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1. Specific characteristics of NGOs regarding ethnic minorities

NGOs in the field of minority rights differ in a number of major points from NGOs in other social sectors. They represent a population

- that traditionally lives within a given territory of a state
- that speaks a language traditionally used within a given territory of a state which differs from the official language(s) of the state
- that forms a group numerically smaller than the rest of the state population.

The minority group could be

- a single nationality at home in the respective state
- a minority on state territory that has a home state with the same or a similar language and culture
- an expelled people that has returned home and now has to live here as a minority
- a forced or voluntary settlement already in the 3rd or 4th generation.

Problems particularly arise in the latter category. International law (Framework Convention on the Protection of Minorities and the European Charter for Regional and Minority Languages) excludes the new minorities, i.e. the ones that have formed especially in Western Europe for economic and political reasons are not included in this subject. However, there are numerous unanswered questions in this distinction.

Another problem arises for traditional minorities because of the mobility in all European states in the second half of this century. The erosion of traditional areas, in which the nationals live, corresponds to the enormous migration to urban centres. Both developments have to be considered.

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Finally: the Sinti and Roma, who are the only nationals who cannot be identified with a particular area of a state, but who traditionally live within the territory of a state, are also considered a minority group.

State and nation(s)/nationality(ies)

As regards minority rights, the NGO represents ethnic communities, peoples, ethnic groups, nationalities. The term 'nationality' alone, indicates the close relationship, the indistinct definitions, the intersections between the state and the ethnic problems, and the conflicts derived from this can be envisaged.

It is the role of the state to ensure stability and good governance. The place for an ethnic group is within the civil society, whose job it is to provide individual identity and a band of solidarity and to secure lingual and cultural reproduction.

The more strongly a state concentrates on the national consciousness of the majority population to develop its own national identity, its language, history and culture, its customs and all the myths . The state becomes identical with the ethnic elements. It no longer sets priorities only on the fundamental principles of a state which are democracy, freedom and equality under law, but binds citizens to a construed and mythical national identity.

This mixed way, in which we see what we mean as the state and what an ethnic group has a right to, is still the rule today in western and in the new states. Whereas western states have more strongly formed state standards, and are consequently accustomed to these and more stable, the new states face a double problem: on the one hand, the aim is to set up democratic constitutional structures and so strengthen the state, yet on the other hand the field of civil society has to be explored and consolidated. Instead of considering the problems of ethnic groups as being part of the civil society and solving these in partnership with the states when they were set up, most of them have replaced the ideological remains of communism by the ideology of ethno-nationalism and thus not given the state its justification through democracy and constitution, but attempted to base this on the spiritual and symbolic values of ethnic unity. Ethno-nationalist exclusiveness, however, cannot be classified as a meaningful basis for founding a state. The reason is quite simple: this would not apply to a single state in Europe. This mixing has kindled dangerous tendencies: if state identity and national identity become one entity, the existence of other ethnic communities within the same state must be based on distrust and rejection. A fear of losing state concord, the spiritual 'cement' that holds the state together, becomes a motive force behind state actions. But also a fear of the state being dissolved by the minority's intention to fragment the state as assumed by *raison d'état*. In my opinion, the opposite is the case: according rights to form and promote one's own ethnic identity on an individual and collective level will make the chance for natural integration of national minorities in the respective state greater, the danger of separatist tendencies correspondingly smaller.

2. Bases or constructive cooperation between the state and civil society

Compared with Western Europe, in Central and Eastern Europe a violent response of minorities to a situation of duress seems to be the exception rather than the rule.

In contrast, for the reasons already mentioned, national issues entered the foreground early after the crash. Chiefly those national minorities supported by a mother country—and with its help—have quickly organised themselves and found a framework for dialogue with the state. Most of the national minorities, however, are confronted by great problems:

1. To give themselves a representative structure for organising themselves and, in this way, to establish themselves as a partner in dialogues with the state. This difficulty is often based on diverging interests between members of the national minorities themselves which can be of subjective and objective character. This also includes representation of national minorities by cultural, educational policy-oriented organisations or by political parties, or the difficulty of merging in an umbrella organisation that includes all groupings.

2. To assert their rights and promote their own national identity (recognition of members of national minorities as citizens supporting the state, of rights as a citizen of the state, the right to their own identity, the freedom to form organisations, the right to freely express their own culture).

I would like to point out 5 more elements of significance in allowing fruitful cooperation between the state and the national minorities:

1. States should endeavour to allow the national minorities to become a calculable partner by helping them to appear open and transparent in public. Surveys in Western Europe have shown how established and recognised professional non-governmental structures have reduced the potential for polarisation and violence with state institutions and promote an adapted and moderate line and cooperation with the state.

The endeavours of the national minority to form its own organisations are not always fostered by the state. Distrust of the 'new' forms of civil society, fears of state disintegration, indifference, conscious or unconscious policies according to the old recipe of divide et impera can be stated as reasons for this.

A basic condition is therefore the recognition and promotion of adapted legal forms of organisation for the national minorities and, last but not least, financial support for their activities.

2. Granting recognition and autonomy within constitutional norms and adapted legislation. Recognition of the national minorities as part of the nation supporting the state is of importance in the constitution; in the legal field, the issues of education, cultural autonomy, personal and lingual consideration of national minorities in public administration play a major role. Extensive differences between national minorities do not allow any patent solution; adapted application of the territorial and personality principle shows the way to proceed.

3. To clearly define the allocation of tasks to the state and to NGOs. This should aim to clarify which role the NGO has to play. Scope varies from simple consultation by the state to the integration in state bodies as partners, the delegation of tasks at the operational level for the implementation of policies to self-administration

within regional and communal autonomy.

4. It is important to establish transparent structures for cooperation involving decisions on the constitution, legislation and administrative procedures as well as national minorities' rights of representation. Regular and structured procedures in finance and the content of work programmes between the state institutions and the NGO on an internal basis with specialised committees for specific issues (e.g. in the field of education) on the one hand, informal structures for periodic discussions on minority questions between the state institutions responsible, members of the parliament and the NGO as well as round tables, advisory boards, advising committees, etc. on the other.

A great deal of importance is attached to the question of political representation for national minorities in parliament; in fact, it is of great symbolic value for many national minorities and is seen as a sign of integration and recognition for the national minority. Its actual legal and practical significance is, however, greatly overestimated, at least it conflicts with the principles of a free-democratic legal order and of civil society.

5. Of not insignificant importance for the structured coexistence of national minorities and the majority population is, finally, the internal structure of the state. NGOs are always as strong and as efficient as the *raison d'état* allows. A politician once expressed this rule: the stronger and more centralist the structure of a state is, the more marginal and weaker the role will be which it will be willing to allocate to the NGOs. And vice versa: The 'weaker' a state is and the more decentrally it allocates its power, the more significant the activation of large groups of the population will be in public issues. This more closely links the relationship of international instruments for the protection of national minorities to the political instruments resolved upon by the Council of Europe, like the European Charter of Local Autonomy. A pre-requisite for all political systems based on subsidiarity, in particular for the national minority, is that provisions for protection are laid down in the constitution and on a legal level.

Please allow me to close with a brief theory that underlines how this issue is ultimately an attitude of mind, from which the appropriate legal and political activities can be derived: the better a national minority is able to upkeep its national characteristics, the more independently it can act, the more it will feel integrated into a state and the more loyal citizens its members will be. The state should therefore be interested in close forms of cooperation with the national minorities, in particular, if it aims to strengthen state concord.