

Discrimination in Access to Employment of Persons Belonging to National Minorities

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I. Introduction

Madame Chairperson, Madame the Independent Expert, Distinguished Delegates and Participants, I should like to thank the organisers of the Forum for inviting me to speak at this very important occasion.

As member of the Council of Europe's Advisory Committee of the Framework Convention for the Protection of National Minorities, I have chosen to say a few words about a key issue dealt with by the Committee in its analysis of State party reports and during its country visits, namely discrimination in access to employment of persons belonging to national minorities.

However, first of all I should like to point out that the Framework Convention for the Protection of National Minorities is a relatively recent human rights' instrument. It was adopted in 1995 and entered into force in 1998. It is a legally binding instrument and could serve as a model for the adoption of a future UN convention on minorities. Out of the 47 European States who are members of the Council of Europe, 39 have ratified the Convention. On behalf of the Advisory Committee, I should like to take this opportunity to encourage those States who have not yet ratified the Framework Convention - and who are present today - to consider ratifying this instrument as soon as possible.

II. Provisions of the Framework Convention applicable

The provisions of the Framework Convention which are applicable in cases of discrimination in access to employment of persons belonging to national minorities include the following :

Article 15 of the Framework Convention for the Protection of National Minorities stipulates that State 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 ».

- **Articles 4 and 6** guarantee the principle of non-discrimination and that of equality in the exercise of all the rights guaranteed by the Convention. In particular, these provisions require State parties to adopt, where necessary, adequate, positive measures in all areas of economic life in order to promote full and effective equality between persons belonging to national minorities and those belonging to the majority population.

- In addition, **a thematic commentary on the « Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs »** was adopted by the Advisory Committee on 27 February 2008.

As with the General Comments adopted by UN treaty bodies, this thematic commentary of the Advisory Committee is not legally binding as such. However, it offers important guidelines to State parties to the Convention, based on the interpretation of articles 4, 6 and 15 of the Framework Convention by the Committee during its analysis of State reports within the monitoring process. An essential part of this monitoring process involves visits of working groups, composed of three committee members, to State parties.

III. Discrimination in access to the labour market of persons belonging to national minorities.

1. Facts

During its visits to State parties to the Framework Convention, the Advisory Committee has frequently observed that some national minorities have **proportionally higher unemployment rates, lower employment rates and generally lower participation in the labour market** than the majority population.

This is because these groups are often faced with **direct and indirect discrimination** and inequalities in career opportunities, as well as **de jure and de facto discrimination**, based on their ethnicity, religion or language.

They are often faced with **structural obstacles**, such as a ceiling to the level of their promotion within an organisation.

In particular, **systemic discrimination based on ethnic origin** is unfortunately deeply rooted in certain societies. The Roma population suffers more than other minorities in this respect.

In addition, **women and girls** belonging to certain minority groups can experience **multiple discrimination**.

Minorities living in economically depressed areas or conflict zones are particularly affected by all forms of discrimination.

Moreover, in the **present economic recession**, minorities are disproportionately affected by redundancy measures.

2. Measures to be taken by State parties

To combat effectively all forms of discrimination and to promote the participation in economic life of persons belonging to national minorities, the **adoption of a certain number of measures** is essential, namely :

- **Comprehensive legislation** - State parties to the Framework Convention should adopt **comprehensive legislation** prohibiting discrimination in access to employment on ethnic and other grounds, by **public as well as private actors**.

- **Positive or specific measures** : States should also **adopt positive or specific measures** which aim at promoting the access to full employment of persons belonging to these minorities, in both the public and private sectors. These should include :

- **policies and strategies** which aim at promoting the effective participation of persons belonging to national minorities in economic life ;

- adequate measures should also be taken to **raise public awareness** and **provide training for all stakeholders**, including law enforcement bodies ;

- in particular, persons belonging to national minorities who live in **economically depressed regions**, e.g. rural, isolated and border areas, war-damaged areas or regions affected by de-industrialisation, **should be the target of specific measures** to enable effective socio-economic participation. Such measures could be promoted **through bilateral and cross-border co-operation** where appropriate.

- **Appropriate legal remedies** : it is also important that **appropriate legal remedies are available** in cases of discrimination, and that particular attention is paid to raising awareness of persons belonging to national minorities to existing remedies and making sure that such remedies are accessible to them.

- **Regular monitoring of all forms of discrimination by State bodies** is essential. This means that indicators and benchmarks must be developed and that incentives are created to encourage the private sector, in particular, to employ persons belonging to national minorities.

- **To conclude, I should like to underline the importance of the existence of a climate of mutual respect, comprehension and tolérance** : in reality, the effectiveness of the participation of persons belonging to national minorities in economic life depends on the existence of a climate of mutual respect, comprehension and tolerance in society as a whole. It is therefore essential that State parties **adopt measures to encourage intercultural dialogue** between the majority population and minorities, as well as between the various minorities residing on their territory.