

MEMORANDUM

PARTICIPATION OF MINORITIES IN PUBLIC LIFE: SOME REFLECTIONS FOR THE FUTURE ACTIVITIES OF THE VENICE COMMISSION

prepared by the Secretariat

Following the 22nd meeting of the Venice Commission (March 1995), Mr Matscher, President of the Sub-Commission on Minorities, proposed a provisional list of points which could be examined in the framework of observations on the functioning of democratic institutions.

The participation of minorities in public life was among these points. This matter has already been addressed in the context of the Commission's work, notably in publication N° 9 in the series Science and Technique of Democracy, "The protection of minorities at the international level: a European project - The protection of minorities at the national level: diversity of legal models - The protection of minorities in federal and regional States: specific solutions". The Commission has also had regard to a report by Mr Stéphane Pierré-Caps, prepared within the framework of the Genuine Democracy project and entitled "..." (Document CDL-MIN (93)2).

In addition, at the initiative of the Deputy Secretary General of the Council of Europe, within the framework of measures to promote the protection of minorities, emphasis was placed on the work of the Venice Commission in two respects:

- **federalism, regionalism and the protection of minorities;**
- **electoral law and the representation of minorities.**

The first (**federalism, regionalism and the protection of minorities**) has already been the subject of studies by the Commission, now published in N° 9 in the series Science and Technique of Democracy. The Sub-Commissions on Minorities and on Democratic Institutions are accordingly now invited to examine the possibilities of further studying the question in the context of observations on the functioning of democratic institutions.

The second question (**electoral law**) has not so far been the subject of a specific study by the Commission. It was addressed in Article 14 of the Proposal for a European Convention for the Protection of Minorities and by point 12 of the questionnaire on the rights of minorities.

The Sub-Commission on Minorities could be invited to prepare a study on the question of electoral law and the representation of minorities. The same Sub-Commission or the Sub-Commission on Democratic Institutions could be invited, in the context of observations on the functioning of democratic institutions, to determine whether the representation of minorities on elected bodies corresponds to their relative importance. Such a study should be concerned not only with the national position, but also on the position at regional and local levels, etc.

It would appear desirable to distinguish cases of **dispersed minorities** from cases of **concentrated minorities**.

As regards **dispersed minorities**, emphasis could be placed on:

- the existence of a proportional electoral system (as a whole), favouring the creation of minority parties;
- specific rules guaranteeing minimum representation of minorities in elected bodies (vote in separate electoral colleges by persons belonging to national minorities - obligation to present a certain number of minority candidates in electoral lists, etc.);
- systems allowing for the allocation of seats to individuals (and not - only - to parties) on a proportional basis, or for the accumulation of several votes for a candidate by a single vote.

As regards **concentrated minorities**, apart from the considerations raised above, one could also address:

- the drawing of constituency boundaries in a manner favourable (or unfavourable) to the representation of concentrated minorities;
- the representation of minorities at the national level through the representation of territories where they are in a majority.

Action to be taken

Taking the above as a starting point, Commission members are invited to provide information on electoral laws in their countries, in answer to the following questions:

- A. 1. Is any specific provision made for the representation of minorities (whether concentrated or dispersed)?
 2. If so, are they so represented? What is the real representation of minorities?
 3. Are there, to the contrary, any provisions which could hinder the representation of a minority, or which have been criticised as giving rise to such a hindrance?
 4. Are parties representing minorities prohibited as such? If not, do such parties exist?
- B. Are there any rules, other than those mentioned in A, which have the effect of guaranteeing that the representation of a minority corresponds to its relative numerical strength? (Statistical outlines would be helpful in this connection).
- C. In general, to what extent does the electoral system guarantee representation of minority political tendencies (for example minority parties, or minority political tendencies within a party)?

A more detailed questionnaire can be prepared in due course.