



**Parliament of Montenegro
Parliamentary Institute
Research Centre**

**Affirmative action for persons belonging to national minorities, as set in the
legislation governing the local self-government elections in EU member
states**

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Foreword

The document of Advisory Committee on the Framework Convention for the Protection of National Minorities, within the Council of Europe, entitled: “*Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs*” states that effective participation of persons belonging to national minorities in various spheres of social and public life is crucial in order to ensure social cohesion and development of democratic society.¹ The document also states that persons belonging to minority nations may be included in the performance of public duties, through various mechanisms, such as representation in representative bodies and public services at all levels, consultative mechanisms or establishment of cultural autonomy. Therefore, the Framework Convention for the Protection of National Minorities envisages the obligation of contracting parties to create the conditions for efficient participation of persons belonging to national minorities in cultural, social and economic life, and also public duties, particularly those affecting them. Effective participation includes a wide range of possibilities for participation of persons belonging to national minorities in the public life, such as exchange of information and dialogue and formal and informal consultation and participation in the decision-making process, respectively through various mechanisms ranging from consultative issues to specific parliamentary decisions.²

Based on the obtained data, collected through the use of electoral legislation, legislation on minority rights, and obligatory reports submitted to the Advisory Committee on the Framework Convention for the Protection of National Minorities by contracting countries, the remainder of the document contains information on the rights of national minorities in the electoral process at the level of local self-government in the following EU member states: Austria, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, the Netherlands, Italy, Cyprus, Latvia, Lithuania, Hungary, Germany, Poland, Romania and Slovak Republic. Constitutions of certain EU member states, such as Belgium, Malta, Portugal and Cyprus do not recognize the notion of minority nations, whereas France, for instance is not a signatory country of the Framework Convention for the Protection of National Minorities.

In the Czech Republic, national minorities committee may be formed within the local government council, provided that the required number of persons belonging to national minorities are residents of the territory, and, it is entitled to submit opinions and proposals. In Finland and Poland, persons belonging to national minorities, in practice, have the right of representation in representative bodies at the local level, whereas in Germany, affirmative measures are envisaged for *Länder*, i.e. the 5 % electoral quota used for the distribution of seats shall not apply to the political parties representing national minorities. In Denmark, at the level of a region, German national minorities are entitled to representation in four local councils, within that region. In certain countries (Czech Republic and Slovak Republic), national minorities living in a territorial self-governing unit are entitled to obtaining information on holding of elections in their own language. According to Hungarian legislation, minorities are guaranteed participation in the political process of local government units, based on the principle of establishment of local minority self-governments for all nationality communities within the state, whereas in Romania, in addition to the affirmative

¹ Advisory Committee on the Framework Convention for the Protection of National Minorities, *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs*, Strasbourg, 5 May 2008

http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_CommentaryParticipation_en.pdf

² Ibid.

action at the national level, candidatures for local and county councils may be put forward by persons belonging to national minorities making up at least 15% of all citizens, who, at the latest census declared that they belonged to a particular minority. In Italy, representatives in the municipal council and other bodies, when performing their duties are entitled to use minority languages, while the principle of affirmative action is envisaged within certain regions inhabited by persons belonging to national minorities, specifically during the presidential elections.

Bulgaria somewhat differs from other countries on this issue, since according to its Constitution, it is prohibited to establish political parties on a national, religious or ethnic basis. However, in practice there are political parties which represent national minorities, but operate under different names (such as The Movement for Rights and Freedoms, representing the interests of the Turkish minority).

Austrian, Estonian, Irish, Latvian, Lithuanian, and Dutch legislation do not envisage any specific measures aimed at ensuring representation of national minorities in representative bodies of local self-government units, except for the constitutional right to foster religious, cultural and language identity.

The remainder of this document includes a comparative analysis of the data concerning special rights of national minorities during the electoral process at the level of local self-government in the aforementioned member states.

The complete document in Montenegrin language can be found at:

http://www.skupstina.me/images/dokumenti/biblioteka-i-istrazivanje/Afirmativna_akcija_za_predstavnike_manjinskih_naroda_u_izbornom_zakonodavstvu_na_nivou_lokalne_samouprave_u_drzavama_clanicama_EU.pdf