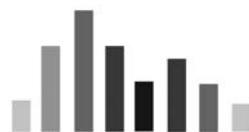


Kiran Auerbach

POLITICAL PARTICIPATION OF NATIONAL MINORITIES

Standards and State Practice in the Implementation of
Article 15 of the Council of Europe's
Framework Convention for the Protection of National Minorities



ANALITIKA
Center for Social Research

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Title: Political Participation of National Minorities: Standards and State Practice in the Implementation of Article 15 of the Council of Europe's Framework Convention for the Protection of National Minorities

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Editor: Edin Hodzic

Publisher: Analitika – Center for Social Research

Year: 2011

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Design: Adla Isanovic

Layout: Samira Salihbegovic

The views and opinions presented in this report are those of the author only, and do not necessarily reflect the views and opinions of Analitika – Center for Social Research or the views and opinions of the donor.

This publication is a result of the research project “Political Participation of National Minorities in Local Governance in Bosnia and Herzegovina,” supported by the Local Government and Public Service Reform Initiative of the Open Society Foundations.



Table of Contents

Executive Summary	5
Introduction	8
Motivation and Relevance	8
Methodology	11
1. The Margin of Appreciation in the Recognition of National Minorities and Implications for Article 15	12
1.1. Recognition under Domestic Law: Maintaining a Flexible and Inclusive Approach	13
1.2. Definition and Differentiation between Groups	15
2. Institutional Mechanisms for the Effective Participation of National Minorities in Public Affairs	19
2.1. Participatory Mechanisms and Specific Measures	19
2.1.1. Representation in Elected Bodies	19
2.1.2. Consultative Bodies	20
2.1.3. Public Administration	21
2.1.4. Specialized Governmental Bodies	22
2.1.5. Territorial Autonomy and Decentralized Forms of Government	23
2.2. Identifying Common Issues amongst Participatory Mechanisms	24
2.2.1. Legitimacy and Pluralism: The Range of Interlocutors	24
Representation in Legislative and Elected Bodies: Political Parties and Registration Requirements	25
Threshold Exemptions	26
Quotas, Reserved and Shared Seats	27
Composition of Consultative Bodies and the Range of Interlocutors	28
Language Requirements	28
Selection and Accountability: Electoral Design and Separate Voting Lists	29
Consultative Bodies: Appointment Procedures	30
2.2.2. Range of Issues	31
2.2.3. Impact and Voice in Decision-making	32
2.2.4. Mainstreaming Minority Issues	33
3. Gaps in Standards and Evaluation of the AC's Approach to Effective Participation	36
3.1. Common Criticisms	36
3.2. Inconsistencies and Leniency	37
3.3. Coordination and Mainstreaming	38
3.4. Trade-offs	40
4. Conclusion	43
5. Bibliography	45
5.1. Articles	45
5.2. Primary Sources	45
5.3 State Reports, Opinions, Comments and Resolutions	45
6. About the Author	58

Executive Summary

In the European context, the Council of Europe's *Framework Convention for the Protection of National Minorities* (hereinafter: Framework Convention or FCNM) from 1998 is the chief treaty dealing with minority rights, and it has been adopted by more than forty state parties across the continent. The Framework Convention deals with the subject of participation of national minorities in public affairs as part of Article 15; however, the text itself is ambiguous and offers little guidance on its practical implementation. In response to the growing recognition of participation in public affairs as an important aspect of minority rights, in 2008 the Advisory Committee on the Framework Convention for the Protection of National Minorities (hereinafter Advisory Committee or AC)—the expert body that monitors the implementation of the Convention—issued a detailed commentary. This *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs* offers its interpretation of fundamental standards for the realization of Article 15, reflecting its findings from the state reporting procedure.

The Advisory Committee has without doubt made valuable contributions to the awareness of minority participation in decision-making and to the establishment of standards in this area. This report analyzes both its *Commentary* and the most current reporting cycles from each state party to the Framework Convention in order to elucidate the meaning of effective participation in decision-making and to identify models of best practice. As a framework encapsulating institutional mechanisms of participation and common issues that must be taken into consideration in designing them, the report looks at coordination between the mechanisms and on different levels of governance, including the local level, which has been prone to neglect in most of the relevant scholarship. Apart from its general purpose, the report particularly intends to promote and offer guidance for implementing minority inclusive governance in Bosnia and Herzegovina and other Balkan states. This latter dimension of orientation of this report is due to the often noted lack of understanding of the concept of political participation of minorities and often uncertain and winding routes towards truly multicultural governance that these states, to varying extents, are currently taking.

The analysis also recognizes two factors that affect the work of the Advisory Committee in standard-setting and evaluating state practice. The first is the broad margin of appreciation afforded to state parties in designing systems of minority political participation as well as the individualized approach of the Advisory Committee, which takes contextual specificities (e.g. current level of minority inclusion, historical and socio-political factors) into account when evaluating these systems. The second factor is the Advisory Committee's limited mandate, as the agenda of the reporting procedure is for the most part set up by the state parties themselves: the AC relies on the cooperation of states and lacks an enforcement mechanism to ensure compliance with its recommendations. This study therefore investigates the impact of these factors on standard-setting and on its individual opinions on state parties' implementation of minority political participation. It incorporates illustrative examples from the

state reporting procedure to highlight and further elucidate standards; however the analysis also aims to quell some of the optimism towards the AC's work in light of noticeable gaps, influenced in part by the limitations to its mandate.

Following the introductory section, Chapter 1 examines criteria commonly used by states to determine the existence of national minorities under domestic law against the AC's prescriptions. The very term "national minority" is a primary example of the margin of appreciation, as there exists no common, universally accepted definition in the Convention. Despite this leeway, the AC stipulates basic principles by which state parties should abide; namely, this means maintaining an inclusive and flexible approach in granting national minority status. Arbitrary exclusion or differentiation between groups based on ancestral presence in a country, territorial ties to a geographic area, and numerical size are seen as unjustified by the AC. Importantly, it also insists that citizenship should not be grounds on which to exclude persons belonging to national minorities (although few states have incorporated this principle), as many articles of the FCNM, including Article 15, do not require a citizenship dimension. In particular, the AC is resolute that citizenship should not be a requirement to vote or run for office on local and regional levels. The findings of this section resound in subsequent chapters of the report, as official recognition as a national minority is directly linked to entitlements to special participatory rights reserved for persons belonging to national minorities.

The next chapter analyzes the tripartite institutional structure of minority participation in political affairs. This includes representation in elected positions such as in parliament and local councils; consultative or advisory bodies; and employment in public administration. Representation in elected bodies and positions is generally the most direct means for minority representatives to take an active part in decision-making. Some of the principal measures that may be used to increase the representation of national minorities in elected bodies include allowing minority-specific political parties, electoral designs with separate voting lists, threshold exemptions, quotas and reserved seats, and special voting rights such as minority veto powers. Consultative bodies are another institutional mechanism, serving as forums where minority representatives may engage in dialogue with each other and governmental authorities. These bodies have an advisory function and may initiate and amend legislation affecting national minorities. Employment in public administration is another means of including minorities in public affairs, and the recruitment of national minorities has significant implications on raising general awareness of minorities in the state amongst majority and minority populations, and inspiring trust in government institutions from persons belonging to national minorities.

Beyond these three principal mechanisms, the AC calls on specialized governmental bodies within the executive, such as ministries or departments for minority rights, to coordinate, monitor, and mainstream minority issues on all levels of governance. Specialized governmental bodies are tasked with coordinating a state's policy towards national minorities and are in charge of monitoring implementation and results, as well as liaising with minority representatives, minority organizations, and relevant bodies where minorities participate in order to facilitate communication. In this sense, specialized governmental bodies mainstream

minority issues throughout the entire institutional framework and state apparatus. Lastly, decentralized forms of government such as regional autonomy and self-government can be a useful means to give national minorities control over their interests, especially on local and regional levels.

The second part of Chapter 2 elaborates upon overlapping issues concerning the effectiveness of the institutional mechanisms. This includes the legitimacy and pluralism of national minority representatives and additional interlocutors (such as relevant NGO representatives, scholars, or other experts) to advocate on behalf of persons belonging to national minorities; the range of issues beyond culture, education, and language in which representatives may be involved in decision-making, including budget allocation; their impact and voice in decision-making, which highlights the importance of being able to substantively participate as opposed to having a mere presence in governmental bodies; and mainstreaming minority issues into state policies and governmental institutions. These issues form the core standards of participation and must be incorporated into the structure of a state's institutional framework to ensure that participatory mechanisms have the effect of empowering persons belonging to national minorities to participate in decision-making.

These standards are then questioned in Chapter 3, as the study evaluates the consistency of the Advisory Committee's performance. One foremost gap is the disjointedness between explicit criticisms and amorphous recommendations that the AC issues in its opinions. Chapter 3 links the two previously-mentioned factors—margin of appreciation and individualized approach; limited mandate and reactive approach—to account for some of this disparity. Observations of additional gaps are also explored, including: common criticisms towards states with different practices; inconsistencies and leniency; promising alternative methods for coordination and mainstreaming of minority policy displayed by selected states that contrast with the prescriptions of the AC's own *Commentary*; and inconsistencies in the Advisory Committee's reaction towards trade-offs whereby a state party displays unequal development in the three types of participatory institutions or in different levels of governance.

Introduction

Motivation and Relevance

The field of minority rights is laden with ambiguity. In its outermost layer, one notes the absence of a universally accepted definition of *who* constitutes a national minority. In the European context, the Council of Europe’s *Framework Convention for the Protection of National Minorities* (FCNM) does not impose a definition of the term “national minority” on state parties for the reason that arriving at a common definition is seen as unachievable,¹ and this is therefore left to the discretion of the states. Delving into the more specialized arena of minority participation, Article 15 of the Framework Convention continues along these hazy lines, proclaiming: “The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.”² Here again, state parties are left to devise their own systems of participation that they deem appropriate to the particularities of their countries.

The purpose of this study is to investigate the meaning of “effective participation” in public affairs according to Article 15 of the FCNM. In particular it looks at political participation, as it expressly entails the dimension of decision-making. By examining the approach of the Advisory Committee on the Framework Convention for the Protection of National Minorities toward state parties of the FCNM through the reporting procedure and in its *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs* (hereinafter: Thematic Commentary), this study aims to elucidate best practices for the inclusion of national minorities in decision-making processes. For the purposes of this report, “best practice” refers to implementation of Article 15 in the full spirit of the FCNM. Although there may be several variants of what constitutes best practice for the political participation of national minorities, general patterns amongst institutional models as well as common issues inherent to them are expected to emerge. An analysis of these patterns and issues—by comparing the consistency of the AC’s Thematic Commentary with its opinions in the reporting procedure, and in light of the reports and comments by state parties—will help solidify an understanding of “effective participation” and its underlying challenges. As an overall framework of analysis, the study looks at how the coordination of institutional mechanisms and policies on different levels of domestic governance influences the political participation of national minorities. As such, this report has particular relevance for Bosnia and Herzegovina and other Balkan states experiencing difficulties in applying meaningful and effective models of minority-inclusive governance throughout different levels of authority. Apart from its general purpose to contribute to amending the knowledge gap and to a better understanding of the

1 *FCNM and Explanatory Report*, 13-14 para. 10, 12 and 26.

2 *Ibid.*, Article 15.

meaning and implications of minority political participation, it is hoped that this report will offer some policy guidance in applying different models of political participation of minorities.

Several scholars working in the field of minority political participation have displayed optimism towards the Advisory Committee's work in standard-setting. Kristin Henrard, speaking generally in regard to the conglomeration of universal and regional mechanisms for the participation of persons belonging to national minorities, points to a "striking synergetic pattern of a growing acknowledgment and protection of participatory rights."³ Annelies Verstichel gives a nod to the AC, which she deems has "proven its worth as an objective and independent expert body that is able to strike a fair balance between leaving states a margin of appreciation in this sensitive matter and setting the boundaries of the standards of interpretation of the FCNM."⁴ For Joseph Marko, optimism lies in what he calls the "direct effect"⁵ of the FCNM. This means firstly, that despite the absence of a strong enforcement mechanism such as a complaint procedure or court, standards established by the FCNM can and are often directly applicable to the domestic sphere as part of legislation (e.g. constitutions or special laws dealing with minority rights) or as a means by which to review it.⁶ Secondly, they act as "normative principles"—an emergent customary law—which can be used to interpret domestic legislation.⁷ Marko conceives the objective of the FCNM not only as a means for protecting the rights of national minorities; equally valuable is the Advisory Committee's ongoing dialogue with state parties through the reporting procedure and the establishment of normative principles in the form of minimum standards, emerging standards, and best practices, included in its Thematic Commentary from 2008.⁸

The reports and comments on the AC's opinions submitted by state parties to the FCNM illustrate a plethora of ways to include national minorities in political affairs, while the AC's opinions provide evaluations and recommendations on each state's practice. The momentous task of the AC—that of providing coherence to contentious concepts, to a vaguely-worded sentence that comprises Article 15, and from a potpourri of practices amongst forty states—is duly acknowledged. And while experts such as Henrard, Marko, and Verstichel have positively assessed the role and pointed out accomplishments of the Advisory Committee in standard-setting, the starting point of this work is to pose the question: *Is such optimism truly justified?*

In response, this study questions two key factors/assumptions that shape the work of the AC in order to test to what extent they impinge upon the efficacy of the AC to set standards for the political participation of national minorities. The first concerns the individualized approach that the AC takes towards state parties, aware of how contextual specificities impact minority

3 Henrard, *Minority Mechanisms as a Means to Prevent and Settle Sovereignty Disputes*, 103.

4 Verstichel, *Elaborating a Catalogue of Best Practices of Effective Participation of National Minorities*, 166.

5 Marko, *The Council of Europe Framework Convention and the Advisory Committee's Thematic Commentary*, 226.

6 Ibid.

7 Ibid., 227.

8 Ibid., 228.

inclusion. The margin of appreciation in the design of participatory mechanisms and the ambiguity of Article 15 add to this challenge for the AC. Therefore, it would be reasonable to ask how individualized the AC's approach can be in reality if one of its main tasks is to set uniform standards. Conversely, how can standard-setting be possible with such broad notions of the margin of appreciation—visible through fundamental gaps such as the lack of a common definition of “national minority”? The second factor concerns the mandate of the AC. According to its *Rules of Procedure*, the AC acts based upon information given in a state's report.⁹ Although it may receive shadow reports and information from other stakeholders,¹⁰ request additional information from states, involve experts or form working groups,¹¹ it is the state parties who set the agenda of dialogue with the AC, and the AC is dependent on their cooperation. In addition, although the AC routinely comments or criticizes sovereign matters that are extremely relevant for the political participation of national minorities, such as constitutional or electoral design of a state, it may not tamper with them.¹² This second factor therefore calls into question how the lack of a proactive mandate affects the AC's work, and the report will display instances where it vacillates between a reactive and more proactive approach.

The report begins by discussing preliminary conditions for the effective participation of minorities in political affairs in Chapter 1. This introductory discussion includes state practice in the recognition of national minorities and the evaluations made by the AC in this area, as well as implications for Article 15. It analyzes the margin of appreciation and the AC's ability to set forth fundamental, universal principles for state parties to follow, despite the lack of a common definition of “national minority” and divergent practices. Chapter 2 describes the main participatory mechanisms: representation in legislative and elected bodies, consultative bodies, and representation in public administration. The role of specialized governmental bodies in facilitating the coordination of minority policy on all levels of government and between the three main mechanisms, as well as the impact that decentralized forms of government have on minority participation will also be elaborated upon. The second part of Chapter 2 analyzes common issues arising from these institutional structures and discusses the AC's approach concerning them. Specifically, these issues are: legitimacy and pluralism of minority representation, the range of issues persons belonging to minorities are entitled to deal with, the influence that minority representatives can exert in decision-making processes, and finally mainstreaming and coordination of minority policy between the participatory mechanisms and on different levels of government. Chapter 3 will provide a final evaluation of the AC's work and approach, highlighting gaps and inconsistencies that the analysis of the reporting procedure and Thematic Commentary point out, and it will reflect upon how the above-mentioned assumptions play into these inconsistencies.

9 Advisory Committee, *Rules of Procedure*, Rule 34.

10 Council of Europe, *Resolution 97(10)*, para. 30.

11 Advisory Committee, *Rules of Procedure*, Rules 35-36, 38, respectively.

12 For example, see Advisory Committee, *Thematic Commentary*, para. 81.

Methodology

The primary sources at the heart of the analysis are the Thematic Commentary and the most recent reporting cycle of each state party. Admittedly, an examination of the evolution of standards by analyzing each reporting cycle would be a valuable undertaking in itself. However, evaluations of previous cycles have been noted in the scholarly works of Henrard (2008), Marko (2010), and Verstichel (2002); as well as in the “positive developments” and “outstanding issues” in the opinions of the AC.¹³ In addition, the goal of this research rather centers on the *current* state of “effective participation” in public affairs contained in Article 15, and much more narrowly than the above mentioned scholars, on current trends in the political participation of national minorities and, particularly, the relationship between minority participatory mechanisms at various levels of governance, including the oft-neglected local level.

Although the most recent reporting cycle for each state party has been consulted, previous cycles were also inevitably consulted in the absence of relevant information (e.g. criteria for formal recognition as a national minority, description of specific participatory mechanisms or administrative structures dealing with minority protection, etc.). In addition, though the study focuses on Article 15, Article 3 was consulted as a means of examining states’ margin of appreciation in the scope of application of the FCNM to minority groups, and the implication on political participation. In addition, Article 7, which deals with freedom of association, was also consulted in regard to minority associations and political parties, as the AC describes it as a “prerequisite to the enjoyment of the provisions of Article 15,”¹⁴ especially when information regarding minority political parties was absent from the discussion of Article 15.

One limitation to be noted is the restriction of certain reports and/or opinions. Normal practice is to make these communications publicly available upon the adoption of the final resolution by the Committee of Ministers.¹⁵ Consequently, during the research phase from January to March 2011, Bulgaria, Latvia, Lithuania, and Ukraine’s most recent reporting cycles (from 2008 to 2009) were not made public in the absence of the final resolution¹⁶ and therefore are not included in the analysis.

13 The standard structure of the AC’s opinions is to provide general comments in the first part and article-by-article findings in the main body. Under each article, a section on “Positive Developments” is presented where the AC notes improvements since the last reporting cycle, usually recommendations that the state has implemented. The next section usually deals with “Outstanding Issues” where the AC criticizes inaction on areas of concern from the previous cycle on the particular article. Lastly, a section on recommendations is presented for the article. The last part of the opinion generally consists of “Concluding Remarks” and final recommendations on what the AC feels are the most pressing issues for the given state regarding implementation of the FCNM.

14 Advisory Committee, *Thematic Commentary*, para. 156.

15 Council of Europe, *Resolution 97(10)*, para. 25-27.

16 See: Council of Europe, *State Reports, Opinions, Comments and Resolutions*. http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp. It is also noted that Belgium, Greece, Iceland, and Luxembourg are signatories to the FCNM, but the Convention has not entered into force yet in these states. Therefore, they do not participate in the reporting procedure.

1. The Margin of Appreciation in the Recognition of National Minorities and Implications for Article 15

The AC does not evaluate each state's implementation of Article 15 in an identical manner. According to paragraph 10 of its Thematic Commentary, it states that "Article 15...implies for the State Parties an obligation of result: they shall ensure that the conditions for effective participation are in place, but the most appropriate means to reach this aim are left to their margin of appreciation."¹⁷ This chapter discusses the so-called "margin of appreciation" by looking at the recognition and distinctions made between national minorities in relation to the personal scope of application of the FCNM,¹⁸ as well as how contextual specificities affect the inclusion of minorities in political life. These preliminary issues have a significant impact on the implementation of Article 15, as recognition and differentiation between minority groups determine who is eligible to benefit from special positive measures aimed at encouraging minority participation in elected and consultative bodies, as well as in employment in public administration and in the executive branch.

The last issue dealing with context includes specificities such as the current level of social inclusion of minorities, constitutional design and institutional structure of a state, as well as historical and political events, such as ethnic conflict, that may influence minority rights. These considerations will be woven through sections 1.1 and 1.2. The following sections attempt to identify patterns in the AC's appraisals of criteria that state parties use to determine which groups are national minorities and the extent of their protection under the FCNM. It will thus begin to explore the first assumption of this study, namely whether the AC's individualized approach is in conflict with standard-setting, and how individualized the AC's approach can in fact be, in light of maintaining consistency with these standards. Subsequent chapters will continue to develop the effects of this assumption.

17 Advisory Committee, *Thematic Commentary*, para. 10.

18 The AC has not only explicitly made connections between the effective participation of national minorities and the personal scope of application of the FCNM as contained in Article 3, paragraph 1, but also between the approach of states in deciding upon the scope of application through definitions and criteria for recognition as a national minority. See: Advisory Committee, *Thematic Commentary*, para. 152.

1.1. Recognition under Domestic Law: Maintaining a Flexible and Inclusive Approach

The margin of appreciation for each state party in its recognition of national minorities is rather wide. In its *Explanatory Report* from 1995, the AC explicitly adopts a “pragmatic approach based on the recognition that at this stage, it is impossible to arrive at a definition capable of mustering general support of all Council of Europe member States.”¹⁹ More than fifteen years later, “consensus” remains nonexistent, and the AC allows states to establish their own criteria, usually enunciated in its first opinion on a given state.²⁰ However at the same time, the AC has basic principles in mind by which to measure compliance with Article 3.²¹ As a prototypical example, take paragraph 15 of its *Opinion on Armenia*:

Whereas the Advisory Committee notes on the one hand that Parties have a margin of appreciation in this respect in order to take the specific circumstances prevailing in their country into account, it notes on the other hand that this must be exercised in accordance with general principles of international law and the fundamental principles set out in Article 3. In particular, it stresses that the implementation of the Framework Convention should not be a source of arbitrary or unjustified distinctions.²²

Such “fundamental principles” can be summarized as maintaining an *inclusive and flexible approach*, to use the words of the AC in numerous opinions.²³ Practically, this means that the AC favors states whose definition of national minority is not exhaustive and does not exclude the possibility for additional groups to secure status as national minorities in the future, as it has “invited State Parties to review and consider extending the personal scope of application of the Framework Convention as circumstances have changed over time.”²⁴ As an example of good practice in Kosovo, the AC is pleased that although the Montenegrin community is not yet officially recognized in Kosovo’s Constitution or other legislation (which prevents them from reserved seats in elected bodies at central and local levels), it has a representative who participates in the work of Kosovo’s national consultative body, the Community Consultative Council. In addition, a working group has been established in this body to consider the issues

19 *Framework Convention for the Protection of National Minorities and Explanatory Report*, 13 para. 12.

20 For example, take paragraph 14 from the AC’s *Opinion on Armenia*: “The Advisory Committee underlines that, in the absence of a definition in the Framework Convention itself, the Parties must examine the personal scope of application to be given to the Framework Convention within their country. The position of the Armenian Government is therefore deemed to be the outcome of this examination.” Interestingly, the AC also welcomes the practice of Portugal and Spain, whereby members belonging to the Roma minority are covered by the FCNM although these states do not officially recognize the existence of national minorities in their territories. See: *Second Opinion on Portugal*, para. 28, 30-31; *Second Opinion on Spain*, para. 21- 23.

21 *FCNM and Explanatory Report*. Article 3, paragraph 1 states: “Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.”

22 Advisory Committee, *Opinion on Armenia*, para. 15

23 See also: Advisory Committee, *Thematic Commentary*, para. 152.

24 Advisory Committee, *Thematic Commentary*, para. 152. Also for example, see Advisory Committee, *Second Opinion on Romania*, para. 23, 28-30, 32.

of the Montenegrin community,²⁵ and in 2010 government authorities began initiating procedures to formally recognize Montenegrins in the Constitution and relevant legislation to remedy their situation.²⁶

Restrictions that run contrary to maintaining an inclusive and flexible approach in the recognition of national minorities include citizenship requirements and limitations on “new” (i.e. non-traditional, immigrant) minorities. Protection of non-citizens tends to be particularly contentious for states with sizable immigrant populations, as they are reluctant to perceive recent immigrants as potential national minorities or to grant coverage to non-citizens on an article-by-article basis as the AC encourages.²⁷ For example, Germany contests the AC's recommendations by stating that the inclusion of additional groups (specifically non-citizens and immigrants) on an article-by-article approach would “dilute the objective to protect national minorities” and would create higher levels of protection for some groups of minorities than others²⁸ as well as blurring the distinction between nationals and foreigners, and traditional and immigrant groups.²⁹ The AC however remains steadfast on this issue and continues to encourage Germany to take a more “nuanced approach” in line with current European trends by expanding the reach of specific articles of the FCNM to include non-citizens.³⁰

However cognizant the AC may be toward states with histories of ethnic turmoil, it is nonetheless quick to criticize practices which are not consistent with the spirit of the FCNM. For example, it explicitly notes the detrimental effect of a citizenship requirement for national minority status in its *Opinion on Montenegro*. The AC considers that in the context of Montenegro's break-up from Serbia where it was formerly part of a larger, ethnically diverse state, “a citizenship requirement can only have a negative impact on those persons whose legal status is unclear, in particular the Roma who face difficulties in obtaining confirmation of their citizenship, notably due to a lack of personal documents.”³¹ It calls this requirement “unsuitable”³² and encourages Montenegro to

25 Advisory Committee, *Second Opinion on Kosovo*, para. 51. A further example of a flexible approach that is able to adjust to evolving circumstances in a country is found in the Czech Republic. According to the Czech Republic's criteria for official recognition, national minorities must “show their will to be considered a national minority.” Accordingly, the Serbian minority was officially added to the list of national minorities after building organizational structures and “actively developing their own national minority life.” *Second Report Submitted by the Czech Republic*, para. 52-53.

26 *UNMIK Comments to the 2nd Opinion*, 9.

27 The AC affirms that while every article of the FCNM may not be applicable to non-citizens belonging to a national minority group in a country, many articles do not require a citizenship dimension, including Article 15. For example, in paragraph 26 of its *Opinion on Montenegro* it states that “using a citizenship requirement in a general provision dealing with the scope of application of minority rights is not appropriate as these rights are human rights and not rights of citizens.” An article-by-article basis refers to applying only those articles that pertain to a group (in this case those which do not require citizenship) as opposed to full protection under the FCNM where all articles would automatically apply.

28 *Third Report Submitted by Germany*, para. 008.

29 *Ibid.*, para. 009 - 010.

30 Advisory Committee, *Third Opinion on Germany*, para. 34.

31 Advisory Committee, *Opinion on Montenegro*, para. 26.

32 *Ibid.*

“limit the use of the citizenship requirement only to those provisions, such as in those relating to electoral rights at national level, where such a requirement is relevant.”³³

The notion of including non-traditional or so-called “new” minorities as well as non-citizens is important for the purposes of this study because it transcends into the realm of political participation. In direct illustration of such a political implication, the AC unequivocally states that citizenship should not be a necessary criterion for voting and running for office on the local level.³⁴ And as a positive example of state practice, in the Slovak Republic non-citizens with permanent residency may run for office in local and regional self-governing authorities.³⁵ However, it has to be emphasized that status as a national minority implies being a beneficiary of certain participatory rights such as representation in minority consultative bodies,³⁶ as well as special positive measures encouraging representation in elected bodies and recruitment in public administration. As a paradigm, although non-citizens are not officially recognized as national minorities in the Czech Republic, it maintains a flexible approach that allows groups to be recognized as national minorities in the future if they meet criteria set out in its Minorities Act (as was the case of the recognition of the Serbian minority in 2004)³⁷ and allows non-citizens to participate in the activities of national minorities with whom they affiliate themselves and have access to cultural programs under government policy.³⁸ In its *Second Opinion*, the AC “welcomes the fact that the authorities continue to consider, where appropriate, the inclusion of persons without citizenship of the Czech Republic in the application of the Framework Convention on an article-by-article basis.”³⁹

1.2. Definition and Differentiation between Groups

In addition to the notion of a flexible and inclusive approach, the excerpt from the *Opinion on Armenia* presented in 1.1 also mentions “arbitrary or unjustified distinctions.” It must firstly be noted that distinction between minority groups is not necessarily negative in itself. For example, recognition as an indigenous group⁴⁰ usually yields the most protection and helps put specific

33 Ibid., para. 27.

34 Advisory Committee, *Thematic Commentary*, para. 101

35 *Third Report Submitted by the Slovak Republic*, 32.

36 For example, good practice can be seen in Finland’s Advisory Board for Ethnic Relations (ETNO), which includes representation of all ethnic groups, including immigrant groups. Associations represented in ETNO are chosen by their ability to represent immigrants (i.e. number of members and the contacts with the represented groups), and the vulnerability of the group the organization represents. Advisory Committee, *Comments of the Government of Finland on the Second Opinion of the Advisory Committee*, 24; Advisory Committee, *Second Opinion on Finland*, para. 18.

37 *Second Report Submitted by the Czech Republic*, para. 53

38 Ibid., para. 54; *Third Report Submitted by the Czech Republic*, para. 30.

39 Advisory Committee, *Second Opinion on the Czech Republic*, para. 28.

40 While most state parties include indigenous peoples in their reports on implementation of the FCNM, they must not necessarily be considered to be a national minority, as is the practice of Norway. See *Report Submitted by Norway*, 18.

concerns, such as land rights and entitlements to natural resources, on a state's agenda.⁴¹ The type of unwarranted distinctions the AC refers to, on the other hand, is differential treatment between groups based on discriminatory or superfluous criteria as well as artificial categorizations (e.g. ethnic versus national, religious, linguistic etc.) that privilege certain groups above others, including members belonging to the same minority. The most frequent bases for differentiation, according to the communications of the state reporting procedure, include requirements of "traditional" presence or length of residence in the state (similar to the concerns of immigrant groups presented in 1.1), links to a particular geographical area of the state, and the practice of amalgamating of numerically small groups together. In fact, the AC goes as far as to encourage protection of minorities within minorities who may actually be part of the dominant group on the national level but who live in an area in which a minority group is dominant.

In an illustration of differentiation within a minority group, the AC urges Finland not to distinguish between traditional, "old-Russians," recognized as a national minority and newer, Russian-speaking immigrants who are not recognized. Although the AC accepts that Russian speakers in Finland "are not a homogenous group," it states that "diversity is also a feature of other groups that the government considers to be covered by the Framework Convention, including the Roma."⁴² Such differentiation between Russian-speakers can therefore be considered an unjustifiable distinction. With regard to the territorial dimension, The Netherlands excludes Roma and Yiddish groups from coverage under the FCNM because they do not live in a compact area in the country.⁴³ This concerns the AC, as territorial dispersion should not be a reason to "entirely deny them the protection of the Framework Convention."⁴⁴ Furthermore, the right to participate in public, social and economic life (among other rights) does not require the territorial component of the Dutch definition and the AC considers this approach "not compatible with the Framework Convention."⁴⁵

The AC is also critical of the practice of grouping numerically small minorities together rather than formal recognition as independent groups, as in the case of the Kryz, Khynalygs and Udins in Azerbaijan.⁴⁶ On a more positive note, it praises Kosovo for treating Roma, Ashkali, and Egyptians as separate groups, including in its central-level consultative body.⁴⁷ Here, the

41 For example, Finland in particular has special territorial autonomy arrangements for the Sami people as well as a separate consultative body, the Sami Parliament, that deals with issues specific to the indigenous group. See the AC's *Second Opinion on Finland*.

42 Advisory Committee, *Second Opinion on Finland*, para. 26 and 28.

43 Advisory Committee, *Opinion on the Netherlands*, para. 22.

44 Ibid.

45 Ibid. Similarly in Austria, the rigid conception of national minorities as autochthonous groups, meaning that they are tied to a particular geographical territory, limits representation in its national consultative body. The Advisory Committee criticizes this and "encourages the [Austrian] authorities to consider the possible extension of the composition of these Advisory Councils or to the setting up of a wider consultative body." (Advisory Committee, *Opinion on Austria*, para. 70.) In response to this recommendation, Austria adjusted membership of the Slovak minority. (*Third Report Submitted by Austria*, 93.)

46 See Advisory Committee, *Second Opinion on Azerbaijan*, paras. 41 and 45. This is based on findings in the first reporting cycle; see Advisory Committee, *Opinion on Azerbaijan*, para. 22.

47 Advisory Committee, *Second Opinion on Kosovo*, para. 49.

principle of voluntary self-identification as a member of a minority group in paragraph 1 of Article 3 is relevant. As mentioned in the previous section, the AC is sensitive to unique circumstances affecting minority participation within a state, and it therefore takes this into account in evaluating existing models of minority inclusion. In Cyprus, for example, all minority groups must identify as part of the Greek or Turkish Cypriot community due to ethno-political conflict and ongoing divisions that mark the entire institutional framework of the country. The AC however finds this mandatory affiliation with one of the two groups to be out of line with the principle of self-identification.⁴⁸ The issue goes all the way to the final resolution of the Committee of Ministers, where it calls on Cyprus to “look for possibilities to review the obligation to affiliate to either the Greek Cypriot Community or to the Turkish Cypriot Community imposed on the Armenians, the Latins and the Maronites, as well as the legal obligation to vote in elections for their representatives in parliament.”⁴⁹

Lastly, the AC investigates the situation of minorities within minorities. For example it expresses interest for protecting Finnish-speaking Alanders as minorities since the Aland Islands have a special autonomy status due to the dominant presence of the Swedish-speaking group.⁵⁰ Similarly, in Bosnia and Herzegovina, it considers the possibility for Bosniacs and Croats living in Republika Srpska (predominantly Serb-inhabited) and Serbs in the Federation (predominantly Bosniac and Croat-inhabited) to be protected under the FCNM, as these two political entities have far-reaching powers that favor the predominant groups.⁵¹

The discussion of who is considered to be a national minority and how this is determined under Article 3 has serious implications for political participation under Article 15 of the FCNM. Recognition as a national minority is obviously a precursor for determining who benefits from special mechanisms encouraging a group’s inclusion in political affairs and how resonant their voice will be in decision-making. This chapter has outlined broad criteria and considerations that state parties use to recognize and distinguish national minorities from other minority groups in the application of the FCNM. Although state parties enjoy a significant margin of appreciation in defining the notion of national minority within their boundaries, Chapter 1 has pointed out the AC’s insistence on an inclusive and flexible approach, which refers to at least partial coverage of non-citizens and recent immigrants under the FCNM. It also consistently refutes arbitrary or unjustified distinctions based on ancestral presence, links to a specific territory, or numerical size of a group. The AC’s approach appears to be consistent in regard to these standards,⁵² although state practice varies greatly in conceptions of the term “national minority,” not to

48 Advisory Committee, *Third Opinion on Cyprus*, see discussion on Article 3.

49 Committee of Ministers, *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Cyprus*, 2.

50 Advisory Committee, *Second Opinion on Finland*, para. 25 and 29.

51 Advisory Committee, *Second Opinion on Bosnia and Herzegovina*, para. 39-41.

52 In states with a long, temporal requirement of residence of a group (Hungary, Norway, Poland, Sweden, etc.) the AC doesn’t reject this criterion but asks to consider newly arrived groups on an article-by-article basis. See: Advisory Committee, *Second Opinion on Poland*, para. 37; Advisory Committee, *Second Opinion on Norway*, para. 9.

mention that only few state parties apply the FCNM to non-citizens even on an article-by-article basis. As the examples of Montenegro and Cyprus show, the AC does not display leniency even to states with unique or complicated political circumstances affecting the inclusion of minorities in public life.

2. Institutional Mechanisms for the Effective Participation of National Minorities in Public Affairs

There is essentially a tripartite institutional structure for minority participation consisting of representation in elected bodies such as parliaments, consultative or advisory bodies, and in public administration. In addition, specialized governmental bodies (i.e. departments or ministries within the executive branch), where they exist, have an important role in coordinating, implementing, and monitoring the results of minority policies and initiatives on all levels of governance. Specialized governmental bodies thus have an important link to the work of the three main types of participatory institutions and can facilitate cooperation between them. Autonomy arrangements and decentralized administrative schemes can also have a significant impact on the participation of national minorities in governance, especially on the local level.

This chapter will give an overview of the above-mentioned institutional structures and specific mechanisms encouraging minority participation in public affairs. It will also outline cross-cutting issues stemming from these mechanisms that are related to the effectiveness of participation in decision-making. This includes the legitimacy and pluralism of national minority representatives and interlocutors, the range of issues in which national minorities may participate, their impact and voice in decision-making, and the mainstreaming of minority issues in government policy. Concurrently, illustrations of positive and negative practices will be offered in order to ascertain best practice and standards set by the AC. One of the goals of this chapter, therefore, is to explore how the AC conceives that coordination and communication be best accomplished between local, regional, and national levels of government, as well as between the institutional mechanisms. This analysis anticipates a final evaluation of the AC's contribution to advancing the political participation of national minorities.

2.1. Participatory Mechanisms and Specific Measures

2.1.1. Representation in Elected Bodies

Representation in elected bodies largely refers to the legislative branch, including parliaments, assemblies, and municipal councils. On the local level it also includes positions such as mayors. Several policies affecting participation in this realm include non-discriminatory practices; for example, not prohibiting the establishment of minority political parties as well as eliminating barriers for running for office, such as language requirements. The AC however focuses most

of its attention on more creative means for minority inclusion in elected bodies, which comprise a multitude of positive measures. This includes lowering or exempting minority parties from electoral thresholds to secure seats and to qualify for party funding,⁵³ reserved or shared seats, quotas, separate voting lists, special parliamentary committees, and so-called “benign” gerrymandering whereby electoral districts are delineated in such a way as to encourage national minorities to elect their political representatives.⁵⁴ While consultative bodies have an advisory role and may in some cases initiate and amend legislation affecting national minorities, participation in elected bodies has obviously the most direct impact on decision-making.

2.1.2. Consultative Bodies

Consultative bodies are another institutional means for minority participation in public affairs. Ideally speaking, these bodies are forums where minority representatives can advise government authorities, engage in dialogue, voice opinions, initiate legislation and send formal comments on legislative issues affecting minorities. Although there is significant leeway in designing consultative bodies, the AC articulates some basic guidelines: Firstly, consultation between minority representatives and governmental authorities should occur on a regular basis, and therefore the bodies should have a permanent rather than *ad hoc* status. In this regard, it is important that consultative bodies have a legally defined institutional structure with a clear mandate governing their roles and powers in terms of advisory competencies, initiation and review of legislation affecting minority rights, and voting.⁵⁵

The structure, composition, and mandates of these bodies vary greatly between state parties, more so than the measures described above for representation in elected bodies. Some state parties have established consultative bodies only on the national level; others also have bodies in place on local or regional levels. Some states, such as Hungary, have established several formal forums for consultation between national minority representatives and central authorities. However, the universally applicable principle for consultative bodies is that they should institutionalize dialogue between national minorities, relevant governmental ministries (ministries for minorities, human rights, interior, etc.), and/or legislative bodies.⁵⁶ In the majority of cases, consultative bodies include governmental representatives (referred to as “mixed bodies”) and representatives from all national minority groups (referred to as “joint bodies”);

53 See for example the practice of Germany in the AC’s *Third Opinion on Germany*. Italy also has a system of reimbursement for election expenditures for parties presenting candidates exclusively in regions where minorities have a special status. See *Report Submitted by Italy*, para. 72.

54 See for example Italy’s practice in *Report Submitted by Italy*, para. 71. The importance of this issue can also be seen in Denmark’s second reporting cycle, where it openly discusses solutions with the AC to maintain the German minority’s political representation while Denmark is in the process of restructuring municipal and regional units of the state. See the AC’s *Second Opinion on Denmark*, para. 36-37; *Comments of Denmark on the Second Opinion*, 12-14.

55 See the AC’s *Thematic Commentary*, para. 107.

56 *Ibid.*, para. 113.

however some countries have established separate consultative bodies for each national minority group, as can be seen for example by Austria's six National Minority Councils.⁵⁷

The cooperation and communication between members of consultative bodies as well as cooperation with governmental authorities and minority representatives in other political bodies is an important task to smoothen out, as this largely determines how much impact consultative mechanisms can have on legislative decisions and policy-making. For example, the AC is critical towards Croatia due to the lack of cooperation between local-level minority advisory councils and local authorities, stating that the “lack of respect for the councils of national minorities on the part of local authorities demonstrates serious disregard for the law, but also further undermines the legitimacy of the councils within their respective minority constituencies.”⁵⁸ Additionally, coordination between different levels of governance especially in states where consultative bodies exist on local, regional, and central levels becomes crucial, especially in the absence of a strong presence of minorities in elected bodies.

2.1.3. Public Administration

The AC states that public administration should “reflect the diversity of society. [...] Participation of persons belonging to national minorities in public administration can also help the latter better respond to the needs of national minorities.”⁵⁹ Although representation in public administration has a less direct impact on decision-making, the employment of persons belonging to national minorities in this sector provides a clue to the inclusiveness of minorities in public affairs and may also stimulate the participation of national minorities in other governmental institutions. The AC emphasizes that for vulnerable groups such as Roma, Sinti, indigenous and numerically small national minorities, “employment in public administration can contribute to a better image and increased awareness of such minorities in the society at large, which in turn is likely to improve their participation at all levels.”⁶⁰ Their presence in public administration can also inspire trust in government institutions and encourage persons belonging to national minorities to approach institutions and become more aware of their rights and entitlements to governmental services.

The AC supports measures targeting the recruitment of national minorities into public administration, including specialized training and the elimination of state language requirements not essential to carry out a particular post.⁶¹ However at the same time, it is against rigid quotas that “aim to reach a rigid, mathematical equality...which often implies an unnecessary multiplication of posts” because they “risk undermining the effective functioning of the State

57 *Third Report Submitted by Austria*, para. 92.

58 *Advisory Committee, Third Opinion on Croatia*, para. 188.

59 *Advisory Committee, Thematic Commentary*, para. 120.

60 *Ibid.*, para. 126.

61 *Ibid.*, para. 125-126.

structure and can lead to the creation of separate structures in the society.”⁶² As a clear example, the AC considers Montenegro’s proportional representation principle “valuable” in public administration;⁶³ however, it “stress[es] that the issue of ‘proportionate representation’ should not be equated to a mathematical operation but rather used in a flexible manner, including giving due consideration to the skills of persons recruited.”⁶⁴ It emphasizes “continuous efforts” needed to ensure equal opportunities, which include positive measures such as targeted training programs for persons belonging to national minorities “both as regards recruitment into public administration, and in-service training.”⁶⁵

2.1.4. Specialized Governmental Bodies

Specialized governmental bodies usually take the form of departments or ministries in the executive branch dealing with human and minority rights; these bodies coordinate minority public policy throughout a state. Common tasks involve monitoring the situation of minority protection, measuring the results of policies, and finding ways to improve existing mechanisms of political participation. Although the AC encourages the recruitment of persons belonging to national minorities in these bodies,⁶⁶ they are not typically forums for direct participation of minorities in decision-making. Rather, their role in coordination ensures that minority issues seep into local, regional, and central level decision-making structures. As the AC concludes in its Thematic Commentary, specialized bodies “are therefore seen as important channels of communication between the Government and minorities.”⁶⁷

The work of specialized governmental bodies is therefore important in the overall coordination of minority policy within different levels of governance, which *de facto* incorporates the three main mechanisms for minority political participation.⁶⁸ Specialized governmental bodies may also be involved in monitoring and evaluating the involvement of national minorities in elected and consultative bodies and in public administration, the functioning of these structures, and the implementation of positive measures aimed at improving participation. For example, the AC welcomes the recent establishment of Montenegro’s Ministry for Human and Minority Rights “which should play a key role in formulating and implementing minority policies in consultation with representatives of national minorities.”⁶⁹ These bodies also play a prominent role in raising awareness and mainstreaming minority rights issues in all aspects of government. In Armenia as well, the AC commends the Department for Ethnic Minorities and Religious Affairs “which

62 Ibid., para. 124.

63 Advisory Committee, *Opinion on Montenegro*, para. 95.

64 Ibid., para. 96.

65 Ibid.

66 Advisory Committee, *Thematic Commentary*, para. 104.

67 Ibid., para. 105.

68 See for example: Ibid., para. 8.

69 Advisory Committee, *Opinion on Montenegro*, para. 97.

has played a positive role in raising awareness of the rights of persons belonging to national minorities, including among persons belonging to national minorities, and in mainstreaming minority issues in Government policies. The Advisory Committee was informed that the Department has managed to solve a number of concrete problems, in co-operation with other ministries concerned.”⁷⁰

2.1.5. Territorial Autonomy and Decentralized Forms of Government

Federal and territorial autonomy arrangements may be used as means to accommodate the political participation of national minorities on different levels of governance.⁷¹ Although such arrangements are not required whatsoever by the FCNM and the AC is not in a position to interfere with constitutional and territorial designs of a state, it does examine their impact on minority political participation.

The AC generally takes a positive position towards local or regionally-based territorial arrangements such as regional autonomy or self-government regimes.⁷² However, it notes two considerations. Firstly, decentralized systems of government favor minorities that are concentrated in a particular geographic area.⁷³ Therefore, regional autonomy functions rather well for state parties with indigenous populations such as the Sami in Finland and Sweden, as specific issues of concern to indigenous peoples are tied to the territory itself (e.g. land rights, rights over natural resources, and traditional trades and occupations).⁷⁴ The other area of concern is that for decentralized forms of government to effectively function, the competencies between sub-national units and the central government must be clearly defined.⁷⁵ The AC recommends that this should be done in consultation with minority communities in the decentralization process.⁷⁶ It states:

In order to ensure that, in practice, decentralisation and devolution processes have a positive effect on the participation of persons belonging to national minorities in public life, it is crucial to clearly define the respective competencies of sub-national and central authorities. Lack of clarity in this respect can reduce the level of participation of persons belonging to national minorities and may also hamper minority access to the public funds needed for their activities.⁷⁷

70 Advisory Committee, *Second Opinion on Armenia*, para. 122.

71 The focus of participation in decentralized systems is of course on the local or regional level; however, in federal systems, the federal units are represented on the central level, i.e. through parliamentary representation.

72 See for example: *Thematic Commentary*, paras. 129 and 134. According to the *European Charter of Local Self-Government*, the concept of self-government refers to “the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.” See Articles 3-6.

73 *Thematic Commentary*, para. 129.

74 *Second Report Submitted by Finland*, para. 83 (particularly points 2-4); Advisory Committee, *Second Opinion on Sweden*, paras. 164, 167-168.

75 Advisory Committee, *Thematic Commentary*, para. 130 and 136.

76 As an example, see its *Second Opinion on Kosovo*, para. 234.

77 Advisory Committee, *Thematic Commentary*, para. 130.

The challenges stemming from decentralized arrangements include coordinating the competencies of autonomy or self-government arrangements with the central government, as well as balancing an integrative versus differential approach to minority political participation, will be tackled later on in regard to the issue of mainstreaming minority issues.

2.2. Identifying Common Issues amongst Participatory Mechanisms

2.2.1. Legitimacy and Pluralism: The Range of Interlocutors

One dominant issue that overlaps with the mechanisms described above concerns the legitimacy of national minority representatives in governmental bodies (especially in elected and consultative bodies). Legitimacy firstly refers to how well interlocutors who advocate on behalf of national minorities actually represent national minority interests and their accountability to their constituencies (the particular minority group or groups whom they represent). Although representativeness and accountability are not easily measurable in practice and go beyond the scope of this study, a fundamental requirement is that national minorities be directly involved in the selection of their representatives. This concerns the election of minority candidates running for office and appointment procedures for minority representatives in consultative bodies. For example when elaborating upon consultative mechanisms, the AC states:

For the credibility of consultative bodies, it is essential that their appointment procedures be 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.⁷⁸

The phrase “represent a wide range of views” in the above excerpt alludes to the second aspect of legitimacy: the degree of pluralism amongst national minority representatives in government, commonly termed by the AC as “reflecting the diversity of society.”⁷⁹ Based on the AC’s commentary and opinions, pluralism can be conceptualized to embody both external and internal dimensions. External pluralism refers to the inclusion of all national minority groups (especially numerically small groups)⁸⁰ in public affairs, including representation in elected and consultative bodies, as well as employment in public administration. Internal pluralism means that the diverse voices and interests of an individual

78 Ibid., para. 111.

79 For example, in paragraph 194 of its *Second Opinion on Poland*, the AC encourages the state “to examine, in consultation with the representatives of the national minorities, legislative and practical measures which would create the necessary conditions for the political representation of minorities in the Sejm [lower house of parliament] and the Senate to reflect more adequately the composition of Polish society.”

80 See Advisory Committee, *Thematic Commentary*, paras. 109-112.

group are capable of being voiced, rather than merely the interests of the largest and most influential organizations of a particular minority.

Numerically small groups present a challenge to pluralism in representation in political affairs because their size makes them vulnerable. For example, the Hungarian minority in Romania has considerable participation and influence in state policy; however, the AC is concerned that the Roma and numerically small minority groups are under-represented in Romania's elected and consultative bodies, as well as in public administration.⁸¹ In the Slovak Republic, the AC criticizes the weak representation of Roma in parliament, but is satisfied that Roma and numerically-small minorities are represented on local and regional levels, particularly in local councils, in areas where there are concentrations of national minorities residing.⁸²

The following sections will outline how non-discriminatory policies and positive measures within the main institutional structures can be helpful to achieve minority representation therein and reflect the diversity of society. The broader issue of pluralism will be expanded upon first followed by two sections discussing legitimacy through the selection and accountability of national minority representatives.

Representation in Legislative and Elected Bodies: Political Parties and Registration Requirements

Pluralism can be firstly viewed in relation to representation in elected bodies through the ability of national minorities to establish political parties representing their interests. The AC is clear that measures limiting the freedom of association and establishment of minority political parties do not meet minimum standards set forth by Article 7⁸³ nor Article 15 as they restrict the opportunities for minorities to participate in public life.⁸⁴ This includes unreasonable or disproportionate registration requirements such as "numerical and geographical conditions."⁸⁵ As an illustration, one of the AC's most scathing critiques in this area occurs in its *Third Opinion on Moldova*. Moldova's domestic law prohibits ethnic or nationally-based political parties and requires 4,000 active members residing in at least 50% of the administrative units of the State, not less than 120 members in each unit.⁸⁶ Notwithstanding the fact that persons from minority backgrounds have been elected through candidacy in mainstream parties, Moldova's law is clearly seen by the AC as an unreasonable limitation for persons from national minorities "to set up political parties representing their legitimate interests."⁸⁷ The AC indicates that minority parties could

81 Advisory Committee, *Second Opinion on Romania*, paras. 19, 188.

82 Advisory Committee, *Third Opinion on the Slovak Republic*, para. 185.

83 Article 7 of the FCNM is relevant to participation in public affairs as it concerns freedom of association, including the formation of political parties. See Advisory Committee, *Thematic Commentary*, para. 156.

84 *Ibid.*, paras. 78 -79.

85 *Ibid.*, para. 76

86 Advisory Committee, *Third Opinion on Moldova*, para. 96.

87 *Ibid.*

improve the representation and influence of persons belonging to national minorities in elected bodies at local and central levels.⁸⁸ Finally, it refers to the Thematic Commentary, stating that registration requirements for political parties should not restrict their [national minorities] opportunities to participate in political life and the decision-making process.⁸⁹

In addition, the AC promotes measures that encourage pluralism of parties within a given national minority rather than domination by one party. The AC is not pleased with Russia's prohibition of political parties established on the basis of ethnic belonging or the requirement that parties must have regional branches in at least half of the subjects of the Federation, "a provision which is likely to affect the possibilities of persons belonging to national minorities that are regionally concentrated to form parties,"⁹⁰ as well as an increase in the minimum required membership of a party attempting to form political parties.⁹¹ This last point in regard to electoral registration also negatively affects the pluralism of political parties by making it more difficult for smaller and newer parties to register, an issue that the AC brings up again, notably in Romania. In this case, minority organizations already represented in parliament receive preferential treatment,⁹² and a draft law with restrictive conditions does not remedy problems faced by local-level minority organizations wanting to participate in local elections.⁹³ This system clearly advantages political organizations already represented in government over more flexible or cultural organizations. The AC states that "such differential treatment between organisations of minorities is not conducive to pluralism and internal democracy within minorities."⁹⁴

It is therefore clear that allowing minorities to establish their own political parties and eliminating excessive registration requirements that collectively or individually disadvantage minority parties are minimum standards for the AC. By promoting the freedom of association of all national minority groups, especially numerically small national minorities and grassroots associations, the AC encourages the broadest number of minority representatives to participate in political affairs.

Threshold Exemptions

The AC comments extensively on special mechanisms aimed at encouraging minority representation in elected bodies, such as exemptions from electoral thresholds, and evaluates

88 Ibid., para. 97.

89 Ibid., para. 98.

90 Advisory Committee, *Second Opinion on the Russian Federation*, para. 261.

91 Ibid.

92 Advisory Committee, *Second Opinion on Romania*, para. 190.

93 *Second Report Submitted by Romania*, paras. 4-5. Specifically, the criteria on the local level is that the total number of members of a particular organization must be at least 15% of the total number of citizens belonging to the minority group, and if the number of members needed for meeting the requirements exceeds 25,000, the members must reside in at least 15 counties and in Bucharest, with not less than 300 persons for each of those counties and for the Bucharest Municipality. According to the AC, the Venice Commission considered "these conditions to be at odds with the principles of equality, proportional representation and pluralism within minorities." Advisory Committee, *Second Opinion on Romania*, para. 105.

94 Ibid.

their impact. If it is not satisfied with the outcome, the AC is critical and recommends alternative approaches, although often without concrete suggestions. Examples of Serbia and Poland involving thresholds are indicative of such a results-oriented approach. In its *Second Opinion on Serbia*, the AC commends the state authorities for exempting national minority parties from the standard 5% threshold required for entering the national parliament, finding that “as a result of this amendment, numerous political parties of national minorities have been able to gain seats in the Parliament.”⁹⁵ As noted in this example, the AC looks not only into the existence of threshold exemptions, but pays attention to the results that they deliver. In the case of Poland on the other hand, the AC is extremely critical that threshold exemptions for national minority parties on the national level have not had a positive effect on improving parliamentary representation in either of its two chambers, particularly for geographically dispersed minorities such as the Ukrainian population.⁹⁶ It encourages authorities to examine and come up with practical measures to improve this situation⁹⁷ but does not give more concrete suggestions as to *how* to accomplish this. It is interesting to note that Poland takes exception to this in its *Comments on the Second Opinion*, stating that the very fact that members of minorities “are given top places on electoral lists” of mainstream political parties “may be an indication that the issues of national and ethnic minorities have been incorporated in the political programmes of these parties.”⁹⁸ Unfortunately no final resolution has been adopted to see whether the AC takes this stance into account. The issue of incorporating minority candidates in mainstream parties overlaps with the broader issue of mainstreaming minority issues in government, and will be tackled in section 2.2.4.

Quotas, Reserved and Shared Seats

Reserved seats and quotas for minority representatives in legislative bodies are also means to reflect the diversity of society and encourage pluralism in minority participation, especially for numerically small minority groups. In Kosovo for example, the AC is pleased with the constitutional guarantee that twenty of the total 120 seats in the Kosovo Assembly be reserved for minorities⁹⁹ with a subdivision of reserved seats for each minority community.¹⁰⁰ Shared seats by contrast, are usually implemented for numerically-small minorities and can include a system of rotation amongst these representatives.¹⁰¹ Here the AC criticizes Croatia’s allocation of eight reserved and shared seats in parliament, as it “does not accurately reflect the current situation of the country and the needs of its minorities”¹⁰² since the numerically small Italian minority receives one seat and the Bosniac minority, as the second largest minority community, must share a seat with four other groups.¹⁰³

95 Advisory Committee, *Second Opinion on Serbia*, para. 230.

96 Advisory Committee, *Second Opinion on Poland*, para. 192

97 *Ibid.*, para. 194.

98 Advisory Committee, *Comments by Poland on the Opinion*, 37.

99 Advisory Committee, *Second Opinion on Kosovo*, para. 229.

100 For the exact subdivision of reserved seats, see *Ibid.*, footnote 8.

101 Advisory Committee, *Thematic Commentary*, para. 92.

102 Advisory Committee, *Third Opinion on Croatia*, para. 181.

103 *Ibid.*, footnote 23.

The AC however echoes its concern for rigid, mathematical formulas as presented above in the recruitment of minorities in public administration, in the case of Montenegro's practice of "authentic" representation. Reserved seats are based on the population of minority groups in the country,¹⁰⁴ which is meant to accurately reflect the ethnic composition of its society; yet the AC is concerned that this may have a polarizing effect in reinforcing "politics along ethnic lines."¹⁰⁵ Therefore, a caveat must be noted: Although the AC considers that systems of reserved and shared seats "have in a number of cases proved to be a useful means to enhance participation of persons belonging to national minorities in decision-making,"¹⁰⁶ and can be useful to reflect the diversity within a society, it is against rigid quotas that may have negative effects on group dynamics.

Composition of Consultative Bodies and the Range of Interlocutors

To foster pluralism in joint consultative bodies, all national minority groups should obviously be included. Furthermore, the AC encourages the broadest range of interlocutors, in addition to official minority representatives, to be involved in discussion and provide input. This includes minority associations and domestic non-governmental organizations working with minorities. For example, the AC criticizes Armenia after complaints made by national minority representatives (the AC does not identify more specifically who these representatives are) that a draft law exclusively envisages self-government bodies elected by persons from national minorities to speak on behalf and represent them,¹⁰⁷ describing this as "perceived attempts to limit the channels of communication with minority interlocutors."¹⁰⁸ The AC encourages the authorities to maintain dialogue with non-governmental organizations and to include additional interlocutors besides the elected self-government bodies.¹⁰⁹ In addition, the AC criticizes Slovenia's consultation with Roma interlocutors that is limited to the Union of Roma in Slovenia and recommends expanding dialogue to other Roma organizations in order to obtain "a more comprehensive picture of the needs and expectations of the Roma population."¹¹⁰ In a more positive example of pluralism, Kosovo's national-level Community Consultative Council is considered to be a positive step by the AC as it includes representatives from public administration, political parties of national minorities and NGOs of all communities.¹¹¹

Language Requirements

Language requirements also have an impact on the pluralism of minority participation. As mentioned earlier, the AC encourages locally elected bodies in areas inhabited by significant

104 *Report Submitted by Montenegro*, para. 65.

105 Advisory Committee, *Opinion on Montenegro*, para. 94.

106 Advisory Committee, *Thematic Commentary*, para. 91.

107 Advisory Committee, *Second Opinion on Armenia*, para. 125.

108 *Ibid.*, para. 153.

109 *Ibid.*, para. 125.

110 Advisory Committee, *Second Opinion on Slovenia*, para. 172.

111 Advisory Committee, *Second Opinion on Kosovo*, para. 37. See also footnote 36, *supra*, regarding Finland's broad range of interlocutors in its consultative body.

numbers of persons from national minorities to reflect the demographic reality, and stringent requirements may negatively affect this possibility. In areas where persons belonging to national minorities are concentrated, rigid requirements of knowledge of the official state language for candidacy are not tolerated. For example in the case of Estonia, the AC not only criticized language requirements for local elections, but also stated that language requirements for parliamentary elections (both have since been amended) were a violation of Article 15.¹¹²

Language requirements also transcend into the realm of public administration, and the AC remarks if it finds that requirements contribute to a lack of employment of persons belonging to national minorities, for example in the case of Georgia.¹¹³ The AC mentions that minorities in public administration are replaced by majority members that do not speak minority languages, and this has “aggravated the lack of communication as well as the difficulties experienced by these persons in participating in public, social and economic life.”¹¹⁴ The AC welcomes schools aimed at training public servants from national minorities with language lessons in Georgian¹¹⁵ and recommends that language tests do not “constitute an insurmountable obstacle to the recruitment or retention in public-sector employment of persons belonging to national minorities.”¹¹⁶

Selection and Accountability: Electoral Design and Separate Voting Lists

Electoral systems also have direct implications for the legitimacy of minority representatives in elected bodies and their accountability to persons belonging to national minorities. Features such as dual voting systems with separate minority lists as in Hungary, Slovenia, etc. or the D’Hondt’s method for the allocation of parliamentary seats based on party lists in proportional representation systems (practiced in Germany), encourage the political participation of national minorities. Although interfering in a state’s electoral design goes beyond the competency of the AC, the AC does point out inadequacies in designs, as it did in Hungary’s voting system for minority self-governments before it was amended. Previously, voting was not limited to national minorities, and persons who had no links to the minority ended up managing a self-government.¹¹⁷ To resolve this, a register of minority voters was instituted, whereby only persons belonging to the particular national minority may take part in the election of representatives to a local self-government and a mayor “who belong to and identify themselves as belonging to a given national minority and are listed in the register of minority voters following a written declaration.”¹¹⁸ Similar problems occurred in Bosnia and Herzegovina where majority parties “exploited the imprecise nature of the ‘Others’ category [which encompasses not only all national minority groups, but also all persons not belonging to one of the three state’s ‘constituent peoples’] so as to put forward candidates who

112 Advisory Committee, *Second Opinion on Estonia*, para. 150.

113 Advisory Committee, *Opinion on Georgia*, para. 151.

114 *Ibid.*, para. 152.

115 *Ibid.*, para. 153.

116 *Ibid.*, para. 159.

117 Advisory Committee, *Third Opinion on Hungary*, paras. 19, 37.

118 *Ibid.*, para. 38.

did not represent national minorities and thus took advantage of the seats that were in principle reserved for the representation of persons belonging to national minorities.¹¹⁹

Consultative Bodies: Appointment Procedures

Legitimacy in regard to the selection of minority representatives in consultative bodies is also a contentious issue that the AC discusses extensively. In the AC's Thematic Commentary, paragraphs 109 through 112 deal with the issue of pluralism and representativeness. Paragraph 111 in particular highlights this issue: "For the credibility of consultative bodies, it is essential that their appointment procedures be transparent and designed in close consultation with national minorities" and "maintain their independence from governments."¹²⁰ Romania, for example, is heavily criticized because of the lack of independence of minority representation in elected and consultative bodies which serves as the basis for the state's official recognition of national minority groups. Specifically, recognition of national minorities is based upon which groups are represented in the national consultative body, which is in turn determined by parliamentary election results. The AC therefore deplores the appointment procedure of the national consultative body because minority organizations represented in its National Minorities Council are the same as those elected to parliament, even through the same person, and states that the dialogue may be "strongly politicized."¹²¹

The AC also criticizes procedures that are not adequately transparent, such as in Bosnia and Herzegovina, where representatives are selected "among the names put forward by the associations of national minorities without taking into consideration the predominant viewpoints within the minorities concerned," and the AC "reiterates that transparency in the process of establishing advisory bodies of national minorities is essential to inspire trust and guarantee the effective functioning of these bodies."¹²² In Albania, minority representatives in its State Committee (referred to by the AC as a "hybrid" body in terms of its representation of minority and government interests) are selected by the government, without any consultation with national minorities.¹²³ In response, the AC recommends that national minorities nominate candidates for this body, which would make it closer to a consultative body.¹²⁴

In conclusion to this discussion, the legitimacy of national minority representatives in elected and consultative bodies may be achieved if these official representatives are selected by national minorities themselves. Separate minority voting lists reserved for persons belonging to national minorities as well as nominations by national minorities or minority organizations can be useful tools to ensure that these representatives are truly seen as advocates of national minorities and are accountable to the minority groups whose interests they represent.

119 Advisory Committee, *Second Opinion on Bosnia and Herzegovina*, para. 198 and accompanying footnote 16.

120 Advisory Committee, *Thematic Commentary*, para. 111.

121 Advisory Committee, *Second Opinion on Romania*, para. 20.

122 Advisory Committee, *Second Opinion on Bosnia and Herzegovina*, para. 209.

123 Advisory Committee, *Second Opinion on Albania*, para. 195.

124 *Ibid.*, paras. 197-198.

2.2.2. Range of Issues

The range of issues which national minority representatives have competency to deal with is a determinant of the effectiveness of their participation in decision-making. Traditionally, minority rights have dealt with the spheres of culture, language, and education as a means for preserving group identity. The text of Article 15 itself is explicit that national minorities should participate in issues affecting them; this includes legislation affecting their minority status and civil and political rights, socio-economic matters such as housing and employment (especially for vulnerable groups who are not able to secure representation in elected bodies), development strategies, etc.¹²⁵ However, the AC states that national minorities “should also have a say on issues which are not of exclusive concern to them but affect them as members of the society as a whole” as “[p]articipation in public affairs is indeed essential...also to make it possible for them to influence the general direction of development in society.”¹²⁶ The range of issues dealt with by Montenegro’s consultative bodies can serve as an example of best practice. Its Minority Councils (one council per minority) have competences beyond culture, education and language, and include: representation in public administration on central and local levels, land, urban and budget planning on the local level. They may also make proposals for improving the protection of the rights of national minorities, suggest amendments or start a procedure to oppose a law that they feel violates their rights. The AC is positive and calls the councils “a promising tool for increasing the participation...in public and cultural life.”¹²⁷

The AC insists that governments allocate sufficient financial resources to “consultative mechanisms, cultural autonomy arrangements and government bodies involved in minority issues at all levels.”¹²⁸ Funding should be proportionate to the responsibilities of a particular body, as resources are “needed to enable them [here in reference to consultative bodies] to communicate effectively with their constituencies and to monitor and evaluate the implementation of legislation and policies which affect them.”¹²⁹ The AC also views competence over the allocation of public funding as an important issue in decision-making. One of the best practices in this regard can be seen in Hungary, where minority self-governments are able to manage their own budgets through a Government Decree that specifies regulations for the planning and appropriation of funds.¹³⁰ The AC commends this effort, noting that Hungary’s minority self-governments “now have genuine operational and financial autonomy”¹³¹ through financial management over their budgets. In addition, there is an incentive and performance-based budgetary allocation system whereby each minority self-government receives a certain fixed amount of funds and then can apply for a differentiated amount of money which is granted if they prove “extra performance.” The final amounts are decided by the Minority

125 Advisory Committee, *Thematic Commentary*, para. 16

126 Advisory Committee, *Thematic Commentary*, para. 17.

127 Advisory Committee, *Opinion on Montenegro*, para. 99.

128 Advisory Committee, *Thematic Commentary*, para. 138

129 *Ibid.*, para. 139.

130 *Third Report submitted by Hungary*, para. 114.

131 Advisory Committee, *Third Opinion on Hungary*, para. 142; *Third Report Submitted by Hungary*, para. 111.

Budget Committee with representatives of ministries, and minorities have advisory rights during the sessions.¹³²

2.2.3. Impact and Voice in Decision-making

The AC is explicit that the mere presence of minority representatives in political decision-making bodies and/or consultation¹³³ is not sufficient for effective participation; representatives must be able to voice their opinions and influence decisions.¹³⁴ For example, the AC not only condemns a country such as Ireland where the Traveller minority has little if any representation in decision-making bodies.¹³⁵ It also criticizes states with formal representation such as Finland because the Sami Parliament, a separate consultative body for the Sami indigenous group, has only a limited influence on the outcome of decisions, and Finland thus fails to fulfill its domestic legal obligation of “negotiation” with the central government.¹³⁶ Here the AC states that negotiation should “reflect the true meaning of the term, going beyond mere consultation, and ensuring that the views of the Sami Parliament are fully taken into account in decision-making affecting the protection of the Sami.”¹³⁷ The AC also criticizes the lack of influence of the three official minority representatives in Cyprus’ parliament, as they “are not entitled to speak, vote or initiate legislation”¹³⁸ and are only consulted upon issues dealing with education, religion and marriage.

On the opposite end of the spectrum, however, the AC is generally chary of extreme forms of decision-making mechanisms such as veto powers. In the Thematic Commentary, it states that veto powers are usually solely reserved for legislation directly affecting minorities,¹³⁹ as it may “lead to a paralysis of State institutions.”¹⁴⁰ Yet in Slovenia, the AC is positive towards veto powers of Hungarian and Italian minority representatives in parliament. It actually recommends devising additional participatory means since minority representatives have pointed out that the veto privileges only cover legislation exclusively concerning national minorities, whereas “new provisions likely to affect their specific rights are somewhat fragmented and dispersed among various texts, and that, given that their opinions are, in such cases, only of advisory character, their influence on the decision-making process remains limited.”¹⁴¹ An interesting

132 *Third Report submitted by Hungary*, 108-110. This seems effective as 80% of eligible groups applied and 97% were granted differentiated funding in 2008; average performance was allocated 25% while excellent performance could be up to double. 828 out of 1100 Roma self-governments applied.

133 Advisory Committee, *Thematic Commentary*, para. 106.

134 *Ibid.*, para. 19.

135 See: *Second Opinion on Ireland*, para. 107, 109, and 111; *Second Report Submitted by Ireland*, 10.

136 *Second Opinion on Finland*, para. 155.

137 *Ibid.*, para. 156.

138 Advisory Committee, *Second Opinion on Cyprus*, para. 161.

139 Advisory Committee, *Thematic Commentary*, para. 98.

140 *Ibid.*, para. 99

141 Advisory Committee, *Second Opinion on Slovenia*, paras. 167- 168.

voting scheme that the AC lists as a “positive development” in Macedonia, is the so-called “double majority”—meaning both the majority of all members of parliament and the majority of deputies representing national minorities are required to pass laws related to culture, use of languages, education, personal documentation and use of symbols.¹⁴²

Thus, formal representation or presence in political bodies should be seen as a means for effective participation, but it does not constitute effective participation in itself. “Effective” therefore clearly refers to the influence that minority representatives can exert in procedural and substantive matters. Such concrete measures to ensure this include the right to participate in debates, advisory powers, commenting and amending draft legislation, voting powers, and veto powers.

2.2.4. Mainstreaming Minority Issues

The AC states in the Thematic Commentary: “The Framework Convention intends to provide persons belonging to national minorities with increased possibilities to participate in the mainstream society and at the same time for the majority population to become better acquainted with the culture, language and history of the national minorities, in a spirit of intercultural dialogue.”¹⁴³ In the AC’s perspective, mainstreaming of minority issues relies on coordination of minority policies on all levels of government and between governmental institutions where minorities are present. In light of this, while differential approaches such as separate consultative bodies or self-government regimes have the advantage of tailoring participation in political affairs to the needs of a particular group, the AC advocates for specialized governmental bodies to act as “channels of communication between the government and minorities”¹⁴⁴ to iterate the needs of national minorities and mainstream minority issues throughout local, regional, and national levels of government. For example in Kosovo, the AC generally warns about an “excessive fragmentation of competences” that may “weaken minority protection” due to the overlapping work of governmental institutions.¹⁴⁵ The AC reinforces the importance of coordination and consultation between bodies, ministries, and its national-level Community Consultative Council.¹⁴⁶ It therefore considers the establishment of a Human Rights Unit in the ministries on central and municipal levels “to be a positive step towards the mainstreaming of human and minority rights into all policies.”¹⁴⁷ An example of best practice can be noted in Germany where the Secretariat for Minorities communicates between national minority organizations and federal ministries on national and regional levels.¹⁴⁸

142 Advisory Committee, *Second Opinion on “the former Yugoslav Republic of Macedonia,”* para. 193 and accompanying footnote 14.

143 Advisory Committee, *Thematic Commentary*, para 22.

144 *Ibid.*, para. 105.

145 Advisory Committee, *Second Opinion on Kosovo*, paras. 13, 236.

146 *Ibid.*, para. 236.

147 *Ibid.*, para. 232.

148 Advisory Committee, *Third Opinion on Germany*, paras. 175, 196.

Mainstreaming minority issues is also relevant for a number of other bodies, namely parliamentary committees, mainstream political parties, and public administration as ways to put minority issues on a state's agenda and improve awareness of minority rights. Parliamentary committees can provide a platform for minority issues and improve legislation affecting them. The AC is positive towards practices such as Poland's Parliamentary Committee on National and Ethnic Minorities, which actively "stimulat[es] public awareness of national minorities, creating a framework for discussion on national minority issues and for making proposals for resolving the outstanding issues affecting them."¹⁴⁹ Furthermore, that "sessions were attended by a wide range of national minority representatives, academics and local authorities demonstrates the spirit of openness and its active role in promoting minority rights."¹⁵⁰ In an interesting example, the AC criticizes Finland because besides Swedish-speaking Finns, smaller minority groups have no representation in parliament. In this light, the AC "notes that there are certain ways to bring minority concerns indirectly to the attention of Parliament, including through the membership of a number of parliamentarians in the Advisory Board for Ethnic Relations and through certain reporting processes."¹⁵¹ It therefore recommends Finland "to improve access...in Parliament's decision-making processes, possibly by establishing regular channels of communication between minority representatives and the relevant Committees of the Parliament."¹⁵²

The AC also unambiguously encourages minority participation through both minority-specific and mainstream political parties.¹⁵³ The AC's *Third Opinion on the Slovak Republic* reinforces this position. The AC partially attributes poor Roma representation on the central level to "the lack of interest from mainstream political parties to include them on their electoral lists" as the "situation of Roma appears not to be on the agenda of political parties and the latter's programmes reportedly do not adequately reflect the concerns of the Roma minority."¹⁵⁴ Here the AC reinforces the role not only of minority-specific associations and political parties (as discussed earlier in 2.2.1.), but also the importance of mainstream parties as avenues for "facilitating participation of persons belonging to national minorities in public affairs."¹⁵⁵

The effect that decentralization and autonomy regimes have on mainstreaming the political participation of minority rights depends on the division of competences between the sub-national units and the central government to counteract fragmentation and overlapping between different

149 Advisory Committee, *Second Opinion on Poland*, para. 189.

150 Ibid. It also remarks upon Kosovo's Committee on Rights and Interests of Communities (CRIC) in which each community has one representative and foresees cooperation with relevant ministries. The CRIC examines draft laws, can initiate laws addressing the communities, and decisions are taken by consensus, which the AC finds "commendable." Progress Report Submitted by UNMIK, 45; Advisory Committee, *Second Opinion on UNMIK*, para. 230.

151 Advisory Committee, *Second Opinion on Finland*, para. 159.

152 Advisory Committee, *Second Opinion on Finland*, para. 160.

153 Advisory Committee, *Thematic Commentary*, para. 78.

154 Advisory Committee, *Third Opinion on the Slovak Republic*, para. 184.

155 Ibid.

levels of governance. For example in regard to Moldova, the AC refers to “inconsistencies in the distribution of competences between the central Government and the authorities of Gagauzia.”¹⁵⁶ It recommends “substantial efforts” be made to promote better representation at the central level and more clarity in the functioning of the autonomy regime¹⁵⁷ and to “pursue the dialogue with a view to providing a clearer determination of the competences of the Gagauz authorities and allowing for a more effective functioning of the Autonomous Territorial Unit of Gagauzia.”¹⁵⁸ However, its generally positive position towards decentralization is apparent in its opinion on Kosovo, stating that if the decentralization processes are fully implemented in Kosovo, municipalities with substantial numbers of persons of the Serbian community would have “enhanced competences in the field of education, healthcare and cultural affairs.”¹⁵⁹ The AC therefore considers that decentralization can create conditions for effective participation if the duties between the central government and autonomous units are legally clarified.

Mainstreaming minority issues thus consists of several elements, the most important in the eyes of the AC being coordination between institutions and different levels of government, especially for state parties with decentralized forms of governance. In addition, the inclusion of persons belonging to national minorities in parliamentary committees, mainstream political parties, as well as in public administration can serve as opportunities to incorporate minority issues into the affairs of conventional governmental and political bodies as well as a means to increase awareness of the needs of national minorities.

156 Advisory Committee, *Third Opinion on Moldova*, para. 179.

157 *Ibid.*, para. 180.

158 *Ibid.*, 38.

159 Advisory Committee, *Second Opinion on Kosovo*, para. 234.

3. Gaps in Standards and Evaluation of the AC's Approach to Effective Participation

The AC is very specific in its criticisms of state practice; as presented in the previous chapters, it is quick to point out failures or problems with participatory mechanisms. However, its recommendations are generally vague and often do not address *how* to concretely overcome shortcomings in the implementation of Article 15. This chapter will reflect upon the link between the main assumptions of this study; the AC's unambiguous criticisms and vague recommendations; and the standards presented in Chapter 1 on the recognition of national minorities, on one hand, and the institutional mechanisms and common issues presented in Chapter 2, on the other.

As elaborated in the introduction, the AC's primarily reactive approach is reflected in its reliance on the cooperation of state parties, its lack of competence to propose changes to electoral or constitutional design of a state, and the lack of a complaint or enforcement mechanism. As a result, states may easily choose to ignore or oppose the AC's recommendations.¹⁶⁰ Secondly, maintaining consistency despite the broad margin of appreciation and individualized approach for all state parties—an approach that takes into account the current level of minority participation and socio-political factors that affect their inclusion—is obviously a momentous task for the AC. The following sections will explore whether the AC's primarily reactive mandate and its individualized approach may lead to certain ambiguities, leniencies and inconsistencies, as well as doling out common criticisms for states that maintain very different practices.

3.1. Common Criticisms

As presented in Chapter 1, the AC carps on the issue of citizenship in the recognition of national minorities and their inclusion in political life, despite the fact that very few states meet the flexible and inclusive approach insisted upon by the AC. In regard to the inclusion of Roma, unquestionably a widespread challenge, the AC uses almost identical language in its opinions, focusing on socio-economic issues, particularly employment and housing. Not even Finland,

160 For example, in regard to Germany's exclusion of non-citizens and immigrants as mentioned in 1.1. Also, Cyprus ignores the AC's criticism that national minorities must affiliate with either Greek or Turkish Cypriot communities in its comments: "The issue of affiliation cannot be a priority at present, but it could be examined in any future revision of the Constitution." Advisory Committee, *Comments on the Third Opinion by Cyprus*, para. 14.

which displays one of the best practices of facilitating Roma participation through separate advisory boards and innovative employment initiatives in consultation with Roma representatives, is immune from the same cookie-cutter criticisms handed to states displaying much weaker performances.¹⁶¹ Although the social inclusion of Roma is a universal problem for most, if not all state parties, this example certainly puts the individualized approach of the AC into question. Finally, another standard criticism of the AC is the limited impact of national minority representatives on decision-making via consultative bodies. Neither the Czech Republic, Hungary, nor the Slovak Republic—state parties with arguably the most advanced and inclusive systems of consultation—are left out. To highlight this point, the AC criticizes the lack of influence on decision-making in the Slovak Republic through its national Consultative Council. However, voting rights in the Council are exclusively reserved for national minority representatives, and an issue affecting a particular national minority group may not be discussed without the presence of that group’s representative.¹⁶²

3.2. Inconsistencies and Leniency

It is indubitably a difficult task to evaluate state parties with very different levels of minority inclusion and political participation. For example, Portugal and Spain have made limited progress on the application of the FCNM,¹⁶³ yet the AC takes an encouraging tone and refrains from harsh criticisms. In an attempt to compare two countries with similar problems of participation in elected and consultative bodies, the treatment of the UK and Azerbaijan is demonstrative of discrepancies in treatment. Azerbaijan’s first report conceives participation in public affairs to encompass employment in public administration and the judiciary; in its second report, the only reference to participation is in regard to a consultative body.¹⁶⁴ The AC does not consider this sufficient, especially since representation in elected bodies is vague and undermines the effectiveness of its consultative body, and states that “possibilities for national minorities to effectively channel their views and concerns to the authorities are very scarce.”¹⁶⁵ Furthermore, it criticizes the “lack of institutional mechanisms, through which national minorities can regularly discuss issues of concern with the authorities and can take part in decision-making, particularly on issues of relevance for them.”¹⁶⁶ The UK similarly has poor minority representation in elected bodies, no permanent consultative body, and focuses most of its report on employment in public administration. However, the AC refrains from harsh language, recommending that the UK: “identify further ways of encouraging full participation

161 See Advisory Committee, *Second Opinion on Finland*, paras. 42 - 43, 145-146.

162 *Third Report Submitted by the Slovak Republic*, para. 58; Advisory Committee, *Third Opinion on the Slovak Republic*, para. 190.

163 See for example, footnote 20.

164 See: *First Report Submitted by Azerbaijan*; *Second Report Submitted by Azerbaijan*, paras. 34-35.

165 Committee of Ministers, *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Azerbaijan* (2008).

166 Advisory Committee, *Second Opinion on Azerbaijan*, para. 154.

of persons belonging to minority ethnic communities in elected bodies; step up meaningful dialogue with the broadest possible spectrum of representatives of minority ethnic communities, both at national and local levels.”¹⁶⁷

A comparison of the AC’s evaluation of Norway and the Netherlands, two state parties with similar levels of overall economic and social development, is also revealing. The AC is harsher on Norway, which has a more advanced system of minority participation including a consultative body. Neither state addresses representation in elected bodies, yet the AC is uneven in its reaction: It remarks upon this gap for Norway but makes no reference towards it in the case of the Netherlands. Although the Netherlands does not address its national consultative body, the *Landelijk Overleg Minderheden* (LOM), in its report, the issue is taken up by the AC in its opinion where it criticizes the exclusion of Roma from this body.¹⁶⁸ Additionally, consultation in the Netherlands is limited to traditional issues of language and culture, and the AC does not press for any increased competencies for national minority representatives.

Through these examples, it is evident that maintaining consistency and an individualized approach is not always feasible for the AC. In addition, the example of the Netherlands shows that the AC does sometimes deviate from its reactive approach to take a more proactive role in its opinions. This study is not in a position to speculate *why* the AC does or does not take a proactive role in each case; its aim is rather to point out that its approach is not always consistent.

3.3. Coordination and Mainstreaming

The AC repeatedly warns against fragmentation of competencies between different levels of governance and the proliferation of institutions that it feels would inhibit coordination (see 2.2.4). As has been presented in Chapter 2, the AC advocates for specialized governmental bodies to coordinate minority policy and mainstream minority issues throughout government. Ideally, coordination should focus on different levels of government as well as between the three main participatory institutional structures. Mainstreaming should also harmonize differential approaches to participation (autonomy or self-government, separate consultative bodies, etc.) by raising awareness of minority issues into the overall socio-political life of a state. Especially because the AC does not provide additional advice on how these bodies should go about coordinating minority policy, one is apt to question how feasible coordination by a specialized governmental body is, and whether it would contribute to the proliferation of institutions which might risk further fragmentation. Specifically, are there other means of coordination besides a specialized governmental institution? In fact, the analysis of the state

167 Advisory Committee, *Second Opinion on the UK*, 49. See also paras. 233 and 257.

168 See *Report Submitted by the Netherlands and Opinion on the Netherlands*, para. 41.

reporting procedure shows at least two innovative strategies that appear to be successful in Hungary and the Czech Republic. These two state parties seem to have accomplished effective coordination despite having decentralized government structures, which would make coordination and mainstreaming appear to be more complicated at first glance.

In the Czech Republic, coordination and monitoring is done by consultative bodies: on the national level by the Minorities Council, and on regional and municipal levels by National Minority Committees. As it explains in its *Third Report*:

[T]hey [National Minority Committees] provide another useful platform for discussing these [social exclusion] problems and play a very active role in efforts to address them, taking on a fair share of the work normally done by social services departments of city halls. With this in mind, many municipal governments, acting on their own initiative, create national/ethnic minority commissions or advisory boards, or appoint national/ethnic minority coordinators whose duties are often combined with those of a Roma advisor. At the regional level, it is a common practice to assign the duties of the National Minority Committee to a Roma coordinator, since most regions do not have the share of minority population that would oblige them to set up a National Minority Committee. As a result, a frequent practice is to add to the Roma coordinator's main mission, which is to work with socially excluded Roma communities, extra tasks concerning national minorities (and in some cases also foreigners).¹⁶⁹

In Hungary, coordination and mainstreaming is done through self-government regimes in place on local, regional, and national levels. Consultation between the central government and minority self-governments is very developed with several consultative forums, both formal and flexible. For example, various ministers and high-level officials from the executive regularly hold consultations with presidents of minority self-governments where minority policy and budget allocation to minority affairs have been discussed. In addition, three Working Groups for public law, financing and support, and media affairs have been set up, consisting of representatives of the ministries, delegates of national self-governments of minorities, international experts, and the associate of the Parliamentary Commissioner for National and Ethnic Minority Rights.¹⁷⁰ As an example of local-level participation, small regional development committees of “multi-purpose” associations from small regions have been established. Representatives of minority self-governments are included in these committees with voting rights, and at least one of these seats is reserved for a Roma self-government representative operating in the given region. The total number of representatives in the committees delegated by minority self-governments, civil organisations and local undertakings must account for at least 50% of membership.¹⁷¹

The innovative practices of the Czech Republic and Hungary demonstrate that coordination and mainstreaming of minority participation can be done through consultative bodies rather than a

169 *Third Report Submitted by the Czech Republic*, 27. Note that the third reporting cycle is currently incomplete.

170 *Third Report Submitted by Hungary*, 17.

171 *Ibid.*, 17-19.

separate, specialized governmental institution. This is in line with the AC's emphasis on dialogue that is not limited to formal consultative bodies. As one of its core considerations, it states:

Promoting the effective participation of persons belonging to national minorities in the society requires continuing and substantive dialogue, both between persons belonging to national minorities and the majority population and between persons belonging to national minorities and the authorities. These two dimensions of dialogue can be achieved only if effective channels for communication are in place.¹⁷²

In addition, the AC elaborates, "Article 15 is also intended to facilitate intercultural dialogue by making it possible for national minorities to be visible, have their voice heard and participate effectively in decision-making, including participation on issues of relevance to the society at large. In fact, dialogue should not be limited to representatives of the national minorities and the authorities, but it should be extended to all segments of society."¹⁷³ Therefore, it might be commendable for the AC to note other means of coordination and mainstreaming besides the work of specialized governmental bodies, such as consultative structures as displayed in the practice of the Czech Republic and Hungary.

3.4. Trade-offs

Unquestionably, most state parties do not have a balanced approach between representation in elected bodies, consultative bodies, and representation in public administration. It is clear from the analysis that when there is a trade-off, the AC favors consultation over the other two forms of participation, especially for numerically small and vulnerable groups, such as the Roma minority. For example, in Montenegro, the AC finds that its consultative councils "may act as a tool...to organize themselves and have their voice heard in the absence of parliamentary representation."¹⁷⁴ However, inconsistencies remain here as well. A few examples will suffice to illustrate this.

The Czech Republic and Finland display advanced systems of consultation at the expense of mechanisms to encourage parliamentary representation of national minorities. For example, in the Czech Republic there is no quota system for minority representation in parliament,¹⁷⁵ and although several members of parliament belong to national minorities, "their mandates stem from membership of a political party."¹⁷⁶ Similarly in Finland, there is only one reserved seat for a representative from the Åland Islands in parliament¹⁷⁷ and Finland admits that its electoral

172 Advisory Committee, *Thematic Commentary*, para. 11.

173 *Ibid.*, para. 22.

174 Advisory Committee, *Opinion on Montenegro*, para.102.

175 Advisory Committee, *Second Opinion on the Czech Republic*, para. 172.

176 *Second Report Submitted by the Czech Republic*, para. 82.

177 *Second Report Submitted by Finland*, 81.

system “does not make a full political participation of small ethnic and other groups possible.”¹⁷⁸ Although the AC criticizes that besides Swedish-speaking Finns, smaller minority groups have no representation in parliament, the AC nonetheless recommends Finland to facilitate communication between minority representatives and the relevant parliamentary committees¹⁷⁹ rather than instituting measures to improve the parliamentary representation of minorities. In fact, the AC recommends speeding up the establishment of local consultative bodies in the Czech Republic¹⁸⁰ and improving consultation in Finland particularly with the Russian-speaking population and Sami, without urging these state parties to improve mechanisms for the parliamentary representation of national minorities.¹⁸¹

By contrast, the AC criticizes parliamentary representation¹⁸² in the case of Hungary, the state party arguably displaying the best practice in regard to consultation and in elected bodies through decentralized governance. The AC’s criticism takes place despite acknowledgment of Hungary’s advanced system of self-government on local, regional, and central levels of government and its “highly developed system for the consultation of minorities.”¹⁸³ Additionally in its comments, Hungary points out that in the 2010 elections, several national minorities were elected as MPs, including Roma.¹⁸⁴ Italy, on the other hand has highly-developed systems of political participation of minorities that are limited to three regions where four linguistic minorities have special autonomy status.¹⁸⁵ Curiously, the AC discusses consultation on the national level (which would include minorities other than those already included in public affairs in the three regions) but abstains from bringing up the topic of representation in legislative and elected bodies on the national level for all national minorities. The two consultative mechanisms that the AC discusses have a rather poor performance and are limited to language and education issues,¹⁸⁶ and the AC merely recommends developing more consultative bodies.¹⁸⁷

This study does not purport to investigate under what specific circumstances such apparent inconsistencies occur when dealing with trade-offs between participatory mechanisms as outlined above in regard to the Czech Republic, Finland, Hungary, and Italy. One could conjecture that perhaps the AC’s recommendations are actually linked in some way to the different level of performance of the state parties, and are thus not inconsistent. Additionally,

178 Ibid.

179 Ibid., para. 160.

180 Advisory Committee, *Second Opinion on the Czech Republic*, para. 21.

181 Committee of Ministers, *Resolution on the Implementation of the FCNM by Finland* (2007).

182 Advisory Committee, *Second Opinion on Hungary*, para. 2.

183 Advisory Committee, *Second Opinion on Hungary*, para. 138.

184 Advisory Committee, *Comments of the Government of Hungary on the Third Opinion*, paras. 2-3.

185 See *Report Submitted by Italy*. Special autonomy in political affairs is legally guaranteed for French, German, Ladin, and Slovene minorities residing in the regions of Valle d’Aosta, Trentino Alde-Aldige (German and Ladin), Friuli-Venezia Giulia, respectively.

186 *Third Report Submitted by Italy*, paras. 35-36.

187 Advisory Committee, *Second Opinion on Italy*, para. 131.

one needs to take into account the AC's evolutionary approach to its standards as they pertain to a particular state: the passage of time and changed circumstances in the state can require a different level of minority rights standards.¹⁸⁸ Scholars have also attempted to resolve some of the issues involved, coming up with typologies of standards implicitly used by the AC, such as that consisting of minimum standard, emerging standard and best practices.¹⁸⁹ However, what this study intends to point out is that the gaps, lack of clear elaboration and inconsistencies in the AC's evaluations do occur, and that the AC is naturally in the best position to explain and elaborate on them. To conclude with an example of best practice when a trade-off is inevitable, Denmark presents the ideal case. Since there is no minority parliamentary representation on the national level, a Liaison Committee and Secretariat for the German minority (the only recognized national minority in the country) ensure a flow of information on various issues of concern to national minorities.¹⁹⁰

The last gap that has been particularly important for this report is the AC's attention to the performance of state practice on different levels of governance. The AC usually organizes its evaluation of participatory mechanisms relevant to Article 15 by type or issue (e.g. protection of a certain group) rather than by level of governance. Within this format, its starting point is to evaluate mechanisms on the national level, whereas comments on regional and local levels of governance are not always included. For example, the AC gives attention to all levels of government in Georgia, a state with a rather poor overall performance. By contrast, it does not give much attention to local and regional levels in Austria or Finland (with exception of the indigenous Sami homeland and minority-within-minority situation of the Åland Islands), which have an overall solid performance in minority participation. These illustrations show that the AC's attention to the lower levels of government may depend on the overall quality of participation of national minorities in a state. However, the reasons for this inconsistency remain inconclusive and more standards and more consistent elaboration of participation mechanisms for national minorities across different levels of governance seem to be necessary.

188 See Advisory Committee, *Thematic Commentary*, para. 150.

189 Emma Lantschner, 2009, as elaborated in Marko, 229.

190 Advisory Committee, *Second Opinion on Denmark*, para. 154.

4. Conclusion

This study has analyzed the notion of “effective participation” in public affairs contained in Article 15 of the *Framework Convention for the Protection of National Minorities*. Specifically it has looked at the work of the Advisory Committee as well as state practice, in order to better understand how the political participation of national minorities can be best accomplished and to determine the consistency of the Advisory Committee’s standards and evaluation of state parties. In this regard, the coordination of minority policy in different levels of governance as well as between the institutional mechanisms served as a main theme to be examined. Two basic factors regarding the AC’s role in standard-setting and evaluation were also questioned: 1. How do the individualized approach of the AC and Article 15’s margin of appreciation affect the consistency and feasibility of establishing universal standards? 2. How does the restrictive mandate of the AC in terms of its dependency on the cooperation of state parties affect its work, and does the AC sometimes take on a more proactive role?

As a prelude, Chapter 1 examined the preliminary issue of how states determine which groups are recognized as national minorities against the AC’s insistence on a flexible and inclusive approach. The margin of appreciation afforded to states in establishing definitions and criteria for recognizing and differentiating between minority groups as well as the AC’s individualized approach in evaluating how states recognize national minorities have shown a general consistency in maintaining standards in this area. This can be seen by its general eschewal of citizenship requirements, temporal or territorial links to a country, as well as discrimination against numerically small minorities. Recognition as a national minority has direct implications for the inclusiveness of political participation, as groups that are not officially recognized as national minorities are not entitled to the same representation in institutional bodies and do not enjoy special privileges such as reserved seats, threshold exemptions, veto powers, and so forth.

Chapter 2 then elaborated upon the main participatory institutional structures: representation in elected bodies, consultative bodies, and public administration. Specialized governmental institutions as policy coordination and monitoring mechanisms, as well as decentralized systems of government were also presented, as they function to complement the three main mechanisms of participation and to empower minority communities in decision-making. Next, overlapping issues common to these mechanisms were presented. They concern the legitimacy and pluralism of minority participation, the breadth of issues and impact of minorities on decision-making, and mainstreaming of minority issues into all levels of government. Finally, challenges involved in mainstream minority issues on all levels of government, such as fragmentation or overlapping of competencies between governmental bodies, have been examined. Importantly, it is explained that mainstreaming is seen by the AC largely as an issue of policy coordination by specialized governmental bodies, but may also be fostered by the presence of national minorities in mainstream political parties, public administration, and in parliamentary committees.

Chapter 3 then questioned the consistency of the standards presented thus far in light of the two main assumptions as a final evaluation of the AC's performance in regard to Article 15. It showed that although the AC measures state practice in light of these standards, there is a degree of inconsistency. This attempted to bring to light gaps in the approach of the AC in standard-setting and the evaluation of the practice of state parties. It has shown that the two factors inherent to the FCNM and the AC's mandate—including the margin of appreciation, individualized approach, as well as the AC's "reactive" position—limits its capacity. It is apparent that the AC does not always succeed in maintaining an individualized approach or a merely reactive approach towards all forty state parties. These considerations are reflected in the ambiguity of the AC's recommendations on how to improve compliance with Article 15. It has also led to common criticisms, inflexibility in envisaging other forms of coordination and mainstreaming, as well as leniency and inconsistencies, including when trade-offs between representation in elected bodies and consultation exist, and in paying attention to local and regional levels of governance.

This study and the examples presented do not pretend to be exhaustive. Rather, the study opens up many areas for future research. These areas include a closer examination of the AC's individualized approach, under what conditions it takes a more proactive approach in some cases than in others, separate examination of institutional mechanisms and/or issues presented in Chapters 1 and 2, as well as finding patterns and reasons for the gaps presented in Chapter 3, especially the inconsistency of the AC's attention to national versus local and regional levels of national minority participation. Additionally, it encourages identifying other effective means, including consultative structures, for the coordination of minority policies.

5. Bibliography

5.1. Articles

Henrard, Kristin. "Minority Mechanisms as a Means to Prevent and Settle Sovereignty Disputes: The Growing Recognition, Protection and Promotion of Participatory Rights of Minorities." In *Sovereignty and Diversity*, edited by Miodrag Jovanovic and Kristin Henrard. Netherlands: Eleven International Publishing, 2008. 103-129.

Marko, Joseph. "The Council of Europe Framework Convention on the Protection of National Minorities and the Advisory Committee's Thematic Commentary on Effective Participation." In *Political Participation of Minorities: A Commentary on International Standards and Practice*, edited by Marc Weller. Oxford: OUP, 2010. 222-255.

Verstichel, Annelies. "Elaborating a Catalogue of Best Practices of Effective Participation of National Minorities: Review of the Opinions of the Advisory Committee Regarding Article 15 of the Council of Europe Framework Convention for the Protection of National Minorities." In *European Yearbook of Minority Issues 2 (2002/3)*. Netherlands: Koninklijke Brill NV, 2004. 165-195.

5.2. Primary Sources

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs*. Adopted 27 February 2008. Strasbourg: Council of Europe, 2008. ACFC/31DOC(2008)001.

———. *Rules of Procedure of the Advisory Committee on the Framework Convention for the Protection of National Minorities*. Adopted 29 October 1998. ACFC/INF(1998)002.

Council of Europe. *European Charter of Local Self-Government*. Strasbourg: Council of Europe, Entered into force 1 September 1988. CETS No. 122.

———. *Framework Convention for the Protection of National Minorities and Explanatory Report*. Entry into force 1 February 1998. Strasbourg: Council of Europe, 1995. H(1995)010.

———. *Resolution (97) 10: Rules Adopted by the Committee of Ministers on the Monitoring Arrangements under Articles 24 to 26 of the Framework Convention for the Protection of National Minorities*. Adopted 17 September 1997. ACFC/RES(1997)10.

5.3. State Reports, Opinions, Comments and Resolutions

The following sources that have been consulted are listed in chronological order for each state party. They have been retrieved from:

Council of Europe. *Framework Convention for the Protection of National Minorities*. "State Reports, Opinions, Comments and Resolutions." http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp

Albania:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Albania*. Adopted by the Committee of Ministers on 8 July 2009 at the 1063rd meeting of the Ministers' Deputies. CM/ResCMN(2009)5.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Albania on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Albania*. Strasbourg: Council of Europe, 2008. GVT/COM/II(2008)005

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Albania*. Strasbourg: Council of Europe, 2008. ACFC/OP/II(2008)003.

Second Report Submitted by Albania Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR/II(2007)004.

Armenia:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Armenia*. Adopted 7 February 2007 at the 986th meeting of the Ministers' Deputies. CMN(2007)5.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Armenia on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Armenia*. Strasbourg: Council of Europe, 2006. GVT/COM/II(2006)005.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Armenia*. Strasbourg: Council of Europe, 2006. ACFC/OP/II(2006)005

Second Report Submitted by Armenia pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2004. ACFC/SR/II(2004)010.

Austria:

Committee of Ministers. *Resolution on the Implementation of the Framework Convention for the Protection of National Minorities by Austria*. Adopted 11 June 2008 at the 1029th meeting of the Ministers' Deputies. CM/ResCMN(2008)3.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Austria on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Austria*. Strasbourg: Council of Europe, 2008. GVT/COM/II(2007)004.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Austria*. Strasbourg: Council of Europe, 2008. ACFC/OP/II(2007)005.

Second Report Submitted by Austria pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2006. ACFC/SR/II(2006)008.

Azerbaijan:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Azerbaijan*. Adopted by the Committee of Ministers on 10 December 2008 at the 1044th meeting of the Ministers' Deputies. CM/ResCMN(2008)11.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Azerbaijan on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Azerbaijan*. Strasbourg: Council of Europe, 2008. GVT/COM/II(2008)002.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Azerbaijan*. Strasbourg: Council of Europe, 2008. ACFC/OP/II(2007)007.

Second Report Submitted by Azerbaijan pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR/II(2007)001.

Bosnia and Herzegovina:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Bosnia and Herzegovina*. Adopted by the Committee of Ministers on 9 December 2009 at the 1073th meeting of the Ministers' Deputies. ResCMN(2009)06.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Bosnia and Herzegovina on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Bosnia and Herzegovina*. Strasbourg: Council of Europe, 2009. GVT/COM/II(2009)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Bosnia and Herzegovina*. Strasbourg: Council of Europe, 2009. ACFC/OP/II(2008)005

Second Report Submitted by Bosnia and Herzegovina Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR/II(2007)005.

Croatia:

(No Final Resolution at the time of publication)

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Croatia on the Third Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Croatia*. Strasbourg: Council of Europe, 2010. GVT/COM/III(2010)004.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Third Opinion on Croatia*. Strasbourg: Council of Europe, 2010. ACFC/OP/III(2010)005.

Third Report Submitted by Croatia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)009

Cyprus:

(No Final Resolution at the time of publication)

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Cyprus on the Third Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Cyprus*. Strasbourg: Council of Europe, 2010. GVT/COM/III(2010)003.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Third Opinion on Cyprus*. Strasbourg: Council of Europe, 2010. ACFC/OP/III(2010)002.

Third Report Submitted by Cyprus pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)005.

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Cyprus*. Adopted by the Committee of Ministers on 9 July 2008 at the 1032nd meeting of the Ministers' Deputies. CM/ResCMN(2008)5.

Report Submitted by Cyprus Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 1999. ACFC/SR(1999)002 rev.

Czech Republic:

Third Report Submitted by the Czech Republic pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2010. ACFC/SR/III(2010)008.

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by the Czech Republic*. Adopted by the Committee of Ministers on 15 March 2006 at the 958th meeting of the Ministers' Deputies. ResCMN(2006)2.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of the Czech Republic on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in the Czech Republic*. Strasbourg: Council of Europe, 2005. GVT/COM/INF/OP/II(2005)002.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on the Czech Republic*. Strasbourg: Council of Europe, 2005. ACFC/INF/OP/II(2005)002.

Second Report Submitted by the Czech Republic Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2004. ACFC/SR/II(2004)007.

Denmark:

Third Report Submitted by Denmark pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2010. ACFC/SR/III(2010)004.

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Denmark*. Adopted by the Committee of Ministers on 14 December 2005 at the 951st meeting of the Ministers' Deputies. ResCMN(2005)9.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Denmark on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Denmark*. Strasbourg: Council of Europe, 2005. GVT/COM/INF/OP/II(2004)005.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Denmark*. Strasbourg: Council of Europe, 2005. ACFC/INF/OP/II(2004)005.

Second Report Submitted by Denmark Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2004. ACFC/SR/III(2010)004.

Estonia:

Third Report Submitted by Estonia pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2010. ACFC/SR/III(2010)006.

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Estonia*. Adopted by the Committee of Ministers on 15 February 2006 at the 956th meeting of the Ministers' Deputies. ResCMN(2006)1.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Estonia on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Estonia*. Strasbourg: Council of Europe, 2005. GVT/COM/INF/OP/II(2005)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Estonia*. Strasbourg: Council of Europe, 2005. ACFC/INF/OP/II(2005)001.

Second Report Submitted by Estonia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2004. ACFC/SR/II(2004)009.

Report Submitted by Estonia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 1999. ACFC/SR(1999)016.

Finland:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Finland*. Adopted by the Committee of Ministers on 31 January 2007 at the 985th meeting of the Ministers' Deputies. CM/ResCMN(2007)1.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Finland on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Finland*. Strasbourg: Council of Europe, 2006. GVT/COM/II(2006)004.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Finland*. Strasbourg: Council of Europe, 2006. ACFC/OP/II(2006)003.

Second Report Submitted by Finland Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2004. ACFC/SR/II(2004) 012 E.

Georgia:

(No Final Resolution at the time of publication)

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Georgia on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Georgia*. Strasbourg: Council of Europe, 2009. GVT/COM/I(2009)002.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Opinion on Georgia*. Strasbourg: Council of Europe, 2009. ACFC/OP/I(2009)001.

Report Submitted by Georgia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR(2007)001.

Germany:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Germany*. Adopted by the Committee of Ministers on 7 February 2007 at the 986th meeting of the Ministers' Deputies. CM/ResCMN(2007)4.

Beratender ausschuss für das rahmenübereinkommen zum Schutz nationaler minderheiten. *Stellungnahme Deutschlands zum Dritten Bericht des Beratenden Ausschusses für das Rahmenübereinkommen zum Schutz nationaler Minderheiten*. [Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Finland on the Third Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Germany*.] Strasbourg: Council of Europe, 2010. ACFC/OP/III(2010)003.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Third Opinion on Germany*. Strasbourg: Council of Europe, 2010. ACFC/OP/III(2010)003.

Third Report Submitted by Germany Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)003.

Hungary:

(No Final Resolution at the time of publication)

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Hungary on the Third Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Hungary*. Strasbourg: Council of Europe, 2010. GVT/COM/III(2010)002.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Third Opinion on Hungary*. Strasbourg: Council of Europe, 2010. ACFC/OP/III(2010) 001.

Third Report Submitted by Hungary Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)007.

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Hungary adopted by the Committee of Ministers on 7 February 2007 at the 986th meeting of the Ministers' Deputies*. CM/ResCMN(2007)4.

Ireland:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Ireland*. Adopted by the Committee of Ministers on 20 June 2007 at the 999bis meeting of the Ministers' Deputies. CM/ResCMN(2007)10.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Ireland on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Ireland*. Strasbourg: Council of Europe, 2007. GVT/COM/II(2007)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Ireland*. Strasbourg: Council of Europe, 2006. ACFC/OP/II(2006)007.

Second Report Submitted by Ireland Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2006. ACFC/SR/II(2006)001.

Italy:

Third Report Submitted by Italy Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)011.

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Italy*. Adopted by the Committee of Ministers on 14 June 2006 at the 967th meeting of the Ministers' Deputies. ResCMN(2006)5.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Italy on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Italy*. Strasbourg: Council of Europe, 2005. GVT/COM/INF/OP/II(2005)003.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Italy*. Strasbourg: Council of Europe, 2005. ACFC/INF/OP/II(2005)003.

Second Report Submitted by Italy Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2004. ACFC/SR/II(2004)006.

First Report Submitted by Italy Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 1999. ACFC/SR(1999)007.

Kosovo:

(No Final Resolution at the time of publication)

UNMIK Comments to the 2nd Opinion on Kosovo of the Advisory Committee on the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2010. No number given.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Kosovo*. Strasbourg: Council of Europe, 2010. ACFC/OP/II(2009)004.

Progress Report on the Implementation of the Framework Convention for the Protection of National Minorities in Kosovo Submitted by the United Nations Interim Administration Mission in Kosovo. Strasbourg: Council of Europe, 2008. ACFC/SR/II(2006)005.

Liechtenstein:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Liechtenstein*. Adopted by the Committee of Ministers on 30 June 2010 at the 1089th meeting of the Ministers' Deputies. CM/ResCMN(2010)9.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Liechtenstein on the Third Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Liechtenstein*. Strasbourg: Council of Europe, 2010. GVT/COM/III(2010)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Third Opinion on Liechtenstein*. Strasbourg: Council of Europe, 2010. ACFC/OP/III(2009)001.

Third Report Submitted by Liechtenstein Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)002.

Malta:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Malta*. Adopted by the Committee of Ministers on 31 January 2007 at the 985th meeting of the Ministers' Deputies. CM/ResCMN(2007)2.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Malta on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Malta*. Strasbourg: Council of Europe, 2010. GVT/COM/III(2010)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Malta*. Strasbourg: Council of Europe, 2006. ACFC/OP/II(2005)006

Second Report Submitted by Malta Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2004. ACFC/SR/II(2004)011.

Moldova:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Moldova*. Adopted by the Committee of Ministers on 5 May 2010 at the 1084th meeting of the Ministers' Deputies. CM/ResCMN(2010)6.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Moldova on the Third Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Moldova*. Strasbourg: Council of Europe, 2009. GVT/COM/III(2009)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Third Opinion on Moldova*. Strasbourg: Council of Europe, 2009. ACFC/OP/III(2009)003.

Third Report Submitted by Moldova Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)001.

Montenegro:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Montenegro*. Adopted by the Committee of Ministers on 14 January 2009 at the 1045th meeting of the Ministers' Deputies. CM/ResCMN(2009)2.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Montenegro on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Montenegro*. Strasbourg: Council of Europe, 2008. GVT/COM/I(2008)001..

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Opinion on Montenegro*. Strasbourg: Council of Europe, 2008. ACFC/OP/I(2008)001.

Report Submitted by Montenegro Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR(2007)002.

The Netherlands:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by the Netherlands*. Adopted by the Committee of Ministers on 14 January 2009 at the 1045th meeting of the Ministers' Deputies. CM/ResCMN(2010)3.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of the Netherlands on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in the Netherlands*. Strasbourg: Council of Europe, 2010. GVT/COM/I(2010)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Opinion on The Netherlands*. Strasbourg: Council of Europe, 2010. ACFC/OP/I(2009)002.

Report Submitted by the Netherlands Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2008. ACFC/SR(2008)001.

Norway:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Norway*. Adopted by the Committee of Ministers on 20 June 2007 at the 999bis meeting of the Ministers' Deputies. Strasbourg: Council of Europe, 2007. CM/ResCMN(2007)11

(No Comments by Norway)

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Norway*. Strasbourg: Council of Europe, 2006. ACFC/OP/II(2006)006.

Second Report Submitted by Norway Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2005. ACFC/SR/II(2005)005.

Report Submitted by Norway Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2001. ACFC/SR(2001)001.

Poland:

(No Final Resolution at the time of publication)

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Poland on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Poland*. Strasbourg: Council of Europe, 2009. GVT/COM/II(2009)003.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Poland*. Strasbourg: Council of Europe, 2009. ACFC/OP/II(2009)002.

Second Report Submitted by Poland Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR/II(2007)006.

Portugal:

(No Final Resolution at the time of publication)

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Portugal on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Portugal*. Strasbourg: Council of Europe, 2009. GVT/COM/II(2009)003.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Portugal*. Strasbourg: Council of Europe, 2009. ACFC/OP/II(2009)002.

Second Report Submitted by Portugal Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR/II(2007)006.

Romania:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Romania*. Adopted by the Committee of Ministers on 23 May 2007 at the 996th meeting of the Ministers' Deputies. CM/ResCMN(2007)8.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Romania on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Romania*. Strasbourg: Council of Europe, 2006. GVT/COM/II(2006)007.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Romania*. Strasbourg: Council of Europe, 2005. ACFC/OP/II(2005)007

Second Report Submitted by Romania Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2005. ACFC/SR/II(2005)004.

Russian Federation:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by the Russian Federation*. Adopted by the Committee of Ministers on 2 May 2007 at the 994th meeting of the Ministers' Deputies. Strasbourg: Council of Europe, 2007. CM/ResCMN(2007)7.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of the Russian Federation on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in the Russian Federation*. Strasbourg: Council of Europe, 2007. GVT/COM/II(2006)006.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on the Russian Federation*. Strasbourg: Council of Europe, 2006. ACFC/OP/II(2006)004.

Second Report Submitted by the Russian Federation Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2005. ACFC/SR/II(2005)003.

San Marino:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by San Marino*. Adopted by the Committee of Ministers on 14 April 2010 at the 1082nd meeting of the Ministers' Deputies. CM/ResCMN(2010)2.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on San Marino* Strasbourg: Council of Europe, 2009. ACFC/OP/III(2009)002.

Second Report Submitted by San Marino Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)004.

Serbia:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Serbia*. Adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies. CM/ResCMN(2011)7.

Advisory Committee on the Framework Convention for the Protection of National Minorities: *Comments of the Government of Serbia on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Serbia*. Strasbourg: Council of Europe, 2009. GVT/COM/II(2009)002

2009. Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Serbia*. ACFC/OP/II(2009)001

Second Report Submitted by Serbia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2008. ACFC/SR/II(2008)001

Slovak Republic:

(No Final Resolution at the time of publication)

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of The Slovak Republic on the Third Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in The Slovak Republic*. Strasbourg: Council of Europe, 2010. GVT/COM/III(2011)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Third Opinion on The Slovak Republic*. Strasbourg: Council of Europe, 2010. ACFC/OP/III(2010)004.

Third Report Submitted by The Slovak Republic Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2009. ACFC/SR/III(2009)008.

Slovenia:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Slovenia*. Adopted by the Committee of Ministers on 14 Jun 2006 at the 967th meeting of the Ministers' Deputies. CM/ResCMN(2006)06.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Slovenia on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Slovenia*. Strasbourg: Council of Europe, 2005. GVT/COM/INF/II(2005)00.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Slovenia*. Strasbourg: Council of Europe, 2005. ACFC/INF/OP/II(2005)005

Second Report Submitted by Slovenia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2004. ACFC/SR/II(2004)008.

Spain:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Spain*. Adopted by the Committee of Ministers on 2 April 2008 at the 1023rd meeting of the Ministers' Deputies. CM/ResCMN(2008)1.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Spain on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Spain*. Strasbourg: Council of Europe, 2008. GVT/COM/INF/II(2007)006.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Spain*. Strasbourg: Council of Europe, 2008. ACFC/INF/OP/II(2007)001.

Second Report Submitted by Spain Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2006. ACFC/SR/II(2006)002.

Sweden:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Sweden*. Adopted by the Committee of Ministers on 11 June 2008 at the 1029th meeting of the Ministers' Deputies. CM/ResCMN(2008)4.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Sweden on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Sweden*. Strasbourg: Council of Europe, 2008. GVT/COM/II(2008)001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Sweden*. Strasbourg: Council of Europe, 2008. ACFC/OP/II(2007)006.

Second Report Submitted by Sweden Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2006. ACFC/SR/II(2006)005.

Switzerland:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Switzerland*. Adopted by the Committee of Ministers on 19 November 2008 at the 1041st meeting of the Ministers' Deputies. CM/ResCMN(2008)10.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of Switzerland on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in Switzerland*. Strasbourg: Council of Europe, 2008. GVT/COM/II(2008)003

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on Switzerland*. Strasbourg: Council of Europe, 2008. ACFC/OP/II(2008)002

Second Report Submitted by Switzerland Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR/II(2007)002

United Kingdom:

Committee of Ministers. *Resolution on the implementation of the Framework Convention for the Protection of National Minorities by the United Kingdom*. Adopted by the Committee of Ministers on 9 July 2008 at the 1032nd meeting of the Ministers' Deputies. CM/ResCMN(2008)7.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Comments of the Government of the United Kingdom on the Second Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in the United Kingdom*. Strasbourg: Council of Europe, 2007. GVT/COM/II(2007)003.

Advisory Committee on the Framework Convention for the Protection of National Minorities. *Second Opinion on the United Kingdom*. Strasbourg: Council of Europe, 2007. ACFC/OP/II(2007)003.

Second Report Submitted by The United Kingdom Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. Strasbourg: Council of Europe, 2007. ACFC/SR/II(2007)003 rev.

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