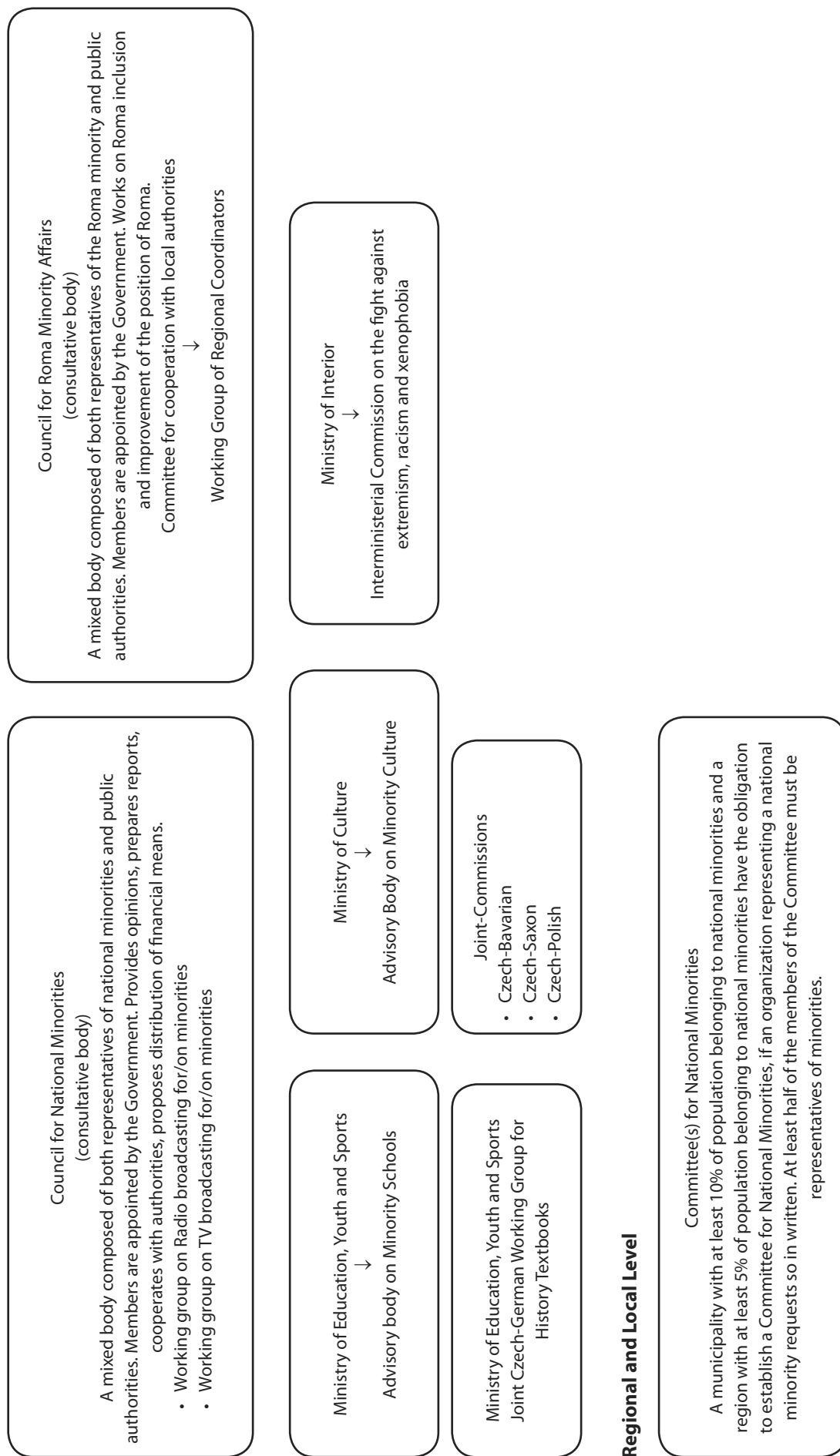
Central Level



Note: Interestingly, since 2012, there is no (sub-)committee dealing with national minorities in the Chamber of Deputies (lower house of the Parliament).

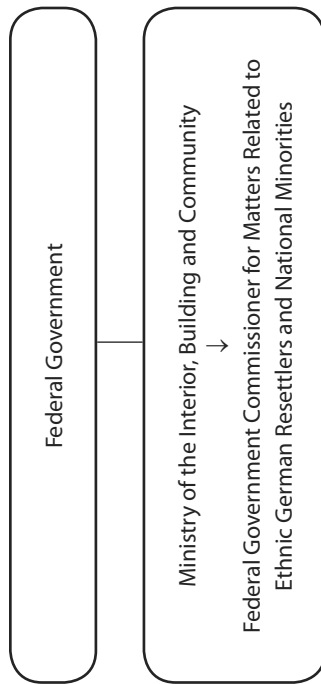
APPENDIX 8: ORGANIGRAM CZECH REPUBLIC CONSULTATIVE MECHANISMS

Central Level



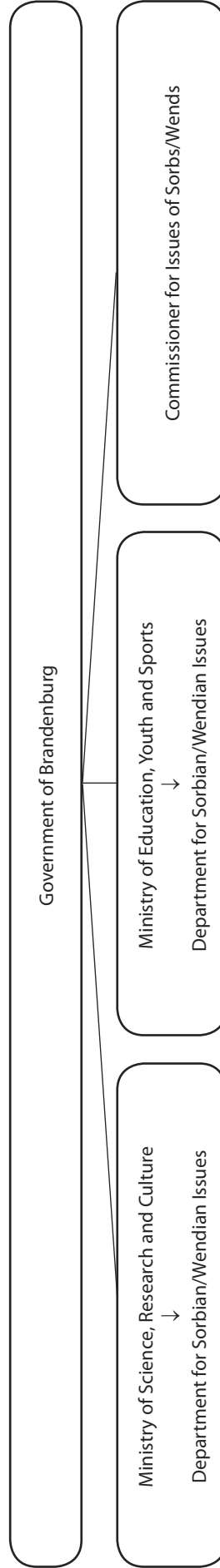
APPENDIX 9: ORGANIGRAM GERMANY EXECUTIVE STRUCTURES

Federal Level (Bund)

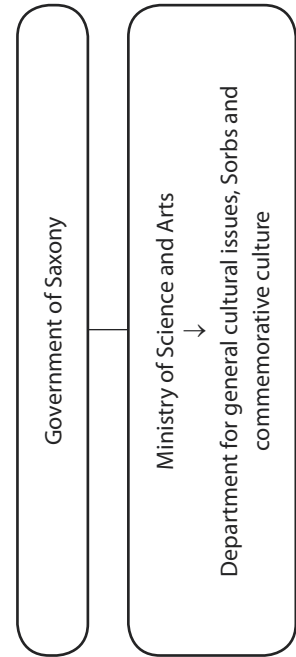


Federal units (Länder)

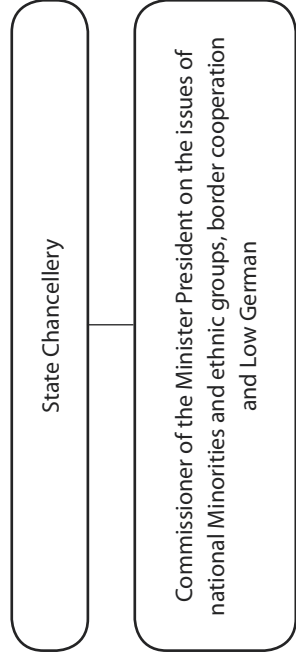
Brandenburg



Saxony



Schleswig-Holstein



APPENDIX 10: ORGANIGRAM GERMANY CONSULTATIVE MECHANISMS

Federal Level (Bund)

Minority Council (*Minderheitenrat*)
 minority umbrella organization; represents (interests of) minorities in communication with public authorities

Minority Secretariat (*Minderheitensekretariat*)
 Provides support for the minority associations in Germany

- Ministry of the Interior, Building and Community
- Advisory Committee on Issues Related to the Danish Minority
- Advisory Committee on Issues Related to the Frisians
- Advisory Committee on Issues Related to the Sorbian People
- Advisory Committee on the Issues Related to German Sinti and Roma
- Advisory Committee on the Issues Related to the Low German Language Group

Federal Parliament (Bundestag)
 periodical roundtables of the national minorities

Joint conferences of the German Federal level with the regions (Länder) and the minorities on the FCNM and the European Language Charter (Implementation Conferences)

Expert meetings between the German federal and regional (Länder) administrators for Low German

Federal units (Länder)

Baden-Württemberg

State Chancellery
 ↓
 Council for the Issues of the German Sinti and Roma

Brandenburg

Parliament (Landtag)
 ↓
 Council for Sorbian (Wendian) Issues

Saxony

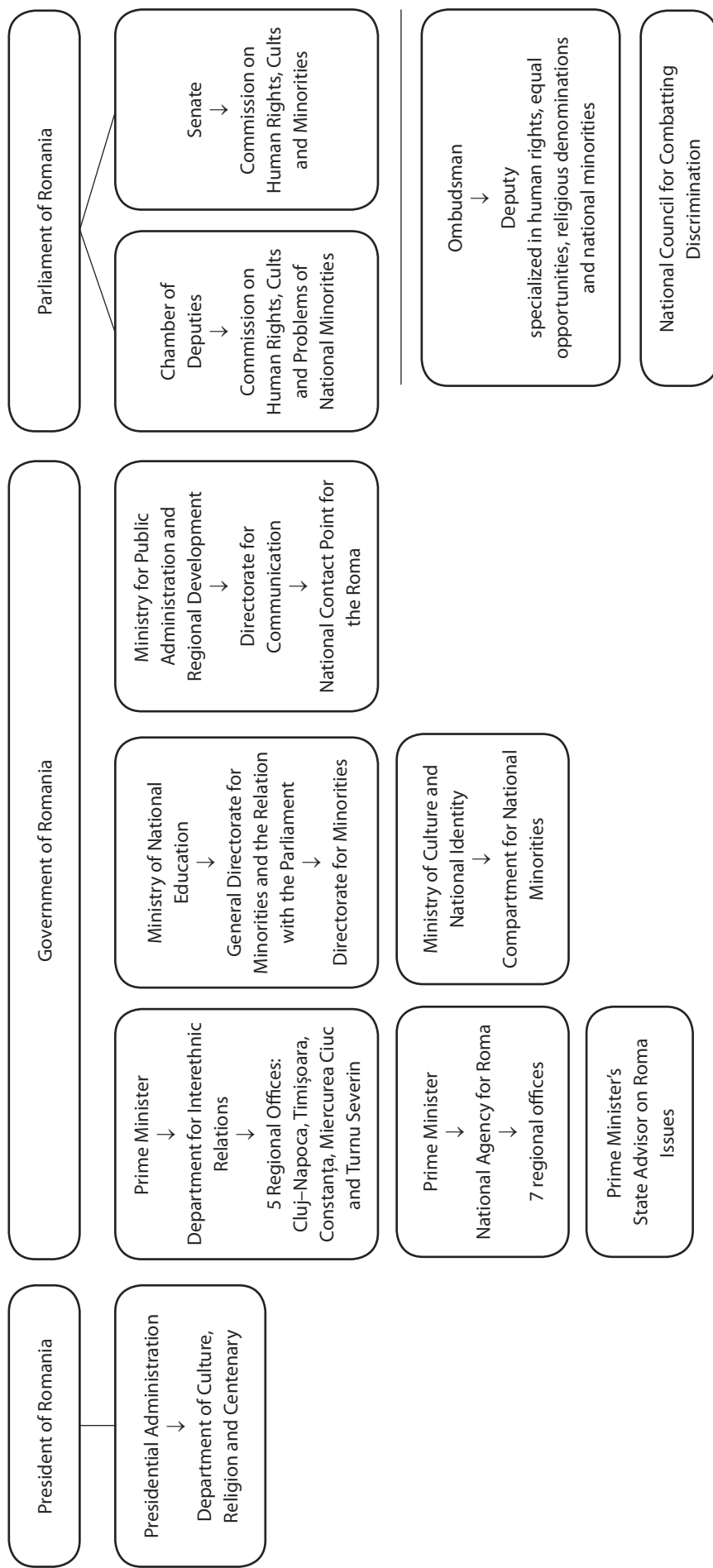
Parliament (Landtag)
 ↓
 Council for Sorbian Issues

Schleswig-Holstein

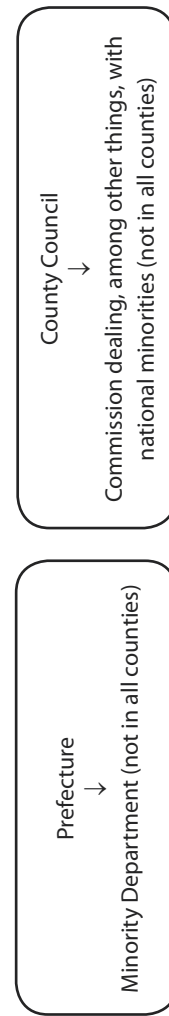
Parliament (Landtag)
 ↓
 • Forum on the Issues of the Frisian Ethnic Group in Schleswig-Holstein
 • Forum on the Issues concerning Sinti and Roma
 • Dialog Forum Norden

APPENDIX 11: ORGANIGRAM ROMANIA EXECUTIVE STRUCTURES

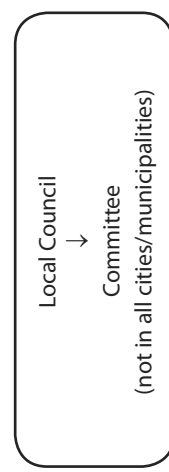
Central Level



County Level



Local Level



APPENDIX 12: ORGANIGRAM ROMANIA CONSULTATIVE MECHANISMS

Central Level

Council of National Minorities
(consultative body)

Members are only persons belonging to minorities: representatives of minority organizations which are represented in the Parliament. Main tool for action is giving proposals. Supported by the Department for Interethnic Relations.

5 committees:

- culture, cults and media
- financial affairs
- legislation and public administration
- education and youth
- social and economic affairs

County Level

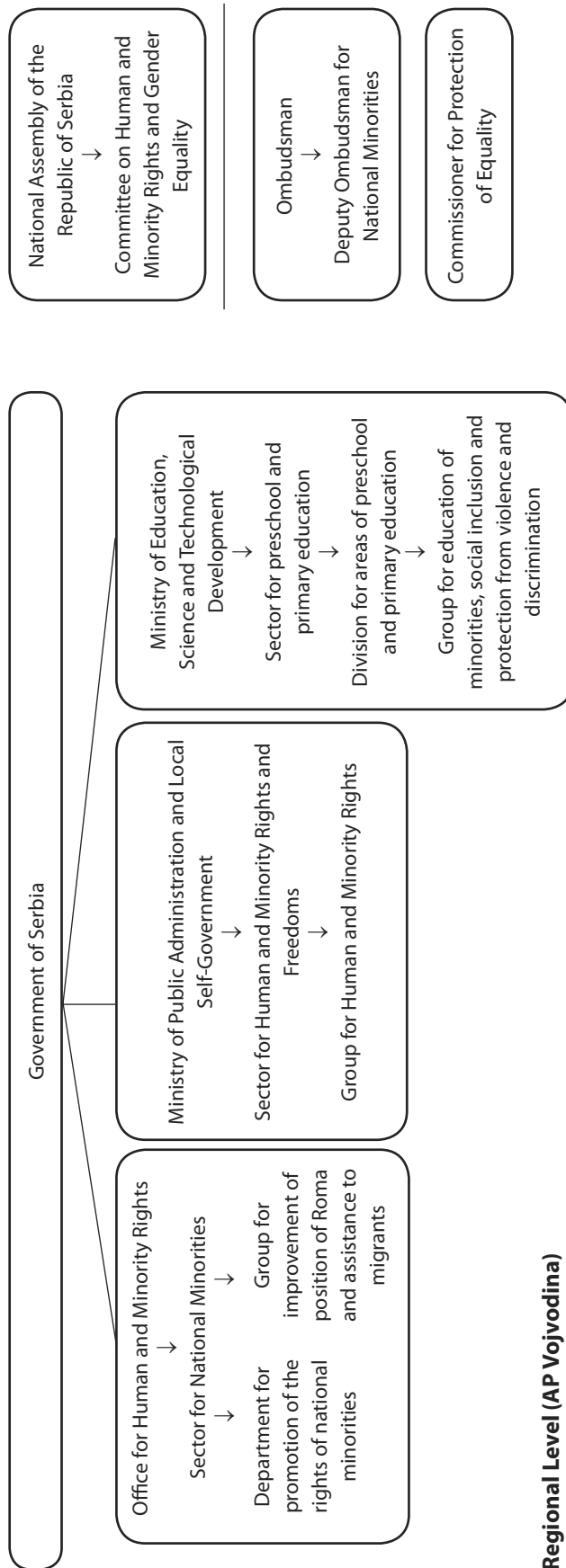
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Local Level

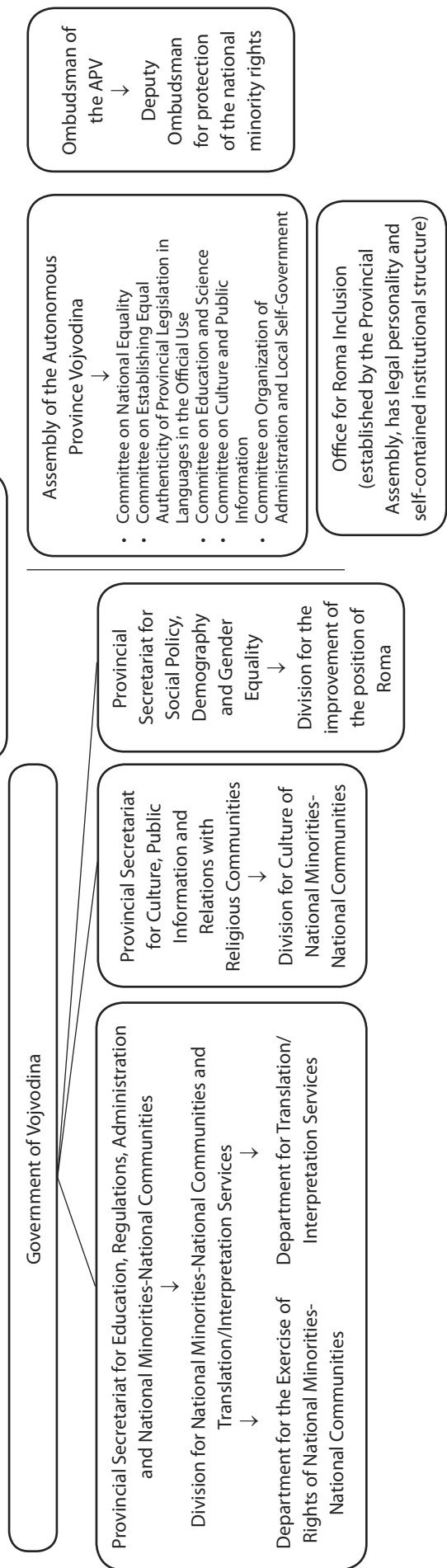
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APPENDIX 13: ORGANIGRAM SERBIA EXECUTIVE STRUCTURES

Central Level



Regional Level (AP Vojvodina)



APPENDIX 14: **ORGANIGRAM SERBIA CONSULTATIVE MECHANISMS**

Central Level

Council for National Minorities
(consultative body)

A mixed and joint body: members are representatives of state authorities and presidents of all national councils of national minorities. Conceptualized as a permanent working body of the Government. It facilitates dialogue between high state officials and high representatives of national minorities on current state of minority affairs.

Council for Improvement of the Status of Roma and Implementation of the Decade of Roma Inclusion

Coordination Body for Monitoring the Implementation of the Strategy for the Social Inclusion of Roma

National Councils of National Minorities

These are representative organizations of national minorities. They have legal personality and some public powers. Areas of work are minority culture, minority education, minority media, and the official use of minority languages. Each national minority can elect one national council. Although established as centralized bodies, they serve as minority autonomy bodies/ consultative bodies at central, provincial and local level of governance.

Local Level

Councils for Interethnic Relations

Ethnically mixed cities/municipalities (i.e. those with 5% of local population belonging to one national minority or 10% of local population belonging to all national minorities) are obliged to establish a Council for Interethnic Relations.

APPENDIX 15: **TABLE 3 – COMPARATIVE EXECUTIVE STRUCTURES**

Central Level

State	Office of the President	Office of the Government	A specified unit within the Ministry of Administration	A specified unit within the Ministry of Education	A specified unit within the Ministry of Culture	A specified unit within the Ministry of the Interior	A Government Commissioner for NM	Parliamentary Committee dealing with NM	Ombudsman	Ombudsman having internal units dealing specifically with NM	Specified Equality body (other than the ombudsman)
Czech Rep.	-	X	-	X-	X	X-	X-	-	X	-	-
Germany	-	-	-	-	-	X-	X	-X	-	-	-
Romania	X	X	X (Roma)	X	X	-	-X (Roma)	X	X	X	X
Serbia	-	X	X	X	-	-	-	X	X	X	X
Ukraine	X	X	-	X	X	-X	-	X	X	-	-

Regional Level

State	Committee in a county assembly	Unit within the county administration	Federal unit ministries	Commissioner for NM	Ombudsman	Office
Czech Rep.	X (sporadically)	-	-	-	-	-
Germany	-	-	X (sporadically)	X (sporadically)	-	-
Romania	X (sporadically)	X (sporadically)	-	-	-	-
Serbia	X	X	-	-	X	X (Roma)
Ukraine	-	X (sporadically)	-	-	-	-

Local Level

State	Committee in a municipal assembly	Unit within the municipal administration	Commissioner	Ombudsman
Czech Rep.	X (sporadically)	-	-	-
Germany	-	-	X (sporadically)	-
Romania	X (sporadically)	-	-	-
Serbia	X (sporadically)	-	-	X (sporadically)
Ukraine (Bohhrad)	-	X	-	-

APPENDIX 16: **TABLE 4 – COMPARATIVE CONSULTATIVE MECHANISMS**

Central Level

State	National consultative body (NM)	National consultative body for Roma	Advisory bodies within institutions	Joint Commissions	Roundtables	Minority umbrella organizations
Czech Rep.	X	X	X	X	-	-
Germany	-	-	X	X	X	X
Romania	X	-	-	-	-	-
Serbia	X	X	-	-	-	X
Ukraine	X	- (but has for Tatars) X	X	-	-	-

Regional Level

State	Existence of consultative mechanisms
Czech Rep.	X
Germany	X
Romania	-
Serbia	X
Ukraine	X

Local Level

State	Existence of consultative mechanisms
Czech Rep.	X
Germany	?
Romania	-
Serbia	X
Ukraine	X

APPENDIX 17: QUESTIONNAIRE 1 COE-EU PROJECT “STRENGTHENING THE PROTECTION OF NATIONAL MINORITIES IN UKRAINE”

General questions

- What do you think are the main aspects of the interaction between government bodies and civil society organizations of the national minorities in the issues directly and indirectly relevant for national minorities?
- Please, provide examples of relevant mechanisms for implementing the right of national minorities to participate in decision-making in Ukraine.
- Could you please map the structure of interaction with national minorities within your institution?
- Are there some advisory bodies and consultative mechanisms within your institution?
- What do you think about the quality of implementation of current regulations and institutional setups for minority participation in decision-making in Ukraine?
 - a. Specific question 1: the quality of participation in adoption of legislation
 - b. Specific question 2: the quality of participation through advisory and consultative bodies?
- Are there some alternative channels of communication with national minorities? If yes, to what extent are these effective?

Questions on the executive structures dealing with national minorities

If there is a unit dealing with national minorities within your institution, please provide information on:

Legal and Institutional Status

- What is the institutional status of the unit? (for example, agency, department, sector, contact person, or similar)
- What is the legal basis for the setting up of the unit? (law, governmental decree, decision of the minister, decision of a head of the department, or similar?)
- How institutionally stable is the unit? (has it become a part of “institutional tradition”?)
- What is the institutional relationship with other governmental institutions?
- Is there an institutional relationship with regional and local authorities?

Internal structure and capacity

- How many people work within the unit?
- What is the status of people working within the unit? (civil servants, employees, volunteers, etc.)

- Do people working within this unit work on some other issues or also within some other units?
- Do some of the persons working within the unit belong to national minorities and/or speak minority languages)?
- What is internal decision-making structure within the unit?
- How is the unit financed?
- What are administrative and technical capacities of the unit?

Competences

- What is the scope of issues the unit deals with?
- Is the work of the unit relevant for one, several or all national minorities?
- What are the specific competences of the unit?
- Does the unit have a power of decision-making?
- If the unit has decision-making power, what is the legal status of adopted decisions/acts?
- How decisions of the unit are being implemented?
- Is there a possibility of remedies against the decisions of the unit?

Cooperation with national minorities

- Does the unit have regular communication and cooperation with national minorities?
- Are there some “branches” in regions or municipalities where national minorities live?
- Is there a possibility to use some languages other than Ukrainian in communication with the unit?
- Are the views/positions of national minorities taken into consideration, when decisions are made?
- Are persons belonging to minorities aware of the existence and activities of the unit?

Questions with regards advisory and consultative bodies

If there is an institutionalized mechanism for consultation with national minorities within your institution could you please provide information on:

Legal and Institutional Status

- What is the legal status of the relevant advisory and consultative bodies? Please, provide their mandate, scope of actions, functions.
- How the fair representation of national minorities in the advisory and consultative bodies is ensured?

- What is the institutional position of the consultative body within a wider executive structure?
- What is the legal status of the body?
- What are the duties and responsibilities of members elected to the advisory and consultative bodies? Do they carry any personal responsibility?

Internal composition

- Is the consultation body a “joint body” (for several minorities) or is focused on one minority?
- Is the consultation body a “mixed body” (composed both of representatives of authorities and national minorities) or a minority representative body (members are only minority representatives)?
- Please describe how do you make clear whom consult or engage; or how to do it when adoption of decision is needed?
- How do you make sure that those who participate have enough understanding of the issues at stake?
- How do you make sure that those who participate have full and trusted representation of the minority?
- How many members the consultative body has?
- If it is a mixed body, how many members represent authorities and how many represent minorities?
- How are members representing the authorities selected?
- What national minorities are represented in the consultative body?
- Are members representing minorities elected or appointed?
- Can you shortly explain the election/appointment procedure?
- To what extent are minority organizations involved in the election/appointment procedures?
- Is it possible to challenge the appointment, i.e. to file a complaint against the appointment decision?
- What is the duration of the mandate of the members of the consultative bodies?

Competences

- What are the areas in which the consultative body can work/act?
- What are specific competences of the consultative body?
- Are there some “obligations” of public authorities with regards to the consultation?
- How public authorities respond to initiatives, opinions, and requests of the consultative body?
- Does the consultative body have decision-making powers?
- If the consultative body has decision making powers, what is the legal status of the acts it adopts?

- Is a governmental sanction needed for the acts of the consultative body to get into force?
- To what extent can the government, ministry or other public authority control and derogate acts of the consultative body?
- Can consultative body file a claim or otherwise bring a case before administrative authorities or courts?
- Can third persons challenge decisions of the consultative body?

Functioning

- Does the consultative body meet on a regular basis?
- How is the consultative body financed?
- Does a consultative body have sufficient administrative (secretariat) and technical resources?
- Are the working methods of a consultative body clearly regulated? If yes, have they been adopted by the government (or other public authority) or by the consultative body itself?
- How transparent is the work of the consultative body?
- To what extent are national minorities aware of the existence and the activities of the consultative body?
- Do you see a change in the level of trust to the authorities because of cooperation with civil society through advisory and consultative bodies?
- What will you suggest to improve the existing mechanism of consultations with national minorities?

APPENDIX 18: QUESTIONNAIRE 2

Questionnaire for (and on) national minorities (term “national minority” refers to all categories of recognized groups in Ukraine).

1. Which national minorities participate in consultation mechanisms (both formal and informal) set by governmental authorities?
2. Are there groups which are excluded from such participation or claim for such participation?
3. Are there some differences in the quality of participation between groups depending on their status (national minorities, ethnic minorities, indigenous peoples or similar)?
4. Are there some data about the number of minority NGOs?
 - a. To what extent are national minorities active?
 - b. Is a minority NGO scene generally vivid and pluralistic? (if no, are there some programmes and initiatives set by the authorities aimed at this goal)
5. How national minorities nominate/elect their representatives in consultative bodies?
 - a. Are there “umbrella” organizations responsible for articulating national minority interests and nominating candidates for consultative bodies?
 - b. If several NGOs must agree on common candidate(s) does this go smoothly?
 - c. If several NGOs can nominate each own candidate, how authorities select out of these candidates?
6. To what extent nomination and election/appointment reflects pluralism within minorities: to what extent are gender, age, social status, geographic coverage (urban/rural, different regions) and similar considered?
7. What do you think about the quality of minority representation in consultative bodies?
8. What is the quality of cooperation between different national minorities in case of “joint bodies”?
9. Do you have an impression that some NGOs have “monopolized” representation of a minority, or that authorities show preferences toward some minority NGOs?
10. Do you have an impression that interests and positions of some national minorities are being favored by the authorities (whereas positions of some other minorities have been neglected)?
11. How do you assess the quality of responsiveness of authorities to minority claims, positions, initiatives and similar?
12. What do you think about the quality of minority representation in the Ukrainian parliament?
13. What do you think about the quality of minority influence on decision-making in the Ukrainian parliament?
14. How do you assess the capacity of national minorities to effectively participate in decision making?
 - a. Development of organizational structures (NGOs)

- b. Financial, technical, administrative capacities
 - c. Educational and language skills
 - d. Awareness and interest
15. To what extent is a general context for participation in public affairs favorable for minority participation?
- a. Freedom of speech
 - b. Freedom of association
 - c. Professional governance based on rule of law
 - d. Level of interethnic distance and the general quality of interethnic relations
 - e. Economic and social conditions for active citizenship

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