

Statement by the representative of the Russian Federation at the eighth session
of the Forum on Minority Issues on “Legal framework and key concepts”

(Geneva, 24 November 2015)

Dear Mr Chairman,

The Russian delegation has carefully familiarised itself with the report of the Special Rapporteur on minority issues and the recommendations, which were prepared on the basis of the report. We hope that these documents and today's debate will help advance the development of approaches and guidelines on ensuring the access of national minorities to justice.

The relevance of the theme is evidenced by a recent study on the human rights mechanism of access to justice for indigenous peoples. The OSCE High Commissioner on National Minorities has recently announced a forthcoming study on the minorities' access to justice. Within the framework of the Council of Europe, there is a plan to carry out a study on the issue of Roma and Sinti peoples' access to justice. In our opinion, all of these studies need to be paired and combined, despite some difference in the situations of these minorities.

Judicial practice constitutes an important source of information on this subject, in particular the practice of the European Court of Human Rights. It gives a clear idea of the existing gap between legal standards and their enforcement practices in the states. More than a dozen ECtHR decisions were aimed at overcoming the consequences of human rights violations in a number of Western European states in the area of the language of proceedings (*Öztürk v. Germany*, 1973; *Kamasinski v. Austria*, 1989; *Lagerblom v. Sweden*, 2003; *Skalka v. Poland*, 2003). A range of procedural safeguards were developed in these decisions with regard to persons, who do not have proficiency in the language of the proceedings during the process of implementation of judicial procedures against them.

Several points drew our attention in the draft recommendations. Paragraph 20, in our view, should focus on supplementing the legislation on criminal proceedings with the provisions aimed at eliminating the practice of racial or ethnic profiling, rather than on the adoption of a specific legislation, which seems deliberately impossible to realise.

We propose to supplement paragraph 35 with the following:

“States should put an end to any kind of discrimination of the convicted persons on the basis of their level of the state language proficiency and to ensure that the convicted do not face negative consequences due to the lack of sufficient understanding of the language in the context of administrative or disciplinary issues.” This sort of a recommendation was contained in the Concluding

Observations on Estonia (May 2013) prepared by the UN Committee against Torture, where in this country, the convicted are being tagged with the information about their level of proficiency in the Estonian language (letter "A", "B" or "C").

According to the paragraph 42, States should determine whether a share of young people from minority groups is not disproportionately higher compared to a share of thereof in the total number of population. This situation is common for ethnic Russians in a number of European states. It is necessary to supplement paragraph 42 with a provision on the need to identify the underlying causes of such imbalance by the states (by the way, the causes, among other things, are the result of a wide range of restrictions on the rights of minorities) and to take measures to address these causes.

Thank you for your attention.