

THE MINORITY SAFEPACK

– one million signatures
for diversity in Europe –

EUROPEAN CITIZENS' INITIATIVE

LEGISLATIVE

PROPOSALS



THE MINORITY SAFEPACK INITIATIVE

CITIZENS' COMMITTEE

PROF. HANS HEINRICH HANSEN

FORMER FUEN PRESIDENT
GERMAN FROM DENMARK

HUNOR KELEMEN

PRESIDENT OF THE RMDSZ, FORMER VICE PRIME MINISTER OF THE ROMANIAN GOVERNMENT
HUNGARIAN FROM ROMANIA

KARL-HEINZ LAMBERTZ

PRESIDENT OF THE EUROPEAN COMMITTEE OF REGIONS
GERMAN SPEAKING COMMUNITY FROM BELGIUM

ANKE SPOORENDONK

FORMER MINISTER OF THE LAND SCHLESWIG HOLSTEIN
DANE FROM GERMANY

VALENTIN INZKO

UN HIGH REPRESENTATIVE FOR BOSNIA AND HERZEGOVINA
SLOVENE FROM AUSTRIA

LUIS DURNWALDER

FORMER PRIME MINISTER OF SOUTH TYROL
GERMAN SPEAKING COMMUNITY FROM ITALY

JANNEWIETSKES DE VRIES

FORMER REGIONAL MINISTER IN FRIESLAND AND FORMER CHAIRWOMAN OF THE NPLD
FRISIAN FROM THE NETHERLANDS

COORDINATOR AND SPEAKER OF THE MINORITY SAFEPACK INITIATIVE

LORÁNT VINCZE

FUEN PRESIDENT, MEMBER OF THE EUROPEAN PARLIAMENT
HUNGARIAN FROM ROMANIA

THIS DOCUMENT HAS BEEN DEVELOPED BY A GROUP OF EUROPEAN MINORITY
AND EU POLICY EXPERTS UNDER THE COORDINATION OF THE
FEDERAL UNION OF EUROPEAN NATIONALITIES - FUEN.

FUEN GENERAL SECRETARIAT
SCHIFFBRÜCKE 42, D-24939
FLENSBURG, GERMANY
PHONE: +49 461 12 8 55

FUEN BERLIN
10585 BERLIN, KAISER-
FRIEDRICH-STRASSE 90
PHONE: +49 30 364 284 050

FUEN BRUSSELS
RUE JACQUES JORDAENS 34,
1000 BRUXELLES, BELGIUM
PHONE: +32 2 627 18 22

INTRODUCTION

The entry into force of the Lisbon Treaty opened up a new era of citizens' rights and democratic participation in the European Union. Citizens belonging to national and linguistic minority communities were among the first to make use of the Treaty's revolutionary new instrument of transnational participatory democracy, the European Citizens Initiative (ECI), in order to request EU level legislation to improve their protection and strengthen cultural and linguistic diversity within the EU.

With the Minority SafePack Initiative (MSPI), more than one million citizens placed their issues before the EU institutions, their Member States and their fellow citizens of the EU. Based on the proposal of the Democratic Alliance of Hungarians in Romania, the South-Tyrolean People's Party and the Youth of European Nationalities, and coordinated by the Federal Union of European Nationalities, the MSPI, calling for the promotion and protection of European national minorities and regional or minority languages, has become the most important minority-related initiative in Europe in recent decades. Launched with great optimism and determination, and achieving a unique display of solidarity across the EU, the petition has been signed by 1 215 789 EU citizens, with 1 128 385 signatures certified by the competent national authorities. The number of signatures also exceeded the required threshold in 11 Member States.

1. The Minority SafePack Initiative confirmed by the Court of Justice of the European Union

The road from the start until the present submission of signatures has not been an easy one. The hurdles encountered on the way reflect in many ways the difficulties of raising the issue of national and linguistic minorities, even within a European Union whose cornerstone is diversity, and which states in its founding Treaty: *The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities* (Article 2 of the Treaty on the European Union). However, in a landmark judgment (case T-391/17) on 24 September 2019,¹ the General Court of the European Union clarified in favour of the MSPI that, because respect for the rights of persons belonging to minorities is an EU value, and respecting and promoting cultural and linguistic diversity in the EU is an EU objective, the European Commission is entitled to submit proposals that are deemed to supplement EU action in the areas for which it is competent, in order to ensure

1 CJEU, case T-391/17 Romania v Commission

respect for the values in the EU Treaty.² The General Court’s decision dispels the ambiguity around Article 3 TEU and makes it clear that EU diversity means not only diversity between Member States, but also diversity *within* those Member States, and that the EU has a duty to protect this diversity.³

The judgment is important in at least two regards: firstly, it determined that the initiators were right to demand measures for the protection of national and linguistic minorities in the EU. As such, it has the obvious effect of moving the present ECI forward.

However, the Court’s decision also has implications for EU minority protection in general. By determining that the EU is empowered to take measures to protect national and linguistic minorities based on Articles 2 and 3 TEU and Article 167 TFEU, it can be considered as a green light to the Commission to take action to protect these minorities.

This could finally start closing an oft-referred-to⁴ extraordinary gap in EU law: on the one hand, minority protection is an explicit founding value of the EU, mentioned alongside democracy, rule of law and respect for human rights in Article 2 TEU. On the other hand, while the Commission has scrutinised the respect for democracy and the rule of law in Member States, it has so far never done so with regards to the rights of minorities, even though there can be no rule of law and democracy without respect for the rights of minorities. Another aspect of this gap is that there are no EU legal measures in place for protecting national and linguistic minorities. Indeed, it was this absence of EU action that motivated the proponents of the Minority SafePack ECI to develop their legislative proposals.

These proposals are better understood if we first take a wider perspective and review the development and status of national and linguistic minority protection within the European Union. In this light it becomes clear that our ambition is not new: there is already some kind of European - but not EU – framework for the protection of national and linguistic minorities. There still remains a real need for EU action.

2. A glance at minority protection in Europe

Today’s international system for the protection of minorities is clearly rooted in Europe. It started with the protection of religious minorities in the middle ages and the early modern age. The Treaty of Westphalia and other peace treaties aimed at the protection of religious freedom in the aftermath of religious wars. Agreements concluded between the Ottoman Empire and the European powers assured

2 In this sense please see points 51-56 of the ruling (unofficial translation):

51. In this regard, it must be noted, on the one hand, that, in accordance with Article 2 TEU, respect for the rights of minorities is one of the values on which the Union is founded and, on the other, that the fourth paragraph of Article 3 (3) TEU states that the Union respects its rich cultural and linguistic diversity.

52. With regard to enhancing cultural diversity more precisely, Article 167 (4) TFEU provides that, in its actions taken under other provisions of the Treaties, the Union shall take cultural aspects into account, in particular in order to respect and promote the diversity of its cultures.

56. Thus, although, in the areas of competence of the Union, the Commission is empowered to submit, for the purpose of achieving the objectives specifically pursued by the relevant provisions of the Treaty on the Functioning of the TFEU, proposals for legal acts that take into account the values and objectives covered by the ECI proposal, nothing must prevent this institution, in principle, from submitting proposals for specific acts which, as in the present case, are deemed to supplement the Union’s action in the areas for which it is competent in order to ensure that the values set out in Article 2 TEU and its cultural and linguistic diversity, as provided for in the fourth subparagraph of Article 3 (3) TEU are respected.

3 According to points 47 and 50 of the ruling, the legal acts, as listed in the annex to the ICE proposal, are clearly meant to contribute, on the one hand, to the achievement of the general objective of ensuring respect for the rights of persons belonging to minorities, and on the other hand, also directly, to the achievement of the general objective of respecting and in promoting cultural and linguistic diversity in the Union.

4 See e.g. the analysis provided by the authors in Gabriel N. Toggenburg (ed.), *Minority Protection and the enlarged European Union: The way forward* (2004).

the protection of Christians living in the Ottoman Empire. Later, during the recognition of the independence of the Balkan states, such as that of Greece in 1830, Bulgaria in 1878 or Romania in 1877, the protection of the citizenship and rights of religious minorities – Muslims in the first two cases, Jews in the third - became an international requirement.

As more and more states gained independence in Europe, first in the Balkans and then in the territories of the Central European powers that fell apart after the First World War, so the system of minority protection expanded. The first more comprehensive, systemic approach emerged during the period of the League of Nations, but the scope of protection was limited and practically unenforceable. This inoperable system was brushed aside by the Second World War, and what remained from it for posterity was the conclusion that an effective protection of minorities not only may take place at national level, but needs to be carried out at international level.

Following the Second World War, human rights became the focus of attention both globally and in Europe, while the protection of specific individuals and groups was neglected for decades in both universal and regional international documents. This changed only with Common Article 27 of the UN General Assembly's International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights of 1966 and the Helsinki Final Act of 1975. Since then, there have been global and regional attempts to codify national minority rights, which have typically gained momentum when the international community has perceived that conflict could arise somewhere because of the unsettled nature of the issue.

Particularly advanced regulations were created in the Europe of the 1990s, which was faced, among other things, with the wars in Yugoslavia, the collapse of the Soviet Union, the peaceful separation of Czechoslovakia, and the surfacing of tensions between Hungarian communities and their new States in matters related to the preservation of their identity and to language and education rights. As a result, important developments took place within the Conference on Security and Cooperation in Europe (CSCE) and the Council of Europe. At the level of the CSCE, the Yugoslav tragedy led to the realisation that *“issues of national minorities and the fulfilment of international agreements on the rights of minorities are a legitimate international question and do not represent just an internal affair of a given state.”*⁵ It also led to the creation of the position of High Commissioner on National Minorities, charged with identifying and seeking early resolutions of ethnic tensions that might endanger peace, stability or friendly relations between participating states.

As regards the framework of the Council of Europe, encompassing most countries on the continent, two important conventions were adopted in the 1990s, with the objective of establishing a legal minimum on minority languages and people: the European Charter for Regional or Minority Languages (ECRML) and the Framework Convention for the Protection of National Minorities (FCNM). Though the Council of Europe's starting point was the need to guarantee the basic conditions for stability in Central Europe, this protection targeted the continent as a whole.

The FCNM and the Language Charter are still the most important standards for the protection of national and linguistic minorities. However, their effectiveness is weakened by several factors. One such factor is that not all EU Member States have signed up to them⁶ or that they tabled reservations at their adoption. Another factor concerns the Council of Europe's lack of executive powers, which makes their

5 Common statement by CSCE experts in Geneva in 1991.

6 France has not signed the FCNM, while Belgium, Greece and Luxembourg have signed it, but not ratified it. Belgium, Bulgaria, Estonia, Greece, Ireland, Latvia, Lithuania and Portugal have not signed the Language Charter, while France, Italy and Malta have signed it, but not ratified it.

implementation in practice dependent on the good will of states, resulting in a noticeable culture of non-compliance with the two instruments.

3. The Copenhagen dilemma and the Lisbon treaty

Despite the fact that, of all international bodies, the European Union has by far the biggest influence on the daily life of European citizens and is today one of the most important guarantors of the respect of the rule of law and fundamental rights, a consistent minority protection policy at EU-level is still lacking.

So far, the European Union has mainly focused on minority protection in its external policy. This includes, in particular, the Copenhagen criteria approved by the European Council in June 1993, which every candidate country for accession to the European Union must meet. Besides democracy, rule of law and human rights, respect for and protection of minority rights has become one of the most important political criteria in the pre-accession process. Thanks to these obligations, some of the new Member States in central Europe enacted very advanced models to protect their minorities. Thus, admittedly, the EU's eastward enlargement process provided a fresh impulse to go further with minority protection in Europe.

In the internal sphere, as the European Economic Community became an increasingly political community after the Maastricht Treaty, minority protection issues appeared, albeit indirectly, in certain policies, mainly in the field of education and culture. The most important legislative result was probably Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the Race Equality Directive).

It was the Lisbon Treaty which brought the most important legal changes in terms of minority rights. For the first time in the history of European integration it introduced the word "minorities" into EU primary law and placed the "rights of persons belonging to minorities" among the EU's foundational values. It also made the Charter of Fundamental Rights legally binding, including its antidiscrimination provision in Article 21. This provision lists the grounds on which discrimination is forbidden and explicitly refers to discrimination on the basis of "membership of a national minority." The changes introduced by the Lisbon treaty generated hopes. Experts speculated that the changes would "help do away with the impression that, from an EU perspective, the protection of persons belonging to such minorities would be 'an export article and not one for domestic consumption'."⁷

National and linguistic minority communities were particularly enthusiastic about these references. However, as it has transpired in the 10 years since its entry into force, the EU has not yet developed measures related to national or linguistic minorities, not even within the framework of the Open Method of Coordination,⁸ which would have allowed for voluntary cooperation between Member States.

From a legal perspective, the current state of play presents two often pointed-out asymmetries: one is that linguistic discrimination and discrimination on the basis of membership of a national minority are forbidden in the EU pursuant to the general principle of equality, yet the Treaties do not explicitly and unequivocally grant the EU competence to actively combat these forms of discrimination.

7 Gabriel N. Toggenburg, *The Lisbon Treaty: a rich cocktail served in an only half-full glass*, in *Europäisches Journal für Minderheitenfragen*, (2012)2, pp. 78-87, at 86.

8 The only minority-related area the Open Method of Coordination (OMC) - the European Union's 'soft' law that does not result in binding EU legislative measures, but creates a common understanding of problems and allows for the implementation of policies, without regulatory instruments - was so far used in was the establishment "EU Framework for National Roma Integration Strategies up to 2020". It centres on improving the social situation of the European Roma minority. It focuses on four key areas: education, employment, healthcare and housing.

The other asymmetry is the very oft-cited Copenhagen dilemma: while the respect for the rights of national minorities is a part of the set of political criteria an accession-candidate must fulfil at the time of accession, no such criteria apply for states that are already members of the EU. This results in a situation of double standards. Countries that were already members of the EU at the time the Copenhagen criteria were adopted by the European Council were never measured against the standard. Furthermore, those countries that appeared to backtrack on their minority-protection related accession commitments could do so with impunity once they had joined the ‘EU club’. Regrettably, this has happened in many Member States. The EU should have addressed this risk already in 2004.⁹ Now, 15 years after the eastern enlargement and 30 years after the fall of the iron curtain, it is time for the EU to act.

4. “United in diversity” made effective

Approximately 8% of EU citizens belong to a national minority¹⁰ within the EU and 10% speak a regional or minority language. Their unique cultures and languages are an inalienable part of the rich cultural heritage of Europe.

However, across Europe, the situation of many minorities is deteriorating. Political, economic and social forces and globalisation itself all contribute to an accelerating trend of assimilation and language loss. In combination, this leads to a reduction in linguistic and cultural diversity within the EU – a diversity the EU is called upon to protect under the Treaties. These forces are also often compounded by hostile and discriminatory state policies and lack of respect for the right of these minorities to their specific identity, with all the linguistic, educational and democratic participation rights that entails. Oftentimes, even the display of their identity-related symbols is seen as an affront to the sovereignty of the states they live in, despite all the provisions from existing international reference documents.¹¹ As a result, the situation of such minorities is deteriorating and the cultural value they represent is at risk of slowly disappearing, unless effective and timely action is taken.

The European Union is well placed to stop and reverse such trends. But in order for this to happen, it must take more effective action than it has done to date in order to give substance to the diversity provisions it was built on. It is high time the EU embraced the protection and promotion of cultural

9 Proposals as to how to act were available, as the Bolzano/Bozen declaration on the Protection of Minorities in the Enlarged European Union, adopted on 1 May 2004, shows.

10 Based on data collected in Cristoph Pan/Beate S. Pfeil (2003), National Minorities in Europe, Vienna, ETHNOS.

The EU and its phases of enlargement	Inhabitants	Minorities	Members of minorities	Share of minorities on total population in %
	In 1000s	Absolute number of minorities	In 1000s	
1. EU - 15 2003	375.418	73	32.138	8,6
2. EU - 25 2004	450.559	156	38.174	8,5
3. EU - 27 2007	480.190	187	42.306	8,8
Europe (39 states)	768.698	329	86,674.000	11,45

11 For example, the Lund Recommendations on the Effective Participation of National Minorities in Public Life, by the High Commissioner on National Minorities (OSCE), which recognises the use of such symbols and related forms of cultural expression as crucial to identity and way of life of national minorities.

and linguistic diversity and took its constitutional values, as laid down in Article 2 TEU, including the rights of persons belonging to minorities, seriously.

Even within a narrow interpretation of the EU treaties in force, the EU has the capacity to build a legislative framework around the reference to minorities in Article 2 TEU and to develop legislation and policies to benefit persons belonging to national and linguistic minorities.

The EU could fully incorporate the monitoring of the situation of minorities within its rule-of-law mechanism destined to protect Article 2 of the TEU. Moreover, it could better integrate the objective of promoting diversity into its funding programmes and take account of the special needs of national or linguistic minorities when developing policies in its areas of competence.

Another possible avenue would be to build a mutually reinforcing cooperation with the Council of Europe. A future Union policy on national and linguistic minorities building on the achievements and experience of the Council of Europe could become a more efficient tool than the FCNM and ECRML currently are. Such a development could lead to stronger guarantees and better enforcement of minority rights and would offer a great opportunity to benefit from meaningful synergies, as opinions and recommendations of the monitoring bodies of FCNM and ECRM could be incorporated into EU policies or used as a basis for providing funding for the preservation of linguistic and cultural diversity in the EU.

Assuming a coordination role among Member States, using soft law instruments, such as the Open Method of Coordination could also prove valuable. Due to different historical, social, economic and other factors, national and linguistic minorities are not homogenous groups and as such, they require differentiated solutions to the problems they face. However, there are many cases in Europe of well-managed diversity, of appeased ethnic conflicts and even successful language and cultural revitalisation policies. The European Union and its Member States should make use of all the solutions that have already proven successful in certain situations.

The initiators of the present European Citizens' Initiative believe that safeguarding national and linguistic minorities and regional and minority languages represents the clearest and firmest stand the EU can take to protect its diversity. Confident that the EU motto "United in Diversity" is a living phenomenon within the institutional system of our Union, we expect the European Commission to initiate a serious dialogue on the merits of the present initiative and to propose new legislation based on it.

In an age of global political instability, the spectacular rise of anti-European political forces, and a growing concern about the future of the EU, the Commission should send a clear and positive signal toward its national and linguistic minorities, thereby demonstrating its willingness to reciprocate the unambiguous solidarity of the latter towards the project of the EU.

Taking all of the above into account, the initiators of this ECI have developed a set of legislative proposals in various areas, as presented below.

BRIEF INTRODUCTION OF THE LEGISLATIVE PROPOSALS

1. Proposal for a Council Recommendation on the protection and promotion of cultural and linguistic diversity in the Union through effective language, education and culture policies for national and linguistic minorities in the Member States

Antidiscrimination policies are not enough to prevent the assimilation of national and linguistic minorities, the loss of their identities, languages and cultures. There is a need for affirmative action guaranteeing minorities the enjoyment of their right to identity on a par with the majority, through rights to language use and education and cultural rights. Taking diversity obligations seriously means respecting the principle of equality in its broader sense.

Protecting regional and minority languages is a feature of a mature democratic entity which has taken diversity on board as a value to be preserved and promoted, as envisaged in the ‘diversity-acquis’ enshrined in the EU treaties and the Charter of Fundamental Rights. The EU therefore has an obligation to take protective measures towards them in its areas of competence.

We therefore propose a Council Recommendation to enhance the protection and promotion of cultural and linguistic diversity in the European Union by focusing, in particular, on the protection of the use of regional and minority languages in the areas of public administration, public services, education, culture, the judiciary, media, health care, commerce and consumer protection. It provides guidance to Member States in enhancing the effectiveness of their measures to protect minorities and promote their languages and cultures through integrated sets of policy measures. It also complements existing Union antidiscrimination legislation in order to help make its implementation and enforcement more effective.

2. Proposal for a Regulation of the European Parliament and of the Council on establishing a European Language Diversity Centre

In the EU, an estimated 40 to 50 million people speak a regional or minority language. Such languages exist in very different situations across the EU: some have relatively strong institutional and resource bases (such as Catalan and Basque in Spain, Welsh in the United Kingdom, or kin-state languages widely spoken as native languages, such as Danish in Germany, German in Denmark, Swedish in Finland, Finnish in Sweden, or Hungarian in Romania or Slovakia). However, other languages that are spoken by small communities and have no official status are strongly exposed to the risk of extinction and therefore in urgent need of support (such as Cornish, Csángó, Upper and Lower Sorbian, North and Western Frisian or the Sámi languages), while yet others are spoken by people who are suffering poverty and social marginalisation (such as the Roma languages in many instances).

All these languages face many and varied challenges in Europe. Some of these challenges are old ones, such as hostile national policy towards their use. However, there is an increasing number of new challenges as well, such as intra-state and intra-EU migration and mobility, language instruction systems favouring some widely-used foreign languages, as well as the relevance of regional or minority languages in the economy. Unfortunately, not even the demographic size of a language group is a guarantee that a regional or minority language can withstand these challenges.

According to the findings of a study prepared for the European Commission,¹² the language groups which are in a position to sustain themselves are those which receive considerable state support, which activates and promotes the production and reproduction processes operating within civil society. On the other hand, the vast majority of language groups suffer not only from a lack of such support but sometimes from open hostility to their existence and activities.

At the EU level, while the idea of promotion, protection and respect of linguistic diversity is prominent in the general discourse, the current drive of the EU to promote language competence is not designed in a way that boosts regional or minority languages. Language promotion aimed at facilitating geographical mobility, jobs and growth within the single market will most probably continue to serve the promotion of several, widely-used foreign languages in education. This is why, in its efforts to promote multilingualism and language diversity, the EU should also focus on lesser-used and small languages, which are very much dependent on recognition and support to thrive.

Apart from family life, the single most important role in the passing on of a language from one generation to another is filled by language education. Education of or through regional or minority languages demands political and financial commitment. The EU should be able to play a catalyst role in this regard, be it through funding or through the sharing of best practices between Member States.

As we have found that current EU action is not adequate to protect its still existing rich diversity of languages, we propose the establishment of a European Language Diversity Centre to carry out activities in the areas of: collection, analysis and dissemination of objective, reliable and comparable information and data on the situation and level of protection of regional and minority languages; the creation and coordination of a European network of organisations working in the field of protection and promotion of linguistic and cultural diversity; the provision of information and expert advice to the Union institutions in matters of regional or minority languages; and the provision of support to Member States' authorities to help them formulate policies and measures at national, regional or local level.

3. Adjusting cohesion policy to take account of the situation of persons belonging to national minorities and the role of cultural and linguistic diversity

It has been recognised that multilingualism and multiculturalism, both characteristics of multi-ethnic societies, are a potential source of innovation and creativity, and therefore key drivers of social and economic success. In this light, facilitating the use of minority languages and supporting investment in regions with a considerable presence of national and linguistic minorities is not just a necessary cost to pay for maintaining cultural heritage, but also an investment in increasing the socio-economic integration and economic prosperity of Europe.

In order to deploy human resources encapsulated in national and linguistic minority groups to the advantage of economic development, the EU would need to explicitly integrate them into its cohesion policy. Therefore, in areas with a considerable presence of national and linguistic minorities, the Cohesion Funds should support strategies and investments that address the specific characteristics of such communities and the particular social and economic challenges they face.

We therefore propose special attention to national and linguistic minorities during the spending cycles of the European Regional Development Fund, including for cross-border cooperation, and the European Social Fund +.

¹² Euromosaic - The production and reproduction of the minority language groups in the European Union, 1996.

4. Research into the added value of minorities to social and economic development in Europe

To reverse the deteriorating situation of national and linguistic minorities across Europe due to complex political, economic and social forces, effective and timely action is needed. Such action should be founded on thorough research, mapping existing challenges and developing potential solutions which could form the basis of EU and Member State policies.

This research could also focus on the still underexploited potential of multilingualism and multiculturalism for innovation and social and economic success.

We therefore propose amending the future Horizon Europe Programme¹³ to allow the financing of research into strengthening the situation of national and linguistic minorities, how to improve their inclusion and build on their socio-economic and cultural value for the benefit of the whole European Union.

5. Approximating equality for stateless minorities

Several hundred thousand people in the European Union are stateless. The majority of the stateless people belong to national minorities which have traditionally been living in the European Union. Stateless people are often prevented from participating in economic, social and political life in their host states or in their states of birth. As a result, they are highly vulnerable and have to contend with discrimination and inequality.

We therefore propose amending Council Directive 2003/109/EC to strengthen its protection of and simplify its procedures for stateless persons.

6. Improving cross-border access to audiovisual media services and contents

Unrestricted cross-border access to broadcasting services is in the interest of EU citizens. This applies in particular to all persons exercising their right of free movement and residence in another Member State. It is all the more important for citizens belonging to national or linguistic minorities who speak a language which is also used in neighbouring countries. These minorities are often too small to build up comprehensive media services of their own, so access to the media of neighbouring countries with the same language is of vital interest to them.

In light of this, unjustified geographically-based content restrictions - still widespread in the European Union - can be prevented efficiently in the long term only by adopting rules at EU level. Even though the Commission has already recognised the gravity of the problem (e.g. in the Digital Single Market Strategy and the Single Market Strategy), as well as its negative impact on competitiveness and growth, further steps are necessary to put an end to the discrimination of citizens on the basis of their place of residence.

We therefore propose a solution to these problems with a targeted review of several Union legal

13 Regulation of the European Parliament and of the Council establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, Brussels, 7.6.2018, COM(2018) 435 final, 2018/0224(COD)

acts¹⁴ in order to allow events of major importance for society, especially sports events of high interest to the public, to be viewed by Union citizens freely, in any Member State, in their own mother tongue; to reduce obstacles to cross-border transmission of both broadcasting services by satellite and ancillary online services; and enlarge the scope of application of the country-of-origin principle as regards the latter.

7. Adjustment of EU state aid rules for the promotion of cultural and linguistic diversity

In many European regions, funding is granted to promote minority cultures expressed in movies, music, books, newspapers, television. Such policies may come under the European state aid rules if they are above the applicable thresholds (the so called *de minimis* rules), in which case the Member State is under the obligation to notify the Commission, which must assess the compatibility of the aid with the state aid rules.

Since such notifications imply a lengthy and legally complex procedure, for certain sectors of the economy the EU has adopted “block exemptions” that define aid that is exempt from the notification requirement if some obligatory conditions are fulfilled. The advantages of a block exemption are increased legal certainty for both authorities and beneficiaries and a reduced workload for the Commission.

This is why we propose amending the EU Regulations on horizontal state aid and the General Block Exemption Regulation¹⁵ in order to provide for a block exemption for activities that support minority communities and their culture. This includes “culture and heritage conservation”, but is wider than just that. We call for an exemption that also takes into account the promotion of languages and regional diversity, and respects the rights of persons belonging to minorities.

14 Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive); Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission; Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC.

15 Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid and Commission regulation No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation)

LEGISLATIVE PROPOSALS

1. LANGUAGE, EDUCATION AND CULTURE

BACKGROUND

Provisions from the Minority Safepack Initiative:

EU Recommendation for the protection and promotion of cultural and linguistic diversity in the Union

The European Union should be an area where respect for ethnic, cultural and linguistic diversity prevails, and where people do not feel excluded in any way. The Union should prevent marginalisation of certain communities. Current linguistic and cultural policies tend to favour some official languages of the Member States. We are of the opinion that action is needed to make sure that the statement that all languages are equal becomes reality.

The EU needs to adopt a systematic approach to its language and culture policy. It should learn from best practices from all around Europe, and also make use of the knowledge that has been gathered by the specialised bodies of the Council of Europe.

In this Recommendation, the EU will define the best ways to protect and promote cultural and linguistic diversity, in particular for the protection of the use of regional or minority languages in the areas of public administration, public services, education, culture, the judiciary, media, health care, commerce and consumer protection (including labelling).

The Recommendation will present and propose the best solutions for halting or reversing the extinction of languages and cultures in Europe, and the best methods for language planning. It must be comprehensive and inclusive, and take account of the true extent of linguistic diversity and language learning in Europe, and the beneficial role of multilingual individuals for Europe.

*Legal basis: Article 167(5) 2nd indent TFEU and Article 165(4) 2nd indent TFEU
Instrument: (Council) Recommendation*

Adjust funding programmes so that they become accessible to small regional or minority language communities

The existing funding programmes in the fields of education, culture, media and youth and their mainstreaming approach are too complex and burdensome for small cultural and language communities. Furthermore, there are still criteria in the current programmes that exclude minority languages, such as the Culture Programme.

Criteria that exclude regional or minority languages from the EU funding programmes should be abolished in the new generation of programmes for education, training, youth and culture, such as the new Erasmus for All and Creative Europe programmes.

In addition, the new generation of programmes should include a strand for endangered languages. This strand should have lower thresholds and simplified administrative procedures tailored to the size of the grant, which will allow small NGOs from these communities to make use of these funding schemes. At this moment, the application process is too cumbersome for many small language communities. Making small grants available for small communities can nevertheless make a huge difference for linguistic diversity in Europe.

Legal basis: Article 167(5) 1st indent TFEU and Article 165(4) 1st indent

Instrument: Decision or Regulation (amending the Decision or Regulation establishing the existing programme)

COUNCIL RECOMMENDATION

on the protection and promotion of cultural and linguistic diversity in the Union through effective language, education and culture policies for national and linguistic minorities in the Member States

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 165(4), Article 167(5), Article 292, in conjunction with Article 19(1), thereof,

Having regard to the proposal from the European Commission,

Whereas:

1. Pursuant to Article 2 of the Treaty on the European Union, equality and the respect of rights of persons belonging to minorities are founding values of the Union. Pursuant to Article 3(3) of the Treaty on the European Union, the Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.
2. Article 3(3) of the Treaty on the European Union sets forth that the Union's aim is to promote economic, social and territorial cohesion, and solidarity among Member States, as well as to respect its rich cultural and linguistic diversity, and to ensure that Europe's cultural heritage is safeguarded and enhanced.
3. According to Article 10 of the Treaty on the Functioning of the European Union, the Union shall aim to combat discrimination based on racial or ethnic origin in defining and implementing its policies and activities.
4. Article 19(1) of the Treaty on the Functioning of the European Union enables the Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
5. Article 21(1) of the Charter of Fundamental Rights of the European Union states that any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language or membership of a national minority, shall be prohibited.

6. Article 22 of the Charter of Fundamental Rights of the European Union states that the Union shall respect cultural, religious and linguistic diversity.
7. In its judgement T-391/17 the General Court of the European Union ruled that, because the respect for the rights of persons belonging to minorities is an EU value, and respecting and promoting cultural and linguistic diversity in the EU is an EU objective, the European Commission is entitled to submit proposals that are deemed to supplement EU action in the areas for which it is competent in order to ensure respect for the values in the EU Treaty.
8. The general concept of minority rights in Europe covers a wide range of terms that are used with different connotations. Depending on historical and geographical contexts, legal and academic language uses many terms to define social groups characterised by a specific language and culture, which are distinct from those of the wider societies and states they live in. Members of such minority communities see themselves differently and use different terms to define themselves. This is why such communities are often interchangeably referred to as national minorities, ethnic groups, traditional or autochthonous minorities, inhabitants of constitutional regions, linguistic minorities, groups speaking lesser used languages, etc. In order to bypass the difficulty of carrying over the variety of terms used across Europe, the Council of Europe uses the term 'national minority' in its Framework Convention on the Protection of National Minorities, which still represents the highest international standard for minority protection in Europe. In order to take this into account, as well as to recognise the importance of languages as vehicles for expressing a culture and identity, the term 'national and linguistic minorities' should be used in the present Recommendation when referring to such minority groups.
9. According to the customary definition in the European Charter for Regional or Minority Languages, regional or minority languages cover languages traditionally used by sections of the population of the state in question, but do not include dialects of the official language(s) of the state, the languages of immigrants or recently invented languages. These languages are the most widely used vehicles of communication in the respective communities, and some have even been accorded official or equal official status (alongside another official language) at regional level. Some communities' regional or minority languages straddle the frontiers of Member States, and there is a tradition of long-standing cultural and historical links between such communities.
10. Approximately 8% of EU citizens belong to a national minority within the EU and 10% speak a regional or minority language. They greatly contribute to the cultural wealth of the Union through their unique languages and cultures. However, particular historical situations in Member States, economic and social forces and globalisation itself all contribute to their accelerating assimilation into the majority.
11. Anti-discrimination policies are not enough to stop the assimilation of national and linguistic minorities, the loss of their identities, languages and cultures. Preservation measures for the benefit of persons belonging to national and linguistic minorities can only be effective insofar as they include affirmative action guaranteeing minorities the enjoyment of their right to identity on a par with the majority. Such measures should therefore allow the preservation of the essential elements of their identity, such as their language, religion, traditions, cultural heritage and symbols.
12. Education plays a primary role in cultural reproduction, socialisation and identity formation and preservation. Teaching of and in minority languages should therefore be promoted in order to preserve the identities of national and linguistic minorities. Education about or through regional or minority languages requires political and financial commitment. The EU should be able to play a

catalyst role in this regard, be it through funding, or through the sharing of best practices between Member States.

13. Access to culture and media in their own language is essential for the preservation of the cultural identity of national and linguistic minorities. The European Union and the Member States should therefore take effective measures to ensure equal treatment of minorities in participating in cultural life, and accessing, receiving and publishing information and content in their minority and regional languages.
14. Ensuring the language rights of national or linguistic minorities is part of good governance, especially in the case of persons who do not have an adequate command of the official language(s), or the ability to express themselves in the specific registers used in the administration. On the one hand, such arrangements represent the basis for the necessary pluralism to enable people belonging to different groups to preserve and develop their identity. On the other hand, such arrangements can contribute to the quality of governance and enhance social justice. The systematic use of minority language(s) by various public bodies and services and the judiciary might have multiple beneficial outcomes both in terms of citizens' confidence and in terms of access. In terms of participation, using a regional or minority language as the medium of interaction may increase the presence of native speakers in the sectors of governance and the judiciary. This can ensure not only better governability of local communities, but also an opportunity to articulate the minority perspective in decision-making. Ultimately, the use of minority languages by public authorities and public service providers is a measure that allows marginal groups an equal and fair chance to access opportunities available in society.
15. Due to different historical, social, economic and other factors, national and linguistic minorities are not homogeneous groups and, as such, they require differentiated solutions to the problems they face. However, there are many cases in Europe of well-managed diversity, of appeased ethnic conflicts and even successful linguistic and cultural revitalisation policies. The European Union and its Member States should make use of all the solutions that have already proven successful in certain situations.
16. Council Directive 2000/43/EC¹ lays down a framework for combating discrimination on the grounds of racial or ethnic origin throughout the Union in relation to employment and training, education, social protection (including social security and healthcare), social advantages and access to, and supply of, goods and services, including housing.
17. Council Recommendation of 22 May 2019 on a comprehensive approach to language teaching and learning, adopts a comprehensive approach to language teaching and learning, committing the European Union and its Member States to increase the level of ambition for language learning in school. This includes literacy in the language(s) of schooling as well as the acquisition of two additional languages. In line with the Recommendation, learners may wish to include less widely taught and learned languages in their personal language portfolio.
18. Council Recommendation of 9 December 2013 on effective Roma integration measures in the Member States recommends that the Member States take effective policy measures to ensure the access of Roma to education, lifelong learning, funding, empowerment of cultural participation and transnational cooperation.

¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).

19. In its Resolution of 11 September 2013 on endangered European languages and linguistic diversity in the European Union, the European Parliament calls on the European Union and the Member States to commit to the protection and promotion of the unique diversity of the Union's linguistic and cultural heritage, in particular by deploying ambitious proactive revitalisation policies for the languages concerned and by dedicating a reasonable budget to this aim, and encourages Member States to produce action plans for the promotion of endangered languages based on shared good practices.
20. In its Resolution of 7 February 2018 on protection and non-discrimination with regard to minorities in the EU Member States, the European Parliament encourages Member States to ensure that the right to use a minority language is upheld, and to promote cultural diversity and tolerance, calls for the EU's legislative framework to protect the rights of persons belonging to minorities in a comprehensive manner as well as for an effective EU-wide monitoring of the situation of autochthonous and linguistic minorities.
21. In its Resolution of 24 October 2018 on minimum standards for minorities in the EU, the European Parliament calls for a legislative proposal on minimum standards of protection of minorities in the EU, which should start out from those already codified in instruments of international law, and should be firmly embedded in a legal framework guaranteeing democracy, the rule of law and fundamental rights across the EU, and accompanied by a functioning monitoring mechanism. It also calls on the Commission and the Member States to protect the cultural and linguistic identity of national and ethnic minorities, and to create conditions for the promotion of that identity.
22. In its Communication of 18 September 2008 entitled 'Multilingualism: an asset for Europe and a shared commitment', the Commission encouraged the European Union institutions to adopt or to further develop a successful multilingualism policy which can strengthen life chances of citizens, increase their employability, facilitate access to services and rights and contribute to solidarity through enhanced intercultural dialogue and social cohesion.
23. In light of the above considerations and of the shortcomings identified, the European Union, through its institutions and specialised agencies, and the Member States should take specific measures for the protection of national and linguistic minorities living in their territories. This should be done while fully respecting the principle of subsidiarity.
24. This Recommendation aims to enhance the protection and promotion of cultural and linguistic diversity in the European Union by focusing in particular, on the protection of the use of regional or minority languages in the areas of public administration, public services, education, culture, the judiciary, media, health care, commerce and consumer protection. It provides guidance to Member States in enhancing the effectiveness of their measures to protect minorities and promote their languages and cultures through strategies, action plans or integrated sets of policy measures. It also complements existing Union anti-discrimination legislation in order to help make its implementation and enforcement more effective.

RECOMMENDS THAT THE MEMBER STATES:

1. HORIZONTAL MEASURES

Ratify the Framework Convention for the Protection of National Minorities ("FCNM") and the European Charter for Regional or Minority Languages ("ECRML") without reservation, and respect the principles laid down therein.

Develop strategies, action plans or integrated sets of policy measures in order to protect and promote cultural and linguistic diversity within their borders, and consequently within the European Union. Such measures could include, in particular, the promotion of the use of regional or minority languages in the areas of public administration, public services, education, culture, the judiciary, media, health care, commerce and consumer protection.

Involve regional and local authorities and local civil society in the development, implementation and monitoring of such strategies, action plans or integrated sets of policy measures.

Entrust local and regional authorities with full entitlement and mandatory responsibilities to implement measures concerning the use of regional or minority languages.

Provide for adequate financing and capacity strengthening for local and regional authorities in the implementation of such measures.

2. EFFECTIVE POLICY MEASURES

EDUCATION

2.1 Take effective measures to ensure that persons belonging to national and linguistic minorities are guaranteed the right to receive education in their own regional or minority language in educational institutions. This goal could be attained through measures such as:

- a. formulating and implementing education policies best suited to the needs of national and linguistic minorities;
- b. ensuring the possibility to study in one's minority or regional language at all education levels from pre-school to tertiary education;
- c. defining preferential thresholds in the learning of and in regional or minority languages and apply them with flexibility in the interest of the speakers of these languages, especially in case of peoples living in sparsely populated regions;
- d. taking proactive measures and incentives to ensure that pupils opt for learning regional or minority languages;
- e. developing specific educational programmes or special curricula and textbooks in regional or minority languages;
- f. providing funding for teacher training in order to ensure effective instruction in minority and regional languages;
- g. incorporating best practices in teaching foreign languages into the methodology for teaching official languages when it comes to curricula for schools which provide education in a minority or regional language;
- h. widening access to second-chance education and life-long learning in minority and regional languages;
- i. ensuring appropriate education in regional or minority languages for children with specific needs;
- j. ensuring the option for the majority of students to learn regional or minority languages;
- k. raising awareness of, and promoting cultural diversity in schools, including through teacher training;

PUBLIC ADMINISTRATION AND THE JUDICIARY

2.2 In line with Article 10 of the ECRLM, take effective measures to enable and promote the use of regional or minority languages, in areas with substantial numbers of inhabitants speaking regional or minority languages, within public administration, public services, and in the judiciary in practice. This goal could be attained through measures such as:

- a. ensuring that administrative authorities, in particular local and regional authorities, and providers of public services use the regional or minority languages in question, including during written or oral contact with such inhabitants, or in the course of publishing official documents, publications, forms or providing relevant information;
- b. ensuring that, where requested and without hampering the proper administration of justice, regional or minority languages can be used in court proceedings;
- c. ensuring that citizens are informed of the possibilities of using their regional or minority language and to actively promote the use of this right;
- d. with a view to putting into effect measures listed at points (a) and (b), ensuring a dedicated central budget line so their proper implementation is not jeopardised by budgetary constraints at local level;
- e. ensuring the official use of place names in regional or minority languages;
- f. ensuring the availability of public administration and public service employees who speak the regional or minority language in question, by promoting the employment of such speakers or training existing officials;
- g. supporting language technologies and applications ensuring service provision in regional or minority languages, including the use of websites supporting regional or minority languages;
- h. promoting good governance through effective use of regional or minority languages in public administration, increasing the presence of native speakers in the sectors of governance and the judiciary, and articulating the minority perspective in decision-making.

HEALTHCARE AND SOCIAL SERVICES

2.3 Take effective measures to ensure equal treatment of persons belonging to national or linguistic minorities when accessing universally available healthcare services. This goal could be attained through measures such as:

- a. safeguarding equal treatment of minorities with regard to healthcare and social services, especially people belonging to the Roma minority;
- b. ensuring that, in line with Article 13 of the ECRML, social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language, with special regard to children and the elderly;
- c. actively promoting the education of doctors and healthcare professionals in regional or minority languages;
- d. promoting awareness of health and healthcare issues in minority and regional languages.

COMMERCE AND CONSUMER PROTECTION

2.4 Support the use of regional or minority languages in the economic sector and in the field of safety and consumer protection. This goal could be attained through measures such as:

promoting the use of regional or minority languages in the economic sectors directly under public control;

- a. encouraging private service providers to facilitate the use of regional or minority languages in their relations with clients, including through the use of websites supporting regional or minority languages;
- b. ensuring that the rights of consumers are made available in regional or minority languages;
- c. ensuring that safety instructions are also drawn up in regional or minority languages.

PROMOTION OF CULTURAL DIVERSITY

2.5 Raise awareness of and to protect and promote cultural diversity. This goal could be attained through measures such as:

- a. facilitating the access of persons belonging to national and linguistic minorities to cultural life in their regional or minority language;

- b. acknowledging, protecting and promoting the cultural and scientific heritage of national and minority communities;
- c. ensuring funding for organisations to draw the attention of the majority community to the identity, language, history and culture of national or linguistic minorities;
- d. promoting knowledge of the language of minorities and supporting the preservation of their languages;
- e. facilitating the use of national and Union funds to support capacity building for minority organisations so that they can effectively implement cultural projects;
- f. supporting the development of new technologies translation services;

MEDIA

2.6 Take effective measures to ensure equal treatment of minorities in accessing, receiving and publishing information and content in their minority and regional languages. This goal could be attained through measures such as:

- a. providing appropriate funding to media which publish or broadcast in regional or minority languages, including for subtitling or translation into majority languages;
- b. securing cross-border access to audiovisual media services and other audiovisual contents in a kin-State language to regional or minority language speakers;
- c. promoting the use of regional or minority languages in online media interfaces;
- d. supporting training for journalists and media producers in the field of cultural diversity and prevention of hate speech and anti-minority rhetoric.

CROSS-BORDER COOPERATION

2.7 Encourage, in line with Article 14 of the ECRML, the development of, and active participation in cross-border cooperation on the protection and promotion of regional or minority languages, especially in cases where the same language is used in identical or similar form in the respective countries, by:

- a. fostering contacts between the users of the same language in the fields of culture, education, information, vocational training and permanent education;
- b. facilitating and promoting co-operation across borders between regional or local authorities in whose territory the same language is used in identical or similar form.

MONITORING AND REPORTING

3.1 Appropriately monitor and evaluate the effectiveness of their national strategies, action plans or integrated sets of policy measures through the collection of relevant qualitative or quantitative data and the setting of measurable targets.

3.2 Make use of any relevant monitoring mechanisms of the Council of Europe and the OSCE and the support provided by the European Union Agency for Fundamental Rights.

3.3 To Communicate to the Commission any measures taken in accordance with this Recommendation by xy XXYX yxy.

3.4 Thereafter, communicate to the Commission any new measures taken on an annual basis, along with information on the progress achieved in implementing their national strategies, action plans or integrated sets of policy measures.

INVITES THE COMMISSION TO:

4.1 Ensure that the information provided by the Member States will serve as a basis for the preparation of its annual reports to the European Parliament and to the Council on the implementation of national

strategies, action plans or sets of integrated measures for the protection and promotion of cultural and linguistic diversity within the European Union.

4.2 Establish, based on the 2007 Memorandum of Understanding between the EU and the Council of Europe, strong cooperation in the area of protecting and promoting European diversity, particularly by transposing aspects of Council of Europe Conventions within its competence into European Union law as well as relying on the monitoring and advisory activities of that institution.

4.3 Earmark special financing for the promotion of regional or minority languages through new or existing funds and programmes, such as Erasmus+, Europe for Citizens, Creative Europe, the Rights and Values Programme and the EU Structural Funds.

4.4 Establish an Expert Group to assist the Commission in preparing legislative proposals and policy initiatives in the area of safeguarding European diversity and the protection and promotion of national or linguistic minorities.

INVITES THE FUNDAMENTAL RIGHTS AGENCY OF THE EU TO:

5.1 Provide the EU institutions and Member states with assistance and expertise relating to the protection and promotion of national and linguistic minorities.

INVITES THE COMMITTEE OF THE REGIONS TO:

6.1 Support the protection and promotion of national and linguistic minorities at regional and local level and to share good practices in this regard.

2. ESTABLISHING A EUROPEAN LANGUAGE DIVERSITY CENTRE

BACKGROUND

Provisions from the Minority Safepack Initiative:

Language diversity centre

To respect and promote linguistic diversity and facilitate exchange of best practices between language communities in Europe, and especially between those speaking a regional or minority language, short-term funding of networks is neither efficient, nor effective enough.

We propose that initially, a Language Diversity Centre in the field of regional and minority languages be established, funded by the EU. The Centre should raise awareness of the importance of regional and minority languages and promote diversity at all levels. It should also make knowledge and expertise accessible for all relevant players in the field of regional and minority languages. The centre should concentrate on, and give priority to the smallest and most vulnerable language communities in Europe.

In order to realise the Language Diversity Centre, a decision or regulation should be adopted that establishes funding for the centre(s) and defines the tasks as set out above.

*Legal basis: Article 167(5) 1st indent TFEU and Article 165(4) 1st indent
Instrument: Decision or Regulation*

REGULATION

**(EC) No .../... OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL of (...)
establishing a European Language Diversity Centre
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,**

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 19(1) and 167(5) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 294 of the Treaty on the Functioning of the European Union,

Whereas:

Pursuant to Article 2 of the Treaty on the European Union, the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the primacy of law and respect for human rights, including the rights of persons belonging to minorities.

Article 3(3) of the Treaty on the European Union states that the Union's aim is to promote economic, social and territorial cohesion, and solidarity among Member States, as well as to respect its rich cultural and linguistic diversity and ensure that Europe's cultural heritage is safeguarded and enhanced.

Article 21(1) of the Charter of Fundamental Rights of the European Union states that any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language or membership of a national minority, shall be prohibited.

Article 22 of the Charter of Fundamental Rights of the European Union states that the Union shall respect cultural, religious and linguistic diversity.

According to Article 10 of the Treaty on the Functioning of the European Union, the Union shall aim to combat discrimination based on racial or ethnic origin in defining and implementing its policies and activities.

Respect for cultural diversity is enshrined in Article 167 of the Treaty on the Functioning of the European Union. In particular, the Union shall contribute to the flowering of the cultures of the Member States, respecting their national and regional diversity, at the same time bringing cultural heritage to the fore. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action by improving knowledge and disseminating the culture and history of the European peoples; conserving and safeguarding the cultural heritage of European significance; and promoting non-commercial cultural exchanges, and artistic and literary creation, including in the audiovisual sector.

In its judgment of 24 September 2019 in Case T-391/17 (Romania v Commission) confirming the decision of the European Commission to register the European Citizens' Initiative "Minority Safepack", the General Court of the European Union clarified that the Commission is entitled to submit proposals for specific legal acts which are deemed to supplement EU action in the areas for which it is competent, in order to ensure respect for the values mentioned in Article 2 of the Treaty on the European Union and the richness of cultural and linguistic diversity provided for in Article 3(3) of the Treaty on the European Union.

European Parliament report of 14 July 2003 proposing a resolution with recommendations to the Commission on European regional and lesser-used languages — the languages of minorities in the EU — in the context of enlargement and cultural diversity called for the establishment of a European Agency for linguistic diversity and language learning and a multiannual programme for linguistic diversity including regional and minority languages.

European Parliament resolution of 11 September 2013 on endangered European languages and linguistic diversity in the European Union stated that all EU languages, including those which are endangered, reflect historical, social and cultural knowledge and skills and form part of the richness and diversity of the European Union. It also called on the European Union and the Member States to commit to the protection and promotion of the unique diversity of the Union's linguistic and cultural heritage, in particular by deploying ambitious proactive revitalisation policies for the languages concerned and by dedicating a reasonable budget to this aim, encouraging Member States to produce action plans for the promotion of endangered languages based on shared good practices.

In its resolution of 7 February 2018 on protection and non-discrimination with regard to minorities in the EU Member States, the European Parliament called for the strengthening and promotion of the teaching and use of regional and minority languages, as a potential way of tackling language discrimination in the EU.

In its resolution of 13 November 2018 on minimum standards for minorities in the EU, the European Parliament called on the Commission and the Member States to protect the cultural and linguistic identity of national and ethnic minorities, and to create conditions for the promotion of that identity.

Language is an essential aspect of cultural identity. Each language represents particular historical, social and cultural knowledge, as well as a unique human experience and worldview. The use of language ensures a community's cultural reproduction, enables individuals and the community to take part in political and cultural life and to become integrated into economic and social processes.

Linguistic diversity is a valuable component of Europe's cultural wealth: beside the speakers of the 24 official languages of the EU, 40 to 50 million people in the Union speak one of its 60 regional or minority languages. The European Union has therefore a clear responsibility to protect its linguistic diversity and ensure that its regional or minority languages can be passed on from one generation to the next.

According to the customary definition in the European Charter for Regional and Minority Languages (ECRML), the term 'regional or minority languages' covers languages traditionally used by sections of the population of the state in question, but does not include dialects of the official language(s) of the state, the languages of immigrants or recently invented languages.

Regional or minority languages exist in very different situations across the EU: some have relatively strong institutional and resource bases (such as Catalan and Basque in Spain, Welsh in the United Kingdom, or kin-state languages widely spoken as native languages, such as Danish in Germany, German in Denmark, Swedish in Finland, Finnish in Sweden, or Hungarian in Romania and Slovakia). Other languages, however, that are spoken by small communities and have no official status are strongly exposed to the risk of extinction and therefore in urgent need of support (such as Cornish, Csángó, Upper and Lower Sorbian, North and Western Frisian or the Sámi languages), while yet others are spoken by people who are suffering poverty and social marginalisation (such as the Roma languages in many instances). Such different groups of languages require different forms of policy implementation and practices.

It is appropriate to establish a European Language Diversity Centre, in order to assist the Union institutions and the Member States in promoting a language-friendly environment for all languages spoken in the EU, in particular for regional or minority languages, and in promoting linguistic diversity.

The European Language Diversity Centre should carry out activities in the areas of: collection, analysis and dissemination of objective, reliable and comparable information and data on the situation and level of protection of regional and minority languages; the creation and coordination of a European network of organisations working in the field of protection and promotion of linguistic and cultural diversity; the provision of information and expert advice to the Union Institutions in matters of regional or minority language; and the provision of support to Member States' authorities to help them formulate policies and measures at national, regional or local level. As a complementary measure, the Centre should also assist Member States in identifying EU funds and programmes from which regional or minority language protection and promotion measures could be financed.

In order to maximise the benefits of protecting persons belonging to national or linguistic minorities, the Centre should adopt memoranda of understanding with other relevant agencies wherever this appears appropriate to increase synergies.

The Centre should develop cooperation and dialogue with organisations representing national and linguistic minorities, universities, research centres, and other bodies actively fostering and promoting regional and minority languages and cultures.

The Centre should develop dialogue and cooperation with relevant international organisations active in the field of protecting and promoting regional or minority languages and the rights of persons belonging to national and linguistic minorities, such as the Council of Europe or the Organisation for Security and Cooperation in Europe.

The Centre should have legal personality and enjoy maximum independence in the performance of its tasks.

The Centre should apply the relevant Union legislation concerning public access to documents as set out in Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents; concerning the protection of individuals with regard to the processing of personal data as set out in Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC; and concerning languages as set out in Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community and Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for Bodies of the European Union.

Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council applicable to the general budget of the European Communities should apply to the Centre, as should Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.

Regarding the contractual liability of the Centre, which is governed by the law applicable to the contracts concluded by it, the Court of Justice of the European Union should have jurisdiction to give judgment, pursuant to any arbitration clause contained in the contract. The Court of Justice should also have jurisdiction in disputes relating to compensation for any damage arising from the non-contractual liability of the Centre.

Five years after the entry into force of this regulation, an independent external evaluation should be undertaken to assess the impact of the Centre, the possible need to modify or extend its tasks and the timing of further evaluations.

Since the objectives of this Regulation — namely to strengthen the promotion of European diversity by protecting and promoting regional and minority languages in all Member States, by pooling EU-wide information on the situation of such languages, by identifying good practices, and providing expert advice to the Union institutions taking account of the wide variety of situations of such languages — cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation should not go beyond what is necessary to achieve those objectives.

HAVE ADOPTED THIS REGULATION:

ARTICLE 1

Establishment of the Centre

A European Language Diversity Centre (the Centre) is hereby established.

ARTICLE 2

Objectives

The overall objective of the Centre shall be to protect and promote linguistic diversity within the European Union, to protect and promote European regional and minority languages and to raise citizens' awareness of cultural and linguistic diversity, by providing expertise and support to the Union institutions, bodies and agencies, and the Member States when acting within the scope of EU law.

ARTICLE 3

Scope

1. The Centre shall carry out its tasks for the purpose of meeting the objective set in Article 2 within the competencies of the Union as laid down in the Treaties.

ARTICLE 4

Tasks

1. For the purpose of achieving the objective set in Article 2, the Centre shall:
 - a. collect, analyse and disseminate relevant objective, comparable and reliable information and data as regards the situation of regional or minority languages, including results from research and best practice communicated to it by Union institutions, international organisations and Member States, including public bodies on national, regional and local level, universities, research centres and non-governmental organisations, and suggest areas for further research;
 - b. develop methods to improve the objectivity, comparability and reliability of data at European level by establishing criteria to improve the consistency of information;
 - c. continually survey the situation of regional or minority languages in Member States and analyse the situation of language use;
 - d. provide information to the Union institutions on the situation of regional or minority languages in Member States and support them in mainstreaming respect for linguistic and cultural diversity into all relevant EU legislation;
 - e. formulate and publish conclusions and opinions on specific thematic topics in the field of regional or minority languages for the Union institutions and the Member States, either on request or on its own initiative;
 - f. provide assistance in the development of language revitalisation strategies;
 - g. facilitate the creation of and coordinate a European network of organisations working in the field of linguistic and cultural diversity protection and promotion and serve as a platform for exchange between experts and practitioners;
 - h. organise conferences, seminars and ad hoc meetings of experts to support the centre's research work and encourage the exchange of information among researchers;
 - i. raise awareness among EU citizens of the importance of the protection of regional and minority languages, including through the organisation of campaigns with relevant stakeholders;
 - j. disseminate information regarding positive examples of the use of regional or minority languages in daily life, present its findings and initiatives designed to publicise and build on such success stories;
 - k. develop dialogue and cooperation with relevant international organisations active in the field of protecting and promoting regional or minority languages as well as the rights of persons belonging to

national and linguistic minorities, such as the Council of Europe and the Organisation for Security and Co-operation in Europe;

- l. set up documentation resources accessible to the public;
- m. assist the European Commission in its monitoring of respect for the rights of national and linguistic minorities in accession candidate countries, as formulated in the Copenhagen accession criteria, and providing opinions and recommendations in this regard;
- n. assist Member States in identifying EU funds and programmes under which the protection and promotion of regional or minority languages can be financed;
- o. produce and publish information material of all kinds relevant to the pursued objectives in a form that can be easily understood by the relevant stakeholders;
- p. set up regional centres where these aims and tasks can be implemented and achieved;
- q. conclude cooperation agreements with governments and authorities at all levels of government which might be conducive to achieving the Centre's objectives;
- r. provide assistance with and monitor the implementation of Recommendation [...] on the protection and promotion of cultural and linguistic diversity in the Union through effective language, education and culture policies for national and linguistic minorities in the Member States;

2. The Centre shall publish an annual report on its activities.

3. In addition to the report mentioned in paragraph 2, the Centre shall also publish a report on the situation of European regional and minority languages, informing on recent activities in the field and highlighting promising practices so that these can be exchanged across the EU;

ARTICLE 5

Areas of activity and working methods

1. The Centre shall carry out its activities in the light of the objectives adopted and priority areas identified in its annual programme, having due regard to the available budgetary resources.

2. The work programme of the Centre shall be in line with the Union's activities relating to the protection and promotion of diversity and multilingualism, taking due account of the orientations resulting from relevant European Parliament resolutions and Council conclusions.

3. In order to avoid duplication of effort and ensure the best possible use of resources in pursuing its activities, the Centre shall take account of existing information, in particular regarding activities already carried out by the Union institutions and other institutions, bodies and competent national and international organisations. It shall work closely with the competent Commission services, including Eurostat. The Centre shall ensure appropriate coordination with all relevant Union agencies and bodies, to be determined in a memorandum of understanding where appropriate.

5. The Centre may enter into contractual relations, in particular subcontracting arrangements, with other organisations in order to accomplish any tasks which it may entrust to them.

ARTICLE 6

Legal personality and capacity

The Centre shall have legal personality. It shall enjoy, in each of the Member States, the most extensive legal capacity accorded to legal persons under their laws. In particular, it may acquire or dispose of movable and immovable property and may be a party to legal proceedings.

ARTICLE 7

Independence of the Centre

The Centre shall carry out its activities independently and in the public interest.

ARTICLE 8

Cooperation with organisations at Member State and international level

To better carry out its tasks, the Centre shall cooperate with:

1. Public bodies at national, regional and local level in the Member States, research centres, universities, non-governmental organisations and other experts;
2. Relevant agencies of the European Union wherever appropriate;
3. Relevant international organisations, such as the Council of Europe and the Organisation for Security and Cooperation in Europe.

ARTICLE 9

Composition of the Centre

The Centre shall comprise the following bodies:

- a. a Management Board
- b. a Committee of Experts
- c. a Director

ARTICLE 10

Management Board

1. The Management Board shall consist of:

- a. a representative from each Member State appointed by the Member State concerned;
- b. one independent person appointed by the Council of Europe;
- c. one member representing the Commission, appointed by the Commission;
- d. one person representing the European Parliament, appointed by Parliament;
- e. one person representing European national and linguistic minorities, appointed by the European Commission from a shortlist submitted by the associations representing national and linguistic minorities in the European Union.

2. The Management Board shall be composed of persons with appropriate experience in the management of public or private sector organisations and with extensive knowledge in the field of language diversity and regional or minority languages obtained through significant scientific work and/or practical experience in this field.

Alternates to represent the member in his or her absence shall be appointed by the same procedure.

3. The term of office shall be five years.

4. The Management Board shall elect its Chairperson and Vice-Chairperson to serve for a period of five years.

5. Each member of the Management Board referred to under paragraph 1(a) or (b) or, in his or her absence, his or her alternate, shall have one vote.

6. The Management Board shall take the decisions necessary for the operation of the Centre. In particular, it shall:

- a. adopt, on the basis of a draft drawn up by the Director, as referred to in Article 12, after consultation with the Commission, the annual work programme and a three-year medium-term work programme, in accordance with the budget and the available resources. The programmes may be reviewed whenever necessary. The first annual work programme shall be adopted not later than nine months after the appointment of the Director;
- b. adopt the annual report referred to in Article 4 (2), comparing, in particular, the results achieved with the objectives of the annual work programme. This report shall be forwarded to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions, and shall be published on the website of the Centre;
- c. exercise disciplinary authority over the Director and appoint or dismiss him or her pursuant to Article 12; and
- d. adopt the Centre's annual draft and final budgets.

7. The Management Board shall adopt the Centre's rules of procedure on the basis of a proposal drawn up by the Director after consultation with the Commission.

8. Decisions by the Management Board shall be taken by a simple majority of its members. The Chairperson shall have the casting vote. In the cases referred to in paragraphs 6 and 9, and Articles 12(1) and 16(3), decisions shall be taken by a two-thirds majority of its members.

9. The Management Board shall adopt its rules of procedure on the basis of a proposal drawn up by the Director after consultation with the Commission.

10. The Chairperson shall convene the Management Board at least once a year. The Chairperson shall convene additional meetings on his or her own initiative or at the request of one-third of the members of the Management Board.

11. Each year, the Centre shall forward to the European Parliament and the Council (hereinafter referred to as the 'budgetary authority') any information relevant to the outcome of the evaluation procedures laid down in Article 21.

ARTICLE 11

Experts' Committee

1. The Experts' Committee shall be composed of fifteen independent persons, highly qualified in the field of the protection and promotion of regional or minority languages. The Management Board shall appoint the members following a transparent call for applications and selection procedure, after having consulted the competent committee of the European Parliament. The Management Board shall ensure even geographical representation.

2. Members of the Experts' Committee shall not be members of the Management Board.

3. The Experts' Committee shall support the Director in ensuring the excellence and independence of the Centre's activities.

4. The Experts' Committee shall constitute a mechanism for an exchange of information in relation to the Centre's areas of activity and for the pooling of knowledge. It shall ensure close cooperation

between the Centre and competent bodies in the Member States and help guarantee that the Centre's work attains the highest scientific standards.

5. The Experts' Committee shall be chaired by the Director or, in his/her absence, by a deputy from within the Centre. It shall meet regularly at the invitation of the Director, or at the request of at least a third of its members, and at least once per year. Its operational procedures shall be specified in the Centre's rules of procedure.

6. The Centre shall provide the technical and logistic support necessary for the Experts' Committee and provide a secretariat for its meetings.

7. The Director may invite experts or representatives of relevant professional or research bodies or non-governmental organisations with recognised experience in disciplines related to the Centre's work to cooperate in specific tasks and take part in the relevant activities of the Experts' Committee.

ARTICLE 12

Director

1. The Centre shall be headed by a Director. The Director shall be appointed by the Management Board on the basis of a list of candidates proposed by the Commission after an open competition, following publication in the Official Journal of the European Union and elsewhere of a call for expressions of interest. Before being appointed, the candidate selected by the Management Board shall be asked to make a declaration before the competent committee(s) of the European Parliament and answer questions from its/their members.

2. The Director's term of office shall be 7 years. The term shall not be renewable.

3. The Director shall be responsible, under the supervision of the Management Board, for:

- a. performance of the tasks referred to in Article 4;
- b. preparing and implementing the Centre's annual and medium-term programmes of activities;
- c. preparing the meetings of the Management Board and the Experts' Committee;
- d. preparing and publishing the annual and activity reports referred to in Article 4(2) and (3);
- e. all staff-related matters, in particular exercising the powers provided for in Article 13(3);
- f. matters of day-to-day administration; and
- g. the implementation of effective monitoring and evaluation procedures relating to the Centre's performance against its objectives according to professionally recognised standards. The Director shall report annually to the Management Board on the results of monitoring.

4. The Director shall be accountable for the management of his/her activities to the Management Board and shall take part in its meetings without voting rights. He/she may also be invited by the European Parliament to report during a hearing on significant issues linked to the Centre's activities.

5. The Director shall be the Centre's legal representative.

ARTICLE 13

Staff

1. The Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities laid down in Regulation (EEC, ECSC, Euratom) No 259/68 and the rules adopted jointly by the European Union institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the Centre.

2. The Management Board, in agreement with the Commission, shall adopt the necessary implementing measures, in accordance with the arrangements provided for in Article 110 of the Staff Regulations. The Management Board may adopt provisions to allow national experts from Member States to be employed on secondment at the Centre.

3. The Centre shall exercise in respect of its staff the powers devolved to the appointing authority.

ARTICLE 14

Drawing up the budget

1. Estimates of all the revenue and expenditure of the Centre shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the Centre's budget.

2. The revenue and expenditure shown in the Centre's budget shall be in balance.

3. The Centre's revenue shall, without prejudice to other resources, comprise:

- a. a subsidy from the Union, entered in the general budget of the European Union (Commission section);
- b. payments received for services rendered;
- c. any financial contributions from the organisations or third countries referred to in Article 8; and
- d. any voluntary contribution from the Member States.

4. The Centre's expenditure shall include staff remuneration, administrative and infrastructure costs and operating expenses.

5. Each year the Management Board, on the basis of a draft drawn up by the Director, shall produce an estimate of revenue and expenditure for the Centre for the following financial year. This estimate, which shall include a draft establishment plan, shall be forwarded by the Management Board to the Commission by 31 March at the latest.

6. The estimate shall be forwarded by the Commission to the budgetary authority together with the preliminary draft general budget of the European Union.

7. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 314 of the Treaty on the Functioning of the European Union.

8. The budgetary authority shall authorise the appropriations for the subsidy to the Centre and shall adopt the establishment plan for the Centre.

9. The Centre's budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

10. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Management Board within six weeks of the date of notification of the project.

ARTICLE 15

Implementation of the budget

1. The Director shall implement the Centre's budget.
2. No later than 1 March following each financial year, the Centre's accounting officer shall communicate the provisional accounts to the Commission's accounting officer, together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 147 of Regulation (EU, Euratom) No 966/2012.
3. No later than 31 March following each financial year, the Commission's accounting officer shall forward the Centre's provisional accounts to the Court of Auditors, together with the report mentioned in paragraph 2. The report shall also be forwarded to the European Parliament and the Council.
4. On receipt of the Court of Auditors' observations on the Centre's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the Director shall draw up the Centre's final accounts under his or her own responsibility and forward them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on the Centre's final accounts.
6. No later than 1 July following each financial year, the Director shall forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.
7. The final accounts shall be published.
8. The Director shall send the Court of Auditors a reply to its observations no later than 30 September. He or she shall also send that reply to the Management Board.
9. The Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 165(3) of Regulation (EU, Euratom) No 966/2012.
10. No later than 30 April of year N + 2, the European Parliament, on a recommendation from the Council acting by a qualified majority, shall give a discharge to the Director in respect of the implementation of the budget for year N.
11. The financial rules applicable to the Centre shall be adopted by the Management Board after consulting the Commission. They may not depart from Regulation (EU) No 1271/2013 unless specifically required for the Centre's operation and with the Commission's prior consent.

ARTICLE 16

Languages

1. Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community shall apply to the Centre.
2. The translation services required for the functioning of the Centre shall, in principle, be provided by the Translation Centre for the Bodies of the European Union set up by Council Regulation (EC) No 2965/94.
3. The Centre shall facilitate the use of any European regional or minority language for its functioning. The Management Board shall decide on the internal language arrangements for the Centre.

ARTICLE 17

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Centre.

ARTICLE 18

Liability

1. The Centre's contractual liability shall be governed by the law applicable to the contract in question.

The Court of Justice of the European Union shall have jurisdiction pursuant to an arbitration clause contained in any contracts concluded by the Centre.

2. In the case of non-contractual liability, the Centre shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by the Centre or its servants in the performance of their duties.

The Court of Justice of the European Union shall have jurisdiction in disputes relating to compensation for any such damage.

ARTICLE 19

Participation of third countries

1. The Centre shall be open to the participation of all Member States of the Council of Europe.
2. Arrangements shall be made in agreements to be concluded between the third country and the European Union, specifying in particular the nature, extent and manner in which those countries are to participate in the Centre's work, including provisions relating to participation in the initiatives undertaken by the Centre, financial contributions and staff. As regards staff matters, those agreements shall be in accordance with Regulation (EEC, ECSC, Euratom) No 259/68.

ARTICLE 20

Access to documents

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Centre.
2. The Management Board shall adopt arrangements for implementing Regulation (EC) No 1049/2001 within six months of the Centre's establishment.
3. Decisions taken by the Centre pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the Ombudsman or form the subject of an action before the Court of

Justice of the European Union, under the conditions laid down in Articles 228 and 263 of the Treaty on the Functioning of the European Union, respectively.

4. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC shall apply.

ARTICLE 21

Evaluation

1. No later than (...), the Centre shall commission an independent external evaluation of its achievements on the basis of terms of reference issued by the Management Board in agreement with the Commission. The evaluation shall assess the Centre's impact on the protection and promotion of regional and minority languages. It shall, in particular, address the possible need to modify or extend the Centre's tasks, including the financial implications of any such modification or extension. Such evaluation shall also examine the appropriateness of the management structure in carrying out the Centre's tasks. The evaluation shall take into account the views of the stakeholders, at both Union and national level.

2. The Management Board, in agreement with the Commission, shall decide the timing of future evaluations, taking into account the results of the evaluation report mentioned in paragraph 1.

ARTICLE 22

Review clause

The Management Board shall examine the conclusions of the evaluation mentioned in Article 21 and issue to the Commission such recommendations as may be necessary regarding changes to the Centre, its working practices and remit. The Commission shall forward the evaluation report and recommendations to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and make them public. After examining the evaluation report and recommendations, the Commission may submit any proposals which it deems necessary concerning a possible revision of this Regulation.

ARTICLE 23

Administrative control

The Centre's operations shall be subject to the supervision of the Ombudsman in accordance with Article 228 of the Treaty on the Functioning of the European Union.

ARTICLE 24

Start of the Centre's activities

The Centre shall be operational as soon as possible and in any event not later than (date).

ARTICLE 25

Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

3. ADJUSTING THE COHESION POLICY TO TAKE ACCOUNT OF THE SITUATION OF NATIONAL MINORITIES AND THE ROLE OF CULTURAL AND LINGUISTIC DIVERSITY IN THE EUROPEAN UNION

BACKGROUND

Provisions from the Minority SafePack ECI

Regional funds

The regional funds shall be designed in such a way that they acknowledge the position of national minorities and the role of cultural and linguistic diversity. The programme rules shall promote projects that stimulate pluralism and benefit national minorities, as this is in the interest of economic and social development, as well as being beneficial for territorial cohesion.

The deep-rootedness that most national minorities have in their region is an asset that must be fostered and appreciated. These feelings of regional identification create cohesion and a stable basis for the economic development of the population as a whole.

The common provisions of the regional funds shall be amended in such a way that the thematic objectives include the protection of national minorities and the promotion of cultural and linguistic diversity.

Legal basis: Article 177 and Article 178 TFEU Instrument: Regulation (amending the existing Regulation)

JUSTIFICATION

In the European Union about 50 million people — almost 10% of the EU's population — belong to a national minority or a minority language community. Their geographic distribution is quite diverse. There are cases where minorities live compactly or represent a majority in a NUTS 2 or 3 unit. In other cases, they are spread across the national territory.

From a territorial cohesion perspective, some multi-ethnic regions are well developed compared to the EU average, like Provincia Autonoma di Bolzano in Italy, with a purchasing power standard (PPS) of 149% of the EU average, Provincia Autonoma di Trento in Italy with a PPS of 122% of the EU average, Cataluña in Spain with a PPS of 110% of the EU average and Pais Vasco in Spain with a PPS of 121% of the EU average, according to EUROSTAT figures based on data from 2016. At the same time, the same statistical data shows that other, similarly multi-ethnic regions are lagging behind, like Centru Development Region in Romania with a PPS of 54% of the EU average or Anatoliki Makedonia, Thraki in Greece with a PPS of 46% of the EU average. These data point to a strong correlation between economic development and the success with which the relationship between the minority and the majority has been handled in a given region.

It is scientifically recognised that multilingualism and multiculturalism, both characteristics of multi-ethnic societies, are competences that have the potential to fuel innovation and creativity, seen as key drivers of social and economic success. Thus, promoting multilingualism and multiculturalism could be a lever for economic growth and social cohesion.¹ In order for the human resources encapsulated in these groups to be deployed to the advantage of economic development, the EU would need explicitly to integrate them into its regional development policy.

At the same time, the relations between majority and minority groups in multi-ethnic societies can also lead to social, economic and political divisions. As expressed in the theoretical work, diverse forms of prejudice towards and discrimination against ethnic and national minorities result in what Sanches-Mazas² calls “denials of recognition”, resulting in conflictual social relations. Rising inequalities can also be translated in economic terms. This also results in social problems, with the overall situation prone to lead to populism and jeopardise inclusive growth. Additionally, some authors argue that patterns of ethnic and minority segregation intersect strongly with socio-economic disadvantage and inequalities in the labour market.³

The promoters of the MSPI believe that the presence of national and linguistic minorities throughout the European Union should be a source not of division, but of economic growth and social development. Moreover, EU citizens belonging to national or linguistic minorities should efficiently and effectively contribute to general social and economic development and thus to growth and jobs objectives. Such a contribution could be effectively driven by special attention to national and linguistic minorities during the spending cycle of the European Regional Development Fund, including for cross-border cooperation, and the European Social Fund Plus. This would effectively and efficiently contribute to strengthening economic, social and territorial cohesion in the European Union, especially linked to the policy objectives enumerated below.

1. A smarter Europe - innovative and smart economic transformation.

Better integration of national and linguistic minority groups in innovation and economic transformation, and promotion of multilingualism and multiculturalism can contribute to boosting competitiveness and economic growth through innovation. Facilitating minority and majority interactions representing different cultural and linguistic backgrounds, can foster higher quality innovation, channel in new perspectives on social innovation, and identify different perspectives on societal challenges as innovation triggers.

4. A more social Europe - implementing the European Pillar of Social Rights.

The European Pillar of Social Rights emphasises equal opportunities, access to the labour market, fair working conditions, social protection and social inclusion. These rights are the expression of an European social model that should apply without discrimination to all the citizens of the European Union, including people belonging to national and linguistic minorities.

5. Europe closer to citizens – sustainable and integrated development of urban, rural and coastal areas through local initiatives.

Effective inclusion of minorities and their perspectives in the elaboration and implementation of integrated territorial strategies, including integrated territorial investment and community led local devel-

-
- 1 For example EACEA (2009), Study on the Contribution of Multilingualism to Creativity: www.labeleuropeolingue.it/download/politiche/Lingua%20e%20creativit%C3%A0/Lingua%20e%20creativit%C3%A0_testo%20intergrale.pdf or the Euromosaic study prepared for the European Commission - The production and reproduction of the minority language groups in the European Union, 1996.
 - 2 Sanchez-Mazas, M. (2018). Minority Influence and the Struggle for Recognition: Towards an Articulation between Social Influence Research and Theory of Recognition. *International Review of Social Psychology*, 31(1): 8, 1–8, DOI: <https://doi.org/10.5334/irsp.41>.
 - 3 Richard H., Ron J., David M. (2015): The changing interaction of ethnic and socio-economic segregation in England and Wales, 1991–2011, <https://doi.org/10.1177/1468796815595820>.

opment, could contribute to the goals of the EU's Urban Agenda. Additionally, preserving the cultural heritage of national and linguistic minorities, and promoting cultural services aimed at preserving their culture and language would contribute to the economic and social development of the EU, at the same time maintaining our cultural wealth.

A. LIST OF PROPOSED AMENDMENTS

to the proposal for a regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument - COM(2018) 375 final - 2018/0196 (COD)

RECITAL (11)

The principle of partnership is a key feature in the implementation of the Funds, building on the multi-level governance approach and ensuring the involvement of civil society and social partners. In order to provide continuity in the organisation of partnership, Commission Delegated Regulation (EU) No 240/2014 13 should continue to apply.

RECITAL (11)

The principle of partnership is a key feature in the implementation of the Funds, building on the multi-level governance approach and ensuring the involvement of civil society and social partners, **including representatives of national and linguistic minorities**. In order to provide continuity in the organisation of partnership, Commission Delegated Regulation (EU) No 240/2014 13 should continue to apply.

RECITAL (24)

To better mobilise potential at the local level, it is necessary to strengthen and facilitate CLLD. It should take into account local needs and potential, as well as relevant socio-cultural characteristics, and should provide for structural changes, build community capacity and stimulate innovation. The close cooperation and integrated use of the Funds to deliver local development strategies should be strengthened. Local action groups, representing the interests of the community, should be, as an essential principle responsible for the design and implementation of CLLD strategies. In order to facilitate coordinated support from different Funds to CLLD strategies and to facilitate their implementation, the use of a 'Lead Fund' approach should be facilitated.

RECITAL (24)

To better mobilise potential at the local level, it is necessary to strengthen and facilitate CLLD. It should take into account local needs and potential, as well as relevant socio-cultural characteristics, **including the specific social and cultural characteristics and challenges of national and linguistic minorities**, and should provide for structural changes, build community capacity and stimulate innovation. The close cooperation and integrated use of the Funds to deliver local development strategies should be strengthened. Local action groups, representing the interests of the community, should be, as an essential principle, responsible for the design and implementation of CLLD strategies. In order to facilitate coordinated support from different Funds to CLLD strategies and to facilitate their implementation, the use of a 'Lead Fund' approach should be facilitated.

ARTICLE 6

Partnership and multi-level governance

1. Each Member State shall organise a partnership with the competent regional and local authorities. That partnership shall include at least the following partners:

(A) urban and other public authorities;

(B) economic and social partners;

(C) relevant bodies representing civil society, environmental partners, and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality and non-discrimination.

2. In accordance with the multi-level governance principle, the Member State shall involve those partners in the preparation of Partnership Agreements and throughout the preparation and implementation of programmes including through participation in monitoring committees in accordance with Article 34.

3. The organisation and implementation of partnership shall be carried out in accordance with Commission Delegated Regulation (EU) No 240/2014 38.

4. At least once a year, the Commission shall consult the organisations which represent the partners at Union level on the implementation of programmes.

ARTICLE 17

Content of programmes

3. Each programme shall set out:

(A) a summary of the main challenges, taking into account:

(I) economic, social and territorial disparities, except for programmes supported by the EMFF;

(II) market failures, investment needs and complementarity with other forms of support;

(III) challenges identified in relevant country-specific recommendations and other relevant Union recommendations addressed to the Member State;

ARTICLE 6

Partnership and multi-level governance

1. Each Member State shall organise a partnership with the competent regional and local authorities. That partnership shall include at least the following partners:

(A) urban and other public authorities;

(B) economic and social partners;

(C) relevant bodies representing civil society, environmental partners, and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality and non-discrimination, **as well as rights of persons belonging to national and linguistic minority groups.**

2. In accordance with the multi-level governance principle, the Member State shall involve those partners in the preparation of Partnership Agreements and throughout the preparation and implementation of programmes including through participation in monitoring committees in accordance with Article 34.

3. The organisation and implementation of partnership shall be carried out in accordance with Commission Delegated Regulation (EU) No 240/2014 38 .

4. At least once a year, the Commission shall consult the organisations which represent the partners at Union level on the implementation of programmes.

ARTICLE 17

Content of programmes

3. Each programme shall set out:

(A) a summary of the main challenges, taking into account:

(I) economic, social and territorial disparities, except for programmes supported by the EMFF, **including analyses of specific geographic territories inhabited by national and linguistic minorities, where these territories are lagging behind the national and/or regional average in terms of economic, social and territorial development;**

(II) market failures, investment needs and complementarity with other forms of support;

(III) challenges identified in relevant country-specific recommendations and other relevant Union recommendations addressed to the Member State;

(IV) challenges in administrative capacity and governance;

(V) lessons learnt from past experience;

(VI) macro-regional strategies and sea-basin strategies where Member States and regions participate in such strategies;

(VII) for programmes supported by the AMIF, the ISF and the BMVI, progress in implementing the relevant Union *acquis* and action plans;

(B) a justification for the selected policy objectives, corresponding priorities, specific objectives and the forms of support;

(C) for each priority, except for technical assistance, specific objectives;

(D) for each specific objective:

(I) the related types of actions, including a list of planned operations of strategic importance, and their expected contribution to those specific objectives and to macro-regional strategies and sea-basin strategies, where appropriate;

(II) output indicators and result indicators with the corresponding milestones and targets;

(III) the main target groups;

(IV) specific territories targeted, including the planned use of integrated territorial investment, community-led local development or other territorial tools;

(V) the interregional and transnational actions with beneficiaries located in at least one other Member State;

(VI) the planned use of financial instruments;

(VII) the types of intervention and an indicative breakdown of the programmed resources by type of intervention or area of support;

(E) the planned use of technical assistance in accordance with Articles 30 to 32 and relevant types of intervention;

(F) a financing plan containing:

(I) a table specifying the total financial allocations for each of the Funds and for each category of region for the whole programming period and by year, including any amounts transferred pursuant to Article 21;

(II) a table specifying the total financial allocations for each priority by Fund and by category of region and the national contribution and whether it is made up of public and private contribution;

(IV) challenges in administrative capacity and governance;

(V) lessons learnt from past experience;

(VI) macro-regional strategies and sea-basin strategies where Member States and regions participate in such strategies;

(VII) for programmes supported by the AMIF, the ISF and the BMVI, progress in implementing the relevant Union *acquis* and action plans;

(B) a justification for the selected policy objectives, corresponding priorities, specific objectives and the forms of support;

(C) for each priority, except for technical assistance, specific objectives;

(D) for each specific objective:

(I) the related types of actions, including a list of planned operations of strategic importance, and their expected contribution to those specific objectives and to macro-regional strategies and sea-basin strategies, where appropriate;

(II) output indicators and result indicators with the corresponding milestones and targets;

(III) the main target groups;

(IV) specific territories targeted, including the planned use of integrated territorial investment, community-led local development or other territorial tools, ***taking into consideration, if necessary, special development needs of territories inhabited by national and linguistic minorities;***

(V) the interregional and transnational actions with beneficiaries located in at least one other Member State;

(VI) the planned use of financial instruments;

(VII) the types of intervention and an indicative breakdown of the programmed resources by type of intervention or area of support;

(E) the planned use of technical assistance in accordance with Articles 30 to 32 and relevant types of intervention;

(F) a financing plan containing:

(I) a table specifying the total financial allocations for each of the Funds and for each category of region for the whole programming period and by year, including any amounts transferred pursuant to Article 21;

(II) a table specifying the total financial allocations for each priority by Fund and by category of region and the national contribution and whether it is made up of public and private contribution;

(III) for programmes supported by the EMFF, a table specifying for each type of area of support, the amount of the total financial allocations of the support from the Fund and the national contribution;

(IV) for programmes supported by the AMIF, the ISF and the BMVI, a table specifying, by specific objective, the total financial allocations by type of action, the national contribution and whether it is made up of public and private contribution;

(G) the actions taken to involve the relevant partners referred to in Article 6 in the preparation of the programme, and the role of those partners in the implementation, monitoring and evaluation of the programme;

(H) for each enabling condition, established in accordance with Article 11, Annex III and Annex IV, an assessment of whether the enabling condition is fulfilled at the date of submission of the programme;

(I) the envisaged approach to communication and visibility for the programme through defining its objectives, target audiences, communication channels, social media outreach, planned budget and relevant indicators for monitoring and evaluation;

(J) the managing authority, the audit authority and the body which receives payments from the Commission.

Points (C) and (D) of this paragraph shall not apply to the specific objective set out in Article [4(C)(VII)] of the ESF+ Regulation.

(III) for programmes supported by the EMFF, a table specifying for each type of area of support, the amount of the total financial allocations of the support from the Fund and the national contribution;

(IV) for programmes supported by the AMIF, the ISF and the BMVI, a table specifying, by specific objective, the total financial allocations by type of action, the national contribution and whether it is made up of public and private contribution;

(G) the actions taken to involve the relevant partners referred to in Article 6 in the preparation of the programme, and the role of those partners in the implementation, monitoring and evaluation of the programme;

(H) for each enabling condition, established in accordance with Article 11, Annex III and Annex IV, an assessment of whether the enabling condition is fulfilled at the date of submission of the programme;

(I) the envisaged approach to communication and visibility for the programme through defining its objectives, target audiences, communication channels, social media outreach, planned budget and relevant indicators for monitoring and evaluation;

(J) the managing authority, the audit authority and the body which receives payments from the Commission.

Points (C) and (D) of this paragraph shall not apply to the specific objective set out in Article [4(C)(VII)] of the ESF+ Regulation.

ANNEX I

Dimensions and codes for the types of intervention for the ERDF, the ESF+ and the Cohesion Fund - Article 17(5)

Policy objective 1: A smarter Europe by promoting innovative and smart economic transformation

016 Skills development for smart specialisation, industrial transition and entrepreneurship

ANNEX I

Dimensions and codes for the types of intervention for the ERDF, the ESF+ and the Cohesion Fund - Article 17(5)

Policy objective 1: A smarter Europe by promoting innovative and smart economic transformation

016 Skills development for smart specialisation, industrial transition and entrepreneurship, ***including through the promotion of language and cultural diversity***

ANNEX I

Dimensions and codes for the types of intervention for the ERDF, the ESF+ and the Cohesion Fund - Article 17(5)

Policy objective 4: A more social Europe by implementing the European Pillar of Social Rights

091 Other social infrastructure contributing to social inclusion in the community

115 Measures to promote equal opportunities and active participation in society

ANNEX I

Dimensions and codes for the types of intervention for the ERDF, the ESF+ and the Cohesion Fund - Article 17(5)

Policy objective 4: A more social Europe by implementing the European Pillar of Social Rights

091 Other social infrastructure contributing to social inclusion in the community, **including that of national and linguistic minorities**

115 Measures to promote equal opportunities and active participation in society, **including that of national and linguistic minorities**

126 (a) new Promoting social integration of persons belonging to national and linguistic minority groups

ANNEX I

Dimensions and codes for the types of intervention for the ERDF, the ESF+ and the Cohesion Fund - Article 17(5)

Policy objective 5: A Europe closer to citizens by fostering the sustainable and integrated development of urban, rural and coastal areas and local initiatives

129 Protection, development and promotion of cultural heritage and cultural services

ANNEX I

Dimensions and codes for the types of intervention for the ERDF, the ESF+ and the Cohesion Fund - Article 17(5)

Policy objective 5: A Europe closer to citizens by fostering the sustainable and integrated development of urban, rural and coastal areas and local initiatives

129 Protection, development and promotion of cultural heritage and cultural services, **including the cultural heritage of national and linguistic minorities, and of cultural services aimed at preserving the culture and language of national and linguistic minority groups**

B. LIST OF PROPOSED AMENDMENTS

to the Commission Proposal for a Regulation of the European parliament and of the Council on the European Social Fund Plus (ESF+) - COM(2018) 382 final - 2018/0206 (COD)

RECITAL (14)

(14) The ESF+ should provide support to improving the quality, effectiveness and labour market relevance of education and training systems in order to facilitate the acquisition of key competences notably as regards digital skills which all individuals need for personal fulfilment and development, employment, social inclusion and active citizenship. The ESF+ should help progression within education and training and transition to work, support lifelong learning and employability, and contribute to competitiveness and societal and economic innovation by supporting scalable and sustainable initiatives in these fields. This could be achieved for example through work-based learning and apprenticeships, lifelong guidance, skills anticipation in cooperation with industry, up-to-date training materials, forecasting and graduate tracking, training of educators, validation of learning outcomes and recognition of qualifications.

RECITAL (15)

Support through the ESF+ should be used to promote equal access for all, in particular for disadvantaged groups, to quality, non-segregated and inclusive education and training, from early childhood education and care through general and vocational education and training and to tertiary level, as well as adult education and learning, thereby fostering permeability between education and training sectors, preventing early school leaving, improving health literacy, reinforcing links with non-formal and informal learning and facilitating learning mobility for all. Synergies with the Erasmus programme, notably to facilitate the participation of disadvantaged learners in learning mobility, should be supported within this context.

RECITAL (14)

The ESF+ should provide support to improving the quality, effectiveness and labour market relevance of education and training systems in order to facilitate the acquisition of key competences notably as regards digital skills which all individuals need for personal fulfilment and development, employment, social inclusion and active citizenship. The ESF+ should help progression within education and training and transition to work, support lifelong learning and employability, and contribute to competitiveness and societal and economic innovation by supporting scalable and sustainable initiatives in these fields. This could be achieved for example through work-based learning and apprenticeships, lifelong guidance, skills anticipation in cooperation with industry, up-to-date training materials, forecasting and graduate tracking, training of educators, validation of learning outcomes and recognition of qualifications. ***In areas with a considerable presence of national and linguistic minorities, the ESF+ should also support tailored measures for improving the competences, language skills and employability of persons belonging to such groups.***

RECITAL (15)

Support through the ESF+ should be used to promote equal access for all, in particular for disadvantaged groups, to quality, non-segregated and inclusive education and training, from early childhood education and care through general and vocational education and training and to tertiary level, as well as adult education and learning, thereby fostering permeability between education and training sectors, preventing early school leaving, improving health literacy, reinforcing links with non-formal and informal learning and facilitating learning mobility for all. Synergies with the Erasmus programme, notably to facilitate the participation of disadvantaged learners in learning mobility, should be supported within this context. ***In areas with a considerable presence of national and linguistic minorities, the ESF+ should also support tailored measures for education and training in mother tongue at all levels.***

RECITAL (15) (A) NEW

In areas with a considerable presence of national and linguistic minorities, the ESF+ should support community led local development (CLLD) strategies in urban and rural areas, as well as integrated territorial investments (ITI), to address the specific characteristics of such communities and the particular social and economic challenges they face.

RECITAL (18)

The ESF+ should support Member States' efforts to tackle poverty with a view to breaking the cycle of disadvantage across generations and promote social inclusion by ensuring equal opportunities for all, tackling discrimination and addressing health inequalities. This implies mobilising a range of policies targeting the most disadvantaged people regardless of their age, including children, marginalised communities such as the Roma, and the working poor. The ESF+ should promote the active inclusion of people far from the labour market with a view to ensuring their socio-economic integration. The ESF+ should be also used to enhance timely and equal access to affordable, sustainable and high quality services such as healthcare and long-term care, in particular family and community-based care services. The ESF+ should contribute to the modernisation of social protection systems with a view in particular to promoting their accessibility.

RECITAL (18)

The ESF+ should support Member States' efforts to tackle poverty with a view to breaking the cycle of disadvantage across generations and promote social inclusion by ensuring equal opportunities for all, tackling discrimination and addressing health inequalities. This implies mobilising a range of policies targeting the most disadvantaged people regardless of their age, including children, marginalised communities such as the Roma, and the working poor. The ESF+ should promote the active inclusion of people far from the labour market with a view to ensuring their socio-economic integration. The ESF+ should be also used to enhance timely and equal access to affordable, sustainable and high quality services such as healthcare and long-term care, in particular family and community-based care services. The ESF+ should contribute to the modernisation of social protection systems with a view in particular to promoting their accessibility. ***In areas with a considerable presence of national and linguistic minorities, the ESF+ should also support tailored measures for improving the social inclusion of persons belonging to such groups, including through the promotion of mother tongue use in social and healthcare services. In this regard, special attention should be paid to rural areas, where people belonging to national and linguistic minorities tend to live in large numbers and where the specific economic and social disadvantages of such areas are compounded by the particular problems persons belonging to such minorities face.***

ARTICLE 4 - PARAGRAPH 1.

Specific objectives

1. The ESF+ shall support the following specific objectives in the policy areas of employment, education, social inclusion and health and thereby also contributing to the policy objective for “A more social Europe - Implementing the European Pillar of Social Rights” set out in Article [4] of the [future CPR]:

(I) improving access to employment of all jobseekers, in particular youth and long-term unemployed, and of inactive people, promoting self-employment and the social economy;

(II) modernising labour market institutions and services to assess and anticipate skills needs and ensure timely and tailor-made assistance and support to labour market matching, transitions and mobility;

(III) promoting women’s labour market participation, a better work/life balance including access to childcare, a healthy and well-adapted working environment addressing health risks, adaptation of workers, enterprises and entrepreneurs to change, and active and healthy ageing;

EN 28 EN

(IV) improving the quality, effectiveness and labour market relevance of education and training systems, to support acquisition of key competences including digital skills;

(V) promoting equal access to and completion of, quality and inclusive education and training, in particular for disadvantaged groups, from early childhood education and care through general and vocational education and training, and to tertiary level, as well as adult education and learning, including facilitating learning mobility for all;

(VI) promoting lifelong learning, notably flexible upskilling and reskilling opportunities for all taking into account digital skills, better anticipating change and new skills requirements based on labour market needs, facilitating career transitions and promoting professional mobility;

ARTICLE 4 - PARAGRAPH 1.

Specific objectives

1. The ESF+ shall support the following specific objectives in the policy areas of employment, education, social inclusion and health and thereby also contributing to the policy objective for “A more social Europe - Implementing the European Pillar of Social Rights” set out in Article [4] of the [future CPR]:

(I) improving access to employment of all jobseekers, in particular youth and long-term unemployed, and of inactive people, promoting self-employment and the social economy;

(II) modernising labour market institutions and services to assess and anticipate skills needs and ensure timely and tailor-made assistance and support to labour market matching, transitions and mobility;

(III) promoting women’s labour market participation, a better work/life balance including access to childcare, a healthy and well-adapted working environment addressing health risks, adaptation of workers, enterprises and entrepreneurs to change, and active and healthy ageing;

EN 28 EN

(IV) improving the quality, effectiveness and labour market relevance of education and training systems, to support acquisition of key competences including digital skills;

(IV) (A) new: promoting tailored measures for improving the competences, language skills and employability of persons belonging to national and linguistic minorities in areas with a considerable presence of such groups;

(V) promoting equal access to and completion of, quality and inclusive education and training, in particular for disadvantaged groups, from early childhood education and care through general and vocational education and training, and to tertiary level, as well as adult education and learning, including facilitating learning mobility for all;

(VI) promoting lifelong learning, notably flexible upskilling and reskilling opportunities for all taking into account digital skills, better anticipating change and new skills requirements based on labour market needs, facilitating career transitions and promoting professional mobility;

(VI) (A) new: supporting tailored measures for education and training in mother tongue at all levels in areas with a considerable presence of national and linguistic minorities;

(VII) fostering active inclusion with a view to promoting equal opportunities and active participation, and improving employability;

(VIII) promoting socio-economic integration of third country nationals and of marginalised communities such as the Roma;

(IX) enhancing the equal and timely access to quality, sustainable and affordable services; modernising social protection systems, including promoting access to social protection; improving accessibility, effectiveness and resilience of healthcare systems and long-term care services;

(X) promoting social integration of people at risk of poverty or social exclusion, including the most deprived and children;

(XI) addressing material deprivation through food and/or basic material assistance to the most deprived, including accompanying measures.

(VII) fostering active inclusion with a view to promoting equal opportunities and active participation, and improving employability, **with special measures for disadvantaged groups and groups with particular needs, such as national and linguistic minorities;**

(VIII) promoting socio-economic integration of third country nationals and of marginalised communities such as the Roma;

(IX) enhancing the equal and timely access to quality, sustainable and affordable services; modernising social protection systems, including promoting access to social protection; improving accessibility, effectiveness and resilience of healthcare systems and long-term care services;

(IX) (a) new: supporting tailored measures for improving the social inclusion of persons belonging to national and linguistic minorities in areas with a considerable presence of such groups, including through the promotion of mother tongue use in social and healthcare services;

(X) promoting social integration of people at risk of poverty or social exclusion, including the most deprived and children;

(XI) addressing material deprivation through food and/or basic material assistance to the most deprived, including accompanying measures.

ARTICLE 13, PARAGRAPH 4 A (NEW)

In areas with a considerable presence of national and linguistic minorities, the ESF may support community-led local development (CLLD) strategies in urban and rural areas, as well as integrated territorial investments (ITI), to address the specific characteristics of such communities and the particular social and economic challenges they face.

C. LIST OF PROPOSED AMENDMENTS

to the Commission Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund - COM(2018) 372 final - 2018/0197 (COD)

RECITAL (27) (A) NEW

In order to facilitate smart specialisation that takes the greatest possible account of local specificities, needs and potential, the ERDF should also be able to finance community-led local development strategies that address the specific economic, social and cultural characteristics of regions inhabited by national and linguistic minorities, and build on these characteristics to stimulate innovation.

ARTICLE 2 SPECIFIC OBJECTIVES FOR THE ERDF AND THE COHESION FUND

(E) 'a Europe closer to citizens by fostering the sustainable and integrated development of urban, rural and coastal areas and local initiatives' ('PO 5') by:

(I) fostering the integrated social, economic and environmental development, cultural heritage and security in urban areas;

(II) fostering the integrated social, economic and environmental local development, cultural heritage and security, including for rural and coastal areas also through community-led local development.

ARTICLE 2 SPECIFIC OBJECTIVES FOR THE ERDF AND THE COHESION FUND

(E) 'a Europe closer to citizens by fostering the sustainable and integrated development of urban, rural and coastal areas and local initiatives' ('PO 5') by:

(I) fostering the integrated social, economic and environmental development, cultural heritage and security in urban areas;

(II) fostering the integrated social, economic and environmental local development, cultural heritage and security, including for rural and coastal areas **as well as areas with a considerable presence of national and linguistic minorities**, also through community-led local development.

D. LIST OF PROPOSED AMENDMENTS

to the Commission Proposal for a regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments - COM(2018) 374 final - 2018/0199(COD)

RECITAL (9) (A) NEW

Cooperation between border regions can improve the opportunities for European national and linguistic minorities to preserve and develop their culture. Interreg programmes should therefore take account of the specific needs of national and linguistic minorities living in border regions in the design and resource allocation of the cross-border cooperation programmes. Interreg programmes should therefore support the building of structures which support such minority communities.

RECITAL (11)

IPA III assistance should mainly focus on assisting the IPA beneficiaries to strengthen democratic institutions and the rule of law, reform the judiciary and public administration, respect fundamental rights and promote gender equality, tolerance, social inclusion and non-discrimination. IPA assistance should continue to support the efforts of the IPA beneficiaries to advance regional, macro-regional and cross-border cooperation as well as territorial development, including through the implementation of Union macro-regional strategies. In addition, IPA assistance should address security, migration and border management, ensuring access to international protection, sharing relevant information, enhancing border control and pursuing common efforts in the fight against irregular migration and migrant smuggling.

RECITAL (11)

IPA III assistance should mainly focus on assisting the IPA beneficiaries to strengthen democratic institutions and the rule of law, reform the judiciary and public administration, respect fundamental rights, **including the rights of persons belonging to national and linguistic minorities as foreseen in the relevant international documents** and promote gender equality, tolerance, social inclusion and non-discrimination. IPA assistance should continue to support the efforts of the IPA beneficiaries to advance regional, macro-regional and cross-border cooperation as well as territorial development, including through the implementation of Union macro-regional strategies. In addition, IPA assistance should address security, migration and border management, ensuring access to international protection, sharing relevant information, enhancing border control and pursuing common efforts in the fight against irregular migration and migrant smuggling.

ARTICLE 14

Interreg-specific objectives

1. The ERDF, within its scope as set out in Article [4] of Regulation (EU) [new ERDF], and, where applicable, the external financing instruments of the Union shall contribute to the policy objectives set out in Article [4(1)] of Regulation (EU) [new CPR] through joint actions under Interreg programmes.

2. In the case of the PEACE PLUS programme, where it is acting in support of peace and reconciliation, the ERDF, as a specific objective under policy objective 4, shall also contribute to promoting social, economic and regional stability in the regions concerned, in particular through actions to promote cohesion between communities. A separate priority shall support that specific objective.

3. In addition to the specific objectives for the ERDF as set out in Article [2] of Regulation (EU) [new ERDF], the ERDF and, where applicable, the external financing instruments of the Union may also contribute to the specific objectives under PO 4 as follows:

(A) enhancing the effectiveness of labour markets and improving access to quality employment across borders;

(B) improving access to and the quality of education, training and lifelong learning across borders with a view to increasing the educational attainment and skills levels thereof as to be recognised across borders;

(C) enhancing the equal and timely access to quality, sustainable and affordable healthcare services across borders;

(D) improving accessibility, effectiveness and resilience of healthcare systems and long-term care services across borders;

(E) promoting social inclusion and tackling poverty, including by enhancing equal opportunities and combating discrimination across borders.

ARTICLE 14

Interreg-specific objectives

1. The ERDF, within its scope as set out in Article [4] of Regulation (EU) [new ERDF], and, where applicable, the external financing instruments of the Union shall contribute to the policy objectives set out in Article [4(1)] of Regulation (EU) [new CPR] through joint actions under Interreg programmes.

1. (A) new: In the case of cross-border areas, where in one participating state there are national and linguistic minorities which constitute the majority in another participating state, Interreg programmes shall take into account the specific needs of these minorities in the design and resource allocation of cross-border cooperation programmes and shall finance the building of structures which support such minority communities.

2. In the case of the PEACE PLUS programme, where it is acting in support of peace and reconciliation, the ERDF, as a specific objective under policy objective 4, shall also contribute to promoting social, economic and regional stability in the regions concerned, in particular through actions to promote cohesion between communities. A separate priority shall support that specific objective.

3. In addition to the specific objectives for the ERDF as set out in Article [2] of Regulation (EU) [new ERDF], the ERDF and, where applicable, the external financing instruments of the Union may also contribute to the specific objectives under PO 4 as follows:

(A) enhancing the effectiveness of labour markets and improving access to quality employment across borders;

(B) improving access to and the quality of education, training and lifelong learning across borders with a view to increasing the educational attainment and skills levels thereof as to be recognised across borders;

(C) enhancing the equal and timely access to quality, sustainable and affordable healthcare services across borders;

(D) improving accessibility, effectiveness and resilience of healthcare systems and long-term care services across borders;

(E) promoting social inclusion and tackling poverty, including by enhancing equal opportunities and combating discrimination across borders.

4. Under components 1, 2, and 3, the ERDF and, where applicable, the external financing instruments of the Union may also support the Interreg-specific objective 'a better Interreg governance', in particular by the following actions:

(A) under component 1 and 2B Interreg programmes:

(I) enhance the institutional capacity of public authorities, in particular those mandated to manage a specific territory, and of stakeholders;

(II) enhance efficient public administration by promoting legal and administrative cooperation and cooperation between citizens and institutions, in particular, with a view to resolving legal and other obstacles in border regions;

(B) under component 1, 2 and 3 Interreg programmes: enhance institutional capacity of public authorities and stakeholders to implement macro-regional strategies and sea-basin strategies;

(C) under external cross-border and component 2 and 3 Interreg programmes supported by the Interreg funds, in addition to points (a) and (b): building up mutual trust, in particular by encouraging people-to-people actions, by enhancing sustainable democracy and by supporting civil society actors and their role in reforming processes and democratic transitions;

5. Under external cross-border and component 2 and 3 Interreg programmes the ERDF and, where applicable, the external financing instruments of the Union shall also contribute to the external Interreg-specific objective 'a safer and more secure Europe', in particular by actions in the fields of border crossing management and mobility and migration management, including the protection of migrants.

4. Under components 1, 2, and 3, the ERDF and, where applicable, the external financing instruments of the Union may also support the Interreg-specific objective 'a better Interreg governance', in particular by the following actions:

(A) under component 1 and 2B Interreg programmes:

(I) enhance the institutional capacity of public authorities, in particular those mandated to manage a specific territory, and of stakeholders;

(II) enhance efficient public administration by promoting legal and administrative cooperation and cooperation between citizens and institutions, in particular, with a view to resolving legal and other obstacles in border regions;

(B) under component 1, 2 and 3 Interreg programmes: enhance institutional capacity of public authorities and stakeholders to implement macro-regional strategies and sea-basin strategies;

(C) under external cross-border and component 2 and 3 Interreg programmes supported by the Interreg funds, in addition to points (a) and (b): building up mutual trust, in particular by encouraging people-to-people actions, by enhancing sustainable democracy and by supporting civil society actors and their role in reforming processes and democratic transitions;

5. Under external cross-border and component 2 and 3 Interreg programmes the ERDF and, where applicable, the external financing instruments of the Union shall also contribute to the external Interreg-specific objective 'a safer and more secure Europe', in particular by actions in the fields of border crossing management and mobility and migration management, including the protection of migrants.

4. RESEARCH INTO THE ADDED VALUE OF MINORITIES TO SOCIAL AND ECONOMIC DEVELOPMENT IN EUROPE

BACKGROUND

Provisions from the Minority Safepack Initiative:

Research into the added value of minorities to social and economic development in Europe

The new Horizon 2020 programme aims at promoting research and innovation that will help to deliver jobs, prosperity and quality of life. Research can generate solutions for the challenges faced by society. In our opinion there is a lack of understanding about the role that national minorities and cultural and linguistic diversity in Europe can play in strengthening the Union and the regions of the Union.

The new programme shall prioritise research into societal challenges, including the role of national minorities and cultural and linguistic diversity in relation to demographic change, cross-border economic and social development, and their impact on regions in Europe.

Legal basis: Article 173(3) and Article 182(1) TFEU Instrument: Regulation (amending the existing Regulation for Horizon 2020)

JUSTIFICATION

In the European Union about 50 million people — almost 10% of all EU citizens — belong to a national minority or a minority-language community. These people contribute to the cultural and linguistic diversity of the EU and to its economic growth and social development.

However, the situation of many minorities across Europe is deteriorating. Political, economic and social forces and globalisation itself all contribute to an accelerating trend of assimilation and language loss. These forces are also often compounded by hostile and discriminatory state policies and lack of respect for the right of these minorities to their specific identity with all the linguistic, educational and democratic participation rights that entails. Often, even the display of their identity-related symbols is seen as an affront to the sovereignty of the states they live in, despite all the provisions from existing international reference documents. As a result, the situation of such minorities is deteriorating and, without effective and timely action, the cultural value they represent is at risk of slowly disappearing.

There therefore appears to be a real need for research mapping the challenges linguistic and national minorities face in the European Union and developing potential solutions to these challenges, which could form the basis for EU and Member State policies.

From an economic perspective, multilingualism and multiculturalism, both characteristics of multi-ethnic societies, represent important sources fuelling innovation and creativity, seen as key drivers of so-

cial and economic success.¹ Cultural diversity can become a growth factor and ethnic diversity can have a complex effect on a country's economic performance, by virtue of expressing difference in individual identity, which translates into differences in preferences, leads to cognitive diversity, improves performance at problem solving and predictive tasks.² Conversely, a conflictual relationship between minorities and majorities can have detrimental consequences for economic development, potentially jeopardising inclusive growth. It has been shown that in some cases patterns of ethnic and minority segregation intersect strongly with socio-economic disadvantage and inequalities in the labour market.³

Research through the Horizon Europe Programme⁴ on such aspects of minority-majority relations could make a real contribution to analysing and overcoming dividing lines that may exist in multicultural and multiethnic societies, thereby helping solve some societal challenges linked to economic and societal inclusion or social unrest. In this sense, it could also contribute to and support the implementation of the inclusion aspects of the 2030 Agenda on sustainable development.⁵

Horizon Europe research could also analyse the potential of multiculturalism and multilingualism to boost innovation potential, beneficially impacting competitiveness and economic growth. Facilitating minority and majority interactions, as representations of different cultural and linguistic backgrounds, can foster higher quality innovation, especially when it comes to aspects linked to social innovation, inclusion of all citizens in innovation, equal public outreach, co-creation and co-design.

List of proposed amendments to the Proposal for a Regulation of the European Parliament and of the Council establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, Brussels, 7.6.2018, COM(2018) 435 final, 2018/0224(COD)

-
- 1 For example EACEA (2009), Study on the Contribution of Multilingualism to Creativity, http://www.labeleuropeolingue.it/download/politiche/Lingua%20e%20creativit%C3%A0/Lingua%20e%20creativit%C3%A0_testo%20intergrale.pdf
 - 2 Scott E. Page (2007): *The Difference: How The Power of Diversity Creates Better Groups, Firms, Schools, and Societies*. Princeton, NJ: Princeton University Press.
 - 3 Richard H., Ron J., David M. (2015): *The changing interaction of ethnic and socio-economic segregation in England and Wales, 1991–2011*, <https://doi.org/10.1177/1468796815595820>.
 - 4 Regulation of The European Parliament and of the Council establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, Brussels, 7.6.2018, COM(2018) 435 final, 2018/0224(COD)
 - 5 The United Nations' strategic document refers to 3 dimensions of inclusion in the description of the 17 Sustainable Development Goals, i.e.: social inclusion, financial inclusion and political inclusion.

AMENDMENTS PROPOSED TO DRAFT REGULATION

Original text

ANNEX I, (2) PILLAR II 'GLOBAL CHALLENGES AND INDUSTRIAL COMPETITIVENESS'

The R&I activities will be implemented in and across the following clusters:

(B) Cluster 'Inclusive and secure society': **Strengthening European democratic values, including rule of law and fundamental rights, safeguarding our cultural heritage, and promoting socio-economic transformations that contribute to inclusion and growth**, while responding to the challenges arising from persistent security threats, including cybercrime, as well as natural and man-made disasters.

Areas of intervention: **Democracy; Cultural heritage; Social and economic transformations;** Disaster-resilient societies; Protection and Security; Cybersecurity.

Proposed amended text

ANNEX I, (2) PILLAR II 'GLOBAL CHALLENGES AND INDUSTRIAL COMPETITIVENESS'

The R&I activities will be implemented in and across the following clusters:

(B) Cluster 'Inclusive and secure society': **Strengthening European democratic values, including rule of law and fundamental rights, strengthening the situation of national and linguistic minorities and building on their socio-economic and cultural value, safeguarding our cultural heritage, and promoting socio-economic transformations that contribute to inclusion and growth**, while responding to the challenges arising from persistent security threats, including cybercrime, as well as natural and man-made disasters.

Areas of intervention: **Democracy; Cultural heritage; Social and economic transformations; National and linguistic minorities; Multilingualism and multiculturalism; Demographic change; Social, financial and political inclusion;** Disaster-resilient societies; Protection and Security; Cybersecurity.

5. APPROXIMATING EQUALITY FOR STATELESS MINORITIES

BACKGROUND

Provisions from the Minority Safepack Initiative:

Approximating equality for stateless minorities

There are hundreds of thousands of stateless persons in Europe.³⁴ Many of these persons belong to national minorities, and have been living in the EU for decades. They are often marginalised. They risk being excluded from education, healthcare, social assistance and the right to vote. A stateless person may not be able to travel or work legally. As a result they have to contend with inequality and discrimination. A great number of stateless persons in Europe are Roma.

The European Union is not in the position to solve the fundamental problem of stateless persons, as the EU itself cannot provide them with citizenship; that is the prerogative of the Member States.³⁵ However, the EU can help to make their life better. In EU lingo, stateless people fall under the general category “third-country nationals”³⁶ for which the EU is under the obligation to develop a common policy that aims at fair treatment of third-country nationals who legally reside in the Union, and define their rights, including the conditions governing freedom of movement, and of residence in other Member States.³⁷ An extension of citizens-related rights to stateless persons and their families, who have been living in their country of origin for the whole of their lives, can alleviate a lot of these persons’ problems.

In the past 10 years a number of Directives have been adopted that deal with the rights of certain categories of third-country nationals (including stateless persons).³⁸ Nevertheless there are still categories of persons who are excluded from this framework, and differences exist between the rights of stateless persons and those of EU-citizens in a similar situation, e.g. in regard to work permits, family reunification and in regard to the provision of services.

We propose the adoption of an amendment to the directives that allows for the approximation of the rights of long-term stateless persons and their families to those of EU-citizens.

Legal basis: Article 79(2) TFEU

Instrument: Directive (amendment)

DIRECTIVE

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 202....

amending Council Directive 2003/109/EC to strengthen its protection and to simplify its procedures for stateless persons (Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2) (A) and (B) thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure

Whereas:

(1) Several hundred thousand people in the European Union are stateless.¹ In the European Union, statelessness occurs both in the migratory context, and among people who have lived in the same place for generations. The majority of stateless people belong to national minorities which have traditionally been living in the European Union. Stateless people are often prevented from participating in economic, social and political life in either their host states or in their states of birth. As a result, they are highly vulnerable and have to contend with discriminations and inequality.²

(3) Article 67(2) of the Treaty on the Functioning of the European Union clarifies that stateless people shall be treated as third-country nationals for the purpose of Title V of the same Treaty. Furthermore, Article 79 thereof foresees an obligation for the European Union to develop a common policy aiming at fair treatment of third-country nationals who legally reside in the European Union and to define their rights, including the conditions governing freedom of movement and residence in the Member State.

(4) In this regard, it must be taken into consideration that the European Council, at its special meeting in Tampere on 15 and 16 October 1999, stated that the legal status of third-country nationals should be approximated to that of Member States' nationals, and that a person who has resided legally in a Member State for a period of time to be determined and who holds a long-term residence permit should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by citizens of the European Union.

(5) On 4 December 2015, the Council and the Representatives of the Governments of the Member States reiterated, in their conclusions on statelessness, the importance of identifying stateless people and strengthening their protection, thereby allowing them to enjoy core fundamental rights and reducing the risk of discrimination or unequal treatment.³

(5) The rights mentioned in this Directive should be granted to all stateless people, both those covered by the United Nations Convention relating to the Status of Stateless Persons of 28 September

1 UNHCR Statistical Yearbook 2016, page 7 ff.

2 European Parliament resolution of 8 September 2015 on the situation of fundamental rights in the European Union (2013-2014) (2014/2254(INI)), para. 167.

3 Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, Press release 893/15, 4 December 2015.

1954 and those outside the scope of that Convention.⁴

(6) This Directive should be without prejudice to the rights and benefits guaranteed under the United Nations Convention relating to the Status of Stateless Persons of 28 September 1954.

(7) This Directive respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and by the Charter of Fundamental Rights of the European Union.

(8) Furthermore, in light of the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level of 5 February 1992, the European Union encourages the Member States to strengthen integration of foreign residents by involving them in local elections. It is an indispensable step for integration and recognition of long-term-resident stateless people as equal members of their respective local communities.

(9) In accordance with Articles 1 and 2 of the Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland does not take part in the adoption of this Directive and is not bound by it nor subject to its application.

(10) In accordance with Articles 1 and 2 of the Protocol (No 22) on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption of this Directive and is not bound by it nor subject to its application,
HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2003/109/EC is amended as follows:

(1) in Article 2, the following point is added:

‘(H) ***‘stateless persons’ means a person who is not considered a national by any State under the operation of its law.***’

(2) in Article 5, the following paragraph is added:

‘3. The conditions referred to in paragraphs 1 and 2 shall not apply to stateless persons and other persons who do not hold the nationality of any country, who reside in a Member State and are holders of a travel document issued by that Member State.’

(3) in Article 11, paragraph 4 is amended as follows:

‘4. Member States may limit equal treatment in respect of social assistance and social protection to core benefits. The said limitation shall not apply to stateless persons and other persons who do not hold the nationality of any country, who reside in a Member State and are holders of a travel document issued by that Member State.’

(4) in Article 15, paragraph 3 is replaced by the following:

‘3. Member States may require third-country nationals to comply with integration measures, in accord-

⁴ See also Article 4(2)(c) of Regulation (EU) 2018/1806 of the European Parliament and the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (JO L 303, 28.11.2018, p. 39).

ance with national law.

This condition shall apply ***neither to stateless persons and other persons who do not hold the nationality of any country, who reside in a Member State and are holders of a travel document issued by that Member State, nor*** where the third-country nationals concerned have been required to comply with integration conditions in order to be granted long-term resident status, in accordance with the provisions of Article 5(2).

Without prejudice to the second subparagraph, the persons concerned may be required to attend language courses.'

(5) in Article 21, paragraph 2 is replaced by the following:

'2. Long-term residents shall have access to the labour market in accordance with the provisions of paragraph 1.

Member States may provide that the persons referred to in Article 14(2)(A) shall have restricted access to employed activities different than those for which they have been granted their residence permit under the conditions set by national legislation for a period not exceeding 12 months. ***The said limitation shall not apply to stateless persons and other persons who do not hold the nationality of any country, who reside in a Member State and are holders of a travel document issued by that Member State.***

Member States may decide in accordance with national law the conditions under which the persons referred to in Article 14(2)(B) or (C) may have access to an employed or self-employed activity. ***The said conditions shall be no less beneficial for stateless persons and other persons who do not hold the nationality of any country, who reside in a Member State and are holders of a travel document issued by that Member State, than for any other third-country national.***

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by _____ 202__. They shall inform the Commission thereof forthwith. When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day following its publication in the Official Journal of the European Union.

Article 4

This Directive is addressed to the Member States in accordance with the Treaties.

6. IMPROVING CROSS-BORDER ACCESS TO AUDIOVISUAL MEDIA SERVICES AND CONTENTS

BACKGROUND

Provisions from the Minority SafePack Initiative

Amending the Audio-visual Media Services Directive

The development of a single market for intellectual property rights will be a long-term process. Before such a single market can be established, existing legislation should be amended to ensure freedom of reception, and abolish restrictions to retransmission of audio-visual media services.⁴⁰ At present, unrestricted access of certain programmes is only guaranteed by a arduous procedure, which entails that the Member State of reception sends a list of programmes to the Member State where the broadcaster is located.

We propose an amendment with the effect of ensuring that there will be freedom of service and freedom of reception of audio-visual content (both analogue/digital broadcasting and on-demand services, terrestrial and satellite) in those regions where national minorities live.

Legal basis: Article 53(1) and Article 62 TFEU

Instrument: Directive (amending the existing Media Services Directive)

JUSTIFICATION

The single market is one of the pillars of European integration, the engine of common growth that has created new opportunities for both EU businesses and citizens. Exploiting the opportunities of the single market would contribute to the competitiveness and growth of the European Union. In order to strengthen the functioning of the single market, in particular as regards its digital dimension, it is necessary to provide for wider dissemination across the Union of television and radio programmes originating in other Member States. The European Commission has repeatedly affirmed this objective.¹ At the same time, unrestricted cross-border access to broadcasting services is in the interest of citizens. This applies in particular to all citizens exercising their right of free movement and living in another Member State, and is all the more important for citizens belonging to national or linguistic minorities who speak a language which is also used in neighbouring countries. These minorities are often too small to build up comprehensive media services of their own, so that access to the media of neighbouring countries with the same language is of vital interest.

Against this background, it is regrettable that restrictions on the cross-border broadcast of audiovisual content are still widespread in the European Union. Broadcasting rights are generally licensed by right holders to broadcasters on a territorial basis. In many cases, the license agreements concluded for this

¹ See, for instance, European Commission Proposal for a Regulation of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, COM(2016) 594 final of 14.9.2016, p. 2 and 10.

purpose between right holders and broadcasters contain contractual clauses restricting the reception and access by the public to broadcasting services solely in the territory of the country where the communication to the public takes place. These restrictions exist for all kinds of transmission technologies (satellite, internet, etc.) and may take different forms: prohibition from selling decoding devices outside the licensed territory, geo-blocking of consumers, etc. While it is not prohibited *per se* for right holders to grant exclusive broadcasting to broadcasters on a territorial basis, license agreements which are designed to prohibit or limit the cross-border provision of broadcasting services constitute, in principle, prohibited restrictions on competition pursuant to Article 101(1) TFEU.

In light of this, preventing unjustified geographically-based content restrictions can be solved efficiently in the long term only by adopting rules at EU level. Even though the Commission has already recognised the gravity of the problem (e.g. in the Digital Single Market Strategy and the Single Market Strategy), as well as its negative impact on competitiveness and growth, further steps are necessary to put an end to the discrimination against citizens on the basis of their place of residence.

Based on those considerations, the MSPI proposes for the consideration of the Commission a solution to the problems described above aiming at a targeted review of three Union legal acts:

1. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive);
2. Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission;
3. Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC.

Explanation of the proposed amendments

1. Audiovisual Media Services Directive (AVMSD)

The fundamental framework for the broadcasting of audiovisual content is provided by media legislation. We therefore examined how the desired objective — the elimination of geographically-based restrictions — could be achieved by means of media legislation. The AVMSD, while upholding strict customer protection standards, reinforces the EU's television and audiovisual sector by simplifying regulation and creating neutral conditions for competition in providing cross-border broadcasting of audiovisual media services.

In our view, the approach laid down in Article 14 of the AVMSD is an adequate starting point for finding a solution to the problem of geo-blocking of broadcasting services. Article 14 provides for a possibility for Member States to prevent broadcasters under their jurisdiction from broadcasting events of major importance for society exclusively on pay-TV, thereby ensuring public access to these events on free television. Each Member State is entitled to draw up a list of events (national or non-national), which it considers to be of major importance for society, which it must notify to the Commission.

We welcome that Article 14 and the accompanying recitals (48)-(53) already acknowledge the special status of events of major importance for society, especially sports events of high interest to the public,

and facilitate wide access to them. Further, we deem it appropriate to enable Member States to adopt measures allowing events of major importance for society to be viewed by EU citizens in any Member State, in their own mother tongue, even in cases where the exclusive broadcasting rights of a broadcaster to broadcast the event concerned in the territory of a certain Member State do not allow it. In order to create a fair balance between the different interests, appropriate safeguards are also proposed.

2. Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission

The MSPI holds that two aspects of the described problem could be addressed by a targeted amendment of the Directive, building on the findings of the Court of Justice of the European Union (CJEU) in its judgement of *joint cases C-403/08 and C-429/08 Football Association Premier League and Others* (“Premiere League Case”). As a first element, the possibility of incorporating contractual provisions in license agreements that prohibit the sale of decoding devices outside the licensed territory should be excluded. Secondly, Member States’ unlawful provisions prohibiting the import, sale and use of foreign decoding devices should be eliminated.

Excluding the possibility to incorporate contractual provisions in license agreements that prohibit the sale of decoding devices outside the licensed territory

In the judgement of the Premiere League Case, the CJEU laid down that a provision in the exclusive license agreement concluded between the right holders and the broadcasters which prevents the broadcaster from supplying decoding devices enabling access to that right holder’s protected subject matter with a view to their use outside the territory covered by that license agreement is considered to restrict competition under Article 101(1) of the Treaty on the Functioning of the European Union (TFEU).

Paragraphs 139-144 of the judgment stipulate that, in accordance with the case law of the CJEU, those agreements which aim at reintroducing national fragmentation regarding trade between Member States can prevent the fulfilment of the Treaty’s objectives to create a common market by the integration of national markets. Therefore, agreements aiming at partitioning national markets according to national borders or making the interpenetration of national markets more difficult must be regarded, in principle, as agreements whose object is to restrict competition within the meaning of Article 101(1) TFEU. Since the license agreements between the right holders and the broadcasters intend to prohibit or restrict the provision of cross-border broadcasting services, those must be regarded as having the objective to restrict competition, unless it can be concluded from the legal and economic circumstances of the agreement that it cannot be deemed liable to distort competition.

The judgement of the CJEU also states that the provisions which oblige the broadcasters not to supply decoding devices enabling access to the right holder’s protected work are capable of eliminating competition between the broadcasters, as the provisions prohibit the broadcasters from providing cross-border broadcasting services and allow for each broadcasting organisation to ensure territorial exclusivity in the covered territory. In this judgement the CJEU concluded that the above-mentioned provisions of the exclusive license agreements aim at the distortion of competition, therefore these agreements constitute a restriction on competition within the meaning of Article 101(1) TFEU.

The draft proposal aims at endorsing the above-mentioned conclusions of CJEU drawn in the Premier League Case. We propose to deem unenforceable those provisions in which the right holder prohibits

broadcasters from supplying decoding devices in a Member State different from where the communication to the public by satellite broadcasting takes place. This regulatory solution is inspired by the legal technical solution in Article 7(1) of Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market.

Elimination of Member States' unlawful provisions prohibiting the import, sale and use of foreign decoding devices

As the CJEU confirms in its judgment in the Premier League Case, *“the actual origin of the obstacle to the reception of such services is to be found in the contracts concluded between the broadcasters and their customers, which in turn reflect the territorial restriction clauses included in contracts concluded between those broadcasters and the holders of intellectual property rights.”* Furthermore, it is important to highlight another argument of the judgment, according to which national legislation that confers legal protection on the above-mentioned territorial restrictions to the marketing of foreign decoding devices which give access to an encrypted satellite broadcasting service from another Member State, being applied in contractual practice, and that requires compliance with these contractual restrictions by rendering civil liability and imposing pecuniary sanctions for non-compliance, restricts the freedom to provide services. Consequently, the legislation concerned constitutes a restriction on the freedom to provide services which is prohibited by Article 56 TFEU unless it can be objectively justified.

The judgment of the CJEU clarified that a Member State's legislation which makes it unlawful to import, sell and use in that State foreign decoding devices which give access to an encrypted satellite broadcasting service from another Member State — that includes works protected by the legislation of the first State — is contrary to Article 56 TFEU.

The draft proposal addresses the elimination of those provisions of Member States which restrict the right to provide services by prescribing the removal of obstacles to the import, sale and use of foreign decoding devices which give access to encrypted satellite broadcasting services.

3. Directive 2019/789 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC

It is important to highlight that the proposals to amend Directive 93/83/EEC concern only satellite transmission, while in practice the consumption of content is becoming more common through online services, also in cross-border context. Therefore, we welcome that the so-called *‘country of origin’* principle, also established by Directive 93/83/EEC, is now extended to ancillary online services as set out in Article 3 of Directive 2019/789. The *‘country of origin’* principle aims at facilitating the clearance of rights for the provision of ancillary online services across borders, meaning that the broadcasting organisation must clear the copyright and related rights in the works or other protected subject matter used in the programmes, only where the broadcasting organisation has its principal establishment. That principle covers the clearance of all rights necessary for a broadcasting organisation to be able to communicate to the public or make available to the public its programmes when providing ancillary online services.

However, as regards the scope of application of this principle, our concern is that the directive will not significantly improve EU-wide access for users to audiovisual contents and, thus, will not contribute to the creation of a digital single market as conceived by the European Commission. As it stands now, the '*country of origin*' principle applies only to ancillary online services, and thus only to radio programmes and certain types of television programmes — namely news and current affairs programmes and fully financed own productions of the broadcasting organisations — which need be made available only for a short period of time. Sports events, contents, which have not been broadcast before on television and other television programmes are excluded. The types of programmes falling under the scope of this directive represent only a small fraction of all available audiovisual content in the European Union and do not even require, by their very nature, any regulatory measures in this regard. Against this background, we invite the European Commission to revise this directive to enlarge the scope of the '*country of origin*' principle

The e-commerce sector inquiry carried out by the European Commission has revealed that online transmissions of audiovisual content are subject to restrictions in many ways.² In this regard, it is important to highlight that the findings the European Court of Justice in the Premier League Case, explained in detail above, are equally applicable to online transmission of audiovisual content. In its ruling, the European Court of Justice did not distinguish between the different existing broadcasting technologies. This understanding has since been explicitly confirmed in case T-873/16 (Groupe Canal + v Commission). Therefore, it is necessary to develop accordingly legislative solutions preventing the incorporation of contractual provisions in license agreements that prohibit the online transmission of audiovisual content outside the licensed territory.

² For more details see European Commission Staff Working Document accompanying the final report on the E-commerce Sector Inquiry, SWD(2017) 154 final of 10.5.2017, para. 805 ff.

A. DRAFT PROPOSAL

for an amendment of Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

Article 14 of the Directive sets out the following:

1. Each Member State may take measures in accordance with Union law to ensure that broadcasters under its jurisdiction do not broadcast on an exclusive basis events which are regarded by that Member State as being of major importance for society in such a way as to deprive a substantial proportion of the public in that Member State of the possibility of following such events by live coverage or deferred coverage on free television. If it does so, the Member State concerned shall draw up a list of designated events, national or non-national, which it considers to be of major importance for society. It shall do so in a clear and transparent manner in due time. In so doing the Member State concerned shall also determine whether these events should be available by whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage.

2. Member States shall immediately notify to the Commission any measures taken or to be taken pursuant to paragraph 1. Within a period of 3 months from the notification, the Commission shall verify that such measures are compatible with Union law and communicate them to the other Member States. It shall seek the opinion of the contact committee established pursuant to Article 29. It shall forthwith publish the measures taken in the Official Journal of the European Union and at least once a year the consolidated list of the measures taken by Member States.

3. Member States shall ensure, by appropriate means within the framework of their legislation, that broadcasters under their jurisdiction do not exercise the exclusive rights purchased by those broadcasters after 18 December 2007 in such a way that a substantial proportion of the public in another Member State is deprived of the possibility of following events which are designated by that other Member State in accordance with paragraphs 1 and 2 by whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage on free television as determined by that other Member State in accordance with paragraph 1.

We propose that Article 14 be amended by the addition of the following new paragraph 4:

4. Member States, in compliance with Union law, shall facilitate access, for consumers residing in their territory, on fair and reasonable terms, where applicable, for proper consideration in line with market conditions, to those exclusive-basis events provided by broadcasters which are of major importance for society, set out in the list of designated events of another Member State pursuant to paragraph 1, legally established and authorised in another Member State.

We also propose that the preamble to the Directive be amended by adding the following recital:

(+1) Considering the right to free movement of Union citizens, the free movement of workers, the freedom of establishment and the freedom to provide services, and in order to respect and promote cultural and linguistic diversity, as well as considering the social importance of sport, it is appropriate to create a regulatory framework that enables Member States to adopt measures which allow events of major importance

for society, and especially sports events of high interest to the public, to be freely viewed by Union citizens, in any Member State, in their own mother tongue. Even in cases where the exclusive rights of a broadcaster to broadcast the event concerned in the territory of a certain Member State do not allow it, nevertheless, a broadcaster in another Member State has broadcasting rights allowing it to provide its service in that language. In this case Member States can adopt measures that promote – with adequate consideration if needed - the conclusion of agreements between the two broadcasters.

B. DRAFT PROPOSAL

for the targeted amendment of Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission

1. Proposals to exclude the possibility of incorporating contractual provisions in license agreements that prohibit the sales of decoding devices outside the licensed territory

We propose that the following recitals be added to the preamble to the Directive:

PREAMBLE

(+) License agreements concluded between right holders and broadcasting organisations aiming at acquiring the right to communicate broadcasting services to the public by satellite broadcasting contain a clause ensuring territorial exclusivity, thereby imposing an obligation to encode these programmes, as well as prohibiting broadcasting organisations from marketing decoding devices in a Member State different from where the communication to the public by satellite broadcasting takes place. In the judgment of the Court of Justice of the European Union in joint cases C-403/08 and C-429/08 Football Association Premier League and Others, it was stipulated that agreements which aim at partitioning national markets according to national borders or make the interpenetration of national markets more difficult must be regarded, in principle, as agreements whose object is to restrict competition within the meaning of Article 101(1) TFEU.

(++) The provisions of license agreements aiming at acquiring rights of broadcasting services which prohibit broadcasting organisations from marketing decoding devices in a Member State different from where the communication to the public by satellite broadcasting takes place should be unenforceable.

We propose that the following paragraph be added to Article 3 of the Directive:

ARTICLE 3 – ACQUISITION OF BROADCASTING RIGHTS

(+5) Any contractual provision of a license agreement aiming at acquiring the right to communicate to the public broadcasting services by satellite broadcasting concluded between a right holder and a broadcasting organisation which prohibits or restricts the free trade of decoding devices within the European Union shall be unenforceable.

In view of the above-detailed provisions we suggest omitting recital 16 of the Directive currently force.

(16) Whereas the principle of contractual freedom on which this Directive is based will make it possible to continue limiting the exploitation of these rights, especially as far as certain technical means of transmission or certain language versions are concerned;

2. Proposals to eliminate Member States' unlawful provisions prohibiting the import, sale and use of foreign decoding devices

We propose that the following recital be added to the preamble to the Directive:

PREAMBLE

(+++)
Some Member States provide legal protection for provisions included in agreements concluded between right holders of broadcasting services and broadcasting organisations, ensuring territorial exclusivity by prohibiting the sale of decoding devices in another Member State where communication to the public by satellite broadcasting takes place. This legal protection requires broadcasting organisations to comply with these contractual provisions, rendering civil liability and pecuniary sanctions for non-compliance. The judgment of the Court of Justice of the European Union pointed out that Article 56 TFEU precludes legislation of a Member State which makes it unlawful to import, sell and use in that State foreign decoding devices which give access to an encrypted satellite broadcasting service from another Member State that includes works protected by the legislation of that first State. Such obstacles to the freedom to provide services stemming from the Member States should be removed in order to ensure the proper functioning of the internal market.

We propose that the following Article be inserted after Article 3 of the Directive:

ARTICLE 3A

Member States shall remove all obstacles to the import, sale and use of foreign decoding devices which provide access to encrypted satellite broadcasting services.

C. DRAFT PROPOSAL

for an amendment to Directive 2019/789 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC

We propose that the following recitals be added to the preamble to the Directive:

PREAMBLE

(+) In order to make a major step in completing the digital single market, thereby strengthening growth, competitiveness and innovation in the European Union, and improving access for citizens across the European Union to audiovisual content from other Member States, it is necessary to grant the widest possible scope of application to the country of origin principle as regards ancillary online services. The previously chosen approach had no significant impact, since it addressed only certain types of programmes which did not necessitate, by their very nature, regulatory measures, and represented only a small fraction of all audiovisual content in the European Union. Furthermore, a comprehensive approach which is not limited to certain types of content would reduce legal uncertainty and the administrative burden for broadcasters, since it would not be necessary to analyse, on a case-by-case basis, whether the country of origin principle may apply.

(++) License agreements concluded between right holders and broadcasting organisations aiming at acquiring the right to communicate audiovisual content to the public by online transmission may contain clauses ensuring territorial exclusivity, thereby imposing obligations to the contracting parties to prohibit or limit access of users residing in the European Union outside the licensed territory. Since these clauses confer a contractually specified absolute territorial exclusivity, they tend to restore the divisions between national markets and are liable to frustrate the Treaty's objective of achieving the integration of those markets through the establishment of a single market. They must therefore be regarded, in accordance with the case law of the European Court of Justice, as an infringement of Article 101 (1) TFEU.

(+++) *In order to promote the completion of the digital single market, contractual provisions in license agreements concluded between right holders and broadcasting organisation aiming at acquiring the right to communicate ancillary online services to the public on the basis of territorial exclusivity within the European Union, which prohibit or limit the access of users residing in the European Union outside the licensed territory by means of geo-filtering and/or equivalent technology in order to ensure territorial exclusivity shall be unenforceable.*

We propose sub-points (I) and (II) and the last subparagraph of Article 3(1) be deleted:

1. The acts of communication to the public of works or other protected subject matter, by wire or wireless means, and of making available to the public of works or other protected subject matter, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, occurring when providing to the public:

(A) radio programmes; and

(B) television programmes **which are:**

~~(I) news and current affairs programmes; or~~

~~(II) fully financed own productions of the broadcasting organisation,~~

in an ancillary online service by or under the control and responsibility of a broadcasting organisation, as well as the acts of reproduction of such works or other protected subject matter which are necessary

for the provision of, the access to or the use of such online service for the same programmes shall, for the purposes of exercising copyright and related rights relevant for those acts, be deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment.

Point (B) of the first subparagraph shall not apply to the broadcasts of sports events and works and other protected subject matter included in them.

We propose that Article 3(3) be amended as follows:

3. The country of origin principle set out in paragraph 1 shall be without prejudice to the contractual freedom of the right holders and broadcasting organisations to agree, in compliance with Union law, to limit the exploitation of such rights, including those under Directive 2001/29/EC. Contractual provisions in license agreements concluded between right holders and broadcasting organisation aiming at acquiring the right to communicate ancillary online services to the public on the basis of territorial exclusivity within the European Union which prohibit or limit the access of users residing in the European Union outside the licensed territory by means of geo-filtering and/or equivalent technology in order to ensure territorial exclusivity shall be unenforceable.

In view of the above-detailed provisions we suggest that recital 10 of the Directive currently in force be deleted.

(10) Given the specificities of the financing and licensing mechanisms for certain audiovisual works, which are often based on exclusive territorial licensing, it is appropriate, as regards television programmes, to limit the scope of application of the country of origin principle set out in this Directive to certain types of programmes. Those types of programmes should include news and current affairs programmes as well as a broadcasting organisation's own productions which are exclusively financed by it, including where the funds for the financing used by the broadcasting organisation for its productions come from public funds. For the purposes of this Directive, broadcasting organisations' own productions should be understood as covering productions carried out by a broadcasting organisation with the use of its own resources, but excluding productions commissioned by the broadcasting organisation to producers that are independent from the broadcasting organisation and co-productions. For the same reasons, the country of origin principle should not apply to television broadcasts of sports events under this Directive. The country of origin principle should apply only when programmes are used by the broadcasting organisation in its own ancillary online services. It should not apply to the licensing of a broadcasting organisation's own productions to third parties, including to other broadcasting organisations. The country of origin principle should not affect the freedom of right holders and broadcasting organisations to agree, in compliance with Union law, on limitations, including territorial limitations, to the exploitation of their rights.

7. ADJUSTMENT OF EU STATE AID RULES FOR THE PROMOTION OF CULTURAL AND LINGUISTIC DIVERSITY

BACKGROUND

Provisions from the Minority Safepack Initiative:

In many European regions, funding is dedicated to the protection and promotion of minority cultures, including via funding for culture, movies, music, books, newspapers, television or other activities. These grants may come under the European state aid rules if they are above the applicable thresholds (de minimis-rules).

In that case the Member State is under the obligation to notify the Commission, which has to make an assessment of the compatibility of the aid with the state aid rules. Subsidies for minority communities and their culture and language will fall under Article 107(3)(d) TFEU (aid to promote culture and heritage conservation) or also under the more general provision of Article 107(3)(c) TFEU (aid to facilitate certain economic areas or activities).

For certain sectors of the economy, the EU has adopted “block exemptions” that define aid that is exempted from the notification obligation if the conditions are fulfilled. The advantages of a block exemption are increased legal certainty for both authorities and beneficiaries and a decreased workload for the Commission.

We call for a block exemption for activities that support minority communities and their culture. This includes “culture and heritage conservation”, but is wider than just that. We call for an exemption that also takes into account the promotion of languages and regional diversity, and respects the rights of persons belonging to minorities.

Legal basis: Article 109 TFEU and 108(4) TFEU Instrument: Council Regulation and/or Commission Regulation
PROPOSAL FOR AMMENDMENTS AND JUSTIFICATION/REASONING

JUSTIFICATION

With regard to the state aid proposal, it is important to point out that a two-step procedure applies in this context. First, the European Commission may submit proposals for an enabling regulation to the Council in accordance with Article 109 (TFEU) (“first level”). These enabling regulations generally remain very vague (cf. Council Regulation (EU) 2015/1588). Article 108(4) TFEU states that the Commission may, on the basis of these regulations, issue more detailed block exemption rules (“second level”). Like all EU legislation, both instruments must comply with EU primary law, including the EU Charter of Fundamental Rights. Many provisions in EU primary law protect diversity, and Article 22 of the Charter obliges the Union to respect linguistic and cultural diversity. As the official explanations on the Charter clarify, this provision is also based on Article 167(1) TFEU, which explicitly enshrines the

sub-national dimension of diversity. Indeed, the obligation to respect (cultural and linguistic) diversity within the EU goes hand in hand with the EU's obligation to respect the culture and languages of people belonging to minorities. In this vein the Court recently explained: "...it needs to be mentioned that, on the one hand, according to Article 2 of the TEU, respect for minorities is one of the values on which the Union is based, and, on the other hand, the fourth indent of Article 3(3) stipulates that the Union must respect the wealth of its cultural and linguistic diversity".¹ This must be taken into account whenever the EU is legislating, also outside the area of culture.

Given that market forces and legislation regulating the common market can under certain instances put linguistic and cultural diversity at risk, the EU legislator must give special attention to avoiding that EU rules on state aid lead to a situation where national, regional or local measures protecting and promoting sub-national diversity are put at a legal risk or even precluded from the outset. It is in this light that the Minority SafePack Initiative presents the following proposals.

This is why we propose amending the EU Regulation on horizontal state aid and the General Block Exemption Regulation in order to provide for a block exemption for activities that support minority communities and their culture. This includes "culture and heritage conservation", but is wider than just that. We call for an exemption that also takes into account the promotion of languages and regional diversity, and respects the rights of persons belonging to minorities.

In terms of Regulation (EU) No 2015/1588 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid we propose to introduce in the areas that can be excepted from the obligation of notification to the Commission a reference to the promotion of linguistic diversity within the Member States in accordance with the European Charter of Regional or Minority Languages.

In terms of Regulation of the Commission EU No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty we propose the following:

- ***The introduction of a definition of linguistic diversity and of regional or minority languages.*** The proposed definition reflects the Commission's well-established decision-making practice whereby the promotion of cultural diversity includes the cultures of national minorities. Indeed, Article 167 (1) TFEU provides that "the Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore". This is also in line with Article 22 of the Charter of Fundamental Rights of the European Union, which reaffirms the principle that the EU respects cultural, religious and linguistic diversity. This amendment is a codification of the decision of the European Court of Justice of 5 March in case C-222/07 - Unión de Televisiones Comerciales Asociadas (UTECA), para. 33, intended to facilitate the application of the GBER with regard to the promotion of linguistic diversity.
- ***Introducing in the definition of "difficult audiovisual works" of a reference to audiovisual works in languages, which belong to a language in danger as recognized by the UNESCO,*** an international organisation in which all the Member States of the European Union are represented.
- ***Making reference within the list of aid to culture and heritage conservation activities compatible with the internal market to the promotion of linguistic diversity within the Member States, in the media, information and communications technology, working and social life and local administration.*** The

¹ Translation by the authors - the original text of the judgment is at the time of writing only available in 15 languages not including English.

proposed codifies the decision-making practice of the Commission concerning the promotion of linguistic diversity with regard to languages of national minorities. The European Commission regularly refers, in these cases in particular, to the European Charter for Regional or Minority Languages adopted under the auspices of the Council of Europe to protect and promote regional and minority languages in Europe. In this context, the Charter encourages the signatory states to adopt measures to protect and promote regional languages (see in particular Article 11-13 of the Charter).

- Making reference within the list of aid for audiovisual works compatible with the internal market to dubbing and subtitling activities aimed at strengthening linguistic diversity within the Member States.

A. DRAFT PROPOSAL

for amending Regulation (EU) No 2015/1588 on the basis of Article 109 TFEU

Regulation (EU) No 2015/1588 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid is amended as follows:

- (1) Recital (9) is amended as follows:

In the culture and heritage conservation sector, a number of measures taken by Member States might not constitute aid because they do not fulfil all the criteria of Article 107(1) TFEU, for example because the beneficiary does not carry out an economic activity or because there is no effect on trade between Member States. However, to the extent measures in the field of culture and heritage conservation do constitute State aid within the meaning of Article 107(1) TFEU, the Commission should be enabled to declare that, under certain conditions, that aid is compatible with the internal market and not subject to the notification requirement in Article 108(3) TFEU. ***The need to take cultural aspects into account in all EU action is laid down in Article 167(4) TFEU while Article 167(1) also emphasizes the importance of regional diversity. The cultures of the national minorities have a special relevance in this regard, as they stand for both regional diversity and Europe's diversity at large. The plethora of languages spoken within the EU's territory is a very visible expression of this diversity. In this regard, the promotion of linguistic diversity in accordance with the European Charter of Regional or Minority Languages in the areas of media, information and communications technology, working and social life and local administration is an expression of the diversity the EU is expected to respect, and can be presumed to be compatible with the internal market.*** Small culture, creation and heritage conservation projects do not typically give rise to any significant distortion, and recent cases have shown that such aid has limited effects on trade.

- (2) Recital (10) is amended as follows:

Exemptions in the culture and heritage conservation sector could be designed on the basis of the Commission's experience as set out in guidelines, such as for cinematographic and audiovisual works, or developed case by case. When drafting such block exemptions, the Commission should take into account that they should only cover measures constituting State aid, that they should in principle focus on measures that contribute to the objectives of 'EU State aid modernisation', and that only aid in respect of which the Commission has already substantial experience is block-exempted. Furthermore, the primary competence of the Member States in the area of culture, the special protection enjoyed by cultural diversity under Article 167(1) TFEU and the special nature of culture should be taken into account. ***This also includes the promotion of linguistic***

diversity within the Member States, especially in the context of the distribution of audiovisual works. In particular with regard to difficult audiovisual works, special attention should be paid to languages in danger as recognised by the UNESCO.

B. DRAFT PROPOSAL

for amending the General Block Exemption Regulation on the basis of Article 108 (4) TFEU

Regulation of the Commission EU No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty is amended as follows:

I. AMENDMENT/CLARIFICATION OF THE DEFINITIONS IN ARTICLE 2 OF THE GBER

The following paragraphs 139A and 139B will be added to article 2:

(139A) 'linguistic diversity' refers to the diversity of languages both at national and sub-national level.

(139B) 'regional or minority languages' refers to languages as covered by the European Charter for Regional or Minority Languages adopted under the auspices of the Council of Europe.

Paragraph 140 of article 2 will be amended as follows:

(140) 'difficult audiovisual works': means the works identified as such by Member States on the basis of pre-defined criteria when setting up schemes or granting the aid and may include films whose sole original version is in a language of a Member State with a limited territory, population, or language area, **or which belongs to a language in danger as recognised by the UNESCO**, short films, films by first-time and second-time directors, documentaries, or low budget or otherwise commercially difficult works.

II. AMENDMENT OF ARTICLE 53 GBER

Article 53 will be amended as follows:

[...]

2. The aid shall be granted for the following cultural purposes and activities:

(A) museums, archives, libraries, artistic and cultural centres or spaces, theatres, cinemas, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions;

(B) tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognized as cultural or natural heritage by the competent public authorities of a Member State;

(C) intangible heritage in any form, including folklorist customs and crafts;

(D) art or cultural events and performances, festivals, exhibitions and other similar cultural activities;

(E) cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;

(F) writing, editing, production, distribution, digitisation and publishing of music and literature, including translations.

(G) promotion of linguistic diversity within the Member States, in the media, information and communications technology, working and social life and local administration.

[...]

10. Aid to press and magazines, whether they are published in print or electronically, shall not be eligible under this Article, ***unless such aid is granted to outlets published in regional or minority languages.***

III. AMENDMENT OF ARTICLE 54 GBER

Article 54 will be amended as follows:

1. Aid schemes to support the script-writing, development, production, distribution and promotion of audiovisual works shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled. ***Distribution includes dubbing and subtitling aimed at strengthening linguistic diversity within the Member States.***

[...]

