**Follow-up to the European Parliament non-legislative resolution of 7 February 2018 on protection and non-discrimination with regard to minorities
in the EU Member States**

**2017/2937 (RSP)**

**1. Resolution tabled pursuant to Rule 216(2) of the European Parliament's Rules of procedure by the Committee on Petitions**

**2. EP reference number:** B8-0064/2018 / P8\_TA-PROV(2018)0032

**3. Date of adoption of the resolution:** 7 February 2018

**4. Subject:** Fighting discrimination of EU citizens belonging to minorities in the EU Member States

**5. Competent Parliamentary Committee:** Committee on Petitions (PETI)

**6. Brief analysis/ assessment of the resolution and requests made in it:**

The resolution relates to the protection of minorities in the EU. Accordingly, the resolution calls for a number of measures relating to all types of minorities, including on the basis of race, colour, descent, national or ethnic origin or sexual orientation. The resolution also makes a specific point on national and linguistic minorities, and deplores the lack of EU action in this area.

While the EU has a comprehensive acquis on anti-discrimination, namely, the Racial Equality Directive, the Employment Equality Directive and the Framework Decision on combating racism and xenophobia, its powers over the rights of "minorities" as such are limited. This term is used in the resolution in a wide sense, including "national or linguistic minorities". In this area, the Commission has no competence over questions like the definition and recognition of national minorities, their self-determination and autonomy or the use of regional or minority languages. Those questions fall under the responsibility of the Member States.

The Commission is often confronted with requests for action in the area of minorities. The situation of Catalonia and the petitions related to it are frequently linked with the requests concerning the respect of national minorities. The line of the Commission both expressed by President Juncker and First Vice President Timmermans is that those issues are matters of national competence, and it is for national authorities to ensure fundamental rights, as further explained in paragraph 7.

**7. Response to the requests in the resolution and overview of the action taken, or intended to be taken, by the Commission:**

The respect of the rights of persons belonging to minorities is one of the founding values of the European Union and is a principle explicitly mentioned in the Treaty on European Union. Moreover, any discrimination on the basis of membership of a national minority is explicitly prohibited under Article 21 of the Charter of Fundamental Rights of the European Union.

The Commission ensures that fundamental rights and, in particular, the right to non-discrimination, are respected when EU law is implemented. Within the remit of its competences, the Commission ensures that EU acquis in the area of non-discrimination is effectively transposed and implemented. This includes namely:

* the "Race Equality Directive" (Directive 2000/43/EC), which implements the principle of equal treatment between persons irrespective of racial or ethnic origin in employment and training, education, social protection (including social security and healthcare), social advantages, membership and involvement in organisations of workers and employers and access to goods and services, including housing;
* the Employment Equality Directive (Directive 2000/78/EC), which protects against discrimination on all other grounds (religion or belief, disability, age or sexual orientation) but is limited to the field of employment, training and membership and involvement in organisations of workers and employers;
* the Council Framework Decision 2008/913 on combating certain forms and expressions of racism and xenophobia by means of criminal law, which obliges Member States to criminalise serious forms and expressions of racism and xenophobia by means of criminal law and makes punishable by effective, proportionate and dissuasive criminal penalties inter alia the public incitement to violence or hatred against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin ("hate speech") as well as instances of hate crime.

In addition, the Commission is implementing measures to ensure that hate speech and hate crime are effectively combatted. In the area of hate speech online, the Commission agreed in May 2016 together with Facebook, Microsoft, YouTube and Twitter, a Code of Conduct setting out commitments to counter illegal hate speech online, and it is rigorously monitoring its implementation.

In the area of hate crime, the Commission set up in 2016 an EU High level group on combating racism and xenophobia, gathering national authorities of all Member States, internal organisations as well as key civil society organisation and fosters dedicated thematic discussions on specific forms of intolerance, including in-depth discussion on hate crime training for law enforcement how to support victims and how to better investigate and prosecute instances of hate crime.

Regarding the fight against racism and xenophobia, the Commission earmarked EUR 5.5 million in 2018 to combat these phenomena, including hate speech online, as well as promote tolerance and inter-religious and inter-cultural dialogue. Moreover, the Commission has allocated specifically EUR 1.5 million to support national authorities in preventing and combating racism, xenophobia and other forms of intolerance, and in particular improving the authorities' responses to hate crime and hate speech.

In the area of education, the role of the Union is to supplement and support the actions of the Member States. The Commission supports actions to improve teaching and learning of languages, and promotes the EU's linguistic and cultural diversity through Erasmus+, the EU's funding programme for education, training, youth and sport. Funding support is available for collaboration between education, training and youth organisations from Member States that support language learning at different educational levels, encourage better use of information and communication technologies for language learning and promote minority languages within the EU.

Beyond these instruments, the Commission has no general power to act with regard to minorities, in particular over issues relating to the recognition of the status of minorities, their self-determination and autonomy or the regime governing the use of regional or minority languages. In these cases, Member States retain general powers to take decisions about minorities, as according to Article 51(1) of the Charter of Fundamental Rights, the provisions of the Charter are only addressed to the Member States when they are implementing EU law.

It is for national authorities alone to ensure compliance with fundamental rights as provided by their constitution and in accordance with their international obligations, and to guarantee that the fundamental rights of national minorities living on their territories are complied with, including the relevant instruments of the Council of Europe, such as the Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages.

Regarding national language policies, they are not regulated by EU law and remain within the competence of each Member State. The Commission has no competence over the use of regional or minority languages and accordingly does not monitor the protection of the language rights of national minorities in EU Member States. This issue remains under the exclusive competence of Member States. The monitoring of the protection of language rights is carried out by specialised bodies within the Council of Europe under the Framework Convention for the Protection of National Minorities, which monitors the implementation of the commitments undertaken by Member States under international law.

Regarding the situation of the persons belonging to ethnic minorities living in Latvia but who do not hold the citizenship of it, the Commission is aware that it is a sensitive issue and that it raised concerns, expressed in particular by the Council of Europe. Due regard must be given to the fact that according to settled case law of the European Court of Justice, the conditions for obtaining and losing citizenship of the Member States are regulated exclusively under the national law of the individual Member States. Consequently, every Member State is free to define the conditions for the acquisition of its nationality. The Commission has no power to intervene in these matters. Member States have also the exclusive power for laying down the arrangements concerning participation in municipal elections of persons who reside on their territory but who are not EU citizens.

The Commission considers the Equal treatment Directive as a priority and wants to see this Directive adopted. The Commission has provided assistance to every Council Presidency since 2008 to further fine-tune the proposal at technical level, so as to accommodate the concerns of Member States. The remaining barriers are neither technical nor economic, but political. The Commission will continue and intensify its discussions with the national governments, including at the highest political level as appropriate, aiming at adopting this Directive during the mandate of this Commission. Regarding the Racial Equality Directive, the Commission has currently no plans to propose any amendments to it but is monitoring and promoting an adequate application of the Directive as it presently stands.

In December 2015, the European Commission published the List of Actions to advance Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) equality to increase efforts to combat discrimination on the grounds of sexual orientation and gender identity. The actions cover in a comprehensive way all policy areas that are relevant for LGBTI people: non-discrimination, education, employment, health, free movement, asylum, hate speech/ hate crime, enlargement and foreign policy. A first report on the implementation of the list of actions was presented in February 2017, and the second report on 1 March 2018, on the occasion of the High Level Group on Non-Discrimination, Equality and Diversity.

In 2017, the Commission also made a strong statement in support of LGBTI equality by lighting the Berlaymont building in the colours of the rainbow flag. Also it developed awareness raising videos to show the discrimination and challenges that LGBTI people face. Moreover, to combat bullying of LGBTI students, the Commission organised a good practise exchange on this topic with the Portuguese government in July 2017. To support combating discrimination based on sexual orientation and gender identity at the national level, the Commission provides funding through the Rights, Equality and Citizenship (REC) programme. Through the REC programme the Commission also provided operational grant to: International Lesbian and Gay Association (ILGA) Europe, International Lesbian, Gay, Bisexual, Transgender, Queer & Intersex Youth and Student Organisation (IGLYO) and Transgender Europe.

Regarding the call for a correct implementation of the Free Movement Directive, the Commission is strongly committed to the effective enforcement of the EU free movement rules in all Member States. It has been pursuing an active enforcement policy since 2010 to ensure full enjoyment of free movement and residence rights by EU citizens and their family members. Recent actions to that end are reflected in the Commission's Report of 24 January 2017 on progress towards effective EU citizenship 2013-2016[[1]](#footnote-1) and the Commission's annual reports on its monitoring of the application of EU law[[2]](#footnote-2). As an example, in 2013-2016 the Commission dealt with 613 complaints from citizens and 309 letters/ individual queries on the exercise of the right to free movement. Many concerned the right of entry and residence of non-EU family members of EU citizens and the conditions under which EU citizens can exercise their right to free movement.

Following the dialogue as regards full and effective transposition of the Free Movement Directive, several Member States adopted new national legislation with a view of addressing the Commission concerns. In order to assess the new legislation, since 2017 a compliance study and compliance checks have been concluded for seven Member States in total. In 2017, extensive contacts at technical level took place with six Member States as regards various aspects of the right of free movement and residents of EU citizens and their family members. Moreover, the Commission monitors Member States' compliance with the EU free movement acquis as regards issues related to sexual orientation and gender identity. Moreover, it is examining compliance of certain national practices with the EU case law in the context of recognition of names of children born to same sex couples.

1. Report from the Commission of 24 January 2017 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions under Article 25 TFEU *On progress towards effective EU citizenship 2013-2016* (COM(2017) 32 final). [↑](#footnote-ref-1)
2. The 2016 Report is available at <https://ec.europa.eu/info/publications/2016-commission-report-and-factsheets-monitoring-application-eu-law_en> [↑](#footnote-ref-2)