

## **Social Integration of “Old” and “New” Minorities in Europe in Views of International Expert Bodies Relying on Human Rights: Contextual Balancing and Tailoring**

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The emergence of “new” minorities within states as a result of international migration constantly changes the societal diversity of European states. Additionally, the existence of “old” minorities and relationships between kin-state and kin-minority affect inter-group, intra-state and inter-state relations. Tensions and conflicts in Ukraine stand as a current example. The social diversity dynamic involving “old” and “new” minorities is characterized by the features of ethnicity, culture, language and/or religion. The social integration of persons belonging to these groups needs to be addressed by governments in order to maintain resilient, viable and stable societies. While integration policies have remained, to a large extent, within states’ national discretion, international human rights norms set certain limits to national policies. The views of international expert bodies relying on human rights provide, at best, states with useful insights and tools to design national policies and concrete measures of integration. There is no easy formula, but good integration policies need to consider an array of legal and non-legal elements, recognize differences and changing identities, nurture a sense of belonging, balance individual rights with integration aims, and involve multi-level actions and multiple actors.

**Keywords:** social integration; integration policies; national minorities; immigrant minorities; “old” and “new” minorities; recognizing differences; balancing interests; sense of belonging

Increasing societal diversity resulting from international migration is among the most important transformative forces in modern societies (Castles, 2005: 277-278). In the European context, redrawing state borders and the “birth” of new states after two World Wars and the Cold War have made the subject of “older” (national) minorities and kin-minorities a highly relevant issue in both inter-group and inter-state relations. The emergence of new states with Russian minorities after the dissolution of the Soviet Union in the beginning of the 1990s has been a prominent European issue involving a kin-state–kin-minority relationship with implications on integration, inter-state relations, as well as international peace and security (Wolff, 2013: 67-70). The current tensions and conflicts in Ukraine are examples of these challenges.

Due to the effects of the diversity dynamic involving “old” and “new” minorities, the integration (or social integration)<sup>1</sup> of persons belonging to the groups has become an important subject to be addressed by states. Today, integration is actively discussed both at national and international levels. The growing importance of the topic of integration is also reflected in international human rights norms, particularly in the area of racial discrimination, racism and other forms of intolerance (anti-racism norms), but also in the norms specifically addressing minorities (minority norms), migrant workers, foreign residents, asylum-seekers and refugees, and indigenous peoples (Pentikäinen, 2008: 24-145).<sup>2</sup> Because international norms are generally worded and social integration is a process, human rights norms consist of only very broad remarks on integration. Additionally, states have insisted on keeping integration issues that touch upon important national interests within national discretion. This can be seen, for instance, within the European Union (EU), where member states have expressly retained decision-making power regarding integration issues at the national level (*ibid.*:193-206). Despite this, EU policies and legislation, which create legal entitlements and statuses for individuals, do have bearing on integration processes (Muižnieks, 2010: 22). The emergence of integration as an important societal subject is also visible in the activities of international expert bodies working in the area of international human rights. Their views offer, at best, useful tools for states to design national integration policies and concrete integration measures.

This article discusses the concept of integration as informed by the work of three international bodies working closely with European minority issues and having frequently and expressly considered integration in their activities. The three focal bodies are: the Advisory Committee of the Framework Convention for the Protection of National Minorities (ACFC), the European Commission against Racism and Intolerance (ECRI) of the Council of Europe, and the High Commissioner on National Minorities (HCNM) of the Organization for Security and Cooperation in Europe. The work of all three bodies is linked to human rights and focuses on groups characterized by ethnic, cultural, linguistic and/or religious features, that is, groups at the heart of debates on integration. The purpose of the article is to shed light on the topic of integration by discussing its development in the work of the three bodies, by comparing the approaches of the bodies, and by pointing out possible questions that require further development. Some remarks are also made on theories and models of integration.<sup>3</sup>

## **1. Development of the topic of integration in the work of the three international bodies**

The topic of (social) integration has been on the agendas of the ACFC, ECRI and the HCNM since the beginning of their activities, and they have considered integration in an increasingly visible fashion.<sup>4</sup> Views and emphasis on integration differ to some extent from body to body, resulting from, among other things, the different roles, nature and mandates of the bodies.<sup>5</sup> The mandates of the ACFC and the HCNM direct their focus on national minorities, a label often given in Europe for traditional or established (“old”) minorities.<sup>6</sup> Despite this, both bodies have also discussed instances of “new” minorities having emerged as a result of more recent immigration. ECRI is a body specifically mandated to combat racism and other forms of intolerance and employs the term “minority” broadly. Therefore, it has paid attention to a variety of groups belonging to both “old” and “new” minorities. (Pentikäinen, 2008: 207, 240)

### ***1.1 The HCNM – the most coherent approach to integration***

The HCNM is one of the most interesting – and possibly the most effective – international expert bodies working on minority-relevant questions. As an actor of inter-state conflict prevention, the Commissioner’s role is to look into national minority situations with inter-state security implications in the OSCE area, often involving relationships between kin-minorities and kin-states.<sup>7</sup> Despite the absence of express reference to integration in the OSCE commitments on national minorities forming the normative basis of the HCNM’s work (*ibid.*: 40), the HCNM has developed the most coherent approach to integration of the three bodies considered in this article. ‘Integration with respect for diversity’ has emerged as the overarching concept and guiding principle for the Commissioner’s work (*ibid.*: 301). This concept is consolidated in the most recent thematic recommendations and guidelines prepared for the HCNM’s use, which synthesize the important aspects raised in the work of the Commissioner. Due to the confidential nature and silent diplomacy of the HCNM’s work, the thematic recommendations and guidelines are also the most important publicized references of the Commissioner’s approaches (Kehris, 2013: 2, 5).<sup>8</sup>

It is worth noting that while the HCNM once wished to avoid the consideration of “new” minorities – including in matters of integration – and focus on traditional (national) minorities (Pentikäinen, 2008: 297-301), this is not the case in the HCNM’s recent recommendations and guidelines relevant to integration, that is, the 2008 Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations (henceforth the Bolzano Recommendations), and particularly the 2012 Ljubljana Guidelines on Integration of Diverse Societies (henceforth the Ljubljana Guidelines). The recommendations and guidelines are

applicable to situations involving a wide range of minority groups with distinguishing features relating to ethnicity, culture, language and/or religion.<sup>9</sup> However, both documents convey that minority situations with implications on inter-state relations are still firmly at the focus of the HCNM's work. The documents underscore the importance of integration of societies characterized by diversity, and draw attention to an array of elements and aspects relevant to integration. The documents are not intended to be exhaustive, but provide insights and conclusions that may be relevant in many different contexts (Ljubljana Guidelines: 4).<sup>10</sup>

The Bolzano Recommendations<sup>11</sup> deal with the important relationship between states of residence of (national) minorities and states that may have an interest in minorities abroad, with bonds such as shared history, religion or language.<sup>12</sup> The document links states' external minority policies, integration, peace and security. States are urged to pursue their interests regarding national minorities abroad without jeopardizing peace and neighbourly relations. This includes not undermining the integration of minorities in the state of residence of national minorities (1-2; Explanatory Note: 18, para. 10). The document recommends that bilateral arrangements, including treaties, should be concluded to address the minority situations (8, para. 18). The document includes an important remark that the initiatives of non-state actors, including religious institutions, to protect minorities abroad may have the same destabilizing effect as state initiatives (Explanatory Note: 18, para. 10). Support and financing of political parties and movements abroad with an ethnic or religious character is discouraged (21, para. 13).

*The Ljubljana Guidelines*<sup>13</sup> emphasize the development and implementation of good integration policies as priorities for all states seeking to accommodate diversity and to avoid the risk of conflict (6). The document links integration to state sovereignty and responsibilities, respect for human rights, and good and effective governance. The Ljubljana Guidelines includes the following characterisation of integration:

Integration is a dynamic, multi-actor process of mutual engagement that facilitates effective participation by all members of a diverse society in the economic, political, social and cultural life, and fosters a shared and inclusive sense of belonging at national and local levels. To support the integration process, states should adopt policies that aim to create a society in which diversity is respected and everyone, including all members of ethnic, linguistic, cultural or religious groups, contributes to building and maintaining a common and inclusive civic identity. This is achieved by securing equal opportunities for all to contribute to and benefit from the polity. It requires that the state ensures that the rights of all are respected and creates the conditions for all members of society to take on their share of the responsibilities. Society as a whole benefits from such a policy. This process can lead to changes in majority and minority cultures. This is why the HCNM prefers to speak about the

integration of multi-ethnic societies rather than integration of a minority group into a particular society. (3-4)

The characterisation consolidates a number of elements and aspects of integration, including the dynamic, multi-actor and multi-level nature of integration, the importance of participation, fostering a sense of belonging and a common and inclusive civic identity, respect for diversity, readiness for change, and the rights and responsibilities of all. Integration requires the acceptance of common public institutions and a shared sense of belonging to a common state by all members of a given society, without discounting the possibility of distinct identities. States should not define themselves in exclusivist or (mono-) ethnic terms as the “property” of one or several specific ethnicities. Members of both majorities and minorities should accept that their identities – like the state’s identity – may change and evolve. The multidimensional diversity inherent in societies, groups and individuals should be recognized. Identification with multiple identities and contextual affiliations should be permitted, and the freedom of choice to affiliate with a given group should be reflected in legislation and integration policies. While states should abstain from attempts to assimilate minorities against their will, freedom of choice should allow individuals to consciously choose assimilation. Integration policies should be based on inclusion and effective participation on the equal footing of all members of society in all aspects of the state’s social, economic and cultural life, and in public affairs. Establishing communication and interaction (cross-community links) across ethnic divides is also stressed in the Ljubljana Guidelines (3-5, 12, 14-20).

It is worth noting that while the HCNM once referred to protecting the rights of national minorities and aimed for a fair balance between integration policy and the promotion of *minority rights* (Pentikäinen 2008: 301-303), the Ljubljana Guidelines call for balancing the rights and interests of *all groups*, minorities and majorities alike. Good integration policies take into account the legitimate interests of all members of society, regardless of whether or not they are citizens. The Ljubljana Guidelines underline that the appropriate balance differs in each society and thus, integration policies and measures are contextual. While basic human rights standards are noted to be universal, good integration policies should be tailored to meet the challenges and needs of different minority groups in different circumstances, taking into account such factors as the numbers involved, the length of settlement and geographical concentration, and particular social, economic and cultural needs. Because societies are inherently dynamic, it is also necessary to constantly monitor and rebalance integration policies by adapting to changing circumstances (Ljubljana Guidelines: 3-5, 16-17, 20-21).

The Ljubljana Guidelines draw attention to the following topics as *the key policy areas of integration*: anti-discrimination and equality, citizenship, participation, language, education, security and law-enforcement, access to justice, the media, and the diversity of symbols and their use in the public domain (38-65). Comprehensive policy, legislation and administrative measures are needed to effectively *combat discrimination* and *advance equality* (38). As in the earlier work of the Commissioner (Pentikäinen, 2008: 301), the Ljubljana Guidelines place considerable emphasis on the role of *participation* in integration, including the link between participation and *citizenship*<sup>14</sup>. An inclusive, non-discriminatory citizenship policy and access to citizenship are among the essential elements of integration. States should avoid citizenship policies with external effects that create obstacles to friendly and good neighbourly relations, or additional challenges for the integration of society. The impact of multiple citizenships on the integration of societies is noted to vary considerably depending on factors such as history and bilateral relations (40-51).

The Ljubljana Guidelines view *language* as an essential component of individual and collective identity. States' policies should protect minority languages and balance the need for one or more shared language(s) as a common basis for the functioning and integration of a society. This balance varies from country to country and depends on the situation of each minority, and it is never permanently achieved. According to the HCNM's experience, disagreements about this balance are frequent and often create inter-ethnic tensions (Ljubljana Guidelines: 52-54). *Education policies* should be formulated in line with, and as part of, integration policies. The guidelines recommends the creation of common integrated and inclusive educational environments, avoiding segregation even when self-induced by minority communities (54-55). This recommendation deserves particular mention, as it indicates a change from the HCNM's earlier approach, which did not question separate educational systems for national minorities as long as interaction and contact with other groups existed (Pentikäinen, 2008: 293, 309).

The Ljubljana Guidelines underline integration as a multi-actor and multi-level process requiring the active engagement of multiple stakeholders from both the public and private sectors. The guidelines refer to *shared responsibility* and *shared ownership* of the outcomes of integration policies through the effective consultation of all interested groups elaborating and implementing the integration policies. The primary responsibility of promoting integration rests on the state, whose role is to provide policies, legislation and mechanisms for integration, to collect and analyse data, to channel adequate resources for integration measures, to monitor and regularly assess outcomes of integration strategies and

policies, to promote diversity, and to create conditions for every individual to feel like, and act as, a full member of society. It is necessary to engage all levels of authority, including the central, local and, where existing, regional authorities. To the greatest extent possible, the diversity of society should be reflected in public administration (4, 18-34). The roles of individuals and groups (including majorities and minorities) in integration are to accept the societal instruments developed to enable integration, and to contribute to their functioning. Members of society are noted to hold rights, to respect the law and the rights of others, and to share the responsibilities of contributing to society and the integration of society. The guidelines note that individuals, irrespective of their identity, should avoid self-isolation and take full advantage of opportunities to channel claims through the legitimate instruments provided by the authorities (18, 20-21).

According to the guidelines, political parties and politicians have an important role and specific responsibilities in the area of integration. Party systems should be pluralistic and inclusive across ethnic lines. While political parties can have significant and constructive roles in formulating policy and in political discourse, politicians – both as legislators and decision-makers – have the specific responsibility of engaging in dialogue that is respectful of diversity while taking a clear stance against the incitement to hatred. Additionally, the document stresses the role of both public and private media in shaping the societal climate and intercommunity relations. Civil-society actors and private-sector actors, especially employers and trade unions, are noted to have particular relevance; the guidelines stress the importance of the labour market and working environments accommodating diversity and promoting integration (35-37, 60-63).

### ***1.2 The ACFC – improved integration agenda***

The ACFC's views are published in the Committee's country-specific opinions and thematic commentaries. In its opinions,<sup>15</sup> the ACFC has clearly considered integration of persons of immigrant origin and the Roma under Article 6 of the Framework Convention for the Protection of National Minorities (FCNM), which addresses tolerance and has a broad personal scope of application.<sup>16</sup> The ACFC has also increasingly discussed integration regarding national minorities under several articles of the FCNM, including two treaty provisions with clear references to integration, that is, those addressing state integration policies and the official language.<sup>17</sup> In its earlier opinions, the ACFC considered integration most prominently under Articles 3-6, 12, 14 and 15, which concern the personal scope of application of the FCNM (Article 3), equality and non-discrimination (Article 4), protection

of minority cultures and identity (Article 5), tolerance and inter-cultural dialogue (Article 6), education (Article 12), languages (Article 14), and participation (Article 15) (Pentikäinen, 2008: 220). In its more recent opinions, the ACFC has expanded the consideration of integration under new provisions, including Article 9 addressing freedom of expression and the media. In this context, the ACFC has voiced concern for the gap between the media environment of the majority group and that of minorities, underlining the importance of domestically produced programmes and news for minorities. The Committee has stressed the importance of providing adequate space for the languages of national minorities in the public broadcasting system and the positive role the minority media plays in the integration processes of different minority groups (third-cycle opinions on Estonia: 18-19; Austria: 6-7; Finland: 21).<sup>18</sup> The Committee's views under Article 11, which includes provisions on topics such as signs and local names in minority languages and the link between integration and topographical indications, introduce new elements to the Committee's previous observations. According to the ACFC, the inclusion of local names, street names and other topographical indications in minority languages in the areas populated by minorities has a significant symbolic value for integration (third-cycle opinion on Estonia: 16).<sup>19</sup> Additionally, while the ACFC had earlier discussed integration under Article 15 addressing participation only with respect to the Roma (Pentikäinen, 2008: 232), the Committee has recently made some general remarks on the link between participation and promoting the integration of inhabitants from different backgrounds (third-cycle opinions on the Czech Republic: 29; Estonia: 33). The ACFC has also raised the link between housing and integration under Article 15 (third-cycle opinions on Spain: 96-99; Ukraine: 110).<sup>20</sup> Other specifications to the Committee's previous integration-related remarks include, for instance, the importance of promoting symbols of common identity and a sense of a common society (third-cycle opinion on Estonia under Article 6: 36 and Article 9: 19), collecting data on integration (third-cycle opinion on Germany under Article 4: 44-45), and the integration of migrant workers (third-cycle opinions on the Russian Federation under Article 6: 89-90; Cyprus under Article 25).

Summarizing the Committee's experience and views on specific thematic issues, the ACFC has adopted three thematic commentaries, that is, on education, participation and language rights (adopted in 2006, 2008 and 2012, respectively).<sup>21</sup> Of various groups, the Roma (and Travelers) have been given special attention in all commentaries, including in the area of integration (for example in the Commentary on Language Rights: 10-11, para. 30; 12, para. 36; 14, para. 42; 22, para. 68; 23, paras. 70, 73). Although the commentaries on education and participation note integration a number of times,<sup>22</sup> the most recent Commentary



on Language Rights clearly incorporates integration more substantially than the earlier commentaries.<sup>23</sup> The Commentary on Language Rights also introduces a definition of integration by stating that:

Integration, as opposed to assimilation, is considered a legitimate aim to which both the majority and minority cultures contribute. It is understood, in this context, as a process of social cohesion that respectfully accommodates diversity while promoting a positive sense of belonging for all members of society. The creation of suitable conditions for persons belonging to minority groups to preserve and develop their cultures and to assert their respective identities is thus considered essential for an integrated society. As a two-way process, integration requires recognition and respect on both sides and may often lead to changes within both the majority and the minority cultures. This implies an open attitude and readiness for change on the part of the majority population, in order to welcome the enrichment provided by minority cultures. (9, para. 25)

It is worth noting that the definition distinguishes integration from assimilation, equates integration with social cohesion, and describes integration as a two-way process implying openness and readiness for change, particularly on the part of the majority. The fact that the commentary was inspired by, among other things, the work of the HCNM is reflected in some parts of the text.<sup>24</sup> Like the HCNM, the ACFC voices concern for tensions and divisions on language-related issues. The commentary maintains that language is important in promoting mutual respect among groups and solidarity in diverse societies (9, para. 25; 12, para. 35; 25 para. 79). The commentary underlines specific links between language, culture and identity, and stresses the knowledge of the official language(s) and protection of minority languages as important tools for the integration of diverse societies (3, para. 1; 5, para. 12; 6, para. 13; 8, para. 22; 13, para. 39; 25, paras. 79, 80). Minority cultures and languages should be seen as part of the mainstream society and as positively contributing to society (11-12, para. 34). The commentary stresses the right to express differences and the recognition of differences, but discourages the creation of fixed identities (30, para. 95). The diversification of means of communication from increasing mobility and migration necessitates the acknowledgement of multiple and situational identity affiliations and multilingual repertoires as an important precondition for the successful integration of society (4, para. 7; 13, para. 39).

The ACFC's role as a monitoring body of the FCNM necessarily sets certain limits on the possibility for the Committee to develop its views on integration, as the Committee is required to base its remarks on the content of the Convention. Consequently, the division between the groups labelled as national minorities and other minorities (groups) is visible in the ACFC's remarks on integration. For the groups characterized as national minorities, integration entails non-assimilation and the opportunity to maintain their differences through

support for their culture, language and identity from the state party to the FCNM. To receive protection under the FCNM, distinct identities are required. For the persons of immigrant origin, and often for the Roma, integration essentially entails the implementation of the principles of equality and non-discrimination, as well as advancing tolerance and intercultural dialogue in accordance with Article 6 of the FCNM. Integration measures should not, however, lead to assimilation against the will of the persons concerned. While the division between national minorities and other groups is written in the FCNM, the ACFC has called for an open and inclusive approach to the personal scope of application of the convention (for example the Commentary on Language Rights: 6, paras. 14-15). The Committee has also made a link between the inclusive application of the FCNM and the facilitation of the integration of people who have settled in the country more recently (Pentikäinen, 2008: 211-212, 221, 236; Eide 2010: 171-178).

### ***1.3 ECRI – in search for a coherent approach to integration***

ECRI's remarks on integration can be found in the country reports it prepares on each Council of Europe member state in the context of its country-specific monitoring work.<sup>26</sup> These remarks clearly suggest that though the Commission places importance on integration, its work on integration thus far has been unbalanced and inconsistent.<sup>27</sup> For instance, while integration has been addressed in all fourth-cycle country reports analysed,<sup>28</sup> attention given to the topic varies considerably; some reports extensively discuss various aspects of integration,<sup>29</sup> while others contain only sporadic or marginal remarks on the topic.<sup>30</sup> ECRI's inconsistent consideration of integration is further underlined when looking at its work on general themes, including 14 General Policy Recommendations (GPRs) addressing specific questions in ECRI's remit.<sup>31</sup> While earlier GPRs include few references to integration (Pentikäinen, 2008: 251, 256-257, 265), the most recent GPRs concerning sport, Roma and employment (adopted in 2009, 2011 and 2012, respectively) indicate that integration still needs mainstreaming in ECRI's agenda. The GPR (No. 12) on combating racism and racial discrimination in sport breaks new ground by introducing the link between integration and sport.<sup>32</sup> However, integration is noted only marginally in both the GPR (No. 13) on combating anti-Gypsyism and discrimination against Roma and the GPR (No. 14) on combating racism and racial discrimination in employment, which address the groups and/or questions in connection with ECRI underlining the importance of integration in the country reports.<sup>33</sup> ECRI's inconsistency and incoherence regarding the topic of integration may be rectified in the future. In the course of its fifth country-specific monitoring cycle activated in 2013, ECRI

has decided to give special attention to integration in a separate section of the country reports with the aim of commenting on the adequacy of existing policies, and in the absence of policies, making recommendations on policies to be adopted (information document on the fifth monitoring cycle of ECRI: paras. 3, 7).

In absence of collected remarks on integration, the Commission's views on integration are scattered in the country reports. Based on these, the following observations on ECRI's work on integration can be made. Integration involves all groups of concern to ECRI, but in practice, most of ECRI's explicit references to integration have been directed toward the Roma and persons with immigrant background. To advance integration, ECRI has called for the protection and even the promotion of specific identities, respecting the (individual, cultural and ethnic) differences of all minority groups. National/state identity should be enriched by encompassing and protecting these various elements. ECRI has distinguished integration from forced or forcible assimilation. The Commission has linked integration to an increased recognition within society of its diverse composition and of the positive contribution made by individuals of foreign origin. Immigration and integration policies should reflect the fact that immigrants constitute an integral part of society. In its remark that the issue of integration is not usually raised in connecting with EU citizens, ECRI has also made important observations that persons sharing similarities in physical appearance and religion with the dominant group face challenges in the area of integration. ECRI has generally addressed discriminatory features of immigration and integration policies that give foreigners different statuses. ECRI's attention to the integration of non-EU citizens,<sup>34</sup> Muslims, refugees and asylum-seekers deserves particular mention (Pentikäinen, 2008: 252-278).

More concrete aspects or elements of integration raised by ECRI include, for instance, the importance of offering persons of immigrant background information on their state of residence, the regulations in force, their legal situation, their rights and options to seek assistance and guidance (for example, with social and welfare questions); providing family members access to the labour market; the positive role of family visits and family reunification; the authentic content of integration training and tailoring integration programmes and courses to the participants' needs; the existence of adequate structures and policies that deal with migration; the issue of failure of applying laws systematically; and monitoring the achievement of integration objectives by collecting data broken down by religion, language, nationality and national or ethnic origin (*ibid.*).

ECRI's recent country reports echo many aspects of integration that it has raised earlier, including the importance of awareness-raising, anti-discrimination measures, laws, data, public debate and the media. The recent country reports also mention integration obstacles faced by Muslims.<sup>35</sup> ECRI views citizenship<sup>36</sup> as a central element of integrating immigrants (fourth-cycle report on the UK: 15, para. 19). The Commission also underlines the two-way nature of integration, which involves mutual recognition between the majority population and minority groups and includes the responsibilities of the majority population (fourth-cycle report on Austria: 33, para. 104; fifth-cycle report on Belgium: 31, para. 117). Specifications to ECRI's earlier remarks on integration include the importance of making integration policies, programmes and measures part of migration policies (fourth-cycle report on the Russian Federation: 34, para. 164); the criticism of arbitrariness and discrimination linked to immigration tests (fourth-cycle report on Denmark: 38, para. 129);<sup>37</sup> the questionable, discriminatory and stigmatizing nature of obligatory integration courses targeting third country immigrants (fifth-cycle report on Belgium: 28, para. 105); the importance of agreeing on the indicators and target values for the strategic and operational objectives in the fields relevant to integration (fifth-cycle report on Germany: 11); and the need to provide children of migrant background the necessary individual support in education (*ibid.*: 31, para. 89).

#### ***1.4 Similarities and main differences in the approaches of the bodies***

To summarize the similar elements and aspects of integration raised by the HCNM, the ACFC and ECRI, all three bodies have highlighted certain core questions, but with varying emphases.<sup>38</sup> These include the importance of *non-discrimination and equality* as the basis of integration strategies and the significance of languages, identities, education, participation and citizenship.<sup>39</sup> With respect to *languages*, all three bodies have stressed the knowledge of the official (state) language(s) as well as the opportunity for minorities to maintain their mother tongue. In particular, the HCNM and the ACFC in their recent remarks have attached special attention to language as both an important element of an individual's identity, and as a marker of division and potential source of tension. Regarding *identity issues*, increasing mobility and migration necessitate the acknowledgement of multidimensional diversity and of the multiple, situational and changing identities of all individuals. The three bodies have also underscored the importance of an inclusive state or national identity and of a common (civic) identity.

For all three bodies, *education* is important for promoting, for instance, awareness-raising, understanding, contacts, language teaching, inclusion and participation. School

curricula should reflect the country's diversity. Both the ACFC and ECRI have stressed the integration of Romani children and persons of immigrant origin into the educational system. While the HCNM previously shared the ACFC's view that separate schools and education for national minorities did not pose a problem as long as contact and communication existed with other groups, it has recently recommended common integrated and inclusive educational environments for all.

The bodies have placed considerable emphasis on the link between integration and *participation* broadly in various areas of society. ECRI has clearly called for improving the integration and participation of resident non-citizens, including non-EU citizens in the EU states, by according them rights such as the right to vote and/or eligibility in local elections. The HCNM has viewed participation as an important element in forging mutual understanding and loyalty between the majority and minority communities within the state, and in giving minorities input into processes that directly affect them. All bodies have stressed the involvement of minority groups in designing and implementing the integration plans and measures. The bodies have also stressed the link between integration and the acquisition of *citizenship/nationality*,<sup>40</sup> which enables individuals to enjoy all rights of citizens/nationals, including full participatory rights. Both the ACFC and ECRI have seen dual citizenship contributing to integration efforts, while the HCNM's remarks have had reservations on the relationship between multiple citizenships and integration.

Other elements or aspects of integration that come to the forefront – again, with varying emphases – include: the importance of contacts and dialogue; combating racism and/or other forms of intolerance; distributing information on questions relating to minorities; training of various officials; adopting a comprehensive immigration and/or integration plan, strategy or policy; raising public understanding of and support for government integration policies, both among minority groups and in the population at large; initiating a public debate on the issues surrounding integration; problems in the area of housing, including residential segregation, hampering integration;<sup>41</sup> displaying topographical indications also in minority language(s); and a critical stand on the use of sanctions in integration contracts and measures.<sup>42</sup>

The remarks of all three bodies clearly indicate that while various elements of legal nature – such as individuals' legal statuses and their ensuing rights, and the existence of legislation (including anti-discrimination laws) – have a fundamental place in setting the legal basis and framework for integration, a panoply of non-legal measures are also needed for successful integration. For instance, it is obvious that nurturing feelings of acceptance and

belonging requires more than legal elements. Furthermore, successful integration necessitates actions from multiple actors and stakeholders from both the public and private sectors, essentially, but not exclusively, from the state (with different level authorities), from a minority and a majority. Other actors of note include various public figures, politicians, the media, and actors in labour and business sectors.

In terms of the main differences in the three bodies' approaches, the HCNM stands out as having developed the most coherent approach to integration. Many aspects and elements raised by the Commissioner have been echoed in the ACFC's recent remarks. The HCNM has notably discussed the importance of balancing the rights and interests of all groups in society to advance integration, the contextual nature of effective integration measures, and the need to develop a sense of belonging in society and a common (civic) identity. Like the ACFC and ECRI, the HCNM has forbidden forced assimilation, but has also explicitly allowed for consciously chosen assimilation. The HCNM draws attention to broad dimensions of integration, linking integration to democracy, good governance, state sovereignty, the proper functioning of society, stability, peace and security. The HCNM has expressly linked security and law-enforcement (including policing in multi-ethnic societies) to integration. The Commissioner has stressed access to justice and the neighbouring states' roles in the context of integration. Of the three bodies, the HCNM has been most vocal in discussing the duties and responsibilities of all stakeholders<sup>43</sup> and has referred to both shared responsibility and shared ownership. Although ECRI has raised numerous questions relevant to integration, its approach to integration has been the least coherent of the three bodies. Nevertheless, ECRI's observations on the role of sport in integration, and its attention to the integration of non-EU citizens, Muslims, refugees and asylum-seekers, have no parallels in the work of the HCNM or the ACFC and merit particular mention.

## **2. About theories and models of integration and the relationship between integration, assimilation and inclusion**

Integration has been particularly debated in the social sciences, where various theories and models of integration have been developed. As a rule, the theories and models consider integration from the viewpoints of individuals and/or states and include analyses of strategies available for individuals (groups) and policy options for the larger society (Pentikäinen 2008: 8-17).<sup>44</sup> There exists an intrinsic link between the two, as national integration policies impact individuals' integration possibilities, and in practice the acculturation orientations of both

minorities and majorities (Bourhis *et al.* 1997). The issues of recognizing and accommodating differences underline various approaches to integration (Pentikäinen 2008: 9).

Many models of integration specifically bring the relationship between *integration* and *assimilation* to the forefront as a core question, while imagining a complex relationship between the two (Berry 2011; Bourhis *et al.* 1997). The significance of this relationship can be seen in both the international human rights norms and in the views of international expert bodies relying on these norms, including the views of the three bodies considered in this article. In the international human rights norms, the term *inclusion* explicitly comes into play in the context of integration and assimilation (Pentikäinen 2008: 163, 326-336).<sup>45</sup> The triangular relationship between inclusion, integration and assimilation can be seen in the views of the HCNM, the ACFC and ECRI. Of the three bodies, the HCNM is the clearest in the relationship between integration and inclusion. The Ljubljana Guidelines note that integration is based on inclusion and requires the recognition of differences, including multiple and changing identities. The balance between the aims of integration and individuals' rights and interests is emphasized. Though the ACFC and ECRI have expressly contrasted integration and assimilation and prohibited forcible assimilation, they have been somewhat inconsistent in their remarks.<sup>46</sup> Furthermore, the ACFC and ECRI discuss sometimes integration and inclusion as though they are one in the same.<sup>47</sup>

The topic of integration is challenging and often confusing, not only because of the many different theories and models, but also due to the varied usages of the term "integration" (Muižnieks 2010: 14-32; Pentikäinen 2008: 15). The nature of integration as a process means that integration is necessarily fluid and non-static and has cultural and structural aspects with complex relationships (Kälin 2003: 271-272; Ireland 2004: 17). Despite – and because of – these challenges, it is important for those participating in debates on integration to be as clear and explicit as possible in the terms used and meanings attached.

## **Conclusion**

The importance of good integration policies in modern societies characterized by increasing diversity is evident. In addition to impacting individuals' integration possibilities, national integration policies have influence on inter-group, intra-state and inter-state relations, as well as on stability and peace. Due to the complexities and challenges involved in the multifaceted processes of integration, thoughtful and coherent views on integration by international expert bodies serve to assist states in designing national policies and measures. Of the three bodies discussed in this article, the approaches taken by the HCNM appear thus far to be the most

helpful. The ACFC and ECRI have also made useful remarks on integration. Like the HCNM, the ACFC has even offered a definition for integration. However, their views – particular those of ECRI – require further crystallization. The ACFC’s and ECRI’s consolidated views on integration could be particularly important, as these two bodies, unlike the HCNM, do not look at minority issues with implications of inter-state security. The fact that HCNM’s attention is drawn to minorities relevant to state security could exclude many minority situations.<sup>48</sup> Therefore it would be both very useful and important for the ACFC and ECRI to summarize their views on integration in their general commentaries and recommendations.

As noted above, all three bodies should clarify their views on the relationships between the central terms of inclusion, integration and assimilation. Additionally, clarification is necessary on the relationship between integration and social cohesion, a topic that has received a considerable amount of attention within the Council of Europe (Eide 2010: 183). While the HCNM’s usage of the terms suggests that social cohesion is a goal within integration policies and measures (Ljubljana Guidelines: 12, 14, 16), the ACFC’s and ECRI’s remarks on the relationship between integration and social cohesion are unclear.<sup>49</sup> In addition to the clarification of central terms and their relationships, the work of all three bodies requires proper attention to gender and age in the context of integration. While the HCNM has made some pertinent observations on the role of religion and religious institutions in integration, the particular challenges in this context require further consideration. In order to provide further assistance to states in designing national integration policies, the bodies should be more explicit on the general limits of integration policies set by international human rights norms.<sup>50</sup> Finally, in their future remarks, the bodies should elaborate on the significance of *corporate social responsibility* and *decent work* in the area of integration. These concepts are part of on-going and evolving debates on human rights, employment and business responsibilities, and they concern the very relationship between integration and the labour market already highlighted by the bodies.<sup>51</sup>

Regarding the distinction between “old” and “new” minorities, states have been rather insistent on maintaining the distinction, often recognizing the differences of only the former, and even then, selectively and cautiously (Pentikäinen, 2008: 41-42, 50-51, 97, 105; Eide 2010: 174-179). International law has not in general terms made this distinction (Eide, 2010: 192), and international minority norms offer flexibility to include both “old” and “new” minorities within their personal scope of application (Medda-Windischer, 2010). For instance, the FCNM enables addressing various challenges faced by both “old” and “new” minorities (Eide 2010: 184). As mentioned, ECRI has viewed minorities broadly without maintaining the



distinction between “old” and “new” minorities, and the dilution of this distinction is also increasingly true in the practices of the HCNM and the ACFC, reflecting the modern world as characterized by mobility, migration, the increasing diversity of societies, and the emergence of “new” minorities. In modern diverse societies, minority statuses and entitlements should reflect changing realities and, echoing the HCNM’s recommendations, should take into account the context, size, history, location and needs of various minorities (see also Hadden 2005: 188-191) and should balance rights with integration aims. Modern states face perpetual change, and the evolving and dynamic diversity within states requires the constant reassessment of existing integration policies and, if needed, the redirection of policies and concrete measures of integration. In this context, a minority protection regime cannot be fixed, but must be responsive to societal changes.

### *Notes*

1. ‘Social integration’ or merely ‘integration’ is used as a general term in this article.
2. Integration is also expressly tackled in the international human rights norms on children, persons with disabilities, the elderly, women, trafficking victims, and nationality (Pentikäinen, 2008: 70-93).
3. This article is produced as part of the research project on ‘Determinants of an Inclusive Integration Context’ (Mirips-FI project) carried out and led by Prof. Inga Jasinskaja-Lahti at the Department of Social Psychology of Helsinki University and financially supported by the Kone Foundation.
4. For an in-depth research on the topic of integration in the work of the bodies until October 2007, see Pentikäinen, 2008: 207-319. For a summary, see Pentikäinen, 2006/7: 346-356.
5. The ACFC is a supervisory body of the Framework Convention for the Protection of National Minorities (FCNM), ECRI is an expert body that assesses its agenda items in the light of a number of international human rights instruments, and the HCNM is an actor of conflict prevention.
6. This is reflected, for example, in the names of the FCNM and the HCNM.
7. The post of the HCNM has been held by a person with recognized competence in international affairs and diplomacy. See [www.osce.org/hcnm](http://www.osce.org/hcnm) (retrieved June 24, 2014). For the recent writings on the work of the HCNM, see the Special Issue of *the Journal on Ethnopolitics and Minority Issues in Europe* (JEMIE) 3/2013, <http://www.ecmi.de/publications/detail/issue-32013-284/> (retrieved June 24, 2014).
8. For the documents, see <http://www.osce.org/hcnm/66209> (retrieved May 20, 2014).
9. For the broad term of ‘national minorities’ as used in the documents, see the Ljubljana Guidelines: 4; Bolzano Recommendations: 3.
10. For the references to integration in the earlier recommendations and guidelines, see Pentikäinen, 2008: 291-297.
11. The document includes an introduction (1-4), the recommendations (5-8) and an Explanatory Note (9-27).
12. These bonds may or may not be considered as constituting kinship. Although kin-states are often relevant in this relationship, the document does not focus exclusively on these relationships. “Kin” is also noted to be a contested concept (3).

13. The document has an introduction (2-6) and four substantive parts addressing the structural principles (7-13), the principles for integration (14-23), the elements of an integration policy framework (24-37), and the key policy areas (38-65).
14. See the remarks on the use of terms citizenship and nationality in note 40.
15. The observations made in this section are based on an analysis of the opinions adopted by the ACFC and publicized on the ACFC's website up until April 23, 2014. At the time of making analyses for this article (spring/summer 2014), the Committee was carrying out its third country monitoring cycle and had initiated the fourth cycle. For an in-depth analysis of the ACFC's opinions until October 2007, see Pentikäinen, 2008: 220-236.
16. For the FCNM, see <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm> (retrieved June 24, 2014).
17. Article 5.2 refers to state parties' general integration policies, and Article 14.3 makes a link between the knowledge of the official language and integration.
18. It is notable that some of these aspects were touched upon by the ACFC in its earlier opinions in the context of Article 6 of the FCNM (Pentikäinen, 2008: 223-226).
19. The ACFC refers to the absence of the Russian language from the public spaces particularly in the areas with a population of more than 90 % of Russian speakers.
20. For the Committee's earlier remarks on the link between housing and integration, including important attention to placing the Roma in camps running counter to the integration of the Roma, see Pentikäinen, 2008: 230.
21. The commentaries draw upon the ACFC's country-specific opinions, but also upon state reports and other sources, including various international documents and the views of other expert bodies and independent experts. The recommendations and guidelines of the HCNM are among the sources relied upon. See, for example, the Commentary on Language Rights: 3-5, para. 5, 10-11; 5, para. 12; 30, para. 94.
22. The Commentary on Education incorporates remarks on integration in the following contexts: balancing the identity of persons belonging to national minorities and their free integration and participation (6); integration of minorities in the wider society (11); achieving 'integration in diversity' (16); integration of minority pupils (often Roma) to other "integrated" classes (17); ensuring contact, dialogue and integration as a compelling priority in education in countries that have experienced conflict or are experiencing interethnic tension or aggressive nationalism (18); integration of Roma (children) in the societies (21); knowledge of the official language as a factor of integration (24); balancing the goal of preservation and development of minority identity and language with integration of minorities in the society (27); education as a tool for eliminating discrimination and promoting integration (30); and equal opportunities in education for non-citizens as a tool for integration (31). The Commentary on Participation notes integration in the following contexts: integration of Roma and Travelers in socio-economic life (5); risk of social exclusion of persons belonging to some minority groups and the importance of their integration in socio-economic life (16, para. 38); promoting effective integration of persons belonging to disadvantaged minority groups in socio-economic life (18, para. 49); mass media policy and integration and diversity (21, footnote 20); integration of the needs of minorities into governmental policies (23, para. 73); the aim of the commentary to help state authorities to build a more integrated and better functioning society (36, para. 146); the importance of integration policies as a way of both promoting equal opportunities and preventing tensions in society (38-39, para. 154); and adequate knowledge of the official language for participation and integration in mainstream society (41, para 164).
23. Express references to integration are inserted in the following contexts: the role of language as an important tool for promoting full and effective equality and integration in multicultural and linguistically diverse societies (5, para. 12); definition of integration (9, para. 25); integration of migrant and refugee children in schools (12, para. 38); promoting integration of society and the remarks on integration contracts with (foreign-language) migrants (13, para. 39); contribution made by the private sector media in the areas of integration and the general appreciation of cultural diversity in society (15, para. 45); the important role of language in promoting integration, mutual respect among groups and social solidarity (25, para. 79); and the knowledge

- of the official language(s) and protecting minority languages and integration into society (25, paras. 79 and 80).
24. See the remarks in note 21.
  25. For the non-static nature of both language and identity, see the commentary: 6, para. 13. The important principle of free self-identification, that is, the person's possibility to define his/her own group affiliations, is also underlined (commentary: 6-7, para. 13, 16.)
  26. At the time of making analyses for this article, ECRI was considering the remaining reports of the fourth country monitoring cycle and had also initiated the fifth monitoring cycle in 2013.
  27. The remarks in this section are based on an in-depth analysis of ECRI's work on integration until October 2007 documented in Pentikäinen, 2008: 251-278. Of the subsequent work, the following fourth-cycle country reports were analysed for this article: Austria, Denmark, Estonia, Finland, France, Latvia, The Netherlands, the Russian Federation, Sweden, and the United Kingdom. Of the fifth-cycle country reports, those on Belgium and Germany were analysed.
  28. See *ibid.*
  29. See, for example, the report on the Netherlands.
  30. See, for example, the reports on the Russian Federation and Sweden.
  31. In the context of its work on general themes, ECRI has also collected theme files and issued statements and declarations. These files and documents do not address the question of integration. See [http://www.coe.int/t/dghl/monitoring/ecri/activities/GeneralThemes\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/activities/GeneralThemes_en.asp) and [http://www.coe.int/t/dghl/monitoring/ecri/activities/Statements\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/activities/Statements_en.asp) (both retrieved May 6, 2014).
  32. Sport is viewed as a powerful tool for promoting integration due to which governments are encouraged to adopt integration programmes with a sport dimension. A special emphasis should be placed on promoting access to sport for children from minority backgrounds and the key role of local authorities due to their closeness to their community (GPR No. 12: 4, 12, paras. 16-18).
  33. GPR No. 13 raises integration of the Roma only briefly in the contexts of the texts on schools, housing and sport (GPR No. 13: 5, section 4; 6, section 6; 10, section 17). GPR No. 14 mentions integration only in passing in the texts on an integrated workforce and integration in the workplace and on improving the integration and equal participation of groups of concern to ECRI in the area of employment and economic activity (GPR No. 14: 4, 5, para. 2; 9).
  34. ECRI's observations on integration of non-EU citizens in the EU countries draw particular attention to the marked difference in law and in practice between EU citizens and non-EU citizens, which ECRI views as negatively affecting the social and political integration of all segments of society.
  35. For awareness-raising and anti-discrimination elements, see the fourth-cycle reports on the Netherlands: 55, para. 185; 56, para. 187; and on Denmark: 40, para. 135. For the importance of laws, see the fourth-cycle report on Estonia: 16, para. 31. For data, see the fourth-cycle report on Denmark: 45, para. 155. For a public debate, see the fourth-cycle report on the Netherlands: 36, para. 106. For the role of public debate and the media in integration of Muslims and structural obstacles to integration via employment particularly for Muslim women wearing headscarves, see the fifth-cycle report on Belgium: 30-31, paras. 114-117.
  36. See the remarks on the use of terms citizenship and nationality in note 40.
  37. This remark relates to the Danish policy to exempt the nationals from the United States, Canada, New Zealand, Japan, Israel, Switzerland and South Korea from the immigration test, because they are presumed to have better chances of integrating in the country.
  38. The summaries in this section are based on Pentikäinen 2008, 303-319 and the analyses made in this article.
  39. See the remarks on the use of terms citizenship and nationality in note 40.
  40. The concepts of nationality and citizenship are often employed interchangeably in international law to refer to a formal link between a state and an individual and the ensuing rights of nationals (Pentikäinen, 2008: 146-147). The bodies discussed in this article frequently use the concepts of citizenship and citizens in this context.

41. The ACFC's attention to placing the Roma into camps merits a particular note.
42. All bodies view generally positive incentives often more effective in mobilizing support and creating favourable conditions for integration (the ACFC's Commentary on Language Rights: 13, para. 39; 17-18, paras. 53-54; ECRI's fourth-cycle report on Denmark: 40, para. 134; the HCNM's Ljubljana Guidelines: 22). ECRI has noted that sanctions should be limited to those circumstances where incentives have failed and integration without participation in these measures is not likely (fifth-cycle reports on Belgium: 30, para. 110; Germany: 28, para. 75).
43. For the remarks on the HCNM's and ECRI's different views on duties and responsibilities of various stakeholders, see Pentikäinen, 2008: 251-278, 288-313.
44. Among the influential authors having developed theories and models in this context is the Canadian social scientist John Berry (Muižnieks 2010: 23). For a summary of the genealogy of the idea of 'social integration' and the introduction of the evolution of various conceptions of 'social integration', see *ibid.*: 14-32.
45. In the area of international minority rights, permissible policy choices for states have been described in a triangular relationship between assimilation, integration and separation (Hadden, 2005: 176-177, 187-188).
46. Although the ACFC's Commentary on Language Rights contrasts integration and assimilation, this is done only sporadically and in passing in the ACFC's opinions addressing integration. ECRI's three recent GPRs are silent on assimilation, and ECRI's recent country reports analysed for this article do not discuss the relationship between integration and assimilation.
47. The text of the ACFC's Commentary on Language Rights is not always clear on how integration differs from inclusion. This uncertainty is seen from such remarks as 'an overall inclusive policy towards minorities' used in the Commentary: 14, para. 40. For ECRI's parallel usage of inclusion and integration, see, for example, the fourth-cycle report on the UK: 15, para. 19. Also note ECRI's remarks on an inclusive and integrated working environment in GPR No. 14: 4.
48. For the securitization of minority situations in the work of the HCNM, see Sabanadze & de Graaf 2010: 117-143.
49. For example, the ACFC has labelled integration as 'a process of social cohesion' in the Commentary on Language Rights: 9, para. 25.
50. See the similar kinds of remarks in Pentikäinen, 2008: 313-319.
51. ECRI touches upon these concepts in its most recent GPR No. 14 addressing employment. Decent work is raised in the context of ratification of the ILO Convention Concerning Decent Work for Domestic Workers. See GPR No. 14: 4-7, 11.

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