

Disaggregated Data Collection: A Precondition for Effective Protection of Minority Rights in South East Europe

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Ask for statistical information on the situation of minorities in the countries of Southeast Europe and the reply from states, international institutions and development agencies will often be one of the following: such data does not exist; data is not available; the law prevents the collection of ethnic data.¹ At the same time, there is increasing recognition that inclusion of minorities in development, and their economic participation, are important prerequisites for peace, stability and equitable prosperity in the region. Yet how can minorities be effectively included in development without ethnic data showing their particular situations?

This briefing addresses why ethnic data is vital if minorities are to have their economic and social rights fulfilled and benefit from development. It looks at some of the problems with the collection of ethnic data, presents some examples from the region and examines the attitudes of some international and regional institutions to the issue. It concludes with recommendations for improving the collection of ethnic data to ensure that minorities are effectively included in development.

Why is ethnic data needed?

Minorities in Southeast Europe are regularly exposed to discrimination and marginalization. They are often considerably poorer than majority populations with fewer opportunities for development. Minorities face political, social and economic exclusion to the extent that, in some cases, they are actively segregated. Many face immense difficulties in accessing education, employment and adequate public services including health services and housing. Restrictions may prevent them practising their culture, learning their mother tongue, participating in public life or expressing their identity. Consequences of recent conflict, political manipulation of ethnicity, remoteness and language differences all exacerbate these difficulties.

The disadvantaged position of minorities and discrimination against them means that it is necessary that all policies and programmes start from a position of

understanding, and consequently will be capable of improving, their particular situations. Development initiatives that are designed generally for the population of a particular country or region, to address poverty for example, may not benefit minorities. Minorities may experience poverty differently from majority communities; the causes of their poverty may be different and may be exacerbated by discrimination. For example, unemployment may be a factor leading to poverty among both minority and majority communities; however, discrimination by employers may be a major factor in unemployment levels among minorities, leading to increased poverty. Programmes for reducing unemployment will have to address this discrimination in order to have a positive impact on minorities. It is insufficient to implement the same programme for all and expect the same impact. Yet any policies or programmes that are designed to benefit a particular community can be controversial if they are perceived to be advantaging one community over others. 'Special measures' or policies and programmes set up specifically to improve the lives of historically disadvantaged groups such as minorities do not constitute discrimination (or privileges) according to international law² as long as they are designed and implemented for a specific purpose and are not continued once that purpose has been achieved.

In order to create effective policies and programmes to reduce discrimination against minorities and to improve their social and economic status, accurate information is needed on the reality of the situation the policy aims to change, otherwise the existing situation could be made worse. Statistical data is therefore crucial to designing effective development policies and anti-discrimination measures. It is also vital in measuring the impact of these policies and programmes. Without data broken down by ethnicity, the design and impact of development policies and anti-discrimination measures are effectively guesswork. Minority groups are not homogeneous. It is therefore important that ethnic data is also disaggregated by sex and other relevant factors, such as age, disability or citizenship, to ensure that particular groups within minority

communities are not excluded from the benefits of development.

Ethnic data is especially necessary for tackling indirect discrimination. The European Union (EU) Race Directive defines indirect discrimination as occurring:

*'where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.'*³

This definition implicitly implies the need for some quantitative means of making a comparison between the impact on ethnic minorities and the majority, of the 'provision, criterion or practice' in question. The 'impartiality of practices' is frequently difficult to measure; therefore statistical data is critical for 'showing the underlying picture'.⁴ The EU Race Directive provides that states may regulate for 'indirect discrimination to be established by any means including on the basis of statistical evidence'.⁵

It has been suggested that ethnic data be seen as a component of a right and a duty. The right to be free from discrimination should be interpreted to include the right of access to data disaggregated by ethnicity if that data could be evidence to prove discrimination. The state has a duty to ensure equality and this should be interpreted to include the duty to collect and analyse data disaggregated by ethnicity in order to highlight inequality and monitor the effectiveness of state measures of ensuring equality.⁶

Problems with ethnic data

Recognition

The transparent collection of official ethnic statistics depends on the prior recognition of the existence of different ethnic groups by the government. Under international law, the existence of a minority in a state, 'does not depend upon a decision by that state ... but requires to be established by objective criteria'.⁷ However, the effective implementation of minority rights requires state recognition. Without recognition, there is no government acknowledgement of the different problems and discrimination faced by minorities and therefore no official policies to improve their situation. The government may implement development or other policies for the population; however, these will be unable to effectively target disadvantaged groups. States that are committed to tackling inequality within their societies must recognize the existence of minorities and the discrimination and/or exclusion they face.

Fear

Differing fears of the consequences of collection of ethnic data are pervasive among minorities and governments. Government fears include concern that data showing inequalities between groups will reflect badly on their policies or will increase pressure on them to improve the situation, requiring allocation of financial resources.⁸ Another concern is that figures showing inequalities will cause conflict or exacerbate historical conflicts between groups, with one group resenting another, for example, because it is more disadvantaged. This view, however, fails to take into account that ethnic data are not a precondition of discrimination. A general perception or stereotype of the situation, or exclusion of different groups, is likely to exist within the country anyway. The lack of data to confirm or disprove these perceptions and stereotypes could in itself contribute to causing problems or conflicts between groups. States that fear ethnic data for any of these reasons are avoiding tackling discrimination and failing in their responsibilities to ensure equality under domestic and international law.

Some minorities also fear the collection of ethnic data. For example, some minority organizations in Hungary oppose the compulsory collection of ethnic data because of racism in the past where ethnic data was used to formulate anti-minority policies.⁹ Minorities may distrust government claims that data will be used to benefit them and fear that they will suffer more discrimination as a result. States need to build the confidence of minorities by ensuring that they clearly explain the reasons for collecting data, and how the data will be used and stored. Involving minority non-governmental organizations (NGOs) in data collection or ensuring that minorities are represented in national statistics offices may help to raise awareness among minorities of the benefits of ethnic data in formulating and monitoring effective development programmes.

Self-identification

A major issue in the collection of ethnic data is the method used to define members of ethnic groups. There is no definition of 'minority' in international law. Groups identify themselves by combinations of ethnicity, religion, culture and language (objective criteria). The second aspect of group identity is the self-identification of members with the group and their wish to preserve the characteristics of the group.¹⁰ Self-identification is recognized under international law; the Committee on the Elimination of all forms of Racial Discrimination (CERD) stated in General Recommendation VIII that the way individuals be identified as belonging to ethnic groups will 'if no justification exists to the contrary, be based upon self-identification by the individual concerned'.¹¹

Tensions associated with self-identification pose particular difficulties when it comes to data collection. If governments rely purely on self-identification of individuals in data collection, then there is often under-reporting of

minorities in the statistics due to minority fear of discrimination if they self-identify. This causes inaccurate data to be used in developing policies and programmes, which could undermine their effectiveness. Significant under-reporting of minorities in national statistics could in itself be seen as an indicator of underlying problems. In some cases, the opposite is also true. Where programmes are established for particular groups, for example quota systems for public representation such as exist in Macedonia, individuals who do not meet any of the objective criteria for membership of a particular ethnic group (culture, ethnicity, religion, language), may attempt to self-identify with that group in order to benefit from the programme. However, there is no right to choose arbitrarily to belong to a particular minority. 'The individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity.'¹² That individuals may try to abuse programmes for disadvantaged groups should not be used as a reason for not implementing these programmes.

Equally problematic is not using self-identification to define membership of minority groups. The state may not impose an identity on individuals¹³ so it is not acceptable for the perception of the official data collector to be used as the sole means of identifying different individuals' membership of a group. Practically, this method would also be subject to the prejudices of the data collector and therefore likely to lead to inaccurate data. Resolving these tensions will not be achieved quickly or without confidence-building efforts by the government in order to persuade minorities that there is nothing to fear from self-identifying as such.

Legal frameworks

A persistent view in many European states is that collection of ethnic data is prohibited by their legislative framework. This perception is inaccurate.

Although a comprehensive picture of all relevant legislation in all Member States of the Council of Europe is not available, experience has shown that in most countries, national legislation does not formally prohibit the collection of this type of data, but only restricts it and makes it conditional on the respect of certain safeguards.¹⁴

Data protection laws are often cited as prohibiting the collection of ethnic data. Protection of privacy in data collection is important, particularly for minorities who may have concerns that data may be used to further disadvantage them. European data protection laws distinguish between the collection of individually identifiable personal data and that of aggregate data, permitting the latter.¹⁵ The Council of Europe (CoE) law permits collection of ethnic data but prohibits automated storage, alteration, erasure, retrieval or dissemination of

such data. It notes that statistical results are not personal data because they are not linked to an identifiable person and highlights the need for balance between the need for research and the protection of privacy of individuals.¹⁶

Collection of data may be permitted even when individuals are identifiable if the subject is important or of 'major public interest', such as 'where statistical information is needed to ... develop aid to social groups in difficulty'.¹⁷ It is difficult to argue that preventing racial discrimination and addressing inequality of minorities would not fall under the category of 'major public interest'.

Another principle for data collection is that of obtaining the informed consent of the subject. However, that is not absolute. European law permits the compulsory collection of personal data by the state, if it is required by domestic law, as long as safeguards are in place.¹⁸ Those safeguards include informing the subject of the purpose of collecting the information and the person or institution responsible for it, as well as ensuring that the data will be kept confidential. In addition to being required by European law, ensuring that these safeguards are in place and adhered to will help build confidence of minorities who may be unsure about providing data, and thus contribute to the quality and accuracy of the data collected.

Ethnic data in development

Despite the problems associated with its collection, ethnic data is needed in development to show whether or not existing programmes that purport to be neutral (i.e. do not take into account ethnicity because they are designed to benefit everyone) actually benefit or harm minorities, or fail to reach them. Likewise, it is needed to plan and monitor policies and programmes aiming to benefit minorities.

Since ethnicity is not the only factor that affects the lives of minorities, effective policies and development programmes targeting them need data that reflects the reality and experience of minorities. For example, a development agency collecting ethnic data in order to design an effective programme to improve the education of minorities should not assume that results obtained from data collected on a minority in a city also apply to a rural minority, nor are the experiences of minority girls and boys necessarily the same. Equally, results obtained from data collected for one minority group are unlikely to be directly applicable to a different minority.

It is not just specific development programmes for minorities that require accurate data about minorities to make them effective. For national development strategies designed to benefit the whole population of a country to be truly effective, they too must include minorities among their beneficiaries. For this they require data on the reality of the situation for all communities (including all factors that could impact on the outcomes of the programme – gender, ethnicity, age, rural/urban residence, disability, etc.)

in the country so that they can ensure that no minority group or section of a minority group (for example minority women) miss out on the benefits of the programme.

Ethnic data in Southeast Europe

There is generally a chronic lack of data disaggregated by ethnicity available in the countries of Southeast Europe. This has negative impacts on the monitoring of discrimination and on the ability of national governments and regional and international development agencies to implement effective development programmes for minorities.

Official government data

Many states cite national legislation as prohibiting data collection for reasons of protecting privacy. States, such as Bulgaria, Croatia, Macedonia, Montenegro and Serbia include a question on ethnic (or national) origin in the census, using voluntary self-identification; however, not all allow for multiple identities. Some, but not all, collect any further ethnic data for example in Household Budget Surveys (HBS) or Labour Force Surveys (LFS). In the case of Greece, the lack of official recognition of the existence of minorities other than a 'Muslim' minority means that official ethnic data does not exist either in the form of a question on the census or as household or other surveys.

Even where collection of ethnic data is required, it does not always happen. In Macedonia, under the Ohrid Framework Agreement, state institutions are obliged to keep records on participation in all state programmes disaggregated by ethnicity. However, although the Employment Agency keeps records of the number of unemployed by ethnicity, no data exists for the extent to which different minority groups participate in employment programmes.¹⁹

There is sometimes government acknowledgment that lack of data is a problem in implementing effective development programmes. As the EU accession experience of the Czech Republic shows, its EU Joint Memorandum on Social Inclusion acknowledges: 'One major problem consists in legal restrictions concerning statistics on members of national minorities. This is a substantial obstacle when trying to devise methods to effectively support the integration of the Roma population.'²⁰

Despite this supposed legal prohibition on ethnic data, official estimates of various social indicators are sometimes given, thus proving that some ethnic data must exist as a basis for these estimates. For instance, Serbia and Montenegro estimated that Roma poverty is five times the national average,²¹ and in the Czech Republic an estimate of the unemployment rate of Roma is available even where specific ethnic figures are not.²²

The 2004 Advisory Committee (AC) to the Framework Convention on National Minorities' (FCNM) opinion on Serbia and Montenegro raised concerns over the high

number of Roma children placed in 'special schools' for the mentally disabled. In its comments on the AC opinion, the government stated that 'there is no mandatory keeping of records of pupils according to their ethnicity. In that respect, there are no reliable data on the number of Roma in "special schools."²³ It cited estimates from a UNICEF study of the numbers of Roma children involved, stating that the UNICEF report 'is used also by the Ministry of Education ...'. This suggests that, although the government will not collect data itself, it recognizes the value of such data. The government comments also explained why Roma children were placed in these schools and described the government's plan to change the situation. However, monitoring the success of the plan will be difficult without the possibility of collecting data.

Where data is collected, problems with the methodology of that collection arise that have implications for minorities. An example from Montenegro illustrates one aspect of this. Although there is no mandatory collection of ethnic data in education, such data is collected in various contexts; however, the principle of confidentiality is not always respected. Reports reveal that pupils have been asked by the teacher to state their ethnicity in front of other students,²⁴ which could result in pupils who declared themselves to be from a minority becoming targets for discrimination.

Problems with self-identification of minorities in the census have caused controversy in several countries in the region. In Croatia, the results of the 2001 census have been contested by minority representatives who allege that many people did not declare their minority identity because of fear of discrimination and also that Croatian Serbs who were outside Croatia were not included in the figures. Consequently, the Council for National Minorities has launched an investigation to analyse the census process and its results, which, it is hoped, will lead to the development of ways to address these concerns. Since census results are frequently used as the basis for designing development policies and programmes, the Advisory Committee to the FCNM recommended that the authorities should 'ensure that the census results are not given undue weight in the design and implementation of minority policies'.²⁵ In Macedonia, similar controversy over the 1991 census – where the Albanian minority felt the census results did not accurately reflect the numbers of Albanians in the country – led to two Albanian parties organizing another census in 1992 for parts of the country.²⁶

Methodologically it can also be difficult to account for the multiple identities of individuals. The last census in Montenegro provided for individuals to state their nationality (ethnicity). The Advisory Committee to the FCNM expressed concern that where individuals stated a multiple identity in their reply, only the first part was recorded by the interviewer,²⁷ potentially leading to inaccurate figures for the number of minorities and therefore potentially impacting on the ability to effectively

target and monitor development programmes for minorities. The government rejected this view;²⁸ however NGOs also express concern that the system of data collection in Montenegro does not allow for dual identities and leads to pressure on minorities to deny their identity because they feel they will benefit more by identifying as Montenegrin.²⁹

The role of international agencies and NGOs

International development organizations, if they are committed to ensuring that their programmes benefit minorities, need to have ethnic data. Some do collect ethnic data. For example, the United Nations Development Programme (UNDP) collected a range of socio-economic data on the status of vulnerable groups in the region, comparing the situation of Roma, non-Roma living near Roma and IDPs and refugees for use by different bodies, including governments.³⁰ The UNDP is also coordinating an 'Experts Group on Data and Measurements' within the Decade of Roma Inclusion to bring together all those involved in data collection to identify gaps in existing data and suggest ways of improving the situation.³¹

NGOs can play a role in monitoring state policies and international agencies' programmes through questioning the data they use for designing policies and programmes to ensure they are using accurate data, through conducting their own surveys to provide data and through monitoring the results of programmes from a minority perspective. For example, in Macedonia, an NGO study addressed how Roma benefited from employment programmes supported by international and national development agencies. It found the programmes focused on people with higher or university education and therefore excluded Roma from the benefits of the programme, even though their levels of unemployment were the highest, because very few Roma have higher or university education.³² The study also found that agency staff claimed that their programmes paid special attention to ensuring participation by all ethnic groups; however, when asked for data to support this, they stated that no records existed on participation of particular ethnic groups.

NGOs can also play a role in ensuring, where ethnic data is available, that it shows the whole picture and does not present a partial or insufficiently accurate view. For example, it is not sufficient for ethnic data on employment to show the number of minorities employed in a certain institution. To see the whole situation, this data needs to be disaggregated by gender and by position within the company. Data which showed, for example, that 20 per cent of a company's employees were from minorities could hide the existence of discrimination and disadvantage since that 20 per cent may not include any women, or the 20 per cent could all be employed in the jobs with the lowest pay and least influence.

While international agencies and NGOs can contribute to data collection through their own surveys or through

assisting with developing methodologies, the overall responsibility for data collection rests with governments. It is governments that have the obligation to implement economic and social rights for all sections of their populations; therefore the responsibility rests with governments to ensure – through ethnic data collection – that minorities are included and do benefit from their respective policies and programmes.

International and regional overview

International and European institutions have an inconsistent attitude to ethnic data collection which does not help convince states of the importance of such data for policy and programme design and monitoring. Some institutions are more emphatic about the need for ethnic data than others.

United Nations

UN guidelines for states on the submission of core reports³³ request information about the 'main ethnic and demographic characteristics of the country and its population' along with information on religion and mother tongue. More specifically, the UN Committee on the Elimination of Racial Discrimination (CERD) stresses the importance of ethnic data in monitoring progress on eliminating discrimination. While acknowledging the resistance of some states to collecting data, CERD requests that when states do not have census data disaggregated by ethnicity that they provide information on 'mother tongues ... as indicative of ethnic differences, together with any information about race, colour, descent, national and ethnic origins derived from social surveys' and, failing that, to describe the characteristics of the population. The committee regularly questions states about ethnic data. For example, it noted there are no recent statistics on minorities in Albania and recommended that Albania 'collect precise statistical data on persons belonging to minorities'.³⁴ CERD recommended to Bulgaria that 'adequate indicators and other means of monitoring the economic and social living conditions of [Roma] should be developed' and requested 'detailed information on such measures' and 'statistical data ... on the situation of all minorities' in the next report.³⁵ However, committee members do not present united views to governments. Several members, during dialogues with states, have expressed their sympathies with state arguments that collecting data causes rather than solves problems.³⁶ This is problematic and undermines CERD's effectiveness by failing to consistently reinforce to states that ethnic data is vital in monitoring and tackling discrimination.

Progress towards meeting the UN Millennium Development Goals (MDGs) is monitored through a number of indicators. Figures are disaggregated by gender but not ethnicity. This means that minorities may be excluded from the achievements of the MDGs. Some

countries do mention minorities and present some data disaggregated by ethnicity in their MDG reports (for example Macedonia); however, this is not systematic (Croatia's report does not mention minorities or ethnic groups but does make one mention of the Roma population).

European bodies

The Advisory Committee to the FCNM consistently comments on data collection issues and stresses the importance of ethnic data in the fight against discrimination. Likewise, the European Commission against Racism and Intolerance (ECRI) of the CoE in several of its 'general policy recommendations' urges states to collect data that will assist in assessing the situation of groups vulnerable to discrimination.³⁷ It also reports on country-specific situations and regularly comments on the quality of existing data and makes recommendations to states. For example, its report on Bulgaria is concerned that 'a lack of information may make it difficult to evaluate the extent of possible discrimination faced by [minority] groups' and 'recommends that the authorities consider ways of monitoring the situation'.³⁸

Many EU studies on social exclusion and poverty have not generally disaggregated data by ethnicity. EUROSTAT, the body that aids states with data collection, does not advocate strongly for ethnic data in its Income and Living Conditions Survey, which is the main source for social exclusion data and provides the basis for policy design. The absence of this disaggregated data hides the disadvantaged position of minorities and discrimination against them and may reduce the effectiveness of EU programmes. In contrast, in the establishment of anti-discrimination legislation, the EU has acknowledged the role that ethnic data can play in proving discrimination.³⁹ It is this lack of consistency that may signal to EU members and accession states that the EU does not prioritize the exclusion of minorities. The EU recognizes the role data play in ensuring gender equality (its guidelines call for gender disaggregated data) and this positive position could be used as a model for advocating for ethnic data (including ethnic data disaggregated by gender).

The Copenhagen Criteria, which set out membership criteria for the European Union accession countries, include minority protection. This shows the double standards of the EU member states since minority protection (including ratification of the FCNM) is not EU-wide yet is imposed as an accession criterion. Monitoring of the Copenhagen Criteria minority provision does not include collection of ethnic data. The wide range of positions on minorities within the EU (from legal and constitutional systems of protection to denial of existence of minorities) means that minority rights protection is not part of the EU law and standards by which monitoring of the Copenhagen Criteria is judged. Monitoring of the minority criteria has been based on non-EU documents.⁴⁰

The Commission's annual Regular Reports evaluating states' progress towards accession are compiled from sources including the state, CoE and Organization for Security and Cooperation in Europe (OSCE) documents, NGO information and in the case of the political sphere (which includes minority protection) 'assessments made by member states' of the EU.⁴¹ Ethnic statistics have been used on an ad hoc basis, which suggests a lack of consistency in monitoring this part of the Copenhagen Criteria, perhaps indicative of the lack of priority given to this issue by the EU.

Methodology

The collection of data through a national census, as already seen, is not without controversy; yet it is the most readily accepted by governments. Other important surveys are the HBS and LFS. However, there are problems with these in Southeast Europe. Many surveys in the region fail to include a representative sample of minorities among the respondents. This means that, even if there is a question on ethnicity so that the data can be disaggregated, the results will not be accurate because the overall results will be biased towards the majority. A sampling booster for minorities is necessary to redress the lack of representation in the sampling in order to make the HBS and LFS accurate data collection tools.

Data collected by other institutions or by NGOs may be used or may be challenged by governments. For example, the Czech Republic criticized the Advisory Committee of the FCNM for 'inconsistent weighing of data' from NGOs, government institutions and minority representatives, suggesting that this led the AC into making recommendations which 'do not reflect the true state of affairs and fall short of the necessary degree of impartiality and balance'.⁴² However, that they are subject to denial or criticism by governments does not negate the usefulness of such NGO surveys in monitoring, supplementing and complementing the (often inadequate) ethnic data collected by governments, usually through the census.

The information collected by minority NGOs may be more accurate in some respects than that collected by governments in that members of minorities may be more willing to reveal information (or simply to self-identify as a minority) to an interviewer from their community than a government official. Data collected by NGOs may be a powerful advocacy tool with which to highlight minority exclusion from the development process and advocate for change. However, NGOs lack the resources to conduct the large-scale surveys that are the responsibility of the government.

NGOs conducting research need to have a good knowledge of research methods. Working with institutions or individuals experienced in undertaking quantitative and qualitative research would increase the reliability of the survey results. The problem of getting a representative

sample is crucial and brings up the issue of self-identification. NGOs will have to decide, for example, whether self-identification should be supplemented with other questions such as mother tongue, whether other minority or majority groups should be included in the survey to provide comparative data, or whether the questions will focus on measurable indicators such as family income or educational achievement or will include perceptions of discrimination, such as perceptions of attitudes of development project staff.

Conclusions

To effectively tackle discrimination against minorities and fulfil their economic and social rights, governments must have accurate data on the situation of those minorities. Programmes cannot be targeted effectively to improve the situation of minorities nor monitored for their outcomes without ethnically disaggregated data. Ethnic data is not adequate at present in Southeast Europe. Many governments do not collect such data and international institutions appear ambivalent about it, thus implicitly condoning the attitudes of reluctant governments. NGOs have a role to play in advocating for governments to collect official data in a politically neutral way that has the confidence of all sections of society. While there remains an absence of ethnic data, NGOs can also contribute by holding development actors accountable to ensure that their programmes positively impact on minorities, and by conducting their own small-scale research.

Notes

- 1 This paper follows the 'Ethnic Data Collection in Development: Southeast Europe' workshop, Skopje, Macedonia, 13–14 October 2005, organized by Minority Rights Group International (MRG) and Association for Democratic Initiatives (ADI) and attended by representatives of minority communities, NGOs, government bodies, national statistics offices and international development agencies.
- 2 See UN International Convention on the Elimination of all forms of Racial Discrimination (ICERD), 1966, Article 1.4; Council of Europe (CoE) Framework Convention for the Protection of National Minorities (FCNM), 1995, Article 4.3; EU Council Directive Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin (Race Directive) 2000, Article 5; UN Convention on the Elimination of Discrimination Against Women (CEDAW), Article 4.
- 3 EU Race Directive, Article 2. Direct discrimination is defined as occurring 'where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin'.
- 4 European Commission against Racism and Intolerance (ECRI), Seminar with National Specialized Bodies to Combat Racism and Racial Discrimination on the Issue of Ethnic Data Collection Report, 2005, explanatory note, p. 6.
- 5 EU Race Directive, op cit., para 15.
- 6 Petrova, D., 'Ethnic statistics', *Roma Rights: Quarterly Journal of the European Roma Rights Centre*, no. 2, 2004, p. 5.
- 7 UN Human Rights Committee, General Comment 23 on Article 27, CCPR/C/21/Rev.1/Add.5, 1994. See also Dimitras, P.E., *Recognition of Minorities in Europe: Protecting Rights and Dignity*, London, MRG, 2004.
- 8 ECRI, Seminar with National Specialized Bodies ..., op. cit.
- 9 Farkas, L., 'The monkey that does not see', *Roma Rights: Quarterly Journal of the European Roma Rights Centre*, no. 2, 2004, p. 22.
- 10 Individuals have the right to choose whether or not to identify with the group and must not suffer disadvantage from whichever choice

- they make (UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities [UNDM], Article 3.2). Groups also define their own boundaries in terms of who they accept to be members. This is not unlimited because they cannot act in a discriminatory manner. See Human Rights Committee (HRC) case *Lovelace v. Canada*, Communication No. 24/1977, UN Doc. A/36/40, pp. 166–75.
- 11 UN Committee on the Elimination of Racial Discrimination (CERD), General Recommendation VIII, UN Doc. A/45/18, 1990.
- 12 FCNM, Article 3.1 and Explanatory Report, H(1995)010, para 35.
- 13 Commentary of the Working Group on Minorities to the UNDM, UN Doc. E/CN.4/Sub.2/AC.5/2005/2, para 54.
- 14 ECRI, Seminar with National Specialized Bodies ..., op. cit., explanatory note, pp. 3–4.
- 15 EU Directive on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data, 95/46/EC, 24 October.
- 16 CoE, Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (1981) and Recommendation No. R(97) 18 of the Committee of Ministers Concerning the Protection of Personal Data Collected and Processed for Statistical Purposes (1997).
- 17 Explanatory Memorandum to Recommendation No. R(97) 18, para 85.
- 18 CoE, Convention and Recommendation No. R(97), op. cit.
- 19 Redzepi, N. and Bojadzieva, A., *Policies for Improvement of the Employment of Roma in Macedonia*, London, MRG, 2005.
- 20 European Commission and Czech Republic, Joint Memorandum on Social Inclusion of Czech Republic, p. 46. http://ec.europa.eu/employment_social/soc-prot/soc-incl/cz_jim_en.pdf
- 21 Statement by government representative of Serbia and Montenegro to the UN Commission on Economic, Social and Cultural Rights (CESCR), UN Doc. E/C.12/2005/SR.13, 2005.
- 22 Joint Memorandum on Social Inclusion of Czech Republic, op. cit., p. 6.
- 23 Comments of the Government of Serbia and Montenegro on the Opinion of the Advisory Committee (AC) on the Implementation of the FCNM, GVT/COM/INF/OP/I(2004)002, Section 154.
- 24 AC on the FCNM, Opinion on Serbia and Montenegro, ACFC/INF/OP/I(2004)002, para 28.
- 25 AC on the FCNM, Opinion on Croatia, ACFC/INF/OP/II(2004)002, para 36.
- 26 Presentation by Association for Democratic Initiatives at workshop 'Ethnic Data Collection in Development: Southeast Europe', Skopje, 13–14 October 2005; and ADI Shadow Report on the Implementation of the FCNM in Macedonia, submitted to the FCNM, 2004.
- 27 AC on the FCNM, Opinion on Serbia and Montenegro, op cit., para 30.
- 28 Comments of the Government of Serbia and Montenegro, Section 123.
- 29 NGO correspondence with author.
- 30 UNDP, *Faces of Poverty, Faces of Hope, Vulnerability Profiles of Roma Population in Decade of Roma Inclusion Countries*, Bratislava, UNDP, 2005.
- 31 See website of the experts' group at: <http://roma.undp.sk/>
- 32 Presentation by Roma Humanitarian Association in Macedonia (SONCE) at Workshop 'Ethnic Data Collection in Development: Southeast Europe', Skopje, 13–14 October 2005.
- 33 The core report contains country information relevant to all treaty bodies that is submitted in a single document to the UN.
- 34 CERD, Concluding Observation on Albania, UN Doc. CERD/C/63/CO/1 (2001).
- 35 CERD, Concluding Observation on Bulgaria, UN Doc. CERD/C/304/Add.29.
- 36 Author's notes from CERD meetings 1713 and 1714, August 2005.
- 37 ECRI, General Policy Recommendations 1 and 4, in Compilation of ECRI's General Policy Recommendations (CRI (2001) 7).
- 38 Gachet, I. 'The issue of ethnic data collection from the perspective of some Council of Europe activities', in A. Krizsan and I. Szekely, *Ethnic Monitoring and Data Protection. The European Context*, Budapest, Central European University Press, 2001.
- 39 EU Race Directive, para 15.
- 40 Sasse, G., *EU Conditionality and Minority Rights: Translating the Copenhagen Criteria into Policy*, EUI Working Paper 2005/16, p. 5.
- 41 *Ibid.*, pp. 5–6.
- 42 Comments of the Government of Czech Republic on the Opinion of the Advisory Committee on the Implementation of the FCNM, GVT/COM/INF/OP/I(2002)002, para 3.

working to secure the rights of minorities and indigenous peoples

Recommendations

- Governments should acknowledge that accurate ethnic data is essential to develop and monitor effective programmes to improve the situation of minorities and tackle discrimination against them. A prerequisite for this is for governments to recognize the existence of minorities within their territories.
- Governments should recognize that the collection of ethnic data can be sensitive and should work on a consultative basis with minority communities in order to build their confidence in the process. Governments should collect and use ethnic data in accordance with basic principals. The reason for the data collection, the process and what will happen to the data collected should all be transparent.
- National statistics offices should cooperate with NGOs in data collection. The statistics offices would benefit from the NGO experience on the ground and NGOs would benefit from increased knowledge of data collection methods. National statistics offices should ensure that minorities are represented at all levels in the institution.
- States should ensure that Human Development Indicators and MDG progress reports include data disaggregated by ethnicity. International agencies should support collection of this data through capacity-building and additional resource allocation.
- The EU should collect ethnically disaggregated data systematically in all its work. EU-wide guidelines on ethnic data would encourage the collection of data that could be used for country comparisons and would help hold both old and new EU members to the same standards. Guidelines should be developed based on the highest standards of practice and not the lowest common denominator.
- International development agencies should collect ethnically disaggregated data to ensure that their programmes are effective in benefiting minorities. Development agencies should systematically require such data in all their fields of work, thus encouraging improved data collection across the region.

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