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Efforts to Mainstream Gender Equality in the Work of the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities

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Abstract

This article analyses the jurisprudence of the Advisory Committee on the Framework Convention for the Protection of National Minorities with regard to gender equality in order to establish the efficacy of gender mainstreaming outcomes in the monitoring of the Framework Convention for the Protection of National Minorities. At the outset, we elaborate on gender mainstreaming as a policy instrument developed by international human rights organizations, which is gradually being promoted in national policies through action plans and institutional structures that pursue gender mainstreaming efforts, gender budgeting policies, and training of relevant actors. Subsequently, we analyse the Advisory Committee's efforts in the pursuit and promotion of gender equality in order to establish the extent to which this monitoring mechanism helps the realization of the rights of minority women and girls. In preparing this article, we conducted a detailed examination and evaluation of the country-specific opinions prepared by the Advisory Committee and the relevant academic literature on gender mainstreaming.

Keywords: women's rights; minority women and girls; gender equality in national minority communities; intersecting patterns of inequalities based on sex and ethnicity; gender mainstreaming; Council of Europe

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Introduction

Achieving gender equality is one of the priorities of the Council of Europe (hereinafter: CoE). This international human rights organization recognizes the important challenge of ensuring that all women, including disadvantaged groups of women such as those belonging to national minorities and migrant or refugee women, benefit from gender equality policies and the protection provided by the relevant human rights instruments. National minority women and girls often make up part of the most disadvantaged groups in terms of access to opportunities and resources, as social norms belittle and confine them to care work and reproductive activities. These women and girls may face particular obstacles to equality, both from society at large and within their own communities. Intersecting patterns of inequalities based on sex and ethnic origin consequently increase the risk of social exclusion and marginalization for minority women and girls. Hence, integrating gender mainstreaming in the pursuit of minority policies might help to transform discriminatory social institutions, laws, cultural norms, and community practices that are still prevalent in some national minority communities.

Back in 1995, the United Nations Fourth World Conference on Women reaffirmed that the human rights of women and the girl child are an inalienable, integral, and indivisible part of universal human rights. It recognized that the advancement of women and the achievement of equality between women and men are a matter of human rights and a condition for social justice that should not be seen in isolation as a women's issue. Therefore, the women's rights of persons belonging to national minorities need to be taken into account when shaping minority policies. Gender mainstreaming is particularly pertinent for women and girls from minority backgrounds because they face multiple layers of discrimination and marginalization due to the intersection of their gender and minority status. The intersectionality of these two identities can amplify the challenges they face in various areas, such as access to education, employment, healthcare, and political participation. This makes it crucial to ensure that policies aimed at protecting minority rights also take into account gender-specific issues.

As a strategy toward the goal of achieving gender equality, gender mainstreaming has become integrated in various CoE mechanisms, one of them being the Advisory Committee on the Framework Convention for the Protection of National Minorities (hereinafter: AC FCNM).¹ The Framework Convention for the Protection of National Minorities (FCNM) provides for an effective participation of persons belonging to national minorities in the cultural, social, and economic life and public affairs of those countries that have ratified the Framework Convention and have officially recognized the national minority groups within their jurisdictions. States parties to the Framework Convention are therefore under a positive obligation to create the necessary conditions which would enable national minorities to effectively participate in the society. In doing so, due regard should also be paid to diversity within these national minorities, be it in terms of gender, age, or other characteristics.

The AC FCNM is the Council of Europe's independent expert committee responsible for evaluating the implementation of the FCNM in state parties and advising the Committee

of Ministers, the Council of Europe's statutory decision-making body. It is made up of eighteen independent experts elected by an interparliamentary body consisting of deputies from each of the CoE member states called the Parliamentary Assembly of the Council of Europe (PACE). Members of the AC FCNM need to possess recognized expertise in the field of protection of national minorities; they serve in an individual capacity, and are required to be independent, impartial, and available to serve on the AC FCNM effectively. The results of AC FCNM's evaluations are presented in detailed country-specific opinions which are adopted following a monitoring procedure.

The subsequent section of the paper operationalizes the concept of 'gender mainstreaming' by elaborating on the development of various gender mainstreaming instruments used by international human rights organizations. The paper then provides an analysis of the AC FCNM's jurisprudence with regard to promoting gender equality during country visits and in its opinions, focusing on the most recent AC FCNM's "case law". The findings presented in the paper are contextualized within the framework of the second and third Council of Europe Gender Equality Strategies (2018–2023 and 2024–2029). The methodology employed in this analysis is multifaceted. In order to evaluate the integration of gender mainstreaming into the AC's work we have examined its opinions covering the periods 2017–2020 and 2021–2024. A qualitative content analysis of the text of the opinions from the fourth, fifth and the beginning of the sixth monitoring cycles was conducted to identify key themes and patterns related to the rights of minority women and girls. This involved systematically coding the texts to uncover recurring concepts and practices that highlight the Committee's efforts to address the specific needs and challenges faced by women and girls belonging to national minorities. To assess the progress over time, a comparative analysis between the two periods (2017–2020 and 2021–2024) was performed. This comparison aimed to identify advancements, shifts in focus, and emerging trends in the Committee's approach to gender equality.

Gender mainstreaming – a tool permeating national policies (too slowly)

The United Nations has been a leader in promoting gender mainstreaming as a key strategy for achieving gender equality and women's empowerment (Rao & Kelleher, 2005; Sandler & Goetz, 2020). In December 1979, the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).² This "international bill of women's rights" has not only paved the way for actions on both the international and state levels, tackling gender-based discrimination, but has also contributed to the strengthening of an array of women's rights (Englehart & Miller, 2014). The implementation of the CEDAW Convention is monitored by a body of independent experts called the Committee on the Elimination of Discrimination against Women (hereinafter: CEDAW Committee).³ Their actions include reviewing reports submitted by States Parties' governments on their progress towards achieving gender equality, as well as conducting inquiries and making recommendations to address any violations of women's rights.

The CEDAW Committee was the first to embrace gender mainstreaming as a key concept, advocating for the integration of a gender perspective into all policies, programmes, and activities to ensure that women's rights and needs are given due consideration. The CEDAW Committee also takes into account the different experiences and needs of women and men in its deliberations and recommendations. This includes encouraging states to adopt gender-sensitive policies, laws, and budgets, as well as to promote women's participation in decision-making processes at all levels. The CEDAW Committee has issued several General Recommendations that provide guidance to States Parties on how to implement the Convention's provisions, including those related to gender mainstreaming. For example, in the CEDAW General Recommendation No. 23, which focuses on the rights of women in political and public life and calls upon states to take measures to ensure that women can participate fully and effectively in all aspects of political and public life, the CEDAW emphasized that this right "facilitates the mainstreaming of gender issues and contribute[s] a gender perspective to public policy-making".⁴ In the General Recommendation No. 28, which focuses on the core obligations of States Parties under the Convention and calls upon them to take a range of measures to promote gender equality (including adopting gender-sensitive laws and policies, collecting sex-disaggregated data, and promoting women's participation in decision-making processes), the CEDAW called for a policy of eliminating discrimination against women to "be linked to mainstream governmental budgetary processes in order to ensure that all aspects of the policy are adequately funded".⁵

In 1995, the Fourth World Conference on Women endorsed gender mainstreaming as a critical and strategic approach for achieving gender equality commitments. The Beijing Declaration and Platform for Action, adopted at the conference, called for the integration of gender perspectives into all areas of policy and programming (Moser & Moser, 2005). The Platform for Action recognized that gender inequality is a pervasive and persistent problem that requires a comprehensive and systematic approach. As stated in the 1995 Beijing Declaration and Platform for Action, "many women face additional barriers to the enjoyment of their human rights because of such factors as their race, language, ethnicity, culture, religion, disability or socio-economic class or because they are indigenous people, migrants, including women migrant workers, displaced women or refugees."

In 1997, the United Nations Economic and Social Council (ECOSOC) elaborated its definition of "gender mainstreaming" by stating that

mainstreaming the gender perspective is the process of assessing the implications for women and men in any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality (ECOSOC Agreed Conclusions 1997/2).

In 2010, the United Nations General Assembly created UN Women, a specialized agency dedicated to gender equality and the empowerment of women. UN Women is responsible for

promoting gender mainstreaming throughout the UN system and supporting member states in their efforts to achieve gender equality. In 2015, the United Nations adopted Sustainable Development Goals (SDGs), which include a specific goal (Goal no. 5) on achieving gender equality and empowering all women and girls. The SDGs call for the integration of gender perspectives into all areas of policy and programming and recognize that gender equality is essential for sustainable development. Additional commitments of UN bodies with regard to the endorsement of gender mainstreaming are embodied in a variety of resolutions and decisions of the UN General Assembly, Security Council, ECOSOC, and the Commission on the Status of Women. Finally, a number of UN agencies support national governments in implementing gender mainstreaming through technical assistance, training, and capacity-building. In many countries, UN agencies work closely with governments to develop gender-sensitive policies and programs that address the specific needs of women and girls. As Tibor Kozma concludes (2012, p. 87),

[t]he ‘gender mainstreaming’ model has proven to be an effective tool in reversing the negative trajectory of gender inequality. Unfortunately, the gender mainstreaming concept is often misunderstood or misinterpreted, met with skepticism, or flatly rejected. Despite numerous publications and much academic research, there remains a pervasive need to talk about gender mainstreaming and to examine this issue in greater detail as it pertains to specific fields.

The way to improve or empower the gender mainstreaming approach could be to change the way it is conceptualized in the mindset of bureaucrats responsible for its implementation. The alternative could be to gender different policies and sectoral attempts – this had been put forward by Joan Eveline and Carol Bacchi (Bacchi & Eveline, 2010, pp. 104–105), who argued that

[w]hen applied to gender mainstreaming, using gender as a noun fixes the categories and denies the effortful ‘do-ing’ of asymmetrical power relations and the gendering of policy itself. Using the term as a verb, by contrast, has the potential to build on the insights that a feminist ontology of representation can provide for our understanding of the embodied effects of power and advantage which are always partial and incomplete. To capture this understanding of gender-as-becoming we recommend a reframing of ‘gender mainstreaming’ as ‘gendering-awareness mainstreaming’ at an early stage of the mainstreaming process. That reframing would emphasize the need to analyse how gender is being conceptualized.

The Council of Europe and Gender Mainstreaming

The CoE has adopted several legal instruments and policies to promote gender equality and gender mainstreaming, and has contributed significantly to the “Europeanization” of gender equality (Galligan, Clavero, & Calloni, 2007; Lomazzi & Crespi, 2019). Already in 1988, the Committee of Ministers passed a declaration on the equality of women and men, reaffirming equality of women and men as a human rights principle, a *sine qua non* of democracy, and an imperative of social justice. In 2004, this organization conceptualized gender mainstreaming as “the (re)organisation, improvement, development and evaluation of policy processes, so

that a gender equality perspective is incorporated in all policies at all levels at all stages, by the actors involved in policy-making.”⁶

One of the key documents in this regard is the Convention on Preventing and Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention.⁷ This convention requires states to take measures to prevent and combat violence against women and to provide comprehensive support and protection to victims. In addition, the Committee of Ministers has adopted several recommendations that tackle or promote gender mainstreaming in media, policies, and education, etc.⁸ Back in 2007, Recommendation CM/Rec(2007)17 on gender equality standards and mechanisms had outlined key principles and strategies to promote gender equality across Member States.⁹ Its main objectives were to advance gender equality in all areas of public and private life and to ensure that equality between men and women is achieved in practice, not just in law. The Recommendation had called for establishing or strengthening national legislation to ensure gender equality and eliminate discrimination based on gender. Furthermore, it had emphasized the need for effective institutions to monitor and promote gender equality. These mechanisms should have clear mandates, adequate resources, and the ability to assess and address gender disparities. In addition, Member States were encouraged to integrate gender perspectives into all policy areas, ensuring that laws, policies, and programmes are designed with gender equality in mind. The Member States were instructed that gender mainstreaming should be applied systematically at all stages of policy-making. The Recommendation had advocated for temporary special measures to accelerate *de facto* gender equality (such as quotas or targeted programs that address specific inequalities faced by women). It had also stressed the importance of awareness-raising campaigns, education, and training to combat gender stereotypes and promote equality in all spheres, including workplaces, politics, and social institutions. It had encouraged the CoE Member States to collect gender-disaggregated data and monitor the impact of policies on gender equality, in order to be able to track progress and adjust gender equality strategies. Finally, the Recommendation had promoted cooperation between different stakeholders, including governmental bodies, civil society, and international organizations, with the aim to ensure a coordinated approach to gender equality.

The CoE had systematically supported initiatives aimed at promoting gender equality and gender mainstreaming in its Gender Equality Strategy 2014–2017. For example, its Objective no. 5 reads: “The Council of Europe will strive to achieve gender mainstreaming in: [...] the policy processes and functioning of the [...] monitoring mechanisms”.¹⁰ The 2018–2023 Gender Equality Strategy went further and set out concrete measures to promote gender equality in all areas of the CoE’s work. The strategy focused on four main areas: institutional mechanisms for gender equality; preventing and combating violence against women; promoting gender equality in society; and promoting gender mainstreaming in all policies and activities of CoE.¹¹ As a result of this organizational shift towards pursuing gender mainstreaming, several dozen Gender Equality Rapporteurs (GERs) have been appointed in the CoE institutional bodies, such as steering committees and monitoring mechanisms. Their

task is to integrate a gender equality dimension into the work and activities of these bodies.¹² Furthermore, a Gender Equality Commission (hereinafter: GEC) was put in place to monitor and promote gender equality across all areas of the organization's work.¹³ The GEC advises the Committee of Ministers on appropriate action to be taken in its field of competence, taking due account of relevant transversal perspectives. The GEC is responsible for ensuring that gender mainstreaming is integrated into the CoE's policies and activities, and provides guidance and support to Member States in their efforts to promote gender equality.

One of the six strategic objectives of the current Gender Equality Strategy 2024–2029 is achieving gender mainstreaming and including an intersectional approach in all policies and measures.¹⁴ This strategic objective has three main operational objectives:

- (i) to encourage the Member States and the CoE to strive for gender mainstreaming across all policy areas through policy, programming, and budgeting processes, involving various bodies and institutions, including gender budgeting;
- (ii) to promote gender mainstreaming through the development, implementation, and evaluation of cooperation activities, guided by country-specific and thematic action plans; and
- (iii) to integrate gender equality and an intersectional approach in all activities by supporting policy analysis and implementing policies that address the specific needs of different groups.

With the 2024–2029 Gender Equality Strategy, the CoE has fully embraced intersectionality (Petričušić, 2024). This is a concept that is inherently tied to the anti-subordination theory and is therefore primarily concerned with unearthing power imbalances and cultural structures supporting a racialized/gendered caste system. The negative synergy of ethnicity/race and gender discrimination is, as scholars such as Kimberlé Crenshaw underscore, greater than the sum of its parts (Crenshaw, 1989). The CoE's gender mainstreaming policy has produced several outcomes in the advancement of gender equality and women's rights, one of the most apparent being an increased commitment to gender equality which helped raise awareness about the importance of gender equality and the need to integrate gender perspectives into all areas of the organization's policies and programming. This has conversely led to a greater commitment to gender equality among the Member States and within the CoE itself (Ylöstalo, 2016; Parken & Ashworth, 2018).

Achieving gender equality in the work of the Advisory Committee

The FCNM aims to protect the rights of national minorities and promote their integration into society (Steketee, 2001; Hofmann, 2002; Weller, 2005; Phillips, 2009). As previously mentioned, its implementation is monitored by an expert body established by CoE – the AC FCNM (Pentassuglia, 1999; Alfredsson, 2000). The AC FCNM's primary tool for influencing State parties is its monitoring mechanism, which involves reviewing State reports, visiting countries, and issuing opinions on the implementation of the FCNM (Craig, 2010; Berry, 2016). Namely, like other international human rights treaties, the FCNM also requires States parties to submit a

report to the relevant treaty body every four years, detailing their progress in fulfilling treaty obligations. A government agency (or sometimes several) is responsible for preparing the State's report for submission to the AC FCNM. However, to ensure that the report reflects the full extent of the state of minority rights (i.e. that it contains true and unfiltered information on the progress made), in its numerous opinions the AC FCNM has also encouraged direct involvement of persons belonging to national minorities and national minority organizations in preparation of the state report. In doing so, it has put effort into ensuring that this voice also represents intra-community diversity, especially in terms of gender.¹⁵ This helps to unearth multiple, compound, and intersectional forms of discrimination¹⁶, which may and do hinder minority women in their access to nominally granted rights.¹⁷ Until most recently, the inclusion of intersectionality in such a way has gone beyond the CoE's general approach,¹⁸ and in that sense has represented an avant-garde learning tool.

To thus ensure that minority women's concerns were addressed, and in line with the CoE Gender Equality Strategy 2014–2017, the AC FCNM decided to mainstream gender equality into the 5th monitoring cycle, starting from 2019. To this end, a Gender Equality Checklist¹⁹ had been developed in June 2017, to be deployed during country visits. It contains a set of questions to be addressed by the interlocutors, specifically dedicated to minority women in relation to the realization of three FCNM provisions. The list is comprehensive but by no means exhaustive. It takes a pragmatic approach to gender equality, which tries to seek out structural vulnerabilities such as socioeconomic exclusion, educational disadvantages, and lack of employment, etc.²⁰ The AC FCNM realized from the start that this checklist would require regular re-examination, e.g. by supplementation with sections on social care and health.²¹ The task of such an update has, from then on, been carried by Gender Equality Rapporteurs (GER), who aim for ever-more focused gender mainstreaming by proposing that the AC FCNM holds periodical gender-focused plenary sessions, conducts exchanges with GERs of other CoE monitoring bodies, and considers publishing a thematic commentary on national minority women's rights.²²

In recent years, the AC FCNM has systematically addressed the situation of women and girls belonging to national minorities, aligning its efforts with the objectives of the second Council of Europe Gender Equality Strategy (2018–2023). This commitment is exemplified through the creation of a dedicated webpage on gender mainstreaming on the FCNM website, which offers a comprehensive overview of the Advisory Committee's gender-sensitive approach.²³ The webpage also includes links to two gender analyses of the Committee's opinions, covering the periods 2017–2020 and 2021–2024.²⁴ These analyses highlight the strides made in integrating gender mainstreaming into the AC FCNM's work, ensuring that gender considerations are an integral part of evaluating and improving the conditions of national minorities.

The First Gender Equality Checklist – June 2017

The 2017 checklist v.1.0. covered some of the main issues and questions to be addressed by the AC FCNM. These were primarily designed to gauge gender-based discrimination with respect

to FCNM's Articles 4 (right of equality before the law and equal protection of the law), 12 (access to education, such as regarding low enrolment rate or early school drop-out among girls affiliated with a national minority), and 15 (participation in the decision-making process, such as regarding presence of women in minority consultative bodies).²⁵ The list of questions is shortest regarding the last of these (Article 15),²⁶ but extensive in terms of Arts. 4 and 12. Regarding Article 15, AC's Thematic Commentary No. 2 from 2008 seems to encapsulate the preoccupation of the Committee in that regard:

For the credibility of consultative bodies, it is essential that their appointment procedures are transparent and designed in close consultation with national minorities. State Parties are encouraged periodically to review the appointment procedures to make sure that the bodies concerned are as inclusive as possible, maintain their independence from governments, and genuinely represent a wide range of views amongst persons belonging to national minorities. It is important to ensure that women belonging to national minorities are involved in consultative bodies.²⁷

The 2017 Checklist noticeably endeavoured to gain a clear sense of a given system's sensitivity to issues of multiple and compound discrimination, inquiring whether the legislation and policy frameworks protecting members of national minorities even include a gender equality perspective²⁸ and, if they do, whether they also cover grounds other than ethnicity and gender. In this sense, we should like to point out the drastic impact of indigency on access to nominally-guaranteed rights (minority-centred or not), a fact often overlooked by a particular country's legal framework and policies. We must also bear in mind that a minority ethnic profile regularly envelops cultural, linguistic, and/or religious characteristics as well, offering multiple opportunities for the creation of enhanced discriminatory settings. However, in terms of the gender-minority status entanglement, the Checklist made clear that States should take care to disaggregate numbers by sex when collecting data and conducting qualitative surveys on minority members (relevant for Arts. 4 and 12). Obviously, without such differentiation, States (and the AC FCNM) would have a hard time assessing the success of a given framework at targeting women, as well as unpacking the differentiated impacts of various policies. Any attempt at a gender analysis would thus simply lack the information necessary for integrating gender perspectives in the design, implementation, and monitoring of a given policy or programme.²⁹

Regarding intersectionality, at this stage the Checklist was not specifically geared toward that concept. However, there were glimpses of awareness of the specific negative synergy between ethnic status and gender when it comes to minority women. The questionnaire thus made sure to question whether the national framework addressed specific forms of discrimination afflicting women purely due to their gender and, more importantly, whether the state availed itself of the opportunity offered in Art. 4. sec. 3. to introduce positive discrimination.³⁰

In the context of Art. 12, the questionnaire particularly tied the need for "special measures" for minority women to their potential indigency, rural/remote residence, or

disability/chronic disease *in connection with* their gender. Both in context of Art. 12 and 15, the crux of the matter is whether the States recognize the asymmetrical impact of law/policy on, and the generally uneven situation of, minority women and men³¹ and whether they dedicate resources and measures to eradicating that intra-group inequality.

Bearing in mind some communities' customs and practices, the checklist was clear that States should be able to answer in the positive regarding the existence of special measures to subdue cultural conventions such as early marriage/pregnancy (still a widespread custom among Romani girls)³² and consequent school drop-outs. The case of Bulgaria is illustrative here – the AC FCNM warned that Bulgarian legislation on child welfare has a disproportionate impact on Roma, especially female minors. Namely, the termination of family allowances for a child who stops attending school and/or a minor who becomes a parent amounts to – in the view of the AC FCNM – discrimination against the Roma, particularly Romani female minors.³³ The statistics are heartbreakingly similar across the AC FCNM's Opinions: in Bosnia and Herzegovina, only 69.3% of Roma children attend school, with a primary school dropout rate of 46.2%.³⁴ Only 20% of Romani girls complete primary school, and the numbers then drop to an abysmal 4.5% at the high school level (the number for Romani boys is 9.2%).³⁵ The fact that the under-education of Romani girls and women translates to under-employment, in turn furthering their social exclusion and indigency, is only exacerbated by a simultaneous shortage of access to pre-school education for their children – as picked up by the AC FCNM in its Fifth Opinion on Hungary³⁶ and Fourth Opinion on Ireland.³⁷ Reproductive healthcare concerns figure prominently in opinions on Italy, stressing the high level of “conscientious objectors” and fewer facilities providing sexual and reproductive healthcare, disproportionately impacting women who live in rural areas.³⁸ The number of Italian obstetrician-gynaecologists objecting to performing abortions is 70% overall, but surpasses 80% in some regions (92.9% in Alto Adige and 87.6% in Sicily) – they are joined by more than 50% of anaesthesiologists as well (Paravicini, 2017; Zampas & Andión-Ibañez, 2012, p. 248). With numbers so high, there is clearly a general denial of reproductive services in Italy, compromising women's right to health under Article 11 of the European Social Charter.³⁹

These concerns tie into a more general overarching concern about the representation of minorities in teaching and learning materials, especially underscoring the problem of gender stereotyping. Aside from dictating different expectations for boys and girls rooted in a perceived difference in the genders' respective societal roles, ethnically-based gender stereotypes especially lead to occupational gender segregation. Its spillover into various widely-held stereotypes and biases across society is represented in one of the questions regarding Art. 4 FCNM, which inquires whether there are any significant differences in reporting on domestic violence among the general population and minority women. Recent research has shown how a lack of cultural diversity and the ensuing knowledge gap in the newsroom impacts on news reporting. Australian studies, for instance, show a lack of consideration for intersectional factors (cultural diversity, race, socioeconomic conditions, and gender) affecting victims from diverse backgrounds (Rodrigues, 2022). Misrepresentation of racialized groups sees the

media framing domestic violence as a cultural and marginal problem, strategically using the framing of other cultures as deviant “to underline the unassimilable character of immigrant communities” (Jiwani, 1999).

Broaching the criminal law domain, the Checklist further questions whether there are still any extant measures discriminating against minority women (e.g. forced sterilization)⁴⁰ and, if not, whether women afflicted thus far have received any compensation. The admonishment of Czechia in the 2021 Report noted the “long period” that most victims of such “gross violation[s] of human rights” have been waiting for compensation.⁴¹ It also urged the Slovak authorities to avoid any further delays in compensating such Slovak Roma victims of forced sterilization.⁴² Regarding domestic violence, the issue of disaggregation of data presents itself again, requiring the distinction of minority women as a specific subset of the women assaulted. In these and other situations where minority women are victims of rights violations, the salient issue is also one of police capabilities – i.e., whether the police can account for and respond to gender-based issues involving minority women. The questions are: are there police officers – possibly policewomen – belonging to minorities?⁴³ Are the States building linguistic and cultural competences in police forces and social services?⁴⁴ The AC FCNM’s Third Opinion on Montenegro notes that not only have high levels of domestic violence against Romani women not been addressed properly by the authorities, but that these women have also faced difficulties in reporting the violence, resulting in inadequate responses from the authorities.⁴⁵ Ukraine has similarly been scolded for slow intervention by law enforcement in cases of domestic violence within Roma families, exacerbating the risk for Roma women.⁴⁶ The Russian invasion of Ukraine in 2022 only intensified the situation of the Ukrainian Roma, leaving them to face “especially acute” challenges in displacement. Having been “long subjected to issues such as segregation, lack of documents and discrimination”, the challenges now also include “accessing livelihoods, given that many Roma have relied on informal employment and temporary work to make ends meet” (Popenko, 2022). In Albania, the 2018 Opinion found that Roma women had particular difficulties in accessing the justice system due to their indigency – i.e. the fact that no free legal aid was provided “until recently”.⁴⁷ Most importantly, in view of the ECHR case law highlighting some States’ structural problems with police brutality and discrimination based on ethnic grounds against minorities,⁴⁸ the question becomes: are there any measures in place to combat gender-bias within the police as regards persons belonging to minorities? In the case of Ukraine, in 2017 the AC was “deeply concerned” with practices such as racial/ethnic profiling of the Roma, arbitrary arrests, and systematic fingerprinting and photographing.⁴⁹

The Second Gender Equality Checklist – June 2021

The Checklist was revised in 2021⁵⁰ and expanded by adding questions related to three additional FCNM articles: Art. 6 (tolerance and intercultural dialogue), 7 (freedom of conscience) and 8 (religious freedom). It took note of the GERS’ background paper presented at a previous meeting in 2020,⁵¹ which stressed the need for a heightened awareness of

issues of intersectionality and included specific references to this concept in the revised questions (e.g. regarding case law, awareness campaigns, etc.). The language of the Checklist also underwent a positive transformation, bringing it in line with concepts of contemporary antidiscrimination law such as “direct”/“indirect” discrimination and the preoccupation with substantive (“effective”) equality (re: Art. 4). Data sensitivity relating to Art. 4 was heightened, requiring not only basic disaggregation by ethnicity/gender, but also by language and religion (among other characteristics),⁵² reflecting sensitivity to the issue of assimilation⁵³ (especially for non-visible minorities) and to the existence of multiple identities. The Opinions adopted since 2021 also make it a point to highlight the fact that such disaggregation of data is the *sine qua non* for the development of comprehensive policies and measures that are targeted and outcome-oriented.⁵⁴

When it comes to gender-based violence, previous questions were further refined: Art. 4 questions were supplemented by a query on general gender-based violence statistics regarding the “minority-general population” dichotomy. Questions on domestic violence were moved to the newly-created part of the Checklist covering FCNM’s Art. 6, now specifically targeting the potential problem of under-reporting such crimes in relation to minority women.⁵⁵ Worldwide, the estimates of women who experience intimate partner violence (IPV) hover around 27% (WHO, 2024). Of the roughly 40% of women who experience gender-based violence in general, only 10% go on to report it to the police (UN Women, 2024), with the statistics particularly low for IPV victims (Jurarros-Basterretxea et al., 2024). The most recent opinions, from 2022 on, thus emphasize the need for law enforcement to continuously build linguistic and cultural competences, as well as gender sensitivity, and to increasingly include national minority people – especially women – in their ranks.⁵⁶

Further in the field of criminal law, questions regarding Art. 6 also address the potentially disproportionate impact of hate speech and hate crime on minority women, especially when coupled with concerns about rising nationalism and populism that have been sweeping the continent and beyond since the 2009 economic crisis.⁵⁷ It head-on enquires about the efforts to eliminate gender stereotypes and sexism not only in the minority communities themselves, but also in the wider society, where it specifically singles out the potential problem of gender bias in the functioning of the police, justice system, and/or administration (a query also moved over from the previous Art. 4 section and expanded).

Curiously though, among the questions pertaining to Art. 6, there is a question about the existence of harmful practices affecting minority women in *their minority communities*. An example of these inter-community misogynistic customs can be seen in the AC FCNM’s opinions on Armenia, stressing concerns about forced early marriages of Yezidi girls which further endangers their right to education, as well as by reported sex-selective abortions.⁵⁸ Even if this surely is a valid and most important question, it does not really match the content of the cited article, and would be better situated under the “general” aegis of Art. 4.

Tying into the tolerance and intercultural dialogue, a single question regarding Art. 7 implicitly addresses the strengthening of Islamophobia in the sense of questioning a minority

woman's freedom to choose whether to display religious symbols in public or not. This contentious issue has received attention from both the European Court of Human Rights⁵⁹ and the EU Court of Justice, with not-altogether palatable results from the viewpoint of human rights protection.⁶⁰ Along with instances of minority women being *prevented* to express their religious affiliation by the choice of their garb, there are also diametrically opposite problems – in the Republic of Chechnya (as a part of the Russian Federation), the AC noticed that women working in the public sector *had to* wear a hijab during work, regardless of their religious affiliation.⁶¹ Regarding the contemporary split concerning the stance on the “Islamic veil problem” (be it *hijab*, *niqab*, *burqa* or other), it becomes very clear that the issue of a given woman's choice of clothes must be one resting squarely and solely within her individual sense of self-determination and autonomy (rather than on choice of patronization by either the state or her religious authorities or family). The intersectionality of religious minority women's position is further reflected in questions pertaining to Art. 8, asking whether a given State's legal framework relating to religious rights places minority women in a more disadvantageous position as compared to men *because* of the requirement that women wear more visible religious symbols (e.g. with regard to access to employment, education, and integration in general). Insofar as we have seen from the cited case law, that answer is resolutely in the affirmative, heavily negatively impacting (and discriminating against) Muslim women. A whole decade before this formal sensitivity toward Muslim women in the restated Checklist, the AC FCNM already noted with concern how, in the Russian Federation, racist insults and attacks multiplied against women wearing a hijab in the years following the 2010 Moscow metro bombings.⁶²

And finally, the application of Art. 15 in the revamped questionnaire became the subject of much stricter scrutiny. The original question of female representation on the elected/consultative minority bodies was supplemented by much more insightful and salient questions reflecting the gendered power dynamic. We expect questions on vertical gender segregation regarding positions in associations/minority parties and of women's voices in the design, realization, and evaluation of policies and programmes targeted at national minorities to showcase the degree of minority women's economic, social, cultural or political marginalization (also presented as a separate question,). Particularly in the public sector workforce, States are expected to pay attention to the representation of not only minority women, but individuals belonging to numerically-smaller minorities in particular, and to place minority women in leading positions.⁶³

Conclusion

The enjoyment of all human rights, including minority rights, must be secured without discrimination on any ground, including gender. As a principle of human rights, gender equality is a prerequisite for the achievement of all the other rights-related goals, including the realization of the rights of persons belonging to national minorities. The CoE has thus for the past three decades been committed to promoting gender equality and gender mainstreaming

in all its policies and activities. Through its numerous legally binding instruments, policies, and initiatives, this European international human rights organization is working to ensure that gender equality is integrated into decision-making processes and that women's rights are protected and promoted across Europe.

Within the CoE, the AC FCNM has recognized that the effective achievement of gender equality and women's rights needs to become a high-profile criterion, which should result in positive outcomes in the area of promotion and protection of rights for persons belonging to national minorities. The first AC FCNM's Gender Equality Checklist that was adopted in 2017 encouraged this expert body to mainly assess gender equality in connection with access to education and participation in the decision-making process. The revised Gender Equality Checklist from 2021 demonstrated the intention of the Advisory Committee to also monitor this dimension systematically with respect to the legal and policy framework for the protection from discrimination of persons belonging to national minorities as well as the promotion of equal treatment, tolerance, and intercultural dialogue, and the religious freedoms of minorities. The concept of intersectionality and the need to pursue it in the monitoring process was only acknowledged in the second Checklist. This allows for the conclusion that, even if the AC FCNM was at the forefront of the CoE's "learning curve" regarding intersectionality, its response was still comparatively delayed, in the sense that by that time, intersectionality had already been embraced in the feminist literature as an analytical concept for several decades.

Tasked with monitoring the implementation of the FCNM by State Parties, the AC FCNM interprets the Framework Convention in light of broader human rights standards. This provided the monitoring body with the competence to address gender-related issues when they intersect with minority rights. Indeed, the Framework Convention for the Protection of National Minorities does not explicitly focus on gender equality, but it emphasizes non-discrimination and equality for all persons belonging to national minorities. However, the non-discrimination principle in Article 4 of the FCNM is broad enough to allow the AC FCNM to consider gender equality as a prerequisite for the achievement of minority rights. The AC FCNM can identify intersectional discrimination faced by minority women and urge States to address it. Once the AC FCNM incorporated a gender-sensitive perspective in its evaluations, it has consistently urged the States parties to consider the specific challenges faced by women in national minority groups. The analysis of the AC's jurisprudence has shown that gender equality has mainly been assessed in connection with access to education (Art. 12 – e.g., the access of Roma girls to education) and participation in the decision-making process (Art. 15 – e.g., the presence of women in minority consultative bodies). In the future, though, it should be the intention of the AC to monitor this dimension (and some other possible grounds for discrimination of persons belonging to national minorities that may affect their access to minority rights) systematically with respect to, at the very least, Articles 4, 6, 8, 12, and 15. The gender sensitive analysis in AC's jurisprudence (2021–2024) reflects this need, and highlights those opinions that have employed the gender dimension in the whole array of monitored FCNM Articles. It zeroes in on the promotion of gender equality and gender

mainstreaming in the States' policies and activities, on the narrow tailoring of gender-based violence policies, and on honing and improving the institutional mechanisms for gender equality. The analysis especially showcases the heightened awareness of intersectionality, including specific references to this concept in various opinions. References are included to the AC's willingness to advocate for changes, even on the statutory level, asking for an addition of both intersectional and multiple discrimination to the non-discrimination legal framework, in order to render intersecting forms of discrimination "more visible...allowing to identify specific barriers" before minority women and girls.⁶⁴ The analysis also makes the AC's increased attempt to underscore the heterogeneity of national minorities clear, explicitly and repeatedly referencing the gender and intergenerational dimensions in this regard.⁶⁵ Finally, it brings to light the fact that the AC takes note of the emerging international consensus on women's rights as a particular subset of human rights, highlighting in a number of reports the States' obligations relating to sexual and reproductive health care.⁶⁶

If Member States to the FCNM are to establish and enforce gender equality standards within their minority policies, they need to enhance legal frameworks, strengthen their institutional support, and develop and implement proactive measures to eliminate gender-based discrimination within national minority communities. In order to reach these goals, the AC FCNM holds significant, though somewhat indirect, competence to promote gender equality, including the advancement of women's rights within national minority communities. However, the extent of its leverage to influence policy changes in State parties likely requires amendment of the current Rules of Procedure of the AC FCNM to give more explicit priority and visibility to gender equality. Through country visits and consultations with civil society organizations, including those representing minority women, the AC FCNM can gain insights into gender-specific concerns and amplify the voices of minority women in its recommendations. However, as the AC FCNM's role remains advisory, it lacks binding authority to force States to implement specific policies. Its influence depends on the political will of State parties to adopt its recommendations. While it can pressure States through naming and shaming in opinions, the AC FCNM does not have genuine enforcement powers.

Successful implementation of gender mainstreaming by national governments should require that the knowledge, concerns, priorities, experiences, capacities, and contributions of women, men, and gender-diverse people are made an explicit and integral part of all policies, including minority policy. The AC FCNM should, therefore, be more vigorous in requesting that States, while preparing and submitting state reports, provide information on the specific situations of minority women and the problems they face in their country, region, or locality when submitting their regular reports to this monitoring body. This requirement could entail an assessment of the current situation of ethnic minority women and girls in different areas including education, economic status, health, gender-based violence and other harmful practices, representation, and access to services/opportunities.

In addition to the currently collected information, the States could also provide evidence of integrating gender equality into national public institutions that are dealing with

the implementation of minority rights as well as in minority associations and organizations. Such information might relate to, for example, violence against minority women, unequal access to quality education, the under-representation of minority women in public and political life, discrimination against minority women in employment, and the burdens faced by minority women supporting families in poverty. The collection of such information would allow the AC FCNM to put forward specific recommendations in country reports, calling on States to address issues faced by minority women and, by doing so, focus explicitly on achieving positive development results for gender equality within national minority communities as well as on the realization of women's rights in conjunction with the realization of minority rights. An additional avenue for strengthening gender equality within the AC FCNM's mandate would be to draft a comprehensive thematic commentary on diffusing the gender equality dimension in the rights of persons belonging to national minorities.

Endnotes

- 1 FCNM is the first legally-binding multilateral instrument devoted to the protection of national minorities worldwide. The FCNM was adopted on 10 November 1994 by the Committee of Ministers and entered into force on 1 February 1998. It is now in force in 39 states. The full text of this Treaty (no. 157) is available at: <https://www.coe.int/en/web/conventions/cets-number/-/abridged-title-known?module=treaty-detail&treatynum=157>
- 2 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.
- 3 Committee on the Elimination of Discrimination against Women, available at: <https://www.ohchr.org/en/treaty-bodies/cedaw>.
- 4 Paragraph 25 of the CEDAW General Recommendation No. 23 on political and public life.
- 5 Paragraph 28 of the CEDAW General Recommendation No. 28 on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women.
- 6 Council of Europe, 2004, Gender mainstreaming: Conceptual framework, methodology and presentation of good practices. Final report of activities of the Group of Specialists on Mainstreaming (EG-S-MS). Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680595887>.
- 7 Council of Europe Convention on preventing and combating violence against women and domestic violence, Council of Europe Treaty Series – No. 210, available at: <https://rm.coe.int/168008482e>.
- 8 Recommendation No. R (90) 4 on the elimination of sexism from language, Recommendation No. R (96) 5 on reconciling work and family life, Recommendation Rec(2002)5 on the protection of women against violence, Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making, Recommendation Rec(2006)19 on policy to support positive parenting, Recommendation CM/Rec(2007)13 on gender mainstreaming in education, CM/Rec(2007)17 on gender equality standards and mechanisms, Recommendation CM/Rec(2010)10 on the role of women and men in conflict prevention and resolution and in peace building, Recommendation CM/Rec(2013)1 on gender equality and media, Recommendation CM/Rec(2015)2 on gender mainstreaming in sport and Recommendation CM/Rec(2019)1 on preventing and combating sexism.
- 9 Recommendation CM/Rec(2007)17 on gender equality standards and mechanisms, available at: <https://search.coe.int/cm?i=09000016805d4aa3>.
- 10 The Council of Europe Gender Equality Strategy 2014–2017, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680590174>.
- 11 The Council of Europe Gender Equality Strategy 2018–2023, available at: [https://rm.coe.int/ge-strategy-2018-2023/1680791246#:~:text=GOAL%20AND%20STRATEGIC%20OBJECTIVES,-35.&text=1\)%20Prevent%20and%20combat%20gender,political%20and%20public%20decision%20making](https://rm.coe.int/ge-strategy-2018-2023/1680791246#:~:text=GOAL%20AND%20STRATEGIC%20OBJECTIVES,-35.&text=1)%20Prevent%20and%20combat%20gender,political%20and%20public%20decision%20making).
- 12 Point 85 of the Council of Europe Gender Equality Strategy 2024–2029, available at: <https://rm.coe.int/prems-073024-gbr-2573-gender-equality-strategy-2024-29-txt-web-a5-2756/1680afc66a>. Council of Europe bodies are required to integrate a number of mainstreamed perspectives, namely gender equality, the rights of persons with disabilities, youth, the rights of the child, and Roma and Traveler issues. See also Rule 11 of the Rules of Procedure of the AC FCNM at: <https://www.coe.int/en/web/minorities/rules-of-procedure>.
- 13 The Gender Equality Commission, available at: <https://www.coe.int/en/web/genderequality/gender-equality-commission>.
- 14 Ibid.
- 15 AC FCNM, 11th activity report, 2016–2018, p. 12.

- 16 Here, the AC FCNM relies on Timo Makkonen's classification as presented in *Multiple, Compound and Intersectional Discrimination: Bringing the Experience of the Most Marginalized to the Fore* (Makkonen, 2002, p. 10). Makkonen defined multiple discrimination as "a situation in which one person suffers from discrimination on several grounds, but in a manner in which discrimination takes place on one ground at a time", while compound discrimination denotes "a situation in which discrimination on the basis of two or more grounds add to each other". We must point out that while Makkonen sees multiple, compound and intersectional (*stricto sensu*) discrimination as "intersectional" discrimination in a wider sense, this terminological abundance proves challenging in terms of differentiating between compound and intersectional (*stricto sensu*) discrimination (Howard, 2024). For sake of clarity and the comparability of research, we advocate for a shared focus on the single term of "intersectionality".
- 17 Obstacles to justice are sometimes frustratingly placed by the piecemeal structuring of national institutions – in the Finnish example, parallel ombudspersons (for equality and for non-discrimination) possess overlapping but distinct mandates, which can weaken anti-discrimination provisions by creating "differential treatment between women from majority or minority communities" in cases of intersectional discrimination – Fifth Opinion on Finland, 27 June 2019 (ACFC/OP/V(2019)001), para. 68.
- 18 AC FCNM, Meeting report – 59th meeting, Strasbourg, 19–23 June 2017 (ACFC/MR(2017)/002), pt. 8.
- 19 Restricted document, on file with the authors.
- 20 AC FCNM, 11th activity report, op. cit., p. 28.
- 21 AC FCNM, 59th meeting, op. cit., pt. 7 (Brigitta Busch, in respect of Austria, as the then-vice president of the AC FCNM). Even before the creation of the Checklist, Sweden was lauded in the AC FCNM's Fourth Opinion (1 June 2016, ACFC/SR/IV(2016)004) for conducting studies targeted at the health situation of Roma girls and women (p. 27). In its Fourth Opinion on Bulgaria in 2020, the AC FCNM likewise expressed concern at the fact that many Roma lacked health insurance, where particularly Roma women were affected disproportionately (26 May 2020 (ACFC/OP/IV(2020)001), paras. 206 and 208).
- 22 AC FCNM, Meeting report – 75th meeting, hybrid form, 16–20 May 2022 (ACFC/MR(2022)002), p. 3.
- 23 AC FCNM, New webpage on Gender mainstreaming in the Advisory Committee's work, https://www.coe.int/en/web/minorities/gender-mainstreaming?pk_campaign=newsletter.
- 24 AC FCNM, Gender sensitive analysis in ACFC jurisprudence 2017–2020, <https://rm.coe.int/gender-sensitive-analysis-in-acfc-s-jurisprudence-2017-2020/1680bof802>. AC FCNM, Gender sensitive analysis in ACFC jurisprudence 2021–2024, <https://rm.coe.int/gender-sensitive-analysis-in-acfc-s-jurisprudence-2021-2024/1680bof803>.
- 25 AC FCNM, 11th activity report, op. cit., p. 27. See, for instance, the AC FCNM zeroing in on gender imbalance within minority representative bodies in its opinions on Montenegro (Third Opinion, 7 March 2019 (ACFC/OP/III(2019)001), paras. 161–162) and Portugal (Fourth Opinion, 28 June 2019 (ACFC/OP/IV(2019)002), paras. 119, 123 and 135).
- 26 Concentrating on issues of gender (im)balance in elected/consultative bodies representing minorities, as well as on measures taken to bring it to more equitable levels reflecting the postmodern dedication to the construction of (gender) parity democracy, rooted as it is in the concept of equal citizenship for women and men. As to the general concept of parity and transformative citizenship (the latter representing the Holy Grail of abolished gender roles and a discontinuation of the separate spheres/sexual contract concept), see Rubio-Marin (2022).
- 27 Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs, 27 February 2008, ACFC/31DOC(2008)001, para. 111.
- 28 Sensitivity to Roma women is particularly visible in the AC FCNM's opinions – see e.g. the Third Opinion on Latvia (23 February 2018 (ACFC/OP/III(2018)001REV), para. 59), the Fourth Opinions on the Russian Federation (20 February 2018 (ACFC/OP/IV(2018)001), para. 43) and Lithuania (30 May 2018 (ACFC/OP/IV(2018)004), par. 33), and the Fifth Opinion on Spain (27 May 2020 (ACFC/OP/V(2020)002), paras. 5 and 98).

- 29 Lack of disaggregated data makes monitoring “virtually impossible” – Fourth Opinion on Ireland, 10 October 2018 (ACFC/OP/IV(2018)005), para. 27 (regarding the Traveller and Roma communities). Reminders on the importance of systematic collection and ethnic/gender disaggregation of data were expressly included also in Opinions on the Russian Federation (Fourth Opinion, op. cit., para. 46) and Cyprus (Fifth Opinion, 7 November 2019 (ACFC/OP/V(2019)002), para. 74).
- 30 i.e. “adequate measures” promoting “full and effective equality” – as they are promoting real, substantive equality, these measures do not fall under the aegis of prohibited discrimination.
- 31 In the context of the Traveller community, the AC FCNM’s Fourth Opinion on Ireland observes that where persons belonging to the Traveller communities experience a high level of discrimination, women are twice as likely to report discrimination (op. cit., p. 27). Portugal was also commended for promoting gender equality within the Roma community, by promoting women’s professional skills which are considered as essential conditions for their empowerment (Third Opinion on Portugal, 4 December 2014 (ACFC/OP/III(2014)002), para. 40).
- 32 Early marriage is one of the main reasons for school dropout of Roma girls – Fourth Opinion on Romania (22 June 2017 (ACFC/OP/IV(2017)005), par. 113. Some 15% of Roma in Poland indicated that “marriage, pregnancy or childbirth” caused their dropping out/absenteeism – Fourth Opinion on Poland (6 November 2019, ACFC/OP/IV(2019)003, par. 130). However, the AC warned against focusing on these issues à la marge and only from a criminal law perspective, rather calling for an intersectional perspective with a focus on gender and youth – Fifth Opinion on Italy, 5 October 2022 (ACFC/OP/V(2021)11), para. 71.
- 33 Fourth Opinion on Bulgaria, op. cit., para. 50.
- 34 The statistics are even worse in Portugal, where the retention rate of Roma students in elementary education is only 44% – Fourth Opinion on Portugal, op. cit., para. 117.
- 35 Fourth Opinion on Bosnia and Herzegovina, 9 November 2017 (ACFC/OP/IV(2017)007), para. 114.
- 36 Adopted on 26 May 2020, ACFC/OP/V(2020)002, para. 172.
- 37 The AC called upon Ireland to analyse the impact of childcare costs on women’s access to the labour market and further education – op. cit., para. 82.
- 38 Fifth Opinion on Italy, 5 October 2022 (ACFC/OP/V(2021)11), para. 201.
- 39 See the European Committee for Social Rights’ decision in International Planned Parenthood Federation – European Network v. Italy, no. 87/2012, 10 September 2013.
- 40 See cases against Slovakia (V.C., Application no. 18968/07, 8 November 2011; N.B., Application no. 29518/10, 12 June 2012; and I.G., M.K. and R.H., Application no. 15966/04, 13 November 2012).
- 41 Fifth Opinion on the Czech Republic, 31 May 2021 (ACFC/OP/V(2021)3), para. 69.
- 42 Fifth Opinion on the Slovak Republic, 2 February 2022 (ACFC/OP/V(2022)8), para. 284.
- 43 See a meta-synthesis exploring intimate partner violence as experienced by Black, Asian, minority ethnic, and immigrant women, which reviews 47 peer-reviewed articles from 2000 to 2020 and concludes that these women “faced additional barriers as a result of institutional racism, immigration laws, culture and religion, and issues of cultural competence, and lack of diversity within frontline services” – Hulley et al. (2023, 1001). Such barriers “exacerbate[d] feelings of fear, threat, isolation and powerlessness” (Hulley et al, 2023, 1001).
- 44 Fifth Opinion on Armenia, 5 October 2022 (ACFC/OP/V(2022)01), para. 83, and (regarding the Sami population) Fifth Opinion on Norway, 2 February 2022 (ACFC/OP/V(2021)7), para. 16.
- 45 Third Opinion on Montenegro, 7 March 2019, ACFC/OP/III(2019)001rev, para. 82.
- 46 Fourth Opinion on Ukraine, 10 March 2017 (ACFC/OP/IV(2017)002), para. 92. The Opinion described the situation of the Ukrainian Roma as “one of the most pressing social problems in Ukraine” and detailed how Roma “suffer from school segregation, widespread anti-Gypsyism, including hate speech” (paras. 60 and 63), noting that “[t]he situation of Roma has not improved since the last monitoring cycle” (para. 62).
- 47 Fourth Opinion on Albania, 11 October 2018 (ACFC/OP/IV(2018)006), para. 78.

- 48 See e.g. *Boacă and Others v. Romania* (Application no. 40355/11, 12 January 2016; furthermore, in 2019, Romania became the first CoE state to be found guilty of “institutional racism” – see the case of *Lingurar v. Romania*, Application no. 48474/14, 16 April 2019), *Memedov v. North Macedonia* (Application no. 31016/17, 24 June 2021). While these cases concern the Roma, a Croatian case of *M.H. and Others v. Croatia* (Applications nos. 15670/18 and 43115/18, 18 November 2021) concern (Syrian) immigrants and violent pushback police strategies. Also see the European Network Against Racism’s (ENAR) (2021) report “The Sharp Edge of Violence – Police Brutality and Community Resistance of Racialised Groups”, available at: https://www.enar-eu.org/wp-content/uploads/enar_report_-_the_sharp_edge_of_violence-2.pdf.
- 49 Fourth Opinion on Ukraine, op. cit., para. 92.
- 50 AC FCNM, Meeting report – 71st meeting, 31 May–1 June 2021 (ACFC/MR(2021)002). The document containing the Checklist is restricted, under the number ACFC/DOC(2021)9, from 1 June 2021 (on file with the authors).
- 51 AC FCNM, Meeting report – 70th meeting, 1–4 February 2021 (ACFC/MR(2021)001), on file with the authors.
- 52 AC FCNM commended Latvia in this regard – Third Opinion on Latvia, op. cit., par. 54, and encouraged Malta to start collecting up-to-date data on the socioeconomic and educational situation of minority women, in order to compare it with the situation of the majority population – Fifth Opinion on Malta, 5 October 2020 (ACFC/OP/V(2020)003), para. 39. Such comments are in keeping with the conclusions of the AC’s Thematic Commentary No. 4, concerned with multiple discrimination which includes factors unrelated to gender/national minority background (age, sexual orientation and lifestyle markers) – The Scope of Application of the Framework Convention for the Protection of National Minorities, 27 May 2016 (ACFC/56DOC(2016)001), para. 66.
- 53 See, e.g., the AC’s First Opinion on Slovakia, recounting „disturbing reports“ suggesting that the Slovak form of surnames is imposed on women belonging to national minorities – 22 September 2000 (ACFC/INF/OP/I(2001)1), para. 37.
- 54 See the 2021–2024 Gender sensitive analysis, op. cit., pp. 1–2.
- 55 In US reports, the number of victims is 11–32% higher for racial/ethnic minorities such as non-Hispanic Black, Native American or multiracial women (in comparison to White non-Hispanic women) – The National Intimate Partner and Sexual Violence Survey – Report on Intimate Partner Violence, 2016–2017 State Report, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, p. 26.
- 56 2021–2024 Gender sensitive analysis, op. cit., pp. 5–6.
- 57 Issues of hate speech have already been addressed in e.g. the AC FCNM’s Fifth Opinion on Finland (27 June 2019, ACFC/OP(V(2019)001), where Sámi women were identified as targets of online harassment (par. 89). It has been noted that women belonging to minorities in general experience hate speech “significantly more frequently” than women belonging to the majority (para. 99).
- 58 Fifth Opinion on Armenia, op. cit., para. 55.
- 59 See e.g. the seminal cases of *Eweida v. the UK* (a Coptic British Airways employee), *Ebrahimian v. France* (a Muslim social assistant in a public hospital), and *S.A.S. v. France* (a French Muslim woman wearing a full-face covering).
- 60 For a short, but poignant analysis of the CJEU’s abysmal stance on the intersection of gender equality and religious rights, see van der Brink (2021) assessing the Court’s stance in cases *Achbita* (Case C-157/15, 9 March 2015) and *Bougnaoui* (Case C-188/15, 9 April 2015). The two other “headscarf cases”, *IX v. WABE eV* and *MH Müller* (Joined Cases C-804/18 and C-341/19, 15 July 2021) kept the course that openly “panders to prejudice” (as succinctly put by former Advocate General Eleanor Sharpston in her Opinion in the case *Bougnaoui* – see EU:C:2016:553).
- 61 Fourth Opinion on the Russian Federation, op. cit., para. 86.
- 62 Third Opinion on the Russian Federation, 24 November 2011 (ACFC/OP/III(2011)010), paras. 91 and 151.

- 63** Fifth Opinion on North Macedonia, 18 May 2022 (ACFC/OP/V(2021)10), para. 129.
- 64** Sixth Opinion on Denmark, 7 February 2024 (ACFC/OP/VI(2023)2), Summary, para. 9.
- 65** E.g. the Fifth Opinion on Germany, 3 February 2022 (ACFC/OP/V(2021)6), para. 245.
- 66** See opinions on Italy (2022) – including an explicit reference to the high numbers of “conscientious objectors” among Italian obstetricians and gynaecologists in terms of access to abortion, North Macedonia (2022), the Slovak Republic (2022), Latvia (2023), Albania (2023), and Georgia (2024) – Gender Sensitive Analysis, pp. 10 and 12–13.

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