



ENGLISH



MINORITY SAFEPAK INITIATIVE

YOU ARE NOT ALONE. ONE MILLION
SIGNATURES FOR DIVERSITY IN EUROPE

We call upon the EU



to improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union.

We call upon the EU



to adopt a set of legal acts to improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union. It shall include policy actions in the areas of regional and minority languages, education and culture, regional policy, participation, equality, audiovisual and other media content, and also regional (state) support.



Preface

The Minority SafePack Initiative was registered by the European Commission on 3 April 2017, after the Citizens' Committee had successfully challenged the initial rejection by the European Commission in September 2013 at the European Court of Justice.

The set of legal acts contained in the Minority SafePack Initiative that lies before you, contains two elements that according to the European Commission fall manifestly outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties; in other words, according to the new decision of 2017 cannot be implemented by the European Commission.

In the new version of this document, we clearly indicated these two proposals in the field of anti-discrimination legislation and participation and included (a summary of) the reasons given in the European Commission's decision. The support that people will give to the Minority SafePack Initiative will be interpreted by the Commission as pertaining to the remaining nine elements that according to the European Commission fall within their competences.

The motto of the European Union is

“In varietate concordia –
United in diversity”

According to the Treaties, “the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”

These shared values in the EU, however, do not prevent discrimination occurring. They do not prevent infringements upon the rights of persons belonging to minorities. Nor do they prevent a detrimental impact on their languages and cultures. Persons belonging to national minorities should be protected primarily by the Member States in which they live, but “In the process of creating an ever closer union among the peoples of Europe” , the European Union is increasingly responsible for legislation, policies and activities that affect persons belonging to national minorities and regional or minority languages, and therefore the Union has an important role of its own to play.

The Union has recognised this, and enacted legislation to “combat social exclusion and discrimination, promote social justice and protection”. It has also pledged to “respect its rich cultural and linguistic diversity, and [...] ensure that Europe’s cultural heritage is safeguarded and enhanced [...]”. As is written in the Treaties, “in defining and implementing its policies and activities, the Union shall take into account [...] the fight against social exclusion, a high level of education [...] and shall aim to combat discrimination based on [...] racial or ethnic origin, religion or belief [...]”.

Sharing best practices amongst the Member States and the use of benchmarks has been a successful principle in the European Union. In the field of the protection of persons belonging to national and linguistic minorities and the promotion of cultural and linguistic diversity, Member States can learn a lot from one another, and the Union can play a facilitating role.

When a country wants to become a Member State of the European Union it is obliged to adhere to the values of the Union (Copenhagen Criteria). One of these criteria in the accession process is the respect for and protection of minorities. Because of these criteria, many new Member States in central Europe have enacted advanced models to protect their national minorities. This is wise policy, because where minorities are satisfied and have the feeling that they are taken seriously this will lead to stability. If they are not, tension will rise, which may lead to internal conflict and instability. Once a state has entered the Union, however, this lever no longer works, and we have seen some worrying developments in recent years.

To fulfil the Treaty obligations, the Commission has introduced extensive measures to assess, monitor and evaluate the (expected) impact of its actions. Through its Impact Assessment the Commission assesses the potential economic, social and environmental consequences that its initiatives may have, including the impacts on fundamental / human rights and on vulnerable groups, including national minorities. We think that this process can be improved with increased participation of persons belonging to national minorities. We also welcome the new multiannual framework 2013-2017 for the Fundamental Rights Agency, which rectifies the omission in the former period, and now also includes discrimination based on membership of a national minority within its thematic areas.

In the specific area of the Roma minorities in Europe, the largest and most excluded group of minorities in Europe, major steps have been taken in the last few years. In years to come we will see how successful the national Roma integration strategies are in practice. The situation is however not favourable, with an economic crisis in Europe, and extremist movements on the rise.

Despite all these efforts on the part of the Commission and the other European institutions, there are still significant gaps in minority protection in Europe, discrimination and social exclusion of persons belonging to minorities is widespread, and most of the regional and minority languages are endangered. The Commission sometimes seems hesitant to speak out when the rights of persons belonging to national minorities are breached. We think, however, that the Commission should act earlier once it identifies a clear risk of a serious breach of the fundamental values of the European Union in a Member State.

We believe the European Commission must do more than it does now, and therefore our European Citizens' Initiative proposes the Minority SafePack, which is

a package of measures to protect persons belonging to national minorities and to take action to ensure that the treasure of our rich European cultural heritage is safeguarded and enhanced, respecting Europe's cultural and linguistic diversity.

It also contains some measures to improve the participation of persons belonging to national minorities in the decision making process, and thereby the democratic legitimacy of EU policies and legislation.



In the field of education, training, youth and culture, the European Union has the competence to take action to support, coordinate or supplement the activities of the Member States. Europe's cultural richness lies in its depth of linguistic and cultural diversity, and its people. The Union and the Member States should create favourable conditions for linguistic and cultural diversity to thrive.

2.1 **EU-Recommendation for the protection and promotion of cultural and linguistic diversity in the Union**

The European Union has to be an area where respect for ethnic, cultural and linguistic diversity prevails, and where people do not feel excluded in any way. The Union should prevent marginalisation of certain communities. Current linguistic and cultural policies tend to favour some official languages of the Member States. We are of the opinion that action is needed to make sure that the statement that all languages are equal becomes reality.

The EU needs to adopt a systematic approach to its language and culture policy. It should learn from best practices from all around Europe, and also make use of the knowledge that has been gathered by the specialised bodies of the Council of Europe.

In the Recommendation, the EU shall define best ways to protect and promote cultural and linguistic diversity, in particular for the protection of the use of regional and minority languages in the areas of public administration, public services, education, culture, in the judiciary, media, health care, commerce and consumer protection (including labelling).

The Recommendation shall present and propose best solutions on how the extinction of languages and cultures in Europe can be halted or reversed, and on what the best methods are for language planning. It shall be comprehensive and inclusive, and take account of the true extent of linguistic diversity and language learning in Europe, and the beneficial role of multilingual individuals for Europe.

Legal basis: Article 167(5) 2nd indent TFEU and Article 165(4) 2nd indent TFEU
Instrument: (Council) Recommendation

2.2 **Adjust funding programmes so that they become accessible for small regional and minority language communities**

The existing funding programmes in the fields of education, culture, media and youth and their mainstreaming approach are too complex and too burdensome for small cultural and language communities. Furthermore, there are still criteria in the current programmes that exclude minority languages, as for example in the Culture Programme.

Criteria that exclude regional and minority languages from the EU funding programmes should be abolished in the new programme generations for education, training, youth and culture, such as the new Erasmus for All and Creative Europe programmes.

In addition, the new generation of programmes should include a strand for endangered languages. This strand should have lower thresholds and simplified administrative procedures tailored to the size of the grant, which will allow small NGOs from these communities to make use of these funding schemes. At this moment, the application process is too cumbersome for many small language communities. But making small grants available for small communities can make a huge difference for linguistic diversity in Europe.

Legal basis: Article 167(5) 1st indent TFEU and Article 165(4) 1st indent
Instrument: Decision or Regulation (amending the Decision or
Regulation establishing the existing programme)

Language diversity centre

2.3

To facilitate exchange of best practices between language communities in Europe, and especially between those speaking a regional or minority language, short-term funding of networks is neither efficient, nor effective enough.

We therefore propose that the idea of the Language Diversity Centres is taken up again. These centres are to be funded by the EU (e.g. through a call for proposals) and have the mandate to raise awareness of the importance of linguistic diversity and language learning. They would be at the service of all those actively involved in the field, and provide information, knowledge and expertise. They would also support the collection of objective data to help policy makers formulate courses of action. And these centres would facilitate networking and coordination between organisations working in the field of linguistic diversity and language learning, and be a platform for exchange between experts and practitioners. The Centres will be integrated in an existing host structure, which already has some expertise in the field.

We propose that initially, a Language Diversity Centre in the field of regional and minority languages be established, funded by the EU. The Centre should raise awareness of the importance of regional and minority languages and promote diversity at all levels. It should also make knowledge and expertise accessible for all relevant players in the field of regional and minority languages. The centre should concentrate on, and give priority to the smallest and most vulnerable language communities in Europe.

In order to realise the Language Diversity Centre, a decision or regulation should be adopted that establishes funding for the centre(s) and defines the tasks as set out above.

Legal basis: Article 167(5) 1st indent TFEU and Article 165(4) 1st indent
Instrument: Decision or Regulation

An important objective of the European Union is the strengthening of its economic and social structure. To achieve this objective, important action programmes have been established that help the development in the regions. Most national minorities, as well as most regional and minority language communities, are firmly anchored in the region where they live. In many cases they know the culture of neighbouring countries and speak several languages. They are therefore well placed to act as bridge-builders between regions in the Union. So far, too little use has been made of the opportunities that minorities offer for the strengthening of economic and social development and territorial cohesion.

3.1 Regional funds

The regional funds shall be designed in such a way that they acknowledge the position of national minorities and the role of cultural and linguistic diversity. The programme rules shall promote projects that stimulate pluralism and benefit national minorities, as this is in the interest of economic and social development, as well as being beneficial for territorial cohesion.

The deep-rootedness that most national minorities have in their region shall be regarded as an asset that must be fostered and appreciated. These feelings of regional identification create cohesion and a stable basis for the economic development of the population as a whole.

The common provisions of the regional funds shall be amended in such a way that the thematic objectives include the protection of national minorities and the promotion of cultural and linguistic diversity.

Legal basis: Article 177 and Article 178 TFEU

Instrument: Regulation (amending the existing Regulation)

3.2 Research into the added value of minorities to social and economic development in Europe

The new Horizon 2020 programme aims at promoting research and innovation that will help to deliver jobs, prosperity and quality of life. Research can generate solutions for the challenges faced by society. In our opinion there is a lack of understanding about the role that national minorities and cultural and linguistic diversity in Europe can play in strengthening the Union and the regions of the Union.

The new programme shall prioritise research into societal challenges, including the role of national minorities and cultural and linguistic diversity in relation to demographic change, cross-border economic and social development, and their impact on regions in Europe.

Legal basis: Article 173(3) and Article 182(1) TFEU

Instrument: Regulation (amending the existing Regulation for Horizon 2020)

The Union can only function as long as it fosters diversity and respects the legitimate concerns of minorities.

For the Member States, the institutional make-up of the European Union takes this fundamental principle into account. Both small and large Member States each have one of their nationals as Commissioner and as judge at the Court of Justice. All the states are represented in the Council, where both the number of states and the population they represent are the basis for a qualified majority. The number of Members of Parliament is based on a degressively proportional system, to ensure that small Member States are also sufficiently represented in the Parliament and have a say.

The situation is different for the national minorities in Europe. Most of them are not represented, because many of them are too small to obtain a seat of their own in the Parliament. There is the risk that the legitimate concerns of these citizens are not heard by the EU institutions at all.

Elections for the European Parliament

According to the European Commission's decision, the Union cannot adopt a legal act for the purpose of strengthening within the EU the place of citizens belonging to a national minority, with the aim of ensuring that their legitimate concerns are taken into consideration in the election of Members of the European Parliament.

Article 25 TFEU provides that provisions to strengthen or to add to the rights listed in Article 20(2) TFEU may be adopted. However, these rights must be directed against other Member States than that of which the Union citizen concerned is a national. The legal act envisaged by the "Minority SafePack" would also create rights enforceable against the Member State of which the Union citizen is a national. Therefore Articles 25 and 20(2) TFEU cannot constitute legal bases for the requested purpose.

Inasmuch the legal act envisaged by the "Minority SafePack" would regard the provisions necessary for the election of the Members of the European Parliament, it is the latter institution which, in accordance with Article 223 TFEU, shall draw up a proposal to lay down these provisions. Therefore, the Commission is not empowered by the Treaties to submit a proposal for such a legal act.

Original proposal

There is a large difference in the way that the Members of the European Parliament are elected in the Member States. Some have specific constituencies for (minority) regions, others elect their candidates in one single constituency.

The Commission is under the obligation to report every three years on the application of the provisions on non-discrimination and citizenship of the Union, taking account of the development of the Union. On the basis of this report, provisions may be adopted to strengthen or add to the rights of citizens of the Union.

We call upon the Commission to scrutinise the different arrangements in the Member States, and to make a proposal that will strengthen the position of citizens who belong to the national minorities within the EU, in order to ensure that their legitimate concerns are taken into account. As is clear from the (non-exhaustive) list of rights in Article 20(2) TFEU, EU citizenship rights do not necessarily have a cross-border dimension (legally), but can give rights to all the citizens of the EU (e.g. the right to reside and the right to petition).

Part of the solution to the limited representation of minorities may be to set up a minority platform - consultation body - for those minorities that are too small to meet the threshold for a seat in Parliament, and that will ensure dialogue between the minorities and the different EU institutions. In several Member States such platforms form an excellent instrument for maintaining an open, transparent and regular dialogue between the institutions and national minorities, and for exchanging views in all areas of Union action.

Legal basis: Article 25 TFEU and 20(2) TFEU

Instrument: Council Directive/Regulation/Decision

5

Equality

Since the beginning of the new millennium, the EU has adopted a regulatory framework for anti-discrimination. A minimum level has been defined throughout Europe. Although major steps have been taken, the number of anti-discrimination cases is relatively low, and many victims do not make use of their rights. It is therefore time to increase effectiveness, and to remove the remaining (procedural) obstacles to equality.

5.1

An improved anti-discrimination framework

According to the European Commission's decision, a legal act cannot be adopted to address discrimination and to promote equal treatment for national minorities, in particular through a revision of the existing directives on the subject of equal treatment.

Whilst the Union institutions are bound to respect "cultural and linguistic diversity" in accordance with Article 3(3) TEU and to refrain from discrimination based on "membership of a national minority" in accordance with Article 21(1) of the Charter of Fundamental Rights, none of these provisions constitutes a legal basis for whatever action by the institutions.

Article 19 TFEU provides that the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. However, this exhaustive list of grounds of discrimination does not include membership of a national minority. Therefore, Article 19 TFEU cannot constitute the legal basis for the adoption of a legal act for “effective measures to address discrimination and to promote equal treatment, including for national minorities”.

Original proposal

Since the adoption of the Racial Equality Directive and the Employment Equality Directive in 2000, the European Member States have a shared minimum level of anti-discrimination law. This framework was strengthened in 2008 with the adoption of the Council Framework Decision that makes it possible to combat Racism and xenophobia through a criminal law approach.

In 2008, the European Commission proposed a directive to implement the principle of equal treatment of persons irrespective of religion or belief, or any other grounds. The existing Employment Equality Directive offers protection in employment, occupation and vocational training, but the new proposal would extend to non-employment areas as well (as is already the case with the Racial Equality Directive).

We are of the opinion that anti-discrimination law must ensure effective protection for all, including persons belonging to national minorities. As things stand at the moment, there is a difference between the different grounds that are mentioned in the Treaties, although these grounds often coincide in practice. A revised directive in this field should clarify that discrimination based on assumptions about a person’s characteristics or because of their association with a particular religion or belief is prohibited in EU law.

The new directive should include measures to promote equality; the Member States should be obliged to permit positive action, and to work towards substantial equality for persons belonging to minorities, and towards reasonable accommodation of these aims. The new Directive should also clarify that EU law must have a deterrent effect. “Rules on sanctions applicable to breaches of national provisions adopted in order to transpose that directive must be effective, proportionate and dissuasive, even where there is no identifiable victim.” In urgent cases, pre-emptive judicial procedures should be made available.

To ensure effectiveness in combatting discrimination, national equality bodies and organisations with a legitimate interest in enforcing the Directive should enjoy independent legal standing to bring complaints, even if there is no identifiable victim.

Legal basis: Article 19(1) TFEU

Instrument: Directive (revising the existing Equality Directives)

Approximating equality for stateless minorities

5.2

There are hundreds of thousands of stateless persons in Europe. Many of these persons belong to national minorities, and have been living in the EU for decades. They are often marginalised. They risk being excluded from education, healthcare, social assistance and the right to vote. A stateless person may not be able to travel or work legally. As a result they have to contend with inequality and discrimination. A great number of stateless persons in Europe are Roma.

The European Union is not in the position to solve the fundamental problem of stateless persons, as the EU itself cannot provide them with citizenship; that is the prerogative of the Member States. However, the EU can help to make their life better. In EU lingo, stateless people fall under the general category “third-country nationals” for which the EU is under the obligation to develop a common policy that aims at fair treatment of third-country nationals who legally reside in the Union, and define their rights, including the conditions governing freedom of movement, and of residence in other Member States.

An extension of citizens-related rights to stateless persons and their families, who have been living in their country of origin for the whole of their lives, can alleviate a lot of these persons’ problems.

In the past 10 years a number of Directives have been adopted that deal with the rights of certain categories of third-country nationals (including stateless persons). Nevertheless there are still categories of persons who are excluded from this framework, and differences exist between the rights of stateless persons and those of EU-citizens in a similar situation, e.g. in regard to work permits, family reunification and in regard to the provision of services.

We propose the adoption of an amendment to the directives that allows for the approximation of the rights of long-term stateless persons and their families to those of EU-citizens.

Legal basis: Article 79(2) TFEU
Instrument: Directive (amendment)



Audio-visual and other media content

Many persons belonging to national minorities speak a language that is the majority language of another country of Europe. Since their number is often too low to establish a full-fledged media landscape of their own, they depend on the media of (neighbouring) countries with the same language. Due to fast technological progress the way of dissemination and the way we do business has changed significantly. In the field of e.g. films, books, music, television and other content, nationally restricted intellectual property rights create new barriers to the free movement of services.

6.1

Single market for copyright

We welcome the efforts made by the European Commission to establish a single market for intellectual property rights and its notion that new legislation may optimise the relationship between creators, service providers and consumers. Persons belonging to minorities normally wish to use goods and services in their own language, which in many cases is also the language of a neighbouring country. National barriers may create obstacles to the free circulation of content, which is detrimental to cultural and linguistic diversity. Licensing of content across the Union is hugely complex now, which leads to the situation that persons belonging to national minorities cannot benefit from existing services across the border.

We propose the establishment of a unitary European copyright, through which the whole European Union is regarded as one single market for copyrights. This solution will lead to the abolishment of licensing barriers within the Union and allow persons belonging to national minorities to access content on an equal basis with citizens from the Member State where the service is offered.

Legal basis: Article 118 TFEU

Instrument: (EP/Council) Regulation (establishing a unitary copyright)

Amending the Audio-visual Media Services Directive

6.2

The development of a single market for intellectual property rights will be a long-term process. Before such a single market can be established, existing legislation should be amended to ensure freedom of reception, and abolish restrictions to retransmission of audio-visual media services. At present, unrestricted access of certain programmes is only guaranteed by a arduous procedure, which entails that the Member State of reception sends a list of programmes to the Member State where the broadcaster is located. We propose an amendment with the effect of ensuring that there will be freedom of service and freedom of reception of audio-visual content (both analogue/digital broadcasting and on-demand services, terrestrial and satellite) in those regions where national minorities live.

Legal basis: Article 53(1) and Article 62 TFEU

Instrument: Directive (amending the existing Media Services Directive)

Support for minority communities

7

National, regional and local authorities in many European Member States recognise the importance of supporting and promoting cultural and linguistic diversity. They consequently provide funding for different activities and areas that are of relevance to persons belonging to national minorities.

Regional (state) support for minority communities

7.1

In many European regions, funding is given for minority culture, movies, music, books, newspapers, television or specific social policy. These grants may come under the European state aid rules if they are above the applicable thresholds (de minimis-rules).

In that case the Member State is under the obligation to notify the Commission, which has to make an assessment of the compatibility of the aid with the state aid rules. Subsidies for minority communities and their culture and language will fall under Article 107(3)(d) TFEU (aid to promote culture and heritage conservation) or also under the more general provision of Article 107(3)(c) TFEU (aid to facilitate certain economic areas or activities).

For certain sectors of the economy, the EU has adopted “block exemptions”, that define aid that is exempted from the notification obligation if the conditions are fulfilled. The advantages of a block exemption are increased legal certainty for both authorities and beneficiaries and a decreased workload for the Commission.

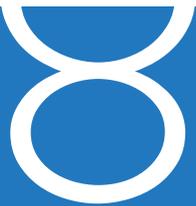
We call for a block exemption for activities that support minority communities and their culture. This includes “culture and heritage conservation” , but is wider than just that.

We call for an exemption that also takes into account the promotion of languages and regional diversity, and respects the rights of persons belonging to minorities.

Legal basis: Article 109 TFEU and 108(4) TFEU
Instrument: Council Regulation and/or Commission Regulation

or

Legal basis: Article 107(3)(e) TFEU
Instrument: Council Decision



Saving clause

The Minority SafePack consists of proposals for several legal acts, as laid down in Chapters 2-7 of this text. If these proposals are adopted by the European Union they will together form a significant and comprehensive improvement in minority protection within the European Union.

For each of the proposals we have indicated a legal basis from the Treaties and the type of instrument that we deem most appropriate. The legal basis and instruments are indicative, and have been mentioned in order to facilitate assessment by the Commission.

The authors are of the opinion that the proposed legal acts fall within the framework of the Commission’s powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties . However, we realise that differences of legal opinion can arise when interpreting the Treaties.

The authors therefore expect each proposal to be verified on its own merits; if one of the proposals is deemed to be inadmissible, this should have no effect on the other proposals made.



Representative of the Citizens' Committee

Hans Heinrich HANSEN

Veterinarian, long-time Chairman of the German minority in Denmark and former President of the Federal Union of European Nationalities (2007-2016).



Deputy Representative of the Citizens' Committee

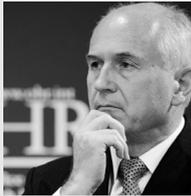
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