

## INSTRUMENT SEP<sup>\*</sup> za zaščito pravic manjšin

Države članice Srednjeevropske pobude, podpisnice tega dokumenta, so,

priznavajoč, da je vprašanja, ki zadevajo narodne manjšine, mogoče zadovoljivo rešiti edino le v resnično demokratičnem političnem okviru, ki temelji na vladavini prava in zagotavlja polno spoštovanje človekovih pravic in temeljnih svoboščin, enakih pravic in položaja vseh državljanov,

ponovno poudarjajoč, da zaščita narodnih manjšin zadeva le državljanke določene države, ki bodo imeli enake državljanke pravice in dolžnosti kot ostalo prebivalstvo,

v prepričanju, da narodne manjšine predstavljajo sestavni del družbe države, v kateri živijo, ter da so obogatitveni dejavnik vsake države in družbe,

ob upoštevanju dejstva, da dobri odnosi med sosedi predstavljajo zelo učinkovito sredstvo za doseganje stabilnosti v regiji in zavedajoč se potrebe po izogibanju spodbujanja k separatističnim težnjam narodnih manjšin v regiji,

potrjujejo, da so vprašanja, ki zadevajo pravice pripadnikov narodnih manjšin, legitimnega mednarodnega pomena in zato niso izključno notranja zadeva določene države,

v prepričanju, da spoštovanje pravic pripadnikov narodnih manjšin kot del univerzalno priznanih človekovih pravic predstavlja bistven dejavnik miru, pravičnosti, stabilnosti in demokratičnosti v državah,

v prepričanju, da mednarodno varstvo pravic pripadnikov narodnih manjšin, kot ga določa ta dokument, ne dovoljuje nikakršne dejavnosti, ki bi bila v nasprotju s temeljnimi načeli mednarodnega prava, in predvsem suverenosti, ozemelske celovitosti in politične neodvisnosti držav,

priznavajoč posebno pomembnost naraščajočega konstruktivnega sodelovanja med državami članicami v vprašanjih, ki zadevajo narodne manjšine in priznavajoč dejstvo, da tako sodelovanje teži k pospeševanju medsebojnega razumevanja in zaupanja, prijateljskih in dobrososedskih odnosov, mednarodnega miru, varnosti in pravičnosti,

ob obsojanju agresivnega nacionalizma, rasnega in etničnega sovražstva, antisemitizma, sovražstva do tujcev in diskriminacije katere koli osebe ali skupine in ob obsojanju preganjanja iz verskih in ideoloških razlogov

se dogovorile o naslednjem:

### 1. ČLEN

<sup>\*</sup> Tekst Instrument SEP je bil dokončno oblikovan na srečanju v Budimpešti 30. septembra leta 1994

Države priznavajo obstoj narodnih manjšin kot takih, pri čemer jih obravnavajo kot sestavne dele družbe, v kateri živijo in zagotavljajo ustrezne pogoje za uveljavljanje njihove identitete. Za namene tega instrumenta bo izraz "narodna manjšina" označeval skupino, ki je številčno manjša od ostalega prebivalstva države, katere pripadniki so državljani te države in se po etničnih, verskih ali jezikovnih značilnostih ločijo od značilnosti ostalega prebivalstva; vodi jih volja po varovanju njihove kulture, tradicij, religije in jezika.

## 2. ČLEN

Pripadnost narodni manjšini je odvisna od svobodne izbire posameznika; izvrševanje ali neizvrševanje takšne izbire zanj nima nobenih negativnih posledic.

## 3. ČLEN

Države priznavajo, da imajo pripadniki narodnih manjšin pravico polno in učinkovito uresničevati svoje človekove pravice in temeljne svoboščine, in sicer posamezno ali skupno z drugimi, brez diskriminacije in v popolni enakosti pred zakonom. Te osebe bodo uživale pravico, ki jih predvideva ta instrument, posamezno ali skupaj z drugimi, in bodo koristile ugodnosti, ki izvirajo iz ukrepov, ki jih zagotavljajo te pravice.

## 4. ČLEN

Države zagotavljajo pravico pripadnikov narodnih manjšin, da izražajo, ohranjajo in razvijajo svojo etnično, kulturno, jezikovno ali versko identiteto in ohranjajo in razvijajo svojo kulturo v vseh pogledih.

## 5. ČLEN

Sprejetje posebnih ukrepov v korist pripadnikov narodnih manjšin, ki težijo k pospeševanju enakosti med njimi in ostalim prebivalstvom ali k ustreznemu upoštevanju njihovih posebnih pogojev, se ne obravnava kot dejanje diskriminacije.

## 6. ČLEN

Države bodo sprejele učinkovite ukrepe za zagotavljanje zaščite pred dejanji, ki podžigajo k nasilju proti osebam ali skupinam na osnovi narodne, rasne, etnične ali verske diskriminacije, sovražnosti ali sovražtva, vključno z antisemitizmom.

## 7. ČLEN

Države priznavajo posebne probleme Romov. Obvezujejo se, da bodo sprejele vse pravne, administrativne ali izobraževalne ukrepe, kot jih predvideva ta instrument, da bi ohranile in razvijale identiteto Romov, s posebnimi ukrepi olajšale socialno integracijo oseb pripadnikov romske skupnosti in odpravile vse oblike netolerantnosti proti takšnim osebam.

## 8. ČLEN

Brez škode za demokratična načela se bodo države ob sprejemanju ukrepov v skladu z njihovo splošno integracijsko politiko odpovedale izvajanju ali spodbujanju politike, ki bi težila k

asimilaciji oseb, ki so pripadniki narodnih manjšin, proti njihovi volji; te osebe bodo zavarovale pred kakršnim koli dejanjem, ki bi težilo k takšni asimilaciji.

#### 9. ČLEN

V primeru spremembe administrativnih, sodnih ali volilnih okrožij, bi države morale upoštevati, da bodo takšne spremembe med drugimi merili upoštevale tudi obstoječe pravice oseb, ki pripadajo narodnim manjšinam, in uresničevanje teh pravic. V vsakem primeru se morajo v skladu z državno zakonodajo pred sprejetjem zadevnih sprememb posvetovati s prebivalstvom, ki ga te spremembe neposredno zadevajo.

#### 10. ČLEN

Vsak pripadnik ali pripadnica narodne manjšine bo imel-a pravico svobodno uporabljati svoj jezik tako v javnosti kot v zasebnem življenju, ustno in pisno.

#### 11. ČLEN

Vsak pripadnik ali pripadnica narodne manjšine bo imel-a pravico uporabljati svoj priimek in osebna imena v svojem jeziku, kot tudi pravico, da se tak priimek in ime uradno sprejmeta in registrirata.

#### 12. ČLEN

Kadar koli na določenem področju število oseb, ki pripadajo narodni manjšini, po zadnjem štetju ali kaki drugi zanesljivi metodi ugotavljanja doseže pomembno raven, bodo te osebe v stikih z javnimi organi na tem področju imele pravico, kjer koli bo to mogoče, uporabljati v skladu z ustrežno notranjo zakonodajo svoj lasten jezik v ustni in pisni obliki. Ti organi lahko odgovarjajo, kolikor je to mogoče, v istem jeziku.

#### 13. ČLEN

V skladu s svojo notranjo zakonodajo lahko države dovolijo, kjer je to potrebno preko dvostanskih sporazumov z drugimi zainteresiranimi državami, predvsem s sosednjimi državami, dvojezične ali večjezične oznake krajevnih imen, imen ulic in drugih topografskih znakov na področjih, kjer število oseb, ki pripadajo narodni manjšini, po zadnjem štetju ali drugi zanesljivi metodi ugotavljanja doseže pomembno raven. Za namestitev znakov, napisov ali drugih podobnih informacij zasebne vrste tudi v jeziku manjšine naj ne bi veljale posebne omejitve, razen tistih, ki se splošno uporabljajo na tem področju.

#### 14. ČLEN

Vsaka oseba, ki pripada narodni manjšini in ki uresničuje versko svobodo, ima pravico uporabljati svoj jezik pri čaščenju, učenju ali verskih obredih.

#### 15. ČLEN

Kadar koli število oseb, ki pripadajo narodni manjšini, po zadnjem štetju ali drugih zanesljivih metodah ugotavljanja doseže večino prebivalstva na določenem področju, bodo države spodbujale znanje jezika manjšine med uradniki lokalnih in decentraliziranih državnih upravnih

služb. Posebno pozornost bi bilo potrebno nameniti kadrovanju uradnikov, ki imajo poleg znanja uradnega jezika zadostno znanje jezika manjšine.

#### 16. ČLEN

Države priznavajo pravico oseb, ki pripadajo narodnim manjšinam, da ustanavljajo in vzdržujejo svoje lastne kulturne in verske ustanove, organizacije ali združenja, ki so v skladu z notranjo zakonodajo upravičene do zbiranja prostovoljnih finančnih in drugih prispevkov kot tudi do javne pomoči.

#### 17. ČLEN

Države priznavajo pravico oseb, ki pripadajo narodnim manjšinam, da ustanavljajo in vzdržujejo svoje lastne privatne vrtce in male šole, šole in izobraževalne ustanove in da, če je to mogoče, pridobijo priznanje teh ustanov v skladu z ustrezno notranjo zakonodajo. Take ustanove se lahko financirajo iz javnih sredstev ali drugih prispevkov.

#### 18. ČLEN

Ne glede na potrebo po učenju uradnega jezika zadevne države bo vsaka oseba, ki pripada narodni manjšini, imela pravico, da se uči svoj jezik in da se izobražuje v svojem jeziku. Države si bodo prizadevale za zagotovitev ustreznih vrst in stopenj javnega izobraževanja v skladu z notranjo zakonodajo, kadar koli na določenem področju število oseb, ki pripadajo narodni manjšini, doseže pomembno raven v skladu z zadnjim štetjem ali drugimi ustreznimi metodami za njihovo ugotavljanje. V kontekstu poučevanja zgodovine in kulture v takšnih javnih izobraževalnih ustanovah bi bilo potrebno zagotoviti ustrezno poučevanje zgodovine in kulture narodnih manjšin.

#### 19. ČLEN

Države zagotavljajo pravico oseb, ki pripadajo narodnim manjšinam, da imajo na razpolago občila v svojem lastnem jeziku, v skladu z ustreznimi državnimi predpisi in ob možni finančni pomoči. Če sta radio in TV v javni lasti, bodo države zagotovile, kadar koli bo to primerno in mogoče, da imajo osebe, ki pripadajo narodnim manjšinam, pravico do prostega dostopa do takih občil, vključno s produkcijo takih programov v njihovem lastnem jeziku.

#### 20. ČLEN

Države bodo zagotavljale pravico oseb, ki pripadajo narodnim manjšinam, da brez diskriminacije sodelujejo v političnem, ekonomskem, družbenem in kulturnem življenju družbe države, katerih državljani so, in bodo izboljševale pogoje za uresničevanje teh pravic.

#### 21. ČLEN

Države bodo dovolile osebam, ki pripadajo narodnim manjšinam, da ustanavljajo politične stranke.

## 22. ČLEN

V skladu s politiko zadevnih držav bodo države spoštovale pravico oseb, ki pripadajo narodnim manjšinam, do učinkovitega sodelovanja v javnih zadevah, predvsem pri procesu odločanja o stvareh, ki jih zadevajo. Zato države potrjujejo prizadevanja, ki jih izvajajo za varstvo in oblikovanje pogojev za pospeševanje etnične, kulturne, jezikovne in verske identitete določenih narodnih manjšin s tem, da sprejemajo primerne ukrepe, ki ustrezajo specifičnim razmeram takih manjšin, kot to predvidevajo dokumenti KVSE.

## 23. ČLEN

Vsaka oseba, ki pripada narodni manjšini, bo ob spoštovanju ozemeljske celovitosti države imela pravico do svobodnih in neoviranih stikov z državljani druge države, s katerimi ta manjšina deli etnične, verske in jezikovne lastnosti ali kulturno identiteto. Države ne bodo neupravičeno omejevale svobodnega uresničevanja teh pravic. Poleg tega bodo države pospeševale čezmejno dogovarjanje na narodni, regionalni in lokalni ravni.

## 24. ČLEN

Vsaka oseba, ki pripada narodni manjšini, bo imela možnost učinkovitega pravnega varstva pri državnih sodnih oblasteh pred vsako kršitvijo pravic, ki so zapisane v tem instrumentu, pod pogojem, da so te pravice uzakonjene v državni zakonodaji.

## 25. ČLEN

Na vsakem področju, kjer osebe, ki pripadajo narodni manjšini, predstavljajo večino prebivalstva, bodo države sprejele potrebne ukrepe, da bi zagotovile, da tisti, ki ne pripadajo tej narodni manjšini, ne bodo trpeli zaradi kakršne koli neugodnosti, vključno s tistimi, ki bi lahko izhajale iz izvajanja zaščitnih ukrepov, kot jih predvideva ta instrument.

## 26. ČLEN

Nobene od teh obvez se ne sme razlagati na način, da vsebujejo kako pravico do vključevanja v kako dejavnost, ki bi bila v nasprotju s temeljnimi načeli mednarodnega prava in predvsem suverene enakosti, ozemeljske celovitosti in politične neodvisnosti držav. Nič v tem instrumentu ne bo zadevalo dolžnosti, ki izhajajo iz tega, da so osebe, ki pripadajo narodnim manjšinam, državljani zadevnih držav. Osebe, ki pripadajo narodnim manjšinam, bodo ob uresničevanju svojih pravic spoštovale tudi pravice drugih, vključno s pravicami oseb, ki pripadajo večinskemu prebivalstvu določene države ali drugim narodnim manjšinam.

## 27. ČLEN

Ta instrument ne sme biti v škodo določilom notranjega prava ali katerega koli mednarodnega sporazuma, ki zagotavljajo večje varstvo narodnih manjšin ali oseb, ki jim pripadajo.

## **CEI Instrument for the protection of minority rights**

The Member States of the Central European Initiative signatory hereto,

- recognizing that the questions relating to national minorities can only be resolved satisfactorily in a truly democratic political framework which is based on the rule of law and guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens,

- reaffirming that the protection of national minorities concerns only citizens of the respective state, who will enjoy the same rights and have the same duties of citizenship as the rest of the population,

- convinced that national minorities form an integral part of the society of the States in which they live and that they are a factor of enrichment of each respective State and society,

- bearing in mind that a very effective remedy to achieve stability in the region are good relations between neighbours, and being conscious of the need to avoid any encouragement of separatist tendencies of national minorities in the region,

- confirming that issues concerning the rights of persons belonging to national minorities are matters of legitimate international concern and consequently do not constitute exclusively an internal affair of the respective State,

- considering that respect for the rights of persons belonging to national minorities, as part of universally recognized human rights, is an essential factor for peace, justice, stability and democracy in the States,

- convinced that the international protection of the rights of persons belonging to national minorities, as enshrined in the present Instrument, does not permit any activity, which is contrary to the fundamental principles of international law and in particular of sovereignty, territorial integrity and political independence of States,

- recognized the particular importance of increasing constructive co-operation among themselves on questions relating to national minorities, and that such co-operation seeks to promote mutual understanding and confidence, friendly and good-neighbourly relations, international peace, security and justice,

- expressing their condemnation of aggressive nationalism, racial and ethnic hatred, anti-Semitism, xenophobia and discrimination against any person or group and of persecution on religious and ideological grounds

have agreed as follows:

**Art. 1**

States recognize the existence of national minorities as such, considering them integral parts of the society in which they live and guarantee the appropriate conditions for the promotion of their identity.

For the purpose of this Instrument the term "national minority" shall mean a group that is smaller in number than the rest of the population of a State, whose members being nationals of that State, have ethnical, religious or linguistic features different from those of the rest of the population, and are guided by the will to safeguard their culture, traditions, religion or language.

**Art. 2**

To belong to a national minority is a matter of free individual choice and no disadvantage shall arise from the exercise or non-exercise of such a choice.

**Art. 3**

States recognized that persons belonging to national minorities have the right to exercise fully and effectively their human rights and fundamental freedoms, individually or in common with others, without any discrimination and in full equality before the law. Those persons shall be able to enjoy the rights foreseen by the present Instrument individually or in common with others and to benefit from the measures ensuring those rights.

**Art. 4**

States guarantee the right of persons belonging to national minorities to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects.

**Art. 5**

The adoption of special measures in favour of persons belonging to national minorities aimed at promoting equality between them and the rest of the population or at taking due account of their specific conditions shall not be considered as an act of discrimination.

**Art. 6**

States shall take effective measures to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-Semitism;

**Art. 7**

States recognize the particular problems of Roma (gypsies). They undertake to adopt all the legal administrative or educational measures as foreseen in the present Instrument in order to preserve and to develop the identity of Roma, to facilitate by specific measures the social integration of persons belonging to Roma (gypsies) and to eliminate all forms of intolerance against such persons.

**Art. 8**

Without prejudice to democratic principles, States, taking measures in pursuance of their general integration policy, shall refrain from pursuing or encouraging policies aimed at the assimilation of persons belonging to national minorities against their will and shall protect these persons against any action aimed at such assimilation.

**Art. 9**

In case of modification of administrative, judicial or electoral subdivisions States should take into account that such modifications, among other criteria, will respect the existing rights of the persons belonging to national minorities and the exercise of those rights. In any case, they should consult, according to national legislation, with the populations directly affected before adopting any modification in the matter.

**Art. 10**

Any person belonging to a national minority shall have the right to use his or her language freely, in public as well as in private, orally and in writing.

**Art. 11**

Any person belonging to a national minority shall have the right to use his or her surname and first names in his or her language and the right to official acceptance and registration of such surname and names.

**Art. 12**

Whenever in an area the number of persons belonging to a national minority reaches, according to the latest census or other methods of ascertaining its consistency, a significant level, those persons shall have the right, wherever possible, to use, in conformity with applicable national legislation, their own language in oral and in written form, in their contacts with the public authorities of the said area. These authorities may reply as far as possible, in the same language.

**Art. 13**

In conformity with their national legislation States may allow, where necessary through bilateral agreements with other interested States, in particular with neighbouring States, the display of bilingual or plurilingual local names, street names and other topographical indications in areas where the number of persons belonging to a national minority reaches, according to the latest census or other methods of ascertaining its consistency, a significant level. The display of signs, inscriptions or other similar information of private nature also in the minority language should not be subject to specific restrictions, other than those generally applied in this field.

**Art. 14**

Any person belonging to a national minority, exercising religious freedom, shall have the right to use his or her own language in worship, teaching, religious practice or observance.



**Art. 15**

Whenever the number of persons belonging to a national minority reaches, according to the latest census or other methods of ascertaining its consistency, the majority of the population in an area, States will promote the knowledge of the minority language among officers of the local and decentralized state administrative offices. Endeavours should be made to recruit, if possible, officers, who, in addition to the knowledge of the official language, have sufficient knowledge of the minority language.

**Art. 16**

States recognize the right of persons belonging to national minorities to establish and maintain their own cultural and religious institutions, organizations or associations, which are entitled to seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation.

**Art. 17**

States recognize the right of persons belonging to national minorities to establish and maintain their own private preschools, schools and educational establishments and possibly obtain their recognition in conformity with the relevant national legislation. Such establishments may seek public financing or other contributions.

**Art. 18**

Notwithstanding the need to learn the official language of the State concerned, every person belonging to a national minority shall have the right to learn his or her own language. The States shall endeavour to ensure the appropriate types and levels of public education in conformity with national legislation, whenever in an area the number of persons belonging to a national minority, according to the latest census or other methods of ascertaining its consistency, is at a significant level. In the context of the teaching of history and culture in such public educational establishments, adequate teaching of history and culture of the national minorities should be ensured.

**Art. 19**

States guarantee the right of persons belonging to a national minority to avail themselves of the media in their own language, in conformity with relevant State regulations and with possible financial assistance. In case of TV and radio in public ownership, the States will assure, whenever appropriate and possible, that persons belonging to national minorities have the right of free access to such media including the production of such programmes in their own language.

**Art. 20**

States shall guarantee the right of persons belonging to national minorities to participate without discrimination in the political, economic, social and cultural life of the society of the State of which they are citizens and shall promote the conditions for exercising those rights.

**Art. 21**

States shall allow persons belonging to a national minority to establish political parties.

**Art. 22**

In accordance with the policies of the States concerned, States will respect the right of persons belonging to national minorities to effective participation in public affairs, in particular in the decision-making process on matters affecting them. Therefore, States note the efforts undertaken to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by adopting appropriate measures corresponding to the specific circumstances of such minorities as foreseen in the CSCE documents.

**Art. 23**

Every person belonging to a national minority, while duly respecting the territorial integrity of the State, shall have the right to have free and unimpeded contacts with the citizens of another country with whom this minority shares ethnic, religious or linguistic features or a cultural identity. States shall not unduly restrict the free exercise of those rights. Furthermore, States will encourage transfrontier arrangements at national, regional and local levels.

**Art. 24**

Any person belonging to a national minority shall have an effective remedy before a national judicial authority against any violation of rights set forth in the present Instrument, provided that those rights are enacted in national legislation.

**Art. 25**

In any area where those who belong to a national minority represent the majority of the population, States shall take the necessary measures to ensure that those who do not belong to this minority shall not suffer from any disadvantage, including such that may result from the implementation of the measures of protection foreseen by the present Instrument.

**Art. 26**

None of these commitments shall be interpreted as implying any right to engage in any activity in contravention of the fundamental principles of international law and, in particular, of the sovereign equality, territorial integrity and political independence of States. Nothing in the present Instrument shall affect the duties related to persons belonging to national minorities as citizens of the States concerned.

Persons belonging to national minorities will also respect, in the exercise of their rights, the rights of others, including those of persons belonging to the majority population of the respective State or to other national minorities.

**Art. 27**

This Instrument shall not prejudice the provisions of domestic law or any international agreement which provide greater protection for national minorities or persons belonging to them.

Done in one copy at Turin this 19th day of November 1994 in the English language.