

The Ljubljana Guidelines on Integration of Diverse Societies

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The Ljubljana Guidelines on Integration of Diverse Societies & Explanatory Note

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Introduction

In its Helsinki Decision of July 1992, the Organization for Security and Co-operation in Europe (OSCE) established the position of High Commissioner on National Minorities (HCNM) to be an instrument of conflict prevention at the earliest possible stage in regard to tensions involving national minority issues. During the past 20 years, the three successive High Commissioners have encountered a number of recurring issues in their work. In response, they have published six thematic Recommendations and Guidelines providing insight and advice for States facing the same issues. The first three – *The Hague Recommendations Regarding the Education Rights of National Minorities*, *The Oslo Recommendations Regarding the Linguistic Rights of National Minorities* and *The Lund Recommendations on the Effective Participation of National Minorities in Public Life* – are primarily concerned with enhancing and elaborating minority-rights standards in the areas of education, language and participation in public life. The subsequent two publications – *Guidelines on the use of Minority Languages in the Broadcast Media* and *Recommendations on Policing in Multi-Ethnic Societies* – address specific challenges that many States face in providing effective policing in ethnically diverse societies and in ensuring minorities' access to broadcast media in their language. The most recent set of Recommendations – *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations* – address the conditions and limitations within which States may support minorities residing in other countries.

All the issues covered by these publications are directly related to the High Commissioners' efforts to reduce tensions and prevent inter-ethnic conflicts. The HCNM's experience indicates that diversity alone is neither correlated nor causally linked with an increase in tensions and violence. None of the numerous ethnic conflicts that have erupted in post-Cold War Europe have been inevitable. They are a consequence of political choices that could have been different. Such conflicts are frequently rooted in the denial of basic rights and in the systematic and/or systemic exclusion and alienation of entire communities.

This is why the protection of human rights, including minority rights, is inextricably linked with the preservation of peace and stability within and between States. States are obliged to guarantee equal opportunities for everyone, regardless of whether

they belong to majorities or minorities, to participate in the economic, social, cultural and political life of society. In addition, States have a practical interest in ensuring equal opportunities to participate: low participation by excluded or marginalized groups tends to bring direct and indirect costs to society as a result of reduced contributions to the common good and the increased costs associated with putting policies in place to address the numerous consequences of exclusion.

However, the successive High Commissioners have also learned that simply recognizing and accommodating minority culture, identity and political interests, and promoting the participation of all may not be sufficient to build sustainable and lasting peace. As a result, the High Commissioners have further recommended that States adopt measures and implement policies aimed at promoting the integration and cohesion of diverse, multi-ethnic societies.

If diverse societies do not have good integration policies, there is the danger that different communities, particularly large and territorially concentrated ones, may become increasingly separate, with few or no common interests and no shared sense of belonging. Such separation into parallel and unconnected societies poses a considerable risk to the viability and stability of any multi-ethnic State. This risk can be mitigated through a well managed integration process, which can play a crucial role in preventing tensions from escalating into conflict and is also a prerequisite for building an equitable society. Integration is fundamentally concerned with meeting the responsibilities that sovereignty entails, including respecting human rights and ensuring good and effective governance, and it is intimately related to the overall stability of any pluralist society.

The *Ljubljana Guidelines on Integration of Diverse Societies* aim to set out this thinking and approach. The Guidelines go beyond supporting the recognition of minority culture, identity and political interests to additionally recommend that States ensure that communication and interaction are established across ethnic divides. These Guidelines suggest that national minorities should not only enjoy the legal right to effectively participate in the overall governance of the State, but that they should also be *encouraged* to do so.

Integration is a dynamic, multi-actor process of mutual engagement that facilitates effective participation by all members of a diverse society in the economic, political, social and cultural life, and fosters a shared and inclusive sense of belonging at national and local levels. To support the integration process, States should adopt policies that aim to create a society in which diversity is respected and everyone, including all members of ethnic, linguistic, cultural or religious groups, contributes

to building and maintaining a common and inclusive civic identity. This is achieved by securing equal opportunities for all to contribute to and benefit from the polity. It requires that the State ensures that the rights of all are respected and creates the conditions for all members of society to take on their share of the responsibilities. Society as a whole benefits from such a policy. This process can lead to changes in majority and minority cultures. This is why the HCNM prefers to speak about the integration of multi-ethnic societies rather than integration of a minority group into a particular society.

Given the increasing ethno-cultural diversity within all OSCE participating States and a concomitant heightened interest in models and approaches to integration, the HCNM has decided to synthesize the collective experience of the HCNMs and share this in the form of the present Guidelines. These endeavour to provide guidance on how States can work towards increasing integration and social cohesion while addressing the broad question of how to protect and promote human rights, including the rights of distinct communities to have their identities protected. No general advice applicable to all participating States could ever provide specific answers regarding the content of State policy, as each State has its own context. However, these Guidelines do recognize that the responsibility to support the integration process and implement integration policies always lies with the State.

The Guidelines combine a normative and practical approach that is based on the HCNM's experience accumulated when working especially on national minority issues in the context of post-Cold War transition, State-building and consolidation. Although they are based on specific HCNM working experience and do not include an exhaustive set of integration policies, they nevertheless contain insights and conclusions that may be relevant in many different contexts.

The term “national minority”, as used in the Guidelines, refers to a wide range of minority groups, including ethnic, religious, linguistic and cultural communities, regardless of whether these groups are recognized as such by the States where they reside and irrespective of the designation applied to or claimed by them. In addition, “minority” is often used as a shorthand term for “persons belonging to national minorities”. This does not imply that all principles, minority rights and policy options presented in the document apply to every situation in the same way. It is clear that, while basic human rights standards apply to all, good integration policies will need to be tailored to some extent to meet the challenges and needs of different minority groups and different circumstances. The content of integration policies may depend on such factors as the numbers involved, the length of settlement

and geographic concentration, and the particular social, economic and cultural needs, among other considerations. In addition, the fact that many individuals have multiple identities that may be asserted in different ways, times and contexts must also be recognized when developing integration policies.

These Guidelines consist of four parts: structural principles, principles for integration, elements of an integration policy framework and key policy areas. The structural principles, listed without any hierarchy, are interlinked and necessary although never fully achievable. They are goals towards which all States should be aiming, and it is difficult to conceive that good integration policies could be feasible in the absence of any efforts to put these principles in place. Since these structural principles can never be achieved perfectly and for all time, their imperfect achievement cannot be invoked as a reason for not adopting or implementing integration policies. The principles for integration provide basic theses and values that relate more specifically to integration or are necessary for formulating integration policy. Elements of an integration policy framework sets out the framework for the elaboration and implementation of integration policies, including mechanisms, processes and cross-cutting themes. Finally, the key policy areas, although not an exhaustive list of relevant policy areas, deals with the main thematic considerations based on the HCNM's experience, and includes more specific examples within those policy areas, which have to be selected and adapted to each specific context.

The integration of society is a complex and cross-cutting policy field, and the Guidelines are the result of work and experience accumulated over the past 20 years. They are based on the valuable input of present and past HCNM staff members, including Francesco Palermo and Ilze Brands Kehris. They have also benefitted from the engagement and insights of many external experts, who have contributed comments and criticisms of earlier versions of the Guidelines. These external experts include: Rainer Bauböck, Alex Grigorev-Roinishvili, Mihails Hazans, Kristin Henrard, Tom Hadden, Sally Holt, Thomas Huddleston, Jennifer Jackson-Preece, Milena Klajner, Antti Korkeakivi, Mark Lattimer, Tove Malloy, Jan Nissen, John Packer, Petra Roter, Patrick Simon and Sarah Spencer. These Guidelines are, however, based on specific HCNM experience and do not reflect the views of any single expert.

The purpose of these Guidelines is to provide policymakers and States' representatives with guiding principles and practical advice on how to elaborate and implement policies that facilitate the integration of diverse societies. It is hoped that other actors who contribute in various roles to this process, including civil-society and private-sector actors and independent institutions, will also find these Guidelines

useful for their work. Developing and implementing integration policies should be among the priorities of all States seeking to accommodate diversity and avoid the risk of conflict developing out of increased separation and tension between groups in society, and thereby contributing to long-term peace and stability. By sharing the conclusions from 20 years of HCNM work to support processes towards the integration of society and making recommendations based on this experience, it is hoped that these Guidelines will contribute to the elaboration and implementation of effective integration policies by participating States.

*Knut Vollebaek
OSCE High Commissioner on National Minorities
The Hague, 7 November 2012*

I. Structural principles

Sovereignty entails responsibility

1. A sovereign and functioning State is a prerequisite for a stable society. Sovereignty implies that the State has rights and responsibilities, both towards its own population and as an actor in the international community. One of a State's sovereign responsibilities should include developing and implementing integration policies based on a sound institutional and legislative framework.

State sovereignty is a foundational principle of international law and is codified in or underpinned by a number of major international documents.¹

A stable society in which the dynamic processes of change take place without violence can only be achieved, maintained and further developed when the conditions to effectively exercise sovereignty are in place. In addition, sovereignty should be exercised according to the following principles: good and democratic governance, non-discrimination, effective equality, and respect for and protection of human rights, including minority rights.

In a modern democratic State, the State's duty towards its population is based on the consent of the people. Sovereignty is therefore both of the people and for the people. Sovereignty entails not only rights but also duties and responsibilities.

¹ These include, *inter alia*, articles 1 and 2 of the Charter of the United Nations (hereinafter: "UN Charter"); the 1975 CSCE Helsinki Final Act, Principles I–X; the 1990 Charter of Paris for a New Europe; the 1990 CSCE Document of the Copenhagen Meeting on the Human Dimension (hereinafter: "Copenhagen Document"), paragraph 37; the 1995 Framework Convention for the Protection of National Minorities of the Council of Europe (hereinafter: "FCNM"), Preamble and article 21; the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereinafter: "UN Declaration on Minorities"), article 8 (4); and the 1994 EU Concluding Document of the Inaugural Conference for a Pact on Stability in Europe (hereinafter: "Stability Pact"), paragraph 1.6.

In particular, States are obliged to secure the enjoyment of human rights and freedoms, including minority rights, for everyone within their jurisdictions.²

In the context of the international responsibility to respect and protect human rights, including minority rights, States are accountable to the international community and are therefore obliged to fulfil their reporting obligations to international supervisory and advisory bodies. Such bodies play an important role in promoting transparency, understanding and goodwill, and States should support, develop and fully participate in these mechanisms.

The responsibilities of States that are entailed by sovereignty include promoting the integration of society. Based on the experience of the OSCE High Commissioner on National Minorities (hereinafter: "HCNM"), lasting peace, stability, internal and external security, and prosperity are linked to enabling the process of integrating all the constituent parts of society. This implies that States protect their diversity through policies and institutional and legal frameworks that facilitate inclusion, recognition and mutual accommodation.

The lack or imperfect existence of a functioning State cannot be invoked as a reason to avoid developing and implementing integration policies; on the contrary, the experience of the HCNM indicates that having integration policies in place actually helps States to function better.

² This responsibility is included in, *inter alia*, the CSCE Helsinki Final Act, Principle VII, paragraph 4; the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: "ECHR"), article 1; and, with regard to minorities in particular, in the 1966 UN International Covenant on Civil and Political Rights (hereinafter: "ICCPR"), article 27; the UN Declaration on Minorities, article 1(1); the Copenhagen Document, paragraphs 33(1) and 36(2); and the FCNM, article 1.

Good and democratic governance

2. Good and democratic governance serves the needs and interests of a State's entire population. While democracy implies majority rule in political decision-making, it also includes safeguards against the abuse of majority power. This is achieved by ensuring the protection and participation of minorities, and by facilitating inclusive processes of governance that involve all members of the population.

Pluralistic democracy, separation of powers, the rule of law and respect for human rights, inextricably linked to one another, are preconditions for lasting peace, security and justice.

All OSCE participating States are committed to democracy, including political pluralism, as a fundamental principle through their legal and political obligations.³ Since the authority of government is based on the will of the people⁴, this implies that everyone has the right to take part in public affairs. This in turn requires that representative institutions exist at all levels.⁵

Democracy – and the governance informed by its principles – targets and protects the entire population of a State, irrespective of cultural, social, economic, linguistic, ethnic or religious differences or background. States must fully respect the rule of law and international minority rights standards, including those regarding the effective participation of minorities.⁶ Therefore, democratic decision-making processes enable everyone to effectively participate and voice their opinion, including those who are in a structurally unequal position.⁷

Good and democratic governance might require participatory forms of decision-making that proactively reach out to groups that would otherwise be marginalized.

³ Copenhagen Document, Preamble and paragraphs 5 and 6.

⁴ Universal Declaration of Human Rights, article 21(3).

⁵ Inter-Parliamentary Union, Universal Declaration on Democracy, 1997 (hereinafter: "UDD"), paragraph 11.

⁶ *The Lund Recommendations on the Effective Participation of National Minorities in Public Life*, 1999 (hereinafter: "Lund Recommendations"), Recommendation 2.

⁷ See, *inter alia*, the 2008 Advisory Committee's Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (hereinafter: "Commentary on Participation").

Democratic governance requires separation of powers. In certain contexts, effective participation can be increased through such instruments as territorial or non-territorial devolution or power-sharing arrangements.⁸

Non-discrimination and effective equality

3. Non-discrimination and effective equality are not only foundational and cross-cutting principles; they are prerequisites for the effective contribution of all to the common good. The prohibition of discrimination entails equality before the law and equal protection under the law, and that obstacles to effective equality are removed. Ensuring effective equality in law and in fact also implies a positive obligation to adopt targeted policies and, where necessary, special measures.

The prohibition of discrimination and the promotion of effective equality are principles expressed in international human rights instruments at both the universal⁹ and regional levels.

At the regional level, the OSCE has affirmed the principles of non-discrimination and equality.¹⁰ With regard to minorities in particular, the enjoyment of minority rights without discrimination is contained in a number of documents.¹¹ Notably, most OSCE participating States have incorporated these principles and standards in their constitutions. For Council of Europe member states, the European Convention on Human Rights (hereinafter: "ECHR") explicitly prohibits discrimination on the grounds of association with a national minority in addition to prohibiting it on other related grounds, such as race, colour, language, religion and national or social origin.¹² Non-discrimination on the grounds of, *inter alia*, racial and ethnic origin¹³

⁸ Lund Recommendations, Recommendations 14–20.

⁹ See the 1948 Universal Declaration of Human Rights, articles 2 and 7; the ICCPR, articles 2, 26 and 27; the 1966 International Covenant on Economic, Social and Cultural Rights (hereinafter: "ICESCR"), article 2; and the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter: "ICERD"), article 1. In addition, the following instruments cover relevant protected grounds, such as race, colour, language (ICCPR and ICESCR), descent (ICERD), national or social origin (ICCPR and ICESCR), national or ethnic origin (ICERD) and religion (ICCPR and ICESCR), and are open-ended lists through their inclusion of "other status".

¹⁰ CSCE Helsinki Final Act, Principle VII; the 1989 Concluding Document of Vienna, paragraphs 13(7) and 13(8); and the Copenhagen Document, paragraphs 5(9), 25(3) and 25(4).

¹¹ The UN Declaration on Minorities, article 2(1); and the Copenhagen Document, paragraph 31. In addition, the FCNM, article 4(1), specifically prohibits discrimination based on belonging to a national minority.

¹² ECHR, article 14 and Protocol 12.

¹³ Treaty on the Functioning of the European Union (hereinafter: "TFEU"), article 19.

and nationality¹⁴ has also been codified by the European Union¹⁵ and implemented through two Directives¹⁶.

Equal treatment does not mean identical treatment. To be effective, the principle of equality necessarily allows – and in some cases requires – different treatment of some persons to ensure that they are able to enjoy all rights on an equal footing with other members of society. Several instruments affirm that when necessary and appropriate, special measures¹⁷ should be adopted to ensure full and effective equality for disadvantaged groups due to past, systemic or persistent discrimination. Such measures do not constitute discrimination as long as they pursue this legitimate aim and are proportional to that aim.¹⁸

Formal equality is often not sufficient to guarantee full and effective equality to all members of society. As a result, States have to adopt specific and targeted policies to remove legal, economic and/or social obstacles that may constrain effective equality and impede the full participation of all in the political, economic, social and cultural life of the State. Such targeted policies may go beyond simply removing barriers to equal opportunities and aim to create substantive equality, which implies equality of outcomes in relevant policy areas.

14 TFEU, article 18.

15 Amsterdam Treaty, 1997.

16 Directives 2000/43/EC (covering racial and ethnic origin) and 2000/78/EC (covering, *inter alia*, religion or belief).

17 Other terms include “affirmative action”, “positive action” and, under the FCNM, “adequate measures” (article 4.2).

18 See, *inter alia*, UN Human Rights Committee (hereinafter “HRC”, CCPR General Comment no. 18 on non-discrimination, 10-11-1989; UN Committee on Economic, Social and Cultural Rights General Comment no. 20 on non-discrimination; ICERD, article 2(2), and CERD General recommendation no. 32 on the meaning and scope of special measures; UN Declaration on Minorities, article 4; FCNM, article 4(2); the Copenhagen Document, paragraph 31; the 1991 Geneva CSCE Experts Meeting on National Minorities, part IV; and EU Directive 2000/43/EC, article 5.

Respect for and protection of human rights, including minority rights

4. Respect for human rights and fundamental freedoms, including minority rights, enables diverse societies to fully develop in conditions of security, peace and co-operative relations. International commitments and binding obligations are the minimum standards States have to observe. Positive obligations also entail proactive policies and the promotion of full respect for the rights of all individuals.

Minority rights are an integral part of international human rights law and impose legal obligations upon every member of the international community. OSCE participating States are also bound by their political commitments in the area of minority rights.¹⁹ The UN Charter underlines the importance of preventing and removing threats to peace,²⁰ and history shows that when States do not adequately protect the rights of minorities, conflicts are more likely to erupt.

Protecting and promoting human rights, including minority rights, help States to strengthen the cohesiveness of their societies while respecting diversity, and can thus be considered preconditions for lasting peace, security and stability.

To promote the integration of society, States should acknowledge the diversity in their societies and abstain from any attempts to assimilate minorities against their will. In addition, they are obliged to promote the rights of persons belonging to minorities to effectively participate in public affairs and to maintain their identities by providing adequate opportunities to develop their culture, to use their language and to practise their religion.²¹ Specific recommendations on how to effectively implement these rights have been published by the HCNM, including with regard to education²², use of language²³ and effective participation in public life²⁴.

¹⁹ Copenhagen Document.

²⁰ UN Charter, article 1.

²¹ This obligation is laid down in, *inter alia*, the ICCPR, article 27; the 1960 UNESCO Convention against Discrimination in Education, article 5.1.c.; the UN Declaration on Minorities, articles 1, 2(2) and 2(3); the Copenhagen Document, paragraphs 33 and 35; and the FCNM, articles 5(1), 8 and 10–15.

²² *The Hague Recommendations regarding the Education Rights of National Minorities*, 1996 (hereinafter: "Hague Recommendations").

²³ *The Oslo Recommendations regarding the Linguistic Rights of National Minorities*, 1998 (hereinafter: "Oslo Recommendations").

²⁴ Lund Recommendations.

While minority rights are, in essence, individual rights, many are meaningful only when enjoyed and exercised in community with others.²⁵ The term “others” should be understood in the widest possible sense and includes persons belonging to the same minority, to another minority, or to the majority.

²⁵ FCNM, article 3(2) and ICCPR, article 27.

II. Principles for integration

Recognition of diversity and multiple identities

5. Diversity is a feature of all contemporary societies and of the groups that comprise them. The legislative and policy framework should allow for the recognition that individual identities may be multiple, multilayered, contextual and dynamic.

Many contemporary societies are marked by an increasing degree of diversity in their populations. Meanwhile, migration – both immigration and emigration – is contributing to changing demography. It is important to take the potential effects of these phenomena on the position and situation of national minorities into account.

At the same time, the different segments and groups that compose societies are also heterogeneous themselves and should not be considered as immutable and monolithic.

Individual identities can be and in fact increasingly are *multiple* (a sense of having several horizontal identities; for instance, belonging to more than one ethnicity), *multilayered* (various identities coexist and overlap in the same person, such as ethnic, religious, linguistic, gender, professional and the like), *contextual* (the context might determine which identity is more prominent at a given moment) and *dynamic* (the content of each identity and the attachment of individuals to it is changing over time).

In order to build and sustain just, stable and peaceful democracies it is necessary to recognize the distinct characteristics of groups, while also acknowledging the heterogeneity and fluidity within those groups. Societies are enriched by diversity and the resulting pluralism if and when relations among groups (minority and majority) as well as between groups and the authorities are based on trust and mutual respect and co-operative interaction and active engagement. Intra-community and cross-community links should be encouraged, as they strengthen the cohesion of societies, decrease tensions and prevent the risk of conflict.

It is therefore essential that diversity is acknowledged through appropriate frameworks. Recognizing that diversity enriches society implies that States should not define themselves in exclusivist and (mono-)ethnic terms as the “property” of one or several specific ethnicities. In addition, members of majorities and minorities should accept that their identities – like the one of the State – may change and evolve, including through contact and exchange with other groups.

The recognition of the multidimensional diversity inherent in societies, groups and individual identities should inform the entire legislation and the formulation of integration policies. This means, for example, that identification with multiple identities and contextual affiliations should be permitted, including in the census; that closed lists of identities in the census are to be discouraged; and that everyone should have the right to change his or her affiliation over time.

Primacy of voluntary self-identification

6. Identities are subject to the primacy of individual choice through the principle of voluntary self-identification. Minority rights include the right of individual members of minority communities to choose to be treated or not to be treated as such. No disadvantage shall result from such a choice or the refusal to choose. No restrictions should be placed on this freedom of choice. Assimilation against one's will by the State or third parties is prohibited.

International minority rights standards are clear in establishing that affiliation with a minority group is a matter of personal choice, which must, however, also be based on some objective criteria relevant to the person's identity.²⁶ No disadvantage shall result from the choice to affiliate with a given group.²⁷ The principle of freedom of choice should be reflected in legislation and in integration policies. This means, for example, that authorities should not affiliate persons with a specific group based on visible characteristics or other presumptions without their consent.²⁸

²⁶ FCNM, article 3, as interpreted in the Advisory Committee Opinions, and Copenhagen Document, paragraph 32.

²⁷ FCNM, article 3(1).

²⁸ The Language Rights of Persons Belonging to National Minorities under the Framework Convention, Thematic Commentary no. 3, adopted by the Advisory Committee on 24 May 2012 (hereinafter: “Commentary on Language”), paragraph 17.

The prohibition of assimilation against one's will means that nobody can be forced to declare his/her identity. If this is declared, the choice should be open and not limited to closed lists of identities.²⁹ This does not imply that any chosen identity can necessarily claim recognition. Objective criteria, relevance and other factors need to be taken into account, and some aspects may fall under a State's margin of appreciation. In addition to prohibiting forced assimilation, States should also acknowledge that other, more subtle and less evident forms of "creeping assimilation" may lead to assimilation against the will of an individual, such as societal pressures, hierarchies between different ethnicities, prejudices and the like, which may be exercised by non-State as well as State actors.

While any form of assimilation that one has not chosen – even indirect and involuntary – is prohibited, the principle of freedom of choice implies that consciously chosen assimilation has to be allowed and may not be either stigmatized or subtly discouraged by majorities or minorities. This means that the State is also responsible for creating an environment in which individuals can make such a choice freely and at any time.

Non-isolationist approach to minority issues

7. Since some minority rights are meaningful only when exercised in community with others, this may result in a degree of distinction from other groups in society in certain contexts. Nevertheless, isolation or excessive separation may weaken cross-community links and undermine the cohesiveness of society.

As mentioned above,³⁰ some minority rights are individual rights that are only meaningful when enjoyed and exercised in community with others³¹. This is the case for many language and cultural rights, as well as rights related to education, participation, religion and association, among others. The sense of belonging to certain communities, whether a minority or majority one, can strengthen community bonds and solidarity. Such a shared sense of community belonging is inherent in minority rights and is necessary to protect and promote the rights of persons belonging to minorities.

²⁹ See Guideline 5.

³⁰ Guideline 4.

³¹ FCNM, article 3(2) and paragraph 37 of the Explanatory Report.

However, it is essential for societies to find the appropriate balance between the degree of separation that is necessary to the free expression and development of diversity on the one hand and the establishment and strengthening of links between and among the diverse communities of a society as a whole on the other. If cross-community links are not sufficiently developed, integration is hindered, putting cohesiveness and, ultimately, stability at risk.³² The appropriate balance between these two elements cannot be defined *a priori*: the degree to which communities, both majorities and minorities, are assured that their rights are respected and feel that they belong to a common society can change over time and is contextual, depending on a number of factors peculiar to each society, including history, perceptions, and institutional and political regimes.

The HCNM has observed that the level of separation between communities can become excessive, and thereby detrimental to the integration of a society as a whole, when it results in isolation, sometimes even to the point of segregation. This holds true even when this separation is self-induced by the community in question. For example, the linguistic rights related to education for persons belonging to minorities, while part of essential minority rights, should not result in parallel and non-interacting communities within a country.³³ Where appropriate, and based on demonstrated evidence, authorities should intervene to counter excessive separation and risks of segregation; for example, by establishing integrated school curricula or by adjusting housing policies to avoid the emergence of segregated residential areas. Such policies should not unduly interfere with the respect for identity-related traditions and life styles, as provided for in minority rights.

³² See also ICERD, article 2(1), lit. e.

³³ Also see Hague Recommendations, especially Recommendations 1 and 4, and the 2006 Advisory Committee's First Thematic Commentary on Education under the Framework Convention (hereinafter: "Commentary on Education"), especially part 1.4.

Shared public institutions, a sense of belonging and mutual accommodation

8. Integration is a process that requires that all members of a given society accept common public institutions and have a shared sense of belonging to a common State and an inclusive society. This does not exclude the possibility of distinct identities, which are constantly evolving, multiple and contextual. Mechanisms aiming at mutual accommodation are essential to negotiate the legitimate claims put forward by different groups or communities.

Integration as a two-way process can only happen if everyone accepts as legitimate the existence and the role of shared institutions as well as a minimum degree of belonging to a common pluralistic and diverse State and society. Maximalist approaches, such as rejecting the legitimacy of the State, boycotting the institutions, denying the multi-national or multi-ethnic character of the State and society or maintaining assimilationist attitudes run counter to integration.

This principle acknowledges that in diverse societies based on the rule of law and political and institutional pluralism there is no contradiction between having distinct identities and sharing a common belonging, which includes but goes beyond shared institutions.

The consequence for the State is that it needs to provide policies, legislation and mechanisms that enable and support the expression and negotiation of diversity within a shared institutional and legislative framework. For integration to take place, individuals and groups have to accept such instruments and contribute to their functioning.

In the context of this principle, “claims” means more than simply rights and comprises any legitimate interests or reasonable demands expressed by different groups or persons. It also entails acknowledging the consequences of such claims, both for those affected and for society as a whole. For example, legitimate requests for specific implementation of rights or special measures are to be read within the local context; any potential impacts they may have on different segments of society and, ultimately, on its overall cohesion must be taken into account. Accommodating religious diversity also falls within this category. This entails tolerance at both the individual level, between people and groups within society, as well as at the State level, by establishing common rules of society based on full respect for human

rights that allow for religious freedom and the expression of religious diversity, including in public spaces.

In the context of integration of diverse societies, individuals and/or groups can reach solutions acceptable to all to the issues they face through negotiation and mutual accommodation. The outcomes of negotiation are likely to be more sustainable and thus better contribute to lasting stability when both majorities and minorities are willing to accommodate the claims of the other parties to the extent possible. Such negotiations should be conducted within institutional and procedural frameworks that enable effective participation and fair decision-making. In addition to offering a greater chance of successful outcomes, the simple act of engaging in genuine negotiation can enhance participation by all groups in society.

Inclusion and effective participation

9. Integration policies should be based on inclusion and should thus strive for a situation in which everyone enjoys full membership in their society, equal access to public goods and services, and equal opportunities. Effective participation on an equal footing by all members of society in social, economic and cultural life and in public affairs should be mainstreamed.

Establishing full membership in society, equal opportunities and equal treatment for all, including in accessing public goods and services, should be guiding principles when developing integration policies. This means that States have to proactively promote diversity and create conditions for everyone to feel like and act as full members of that society. The sense of belonging to a common society implies that, when the right conditions are in place, individuals, irrespective of their identity, should not only respect the legislation and the rights of others,³⁴ but should also avoid self-isolation and take full advantage of their opportunities to channel claims through the legitimate instruments provided by the authorities.

Integration policies should support and promote the effective participation on an equal footing of all members of society, irrespective of their belonging to minorities or majorities, in all aspects of the State's social, economic and cultural life and in public affairs. This requires, *inter alia*, the existence of comprehensive anti-discrimination legislation and its effective monitoring and it may include the

³⁴ Universal Declaration of Human Rights, article 29.2, and FCNM, article 20.

establishment of independent anti-discrimination bodies, ombudspersons or other specialized institutions. It also requires ensuring that there are effective instruments of participation in all areas of life.³⁵ The effectiveness of these instruments must be monitored continuously and they need to be updated periodically, as required.³⁶ Furthermore, it requires that information is provided in the languages of national minorities, to the extent possible, about the remedies available against discrimination, including indirect or multiple forms of discrimination, and about the instruments that encourage participation.

Rights and duties

10. Integration policies should be cognizant of the interests of and consistent with the rights of all members of society, including the rights of persons belonging to minorities. In addition to holding rights, all members of society share the duties of obeying the laws and the responsibilities of contributing to society and to the integration of society.

Based on the experience of the HCNM, lasting peace, stability, security and prosperity can only be achieved in societies that promote the integration of society while respecting diversity.³⁷ Integration with respect for diversity is the guiding principle of the HCNM's work. It requires respecting the right of minorities to maintain and develop their culture and to preserve the essential elements of their identity, such as their religion, language, traditions and cultural heritage. Simultaneously, it requires working towards a cohesive society where every person has the opportunity to participate in and influence the political, economic, social and cultural life of society as a whole. This entails balancing the rights and interests of all groups, minorities and majorities alike. The appropriate balance is different in each society and can never be achieved once and for all because societies are inherently dynamic. It rather needs constant monitoring and rebalancing through adaptation to changing circumstances.

As a result, integration policies need to be designed and implemented through a continuous and democratic process that contributes to good governance. This requires recognition, acceptance and commitment from all sides. Integration

³⁵ See Guidelines 38–41.

³⁶ Lund Recommendations, Recommendation 22.

³⁷ *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations* (hereinafter: "Bolzano/Bozen Recommendations"), Explanatory Note to Recommendation 7.

policies should be based on respect for the rights of all and take into account the legitimate interests of all members of society, regardless of whether they are citizens or not.³⁸ Separation between communities and groups is generally not a good basis on which to build a well-functioning society with good prospects for sustainable stability. Integration involves interaction, not just tolerating a plurality of cultures.³⁹

Integration is a process involving all. Not only the rights, but also the duties of members of society are shared by all equally. In addition to respecting the law and the rights of others⁴⁰, these duties include a responsibility to contribute to society and its integration as well as to its democratic processes. Minorities should participate in all aspects of governance in their country of residence and their involvement should not be restricted to areas that specifically concern them. In this context, the establishment of parallel isolated minority or majority communities is not conducive to integration of society.

Inter-community relations

11. Integration policies should include measures that encourage cross-community dialogue and interaction based on tolerance and mutual respect. This covers a broad range of initiatives in various fields, including education, media and language policy. When possible, it is preferable to use positive incentives to ensure compliance rather than punitive measures.

Integration policies should promote contact and exchange between communities and individuals through incentives and by raising awareness of the mutual advantages of interaction, dialogue and participation.⁴¹

Within the context of education, measures such as exchanges between schools providing education to minority and majority pupils, can promote interaction and mutual understanding.⁴² In the area of media, permitting or even encouraging the

38 UN HRC General Comment no. 23, The rights of minorities (article 27), 8 April 1994, paragraph 5.1; European Commission for Democracy through Law (Venice Commission) (hereinafter: "Venice Commission"), "Report on Non-Citizens and Minority Rights", (CDL-AD(2007)001).

39 Bolzano/Bozen Recommendations, Explanatory Note to Recommendation 7, and FCNM, articles 5 and 6.

40 FCNM, article 20, and UN Declaration of Human Rights, article 29.1.

41 FCNM, article 6.

42 See Guidelines 44 and 45.

use of multilingual broadcasting is another example that promotes interaction both within programming and by reaching audiences in different linguistic communities.

In many cases, using punitive administrative or criminal measures to induce adherence to certain duties linked to integration – such as the obligation to learn and, in some cases use, the State language – can create resentment and may generate resistance, thereby undermining rather than promoting the integration of societies. Conversely, positive incentives tend to be more effective in mobilizing support and creating favourable conditions for integration.

For example, as further specified below⁴³, States may legitimately promote the State language of the country. However, this should happen through positive incentives (like promoting multilingualism, offering language classes, and so on) rather than through sanctions and should, in any case, respect the linguistic rights of persons belonging to minorities. Recognizing the positive value of ethnic, cultural and linguistic diversity goes hand in hand with promoting multilingualism for all. In this sense, also encouraging the majority to attain proficiency in minority languages can further contribute to the integration of society.

Policies targeting both majorities and minorities

12. Targeted policies should be developed and implemented that address both minorities and majorities. This reflects the fact that integration of society is a process of mutual accommodation and active engagement involving all members of society as individuals or organized groups.

Integration is a process involving all members of society, both majorities and minorities. As such, it is likely to lead to gradual adjustments of societal structures as a natural result of recognition, mutual accommodation and active engagement. Therefore, it should include specific policies⁴⁴ aimed at achieving balanced interaction in society. Such policies should involve both majorities and minorities in a process of mutual adaptation. Examples of policies that target majorities include developing general-education curricula that include information about minorities and their contribution to the culture and history of the country. The media should be equally attentive to the contribution they can make by reflecting the ethnic,

⁴³ Guideline 42.

⁴⁴ See part IV.

cultural and linguistic diversity of society in all programming for all audiences, and not only by producing specialized programmes for minorities.

To achieve the effective involvement of all members of society, including organized groups, requires that both State structures and societal groups respect the principles of good governance, for instance by selecting their representatives democratically and pluralistically.

Mutual accommodation and active engagement are more effectively achieved through inclusive decision-making processes that enable all who want to be heard to participate directly or through legitimately designated representatives. These processes should also provide clear procedural channels for participation and effective remedies against unjust or arbitrary exclusion.

III. Elements of an integration policy framework

Formulating effective policies

13. Governments should develop a strategy, policies and related action plans for integration within a reasonable timeframe, taking due account of the competences and roles of the various levels of government, as well as of other actors and stakeholders. Integration policies should make use of top-down and bottom-up approaches.

Since no single policy can respond to all elements of diversity and inter-group relations, several co-ordinated responses are needed. This generally requires a comprehensive integration-policy strategy, which includes specific action plans with clearly defined objectives, measurable actions and timetables in all relevant fields, including economic, social, cultural and political.

The State has the primary responsibility for establishing and guaranteeing the framework and policies to achieve the integration of society. However, policies can only be effective if all levels of authority – national, regional and local – are engaged according to their competences. Therefore, national strategies and plans setting out general principles, directions and objectives should be complemented and adequately contextualized through local and, where relevant, regional strategies and action plans.

An important role is also performed by an independent and pluralistic civil society and other non-State actors.

14. Governments should promote effective participation of all relevant segments of society, including persons belonging to minorities, when elaborating, implementing and monitoring integration policies.

States should ensure that all interested members of society, including persons belonging to minorities, enjoy adequate opportunities to have an effective voice at all levels of government, especially with regard to, but not limited to, those matters directly affecting them. In particular, representatives of all interested groups should be effectively consulted when elaborating and implementing integration policies. They should also participate in monitoring and evaluating the effectiveness of such policies.

Effective participation requires, *inter alia*, that minority representatives are able to exert substantial influence on the policy-development process, thereby facilitating shared ownership of the outcomes. Simply permitting formal involvement is not sufficient. Examples of means and instruments that facilitate effective participation include electoral arrangements, specialized governmental bodies, consultative mechanisms, participatory decision-making procedures and awareness-raising campaigns.⁴⁵ Special efforts should be made to identify barriers to participation and ways to overcome them.

15. Policies are more effective when they are based on robust evidence and designed to work in specific circumstances. Policy development should be based on the collection of systematic and comprehensive information and its objective analysis. Data should be disaggregated according to criteria relevant for integration policy, such as ethnicity or language. All data collection and processing should fully respect the principle of self-identification and binding norms of personal data protection.

As highlighted by relevant monitoring bodies,⁴⁶ objective and reliable disaggregated data are essential to be able to design and implement effective policies that promote and protect the rights of persons belonging to minorities.

⁴⁵ Commentary on Participation and Lund Recommendations.

⁴⁶ Including the UN Committee on the Elimination of Racial Discrimination and the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities.

In this sense, policies should also be based on statistical evidence, especially when they cover aspects relevant to minority rights and integration, such as ethnicity, language and others, and should also allow for multiple identifications. States enjoy a wide margin of appreciation regarding the instruments and mechanisms for data collection. These might include official censuses. However, censuses should not require compulsory declaration of belonging to specific identities or groups, since nobody should be compelled to declare his or her belonging to a minority.⁴⁷ Census forms should not limit respondents to closed lists, as self-identification implies also choosing one's preferred designation.⁴⁸ Open lists ensure that the results reflect individual choice and also avoid the problem that sometimes groups do not feel represented in official census categories. The questionnaire and census methodologies should be elaborated in consultation with minority representatives and translated into relevant minority languages.⁴⁹

Censuses are not the only way to collect reliable information about the composition of a population. States should also consider using reliable and objective data collected through other instruments or from other sources, such as independent sociological, ethnographic, linguistic and other scientific research and analysis, as well as household, labour-force, school or other surveys, or data collected by municipalities. Both quantitative and qualitative methods of collection and analysis can provide reliable and thus useful evidence. It is essential that data are collected, processed, stored and used in full compliance with personal-data-protection standards.⁵⁰

When interpreting data, authorities need to be aware that past experience and fear of discrimination can prompt persons to hide their identity, resulting in under-representation of certain groups. In any case, governments should ensure that persons belonging to minorities are aware of the consequences of providing data on their ethnicity and language(s), which can affect language rights, participatory mechanisms and other policies linked to specific demographic thresholds.

47 FCNM, article 3(1).

48 UN Principles and Recommendations for Population and Housing Censuses, Rev. 2, 2007 (ST/ESA/STAT/SER.M/67/Rev.2).

49 Commentary on Language, paragraph 21.

50 These include the Council of Europe's Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS no. 108) and the Committee of Ministers' Recommendation (Recommendation (97)18) concerning the protection of personal data collected and processed for statistical purposes. Useful guidance can also be found in the Conference of European Statisticians' 2010 Recommendations.

16. Adequate financial and human resources should be allocated for the elaboration, implementation and monitoring of tasks specified in the strategic and action plans.

Action plans should specify the financial and human resources required to achieve the tasks, and how these will be provided, as well as setting a time schedule.

Resource limitations are an issue even in the wealthiest States. However, just as limited resources do not excuse States from meeting their human rights obligations, they also cannot be an excuse for not elaborating, adopting or implementing realistic integration policies.

Costs can be significantly reduced by streamlining and connecting policies and measures at all levels and by different institutions. This includes linking policies and measures to the overall integration strategy and ensuring adequate co-ordination. Effectiveness and efficiency can be enhanced by specifying competences, tasks, roles, responsibilities and procedures to be followed, including for the co-ordination process. In addition, many aspects of human rights related to identity, and particularly the recognition of pluralism in society, do not necessarily require a lot of resources.

Where resources are inadequate, States can explore the potential to seek complementary international support, including through development aid.

Resources should be allocated fairly and without discrimination.

17. Strategies and policies, and their implementation, should be subject to regular monitoring and assessment of outcomes. Where necessary, policies should be adjusted periodically.

All instruments and measures require regular monitoring, assessment of objectives and outcomes, and adjustment in the light of experience and changed circumstances.⁵¹ Based on this, policies, legislation and implementing measures may need to be adapted to meet changing situations and circumstances. Efforts to

⁵¹ Lund Recommendations, Recommendation 22.

judge effectiveness should not only consider whether the identified objectives have been achieved, but also the relevance of the objectives themselves.

It is important that integration policies set clear targets with indicators and benchmarks to enable systematic and effective policy development, implementation and adaptation over time.

Furthermore, internal reviews by the authorities should be complemented with independent assessments, and should be based on explicit criteria, formulated in consultation with persons belonging to minorities. They should be performed on a regular basis and according to a specified schedule; for instance, every two years.

Legislation and institutions

18. Legislative frameworks, including constitutional law, should be inclusive and should explicitly recognize the diversity within plural societies and guarantee its protection and promotion.

Legislation should reflect the principles of recognition of diversity in society and effective participation.⁵² This is achieved by explicitly acknowledging diversity within plural societies. The protection of diversity should be guaranteed and its value promoted. Only if legislation at all levels, including sub-national where appropriate, is informed by such an approach can the legal environment be favourable to integration. This can be further facilitated by constitutional entrenchment of the principles of recognition and inclusion, as well as of effective participation.

Inclusive legislation implies that all interested minorities are given appropriate channels to have their voices heard in the process of drafting legislation and implementing measures. This means they can substantially contribute to determining the content of legislation. Inclusiveness is therefore closely linked to the concept and practical manifestations of effective participation.⁵³ This may include, where appropriate, entrenched decision-making procedures, expert hearings, enhanced participation in all phases of drafting, judicial review prompted by minorities, veto rights, conciliation mechanisms or other forms of participation.

⁵² Also see Guidelines 5 and 9.

⁵³ As specified, *inter alia*, by the Commentary on Participation.

19. Promotion and protection of the human rights and fundamental freedoms of all individuals without discrimination should be entrenched in the constitution and translated into concrete norms and mechanisms. Minority rights are an integral part of human rights. Comprehensive minority rights legislation should be put in place.

This Guideline specifies the principles of non-discrimination and effective equality set out in Guideline 3. Legislation and implementing measures at all levels of government have to be informed by the principles of non-discrimination and effective equality, as specified in international and regional human rights instruments. It is essential that these principles are entrenched in the constitution to guide the formulation and interpretation of legislation. In order to ensure non-discrimination in practice, it is essential that the principle of effective remedies be translated into concrete and accessible measures set out in law.

Where necessary, special measures need to be adopted to promote full and effective equality between persons belonging to minorities and those belonging to the majority; these measures are not to be considered discriminatory⁵⁴. Such measures are particularly relevant for groups that have had long-term presence in a society or represent substantial numbers.⁵⁵

While minority rights can also be protected by means of specific provisions contained in sectoral legislation (such as laws on education, public administration, local government, media, elections or the use of languages), a specific law on the rights of persons belonging to minorities may provide significant advantages. Such advantages may include facilitating access to clear information regarding the rights and remedies provided for persons belonging to minorities, mainstreaming minority rights while ensuring coherence with other legislation and the recognition and raising of general awareness regarding minorities and their rights. Furthermore, a comprehensive minority-rights law can provide a framework for clarifying such issues as the personal and territorial scope of the application of minority rights and for defining important criteria that are otherwise difficult to include in sectoral legislation, such as traditional or substantial presence and thresholds.

⁵⁴ See Explanatory Note to Guideline 3 for specification and references.

⁵⁵ FCNM, article 10(2).

20. While limitations on certain rights and freedoms can be set, these must be clearly stipulated in law and based on legitimate aims, such as security, safety and public order, public health or the rights and freedoms of others, and must be proportional to those aims.

As provided for in human rights law, most rights and fundamental freedoms can be subject to certain limitations based on a legitimate public interest in line with the constitution and the State's international obligations. These limitations must be established in law to avoid arbitrariness, provide a closed list of possible reasons for limiting the rights and must be necessary and proportional to the pursued aim. The limitations should be interpreted narrowly and reviewed regularly.

When restrictions on the exercise of a right are established in law or applied in a specific case, the decision to do so should be guided by relevant case law⁵⁶ and may benefit from the consolidated comparative interpretation in relevant guidelines.⁵⁷

Efforts to balance two or more equally protected rights that potentially conflict is carried out in different ways at the political and judicial levels. At the political level, legislators might establish in law that in a set of defined circumstances precedence is to be given to one right over another. At the judicial level, the proper balance of rights is established by courts following clear criteria.

21. Legislation should provide for clear and effective remedies. Full access to these remedies should be ensured.

Legislation should be supported by effective remedies that make violations of the law punishable and their effects reversible.⁵⁸ This stems from the principles of the rule of law and of equal protection under the law that are common to all participating States as integral parts of international human rights law.

Remedies should be provided by the law. They should be as clear as possible to minimize arbitrary interpretation and must be administered by an independent

⁵⁶ *Inter alia*, European Court of Human Rights (hereinafter: "ECtHR") case law.

⁵⁷ See, *inter alia*, Weber, A., *Manual on hate speech*, Council of Europe Publishing, 2009, and OSCE Office for Democratic Institutions and Human Rights (hereinafter: "ODIHR"), "Guidelines on Freedom of Peaceful Assembly", 2007.

⁵⁸ Also see Guideline 47.

judiciary. Ensuring effective access to remedies could include establishing and supporting effective independent bodies, such as ombudspersons or national human rights institutions, and providing free legal assistance for those who require it. Information campaigns regarding rights and remedies, and how these can be accessed, may also be required.

In addition to individual judicial remedies⁵⁹, it is also important that society is open to systemic changes to prevent violations from continuing. Monitoring and analysing rights violations, including by collecting disaggregated data; establishing independent human rights institutions; and encouraging the participation of civil society in the monitoring process, can provide the impetus for systemic change.⁶⁰

22. States should ensure that suitable and effective institutional arrangements are in place for formulating and implementing integration policy.

Although determining the optimal institutional arrangements depends on the context, public/governmental and/or independent institutions need to exist to effectively formulate and implement integration policies. Their competences and tasks should be specified and their functioning properly ensured. The various roles have to be well-defined to ensure clarity of implementation and to avoid duplication. For example, independent institutions are engaged in monitoring policies, but are not normally responsible for formulating them. Special bodies or units of the government or authorities may be useful to improve the effectiveness of integration-policy formulation and co-ordination, and to raise visibility. It is also important that States make sure that integration policy is given the appropriate level of priority among policy areas so that separate bodies do not find themselves marginalized.

Beyond formulating, implementing and monitoring policies, integration-related institutional arrangements should also ensure that the pluralism of society is adequately reflected in the country's institutional and decision-making structures. Such arrangements, which might include special bodies or procedures, should also include platforms for formulating and promoting cross-community interests. Legislation should provide for such platforms at all levels of government, including

⁵⁹ See Guideline 47.

⁶⁰ Important specifications of these principles in different areas are provided by the various General Policy Recommendations issued by the Council of Europe's European Commission against Racism and Intolerance (hereinafter: "ECRI").

at the local and, where appropriate, regional levels. This is because most residents will experience direct social interaction at the local level, including through their contacts with the authorities.

Actors and roles

23. Implementing integration policies is a process requiring the active engagement of multiple stakeholders from the public and private sectors. Policy planning and documents should take the various actors and their respective responsibilities into account.

Integration policies affect all sectors of society and thus require the engagement of a wide variety of actors: institutions at all levels, private actors and civil society in the broadest sense, including non-governmental organizations (hereinafter: “NGOs”), special-interest groups and academia.

Obstacles to implementing policies and legislation, which can include social factors, insufficient political will, a lack of administrative capacity and inadequate funding, should be identified and addressed. Effective implementation normally begins with inclusive decision-making, as described in the previous section. In fact, a participatory, open and transparent process of elaboration normally ensures that those who are in charge of implementing policies and legislation are committed to the goals and well informed about the objectives.

When developing integration policies, governments should pay due attention to guaranteeing participatory implementation, especially in key areas for inclusion such as healthcare, access to the labour market and housing, as well as the cultural sector. Procedures should be established that enable co-operation and shared responsibility by members of all relevant groups, including majorities and minorities. Effective dialogue with all stakeholders should be maintained at all stages of the processes.

24. The government has the lead role in formulating and implementing integration policy. Policy plans should define the roles and tasks of the different institutions and actors at the various levels of government.

While integration policies are, to a large extent, implemented at the local level, it is essential that their formulation and implementation is co-ordinated at the national level to guarantee consistency throughout the territory and to ensure that the State as a whole meets its international obligations.

Taking into account the territorial and administrative structure of the country, integration policies should define the roles and the tasks of different institutions at each level of government. In particular, this means the central authorities need to establish a clear and consistent division of tasks and responsibilities among the various institutions and actors at all levels. This also implies that the central authorities need to either create platforms (institutions or specific procedures) or designate existing platforms to perform these roles, as appropriate, through which conflicts of competences or disagreements on specific aspects of implementation can be discussed and settled. In federal States and autonomous regions, these tasks fall to the relevant competent authorities.

25. All levels of government should be involved in implementing integration policy. While the essential legal framework should be established at the central government level, local and, where existing, regional authorities are key actors in the contextualization and implementation of workable integration policy plans.

As the degree of societal cohesion may vary significantly in different areas of a country, the role attributed to the local and, where appropriate, regional levels of government should be substantial with regard to both determining the content of policies and then implementing them. Local and regional authorities are vital to effective integration due to their administration of key areas, such as education, urban planning, culture, healthcare and welfare, among others.⁶¹

⁶¹ Important references in this regard can be found in the Council of Europe's European Charter of Local Self Government, 1985 (ETS 122) and in the Council of Europe's Reference Framework for Regional Democracy, 2009.

26. Public administration and the civil service should mainstream diversity in the structures and mechanisms of their work, including by employing persons belonging to minority groups, especially where the delivery of essential services is concerned. They should also mainstream diversity in the substance of their work.

In order to promote integration, public administration should, to the extent possible, reflect the diversity of society.⁶² States should identify ways of promoting the recruitment and retention of persons belonging to minorities in the public sector. Special attention should be paid to achieving an adequate presence of persons belonging to minorities in sectors that provide essential services. These include, *inter alia*, the judiciary, law-enforcement bodies, social welfare and healthcare institutions, and education institutions.

Defining targets for representation and a time schedule for achieving them is a practical way for governments to achieve adequate representation. However, while quotas can be useful in certain exceptional circumstances, rigid quota systems with exact proportions or specific posts for a particular group are usually to be discouraged. Over time, they limit flexibility and can potentially create new inequalities, and may prevent the public service from adapting to changing circumstances in society.

Mainstreaming a diversity policy in the public sector implies that the composition and promotion of staff at all levels of public administration should be monitored to prevent direct or indirect discrimination. It also entails ensuring that everyone in the public sector understands the objectives and the policies to promote integration, and that they consider the implications for integration when designing and implementing policies. Public education institutions and public media have important roles to play in the formation of understanding and support for integration.

62 Commentary on Participation, paragraph 120.

27. Party systems should be pluralistic, encourage free competition among all parts of society and be inclusive across ethnic lines. Political parties can play a significant and constructive role in formulating policy and in political discourse. Politicians have a particular responsibility to engage in dialogue that is respectful of diversity and to take a clear stance against the incitement to hatred.

Party systems, including party organization, activities and funding, must be properly and impartially regulated and should guarantee political pluralism. They should accommodate the participation of all to safeguard diversity, pluralism and the right to be different in a climate of tolerance.⁶³ This entails, *inter alia*, ensuring that a framework is in place that allows party systems to be inclusive across ethnic lines.

Inclusiveness across ethnic lines has several facets. First, based on international standards, persons belonging to minorities have the right to form political parties that represent the interests of that ethnic minority.⁶⁴ Any limitations on the formation of political parties on an ethnic or religious basis must be in line with the norms of international law and the principles embedded in the ECHR.⁶⁵ This concerns, *inter alia*, avoiding numerical and geographical conditions for registration that may unduly or disproportionately limit the political rights of persons belonging to minorities. Second, while ethnic parties should not be prohibited, per se, they are also bound, like any other actor, by the prohibition against discrimination. While parties might have an objective to promote and protect the rights and interests of one particular group, they should not refuse membership based on ethnic affiliation. Third, mainstream parties also should adhere to the principles of democratic governance, and should consider promoting the participation of persons belonging to minorities.⁶⁶ Fourth, the overall framework for political participation should be designed to facilitate the inclusion of minority issues in the public debate as well as to promote the political participation of persons belonging to minorities. This should include displaying electoral information and advertising in minority languages, providing opportunities for the use of minority languages in the media and producing electoral material in minority languages.

63 UDD, paragraphs 12 and 22. In addition, important specifications to these principles are provided by the ODIHR and the Venice Commission, Guidelines on Political Party Regulations, 2001.

64 Including FCNM, article 7.

65 Commentary on Participation, paragraph 75.

66 Commentary on Participation, paragraph 78.

International standards recognize the important role of political parties in the promotion of tolerance, cultural diversity and the resolution of questions related to minorities.⁶⁷ Politicians play an essential role in the processes of integration, both as legislators and decision-makers, shaping the political discourse and contributing to the overall social climate, including with regard to inter-community relations. Political parties and actors, regardless of political and ideological lines, are bound by the same prohibition against discrimination as the rest of society.

Although political parties' and elected representatives' freedom of expression when performing their duties is especially protected due to their key societal and democratic role, the prohibition against incitement to racial, ethnic or religious hatred applies to them as well.⁶⁸ In addition, even within the broad limits of their freedom of expression, politicians must also be aware of the impact – both positive and negative – that their conduct can have on the prevailing climate of tolerance in society. If political parties and representatives engage in respectful dialogue and take a clear stance against the incitement to hatred, the political climate will become more conducive to the integration of society.

28. Private-sector actors, including employers and trade unions as well as private education institutions and private media, should be encouraged to realize their potential contribution by devising and delivering integration policies alone and in partnership with other actors.

The integration of society is not only the responsibility of institutions or political parties and cannot, more generally, be completely confined to the political process. Rather, all actors in society share this responsibility and must be aware of their roles. This also affects private actors who, by the nature of their activity, might be particularly relevant. These include, *inter alia*, employers and trade unions due to the importance of the labour market and of working environments for accommodating diversity and promoting integration.

In developing public policy, the contribution that the private sector can make to facilitate integration should be recognized and can be encouraged by developing links between public and private actors at different levels (national, regional and

⁶⁷ See, *inter alia*, Copenhagen Document, paragraph 30.

⁶⁸ See, *inter alia*, ICCPR, article 20; ICERD, article 4; and ECHR, article 10, as interpreted in ECtHR case law on hate speech, in particular: Case of *Feret v Belgium*, application number 15615/07.

local). By working together in partnerships between the public and private sectors and civil society, actors can make better use of resources, influence and expertise to achieve greater impact and change.

Private-sector actors can play an important and constructive role in devising and delivering integration policies. Policies and legislation should take this into account and might consider incentives and measures to promote awareness among private actors and to facilitate their co-operation and active contribution to integration. Such measures may include creating incentives for employers to hire members of groups experiencing underemployment, for providing targeted on-the-job training programmes or for State-language classes at the workplace.

29. Civil-society actors play an important role by providing input on integration policies based on grassroots experience. They are also potential actors in implementing policies and plans.

As a multi-actor and multi-level process, integration cannot succeed without the active engagement of civil society in elaborating integration policies and in implementing and monitoring them.

The diversity of civil society itself should be recognized. This implies that governments should not predetermine which civil society organizations will be consulted or invited to participate in drafting and implementing integration policies and exclude others. Rather, adequate efforts should be made and transparent procedures established to mobilize the engagement of interested civil-society organizations, such as NGOs, including those representing minorities; professional organizations; social partner organizations; religious organizations and institutions; and academia.

Civil society contributes to the overall respect for the principles of good governance and pluralism by ensuring respect for democratic and pluralistic principles in the internal set up of its organizations.

IV. Key policy areas

Anti-discrimination and full and effective equality

30. When developing comprehensive anti-discrimination policy and legislation, States should create mechanisms for effective implementation. Proactive policies should be put in place to identify and remove barriers to equal opportunities. Legal remedies in cases of discrimination should include effective, proportional and dissuasive sanctions, adequate compensation and, where necessary, remedial action.

States need to adopt comprehensive policy, legislation and administrative measures to effectively combat discrimination – both direct and indirect – in all relevant spheres of life and covering all relevant actors in the public and private sectors. Effective equality also means that barriers to the enjoyment of equal opportunities regardless of background should be identified and removed.

Comprehensive anti-discrimination legislation implies making relevant provisions in the constitution, in criminal, civil and administrative legislation, and in by-laws and regulations.⁶⁹

In addition to amending the legal framework, an institutional structure for developing, implementing and monitoring anti-discrimination policies should be established. In particular, there should be specially designated independent equality bodies or other independent bodies with the necessary competences and adequate resources at the national and, where appropriate, regional levels.

⁶⁹ ECRI, General Policy Recommendation no. 7 (National legislation to combat racism and racial discrimination), 2002, and Committee on the Elimination of Racial Discrimination (hereinafter: "CERD").

Anti-discrimination instruments should be regularly monitored and assessed for effectiveness. They also need to be co-ordinated – among each other as well as with other instruments – to be consistent and effective.

No anti-discrimination policy can be effectively implemented if it is not complemented by adequate legal remedies in case of discrimination. Criminal, administrative and civil sanctions need to be effective, proportional and sufficiently severe to be dissuasive. In addition to compensation, non-monetary forms of reparation, such as publishing all or part of a court decision or obliging the discriminator to do some relevant social work, may also be important in rendering justice in cases of discrimination.

Discrimination may take place not only on the basis of one aspect of an individual's identity, but on several grounds, as is the case for multiple or intersectional discrimination. For example, women of minority backgrounds may be more vulnerable to discrimination. Policies should be designed to ensure that such discrimination also is covered by legislation and receives adequate attention.

31. Policies that include special measures to combat the effects of past or systematic discrimination of a particular group should not be considered discriminatory. The possibility to adopt such measures should be foreseen in law.

It might be necessary to adopt special measures to combat the effects of past or systematic discrimination of particular groups and to ensure full and effective equality for members of minorities who are in a disadvantaged position.⁷⁰ According to international human rights standards, such measures should only remain in force until the inequality has been redressed.⁷¹ When adopted in conformity with the proportionality principle, such measures shall not be considered discriminatory.

The possibility and, when required, the necessity to adopt such measures should be explicitly laid down in law, including, where appropriate, in the constitution. This not only ensures consistency to the provision, but also guides judges in interpreting equality provisions in line with generally recognized international non-discrimination standards.

⁷⁰ Also see Guideline 3.

⁷¹ ICERD, article 1.4, and General Recommendation no. 32; CCPR General Comment no. 18: Non-discrimination: 10 November 1989 and UN Committee on Economic, Social and Cultural Rights, General comment no. 20.

Citizenship

32. An inclusive and non-discriminatory citizenship policy is an important aspect of integration policy. In addition, citizenship also has a symbolic value as a signal of common belonging on the part of both the holder and the granter of citizenship.

In legal terms, citizenship (often also referred to as “nationality” in international documents) is “the legal bond between a person and a State and does not indicate the person’s ethnic origin”.⁷²

However, citizenship has a relevance that goes beyond the individual dimension and has significance for society as a whole. Citizenship, and in particular access to it, is an essential element of integration. In designing citizenship policies, States should take into account the consequences that their decisions might have on the integration of their societies.

In particular, citizenship policies should strive to find a balanced approach between the legitimate requirements of genuine and effective links to a State and the reality of multiple identities and residencies over time. For example, the regulation of multiple citizenships is an area where such a balance would need to be found.⁷³

The importance of citizenship for integration is also apparent in its social and symbolic dimensions. It is a tangible signal of common belonging and of shared core values for both the holder of citizenship and the State granting it. The integration of society is facilitated by inclusive citizenship policies and rules that aim to welcome rather than exclude those who have a sense of belonging to that society.

⁷² European Convention on Nationality, article 2.

⁷³ See Guideline 37.

33. Citizenship is in the competence of the State and should be based on a genuine link of the individual to the State. Nevertheless, contemporary developments set clear and increasing limits to States' discretion in formulating policies regarding access to and stripping of citizenship, including prohibiting discrimination when conferring citizenship.

Because it has a direct link to sovereignty, conferring citizenship falls, in principle, under the exclusive domestic jurisdiction of each individual State.⁷⁴ States have a wide margin of appreciation in determining the criteria for granting citizenship, although this margin is not unlimited.

First, the conferral of citizenship should be based on the existence of a genuine link between the State and the individual upon whom it is conferred, as expressed by the International Court of Justice.⁷⁵

Second, even though States have the right to determine who their citizens are, they should not abuse this right by violating the principles of sovereignty and friendly, including good neighbourly, relations.⁷⁶

Third, non-discrimination also applies to the area of citizenship, with the consequence that discretion in citizenship issues cannot amount to discrimination based on, *inter alia*, sex, religion, race, colour or national or ethnic origin.⁷⁷ Discrimination includes differential treatment that directly or indirectly excludes specific groups of persons from access to citizenship due to their characteristics and does not pursue a legitimate aim or is not proportional to such an aim.⁷⁸ There is a clear difference between discrimination and justified distinctions or preferential treatment in conferring citizenship.⁷⁹ Justified distinctions may include, for example, a requirement that the applicant for citizenship possesses some knowledge of the State language in order to be naturalized or the facilitated acquisition of citizenship due to descent or place of birth.

⁷⁴ The Hague Convention on Certain Questions relating to the Conflict of Nationality Laws, 1930; Council of Europe, European Convention on Nationality, 1997, article 3; and ETS no. 166, article 1.

⁷⁵ International Court of Justice, *Nottebohm Case*, 1955, ICJ 4.

⁷⁶ Also see Guideline 36.

⁷⁷ European Convention on Nationality, article 5(2).

⁷⁸ CERD, General Comment no. 11 on discrimination on the ground of citizenship, 1993, and CERD Geneva, Comment no. 30 on discrimination against non-citizens, 2004. Also see ECHR, *Kurić and others v Slovenia*, application no. 26828/06, 2012.

⁷⁹ European Convention on Nationality.

Finally, it must be recalled that human rights apply to everyone who is within the jurisdiction of the State, irrespective of his/her citizenship. Therefore, the enjoyment of human rights cannot be made contingent on citizenship, apart from in narrow and clearly defined exceptions, such as accessing certain political rights.

34. Citizenship is a human right and everyone has the right to a citizenship. In particular, laws should not generate statelessness at birth, regardless of the source of statelessness.

The right of everyone to a citizenship from the moment of birth is part of international human rights.⁸⁰ In case of illegal deprivation of citizenship, States are obliged to provide appropriate assistance and protection, with a view to re-establishing it.⁸¹

In compliance with this international obligation, domestic legislation should avoid causing situations in which children might be stateless at birth. International co-operation at the multilateral and bilateral levels, including through advisory and expert bodies, can provide a framework to resolve problems that may arise in this regard.

35. States should consider granting citizenship to persons who have been *de jure* or *de facto* stateless for a considerable amount of time, even when other objective grounds may not be present.

The obligation to avoid statelessness has become part of customary international law and is included in several international instruments.⁸²

International obligations to avoid statelessness normally cover *de jure* statelessness; that is, the legal situation that arises when a person is not considered a citizen by any State. However, having a significant number of *de facto* stateless persons residing on a State's territory presents additional challenges to the process of integration. This in turn may affect stability. Persons with *de facto* statelessness formally have

⁸⁰ This right can be found in, *inter alia*, the Universal Declaration of Human Rights, article 15, and, with special regard to children, in the Convention on the Rights of the Child, article 7.

⁸¹ Convention on the Rights of the Child, article 8(2).

⁸² *Inter alia*, the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the European Convention on Nationality.

citizenship of their country of residence or of their country of origin but are not in a condition to enjoy it in practice. The reasons for this are numerous, ranging from disconnection from the country of origin to difficulties in birth registration or socio-economic marginalization. Such situations often particularly affect certain vulnerable groups, such as Roma or displaced persons or refugees.

States should consider targeted measures limiting both *de jure* and *de facto* statelessness to promote integration. For *de jure* statelessness, the legal framework should provide for mechanisms to acquire citizenship under reasonable conditions, while policies should ensure that these mechanisms are accessible. For *de facto* statelessness, policies should be tailor-made to address the specific problem. Such policies may include addressing the lack of civil registration and/or documentation or any other causes leading to *de facto* statelessness by removing obstacles and proactively seeking solutions that allow for registration.

In addition to legal obligations, there are integration-related reasons to facilitate naturalization, as appropriate. The long-term presence of a significant number of persons without citizenship in a State runs counter to the integration of society and potentially poses risks to cohesion and social stability. It is therefore in the interest of the State to provide persons habitually residing on its territory over a prolonged period of time with the opportunity to naturalize without undue obstacles and to actively promote their naturalization. At the same time, it is in the interest of the individual to access all the rights of citizenship and to express in this tangible way a sense of belonging by making all necessary efforts to naturalize. This includes preparing for and meeting the legally determined requirements for naturalization, such as, acquiring adequate knowledge of the State language.

36. Policies that foresee privileged access to citizenship to individuals abroad based on cultural, historical or familial ties should ensure respect for the principles of friendly, including good neighbourly, relations and territorial sovereignty. Such policies should be designed so as to avoid creating ambiguities in relation to jurisdiction. Protecting the rights of minorities is primarily the obligation of the State in which they reside.

A State may legitimately have an interest in supporting persons belonging to national minorities residing in other States based on ethnic, cultural, linguistic, religious, historical or any other ties. In addition, States may confer citizenship based on preferred linguistic competences as well as on cultural, historical or familial ties.

However, this does not imply, in any way, a right under international law to exercise jurisdiction over these persons on the territory of another State without that State's consent or to grant citizenship *en masse* to citizens of another State, including if this happens as the result of a sum of individual applications.⁸³

At the same time, States cannot “outsource” the protection of minorities residing on their territory to other States (so-called “kin-States”), as the respect for and protection of minority rights is primarily the responsibility of the State in which the minority resides.⁸⁴

Besides these legal limitations, citizenship policies that have external effects may create obstacles to friendly, including good neighbourly, relations as well as additional challenges for the integration of society in the country in which these minorities reside. Policies that have such negative effects should thus be avoided.

The State of residence holds primary responsibility for the protection of the rights of its residents, including persons belonging to minorities. This responsibility extends to residents holding multiple citizenships, and States should not discriminate against dual citizens. A State can legitimately ask its citizens to rescind other citizenships before taking up high political positions, such as head of State or member of government.⁸⁵

37. Multiple citizenships, per se, should not be considered an obstacle to integration. Granting citizenship by the State of residence to long-term residents who already hold citizenship of another State may support the integration process and strengthen links to society. Children who have acquired more than one citizenship at birth should not be prohibited from holding multiple citizenships over the course of their lives.

Multiple citizenships reflect the increasing movement of persons across borders as well as intra-family diversity, including across generations, and growing efforts by States to retain legal ties with emigrant populations abroad. Providing access to citizenship to long-term residents while not requiring the renunciation of a previous citizenship encourages participation and a sense of belonging and may contribute

⁸³ Bolzano/Bozen Recommendations, especially Recommendations 4, 10 and 11.

⁸⁴ Bolzano/Bozen Recommendations, Recommendation 2, and the European Commission for Democracy Through Law, “Report on the Preferential Treatment of Minorities by their Kin-State” (hereinafter: “Venice Commission Report”), CDLINF (2001) 19.

⁸⁵ Bolzano/Bozen Recommendations, Explanatory Note to Recommendation 11.

to the integration of societies. This is especially the case for children. States should allow children who have acquired different citizenships at birth to retain these.⁸⁶ Children who are in this situation should not be prohibited from holding such multiple citizenships throughout the course of their lives.⁸⁷

However, the impact of multiple citizenships on the integration of societies can vary considerably depending on various factors, including history and bilateral relations. The optimal policy with regard to multiple citizenships depends on the context and should be formulated based on its effects on the rights of individuals, the integration of society and friendly, including good neighbourly, relations.

Effective participation

38. The process of integration can only be facilitated if opportunities for participation are provided to all members of society. Effective participation in public affairs and all aspects of social, economic and cultural life, including of persons belonging to minorities, is both a right in itself and an essential precondition for equal opportunities in practice.

The process of integration requires that all members of society, whether they belong to minorities or majorities, interact through active engagement. This is directly linked to the effective participation by all in the development of society in its various aspects, which will also contribute to the perception that the process of integration is legitimate. For this reason, a key element of integration is the right of all, including persons belonging to minorities, to effectively participate in public affairs and in cultural, social and economic life.⁸⁸ Guaranteeing this right in law and in fact is a precondition for implementing the principle of equal opportunities. In practice, this should aim to ensure that persons belonging to minorities enjoy rights and take on responsibilities, such as respecting the law, on an equal footing with persons belonging to majorities.

⁸⁶ European Convention on Nationality, article 14(1).

⁸⁷ Convention on the Rights of the Child, article 7.

⁸⁸ FCNM, article 15.

While effective participation as an underlying principle of integration has to be mainstreamed in each relevant policy area⁸⁹, participation also requires its own dedicated policy and specific instruments⁹⁰.

a. Participation in public affairs

39. States should adopt specific, targeted policies to ensure that everyone has adequate opportunities to effectively participate in democratic decision-making. As part of this, States should strive for adequate representation of the diverse groups in their society, including minorities, in all relevant structures of public administration and decision-making bodies.

Adequate representation ensures direct participation and is also important as a means to provide a genuine opportunity for minority voices to be heard. In order to be adequate, the representation need not be mathematically proportional, but should aim to reflect the composition of society.⁹¹ Care should be taken to ensure that numerically small groups also have opportunities to effectively participate. At the same time, States should strive to uphold gender-equality principles in facilitating representation and public participation of persons belonging to minorities.

Based on international standards and promising practices, as well as on the experience of the HCNM, targeted policies might include one or more of the following:

- Special arrangements for the representation and participation of minorities in elected assemblies and/or in the executive as well as in branches of government and the wider public sector at the national, regional and local levels. Such special arrangements may include, depending upon the circumstances: reserved seats in one or both chambers of parliament or in parliamentary committees and other forms of guaranteed participation in the legislative process, facilitated minority representation in the electoral system, affirmative action for the allocation of cabinet posts, seats on the supreme or constitutional court or in lower courts, and/or positions on nominated advisory

⁸⁹ Guideline 9.

⁹⁰ Useful guidance regarding the instruments that can and, where appropriate, should be made available to establish an effective participation policy can be found, *inter alia*, in the Commentary on Participation and the Lund Recommendations.

⁹¹ Commentary on Participation, paragraph 123.

bodies or other high-level organs as well as special measures for minority participation in the civil service;⁹²

- Electoral systems that facilitate minority representation and influence, while opening competition for votes among all sectors in society.⁹³ Inter-community political platforms can play an important role in the integration of society and effective participation of minorities;
- Advisory or consultative bodies and mechanisms that act as formal or informal channels of communication between governments and community representatives;
- Bodies and processes designed to ensure and promote effective dialogue;
- Non-territorial self-governance arrangements or power-sharing arrangements aiming to enhance particular groups' influence over matters of special concern to them;
- In certain circumstances, territorial self-governance arrangements, such as territorial devolution of powers, may also facilitate the representation of individual minority groups. Regardless of form, institutions of self-governance must be based on democratic principles and processes to ensure that they can legitimately claim to reflect the views of all the communities settled in the concerned territory and that they fully respect the human rights of all persons, including of minorities, within their jurisdictions. In this context, power-sharing arrangements, where in place, should not be constructed in a manner that excludes any communities from representation.

b. Social and economic participation

40. Effective social and economic participation on an equal footing for all members of society is essential for successful integration. States should formulate and implement policies in relevant areas, such as education and training, employment, healthcare, housing and access to public goods and services, so that these promote socio-economic inclusion in a comprehensive manner.

The effective participation of persons belonging to minorities in the economic and social life of the State is as important as their participation in public affairs. Participation in social and economic life covers a wide range of issues, including:

⁹² As specified by the Lund Recommendations, Recommendations 6–11.

⁹³ Also see principle 28.

adequate housing, healthcare, social protection (social insurance and social benefits), social welfare services, education and employment (including inclusion in the labour market with both public and private employers, and access to business and other self-employment opportunities).⁹⁴ In this context, States should ensure that everyone, regardless of ethnic origin, enjoys equal opportunities to participate in and contribute to the economy and benefit from the resources and shared wealth of the country.

In particular, States should:

- Effectively combat discrimination and promote equal opportunities and equal treatment for minorities with regard to employment in the private and public sectors for the full range of the employment cycle by putting legislation, institutions and policies in place;
- Ensure that equal access to education, healthcare, housing and public goods and services is not hampered in law and in fact due to ethnic or national origin, language, religion or belief;
- Implement strategies and targeted policies to promote labour-market inclusion of minority groups with disproportionately low participation. Such policies should be evidence-based, with an assessment of the economic needs and interests of different communities, including minorities, in the context of wider labour-market dynamics. Strategies and policies should be designed, implemented and monitored for effectiveness in regular consultation with the representatives of the persons or groups concerned. Where needed, specific but not exclusive measures to overcome barriers to employment should be put in place for particularly disadvantaged groups.⁹⁵ Examples of such measures include on-the-job training programmes or workplace-based language instruction. While targeting underrepresented minorities, such measures should not be limited to participation by specific groups but be open to all who may need such support;
- Introduce specific measures, where appropriate, including specialized training, to better prepare the staff of public services and welfare institutions to provide adequate responses to the needs of persons belonging to minorities;⁹⁶
- Remove undue obstacles and excessive regulations hindering economic activities specific to certain minority groups and take appropriate measures, where relevant, to create conditions to sustain traditional occupations under threat, taking traditional technologies, culture and lifestyles into account;

⁹⁴ As provided, *inter alia*, by the Council of Europe's European Social Charter, 1961; the Revised European Social Charter, 1996; and Commentary on Participation, paragraph 24.

⁹⁵ Also see Commentary on Participation, paragraphs 47–49.

⁹⁶ Commentary on Participation, paragraph 38.

- Elaborate policies and consider establishing positive obligations, where appropriate and in consultation with those concerned, for State-owned enterprises to implement inclusive employment policies. States can also encourage private-sector employers to contribute to integration. This could be achieved by creating incentives for such measures, by working in public-private partnerships or by facilitating the employment of persons belonging to minorities, including through fiscal policies, and by providing reasonable accommodation for individuals with any special needs in the workplace;
- Involve local communities, including minority communities, that are concentrated in economically depressed areas in the design and implementation of targeted economic regeneration and regional and local development policies and projects. Such communities should share equitably in the resulting benefits;⁹⁷
- Consider the potential benefits to local and regional economies, particularly in border areas, of cross-border co-operation between local and regional authorities, including with the involvement of a neighbouring State, where and in the manner appropriate.⁹⁸

In general, States should be aware of and take into consideration the impact on persons belonging to minorities of any requirement (such as language skills or residency) posed by legislation or administrative regulations for access to services and to property, including during privatization processes.

c. Participation in cultural and religious life

41. States should create the conditions for persons belonging to minorities to effectively participate in the cultural life of their own community and of wider society. Freedom of religion and belief, and opportunities for voluntary participation in the religious life of a community, should be ensured, including through mutual accommodation, as appropriate.

States should seek to implement policies and legislation that aim at inclusion on an equal footing of all members of society in cultural life. In addition to ensuring equal opportunities, such policies are important to prevent alienation and exclusion of minority groups, which can fuel radicalization and polarization and lead to conflict.

⁹⁷ Commentary on Participation, paragraphs 42–46.

⁹⁸ Bolzano/Bozen Recommendations, Recommendations 16–18, and FCNM, article 18(2).

State policies should respect and, where relevant, support the preservation, enhancement and transmission to future generations of communities' cultural and religious heritage in all its forms. This may include cultural and religious practices, representations, expressions, knowledge and skills, objects and artefacts, and buildings and the spaces associated with them. To this end, it is essential that minority representatives are effectively involved in all stages of elaborating, implementing and monitoring relevant policies and legislation.

Integration of society requires that persons belonging to minorities are effectively granted the right to preserve and develop their own cultural heritage and identity, as well as the right to take part and interact in the cultural life of the wider society, in a spirit of tolerance and intercultural dialogue.⁹⁹ It is essential that the fundamental right of persons belonging to minorities to decide their own cultural issues does not result in their isolation. In this regard, permanent and ongoing intercultural dialogue among and between all minority groups and between minorities and majorities should be fostered, including through raising all residents' awareness of and exposure to all other cultures in their society.

Cultural policies should not be confined to preserving and promoting traditional cultures, but also aim to simultaneously foster a plurality of cultural and artistic expressions, promote equal access to contemporary culture in all its forms and encourage interaction and intercultural exchange.

At the same time, while the right to participate in and develop one's own culture can be facilitated and supported by the State, culture itself is independent of the State. States should not establish an official "State culture" that encompasses and defines the contents of culture. Rather, cultural policy should observe the principles of pluralism, participation, democratization and decentralization. Processes of decentralization, including non-territorial self-governance (cultural-autonomy) arrangements, can play an important role in creating the conditions necessary for persons belonging to minorities to participate effectively in cultural life.¹⁰⁰

99 UN Declaration on Minorities, article 2(1); FCNM, articles 5, 6 and 15; and the Declaration on Intercultural Dialogue and Conflict Prevention, adopted by the Conference of the European Ministers of Culture on 22 October 2003.

100 Commentary on Participation, paragraph 67.

Within a pluralistic cultural context, integration policies should take into account the varied cultural needs of different groups, including migrants¹⁰¹ and indigenous peoples¹⁰².

In designing policies, States should be aware that for many communities, cultural identities, belief systems and religious practices are inextricably linked. Everyone has the right to freedom of thought, conscience and religion. This includes the freedom to have or to adopt a religion, belief or non-belief of one's choice. It further includes the freedom, either individually or in community with others, and in public or private, to manifest one's religion or belief through worship, observance, practice and teaching.¹⁰³ Freedom to manifest religion and belief, including public worship, can only be subject to limitations prescribed by law. These are only legitimate if they relate to specified public-interest grounds and are reasonable and proportional to the end sought.¹⁰⁴

States should take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their culture, religion or belief. State authorities and public officials have the responsibility to avoid negative rhetoric or actions that target specific cultural or religious communities.

Furthermore, undue limitations to full participation in cultural and religious affairs should be avoided. Such limitations may include excessive requirements for the registration of cultural or religious organizations and places of worship or for the acquisition of planning permission for religious or cultural buildings. They may also include disproportionate limitations on the public display of cultural or religious symbols and clothing. Public authorities should not impose any undue restrictions on what language(s) can be used during cultural or religious events. They may legitimately require, for example, that cultural associations and/or religious organizations translate official and administrative documents into the State or official language(s), including, where relevant, when recording legal civil acts for which they have authority.¹⁰⁵

101 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, article 31.

102 UN Declaration on the Rights of Indigenous Peoples, 2007, article 1.

103 In general: Universal Declaration of Human Rights, article 18; ICCPR, article 18(1); and ECHR, article 9. For minorities in particular: ICCPR, article 27; FCNM, articles 7 and 8; and Copenhagen Document, paragraph 32.

104 ICCPR, article 18(3) and ECHR article 9(2).

105 Oslo Recommendations, Explanatory Note to Recommendation 5.

Language

42. States' policies should balance the need for one or more shared language(s) as a common basis for the integration and functioning of society with the obligation to safeguard and promote linguistic diversity, including by protecting the linguistic rights of minorities. Governments should provide accessible opportunities to learn the State language.

Language is an essential component of individual and collective identity. International standards, as interpreted by the relevant bodies, have specified with some detail the content of the rights of persons belonging to minorities to use their own language freely and without interference, in private and in public, orally and in writing.¹⁰⁶ At the same time, this right to use, preserve and promote minority languages has to be balanced with other rights and needs, including the designation of one or more shared language(s) as a common basis for the functioning and integration of a society.

While States have an obligation to protect and promote minority languages and the right of persons belonging to minorities to learn and use them, minorities share with the majorities the responsibility to participate in the cultural, social and economic life and in the public affairs of their wider society. This participation implies, for instance, that persons belonging to minorities should acquire adequate knowledge of the State or official language(s).¹⁰⁷

The balance between these two facets of language promotion is contextual, varying from country to country and depending upon the situation of each minority, and it is never permanently achieved. The HCNM's experience indicates that disagreements about this balance are frequent and may create significant inter-ethnic tension.

Language policies aimed at promoting integration respectful of diversity should include the following considerations:

- States may designate a State language; that is, a single language, for official use in public institutions, services and infrastructures. Introducing a policy

¹⁰⁶ *Inter alia*, ICCPR, article 27; Copenhagen Document, paragraph 35; FCNM, articles 10–14; European Charter for Regional or Minority Languages, 1992; Oslo Recommendations; and Commentary on Language.

¹⁰⁷ Copenhagen Document, paragraph 34; Hague Recommendations, Recommendation 1; and FCNM, Explanatory Report to article 14. Also see Guidelines 10 and 11.

that permits more than one official language to be used based on territorial or personal principles may also help to ensure the recognition of linguistic communities and contribute to the unity of linguistically diverse States. In such cases, the equal status or different scope of the use of official languages in various spheres must be clearly determined;

- States should not restrict the use of minority languages in the private sphere and any State-language requirements in the public sphere should be based on legitimate aims and be necessary and proportional;
- States should ensure that everyone, including persons belonging to minorities, is provided with adequate opportunities to learn the State language so that they can participate effectively and equally in the economic, social, cultural and political life of the State;
- Where a linguistically diverse State perceives and maintains a single official language as a tool of integration, allowing the use of other languages to some degree in public administration and services, education and the media can help accommodate the needs and promote the inclusion of minorities. The levels and nature of any language services and the incorporation of non-official languages into the public administration should be determined according to the specific circumstances of the communities concerned. Essential public services, such as healthcare, should have the capacity, to the extent possible, to also provide those services in minority languages when needed;
- Proficiency in the State language by all residents in that State is necessary for full and effective participation. In addition, language can be a powerful tool to enhance a shared sense of belonging. Therefore, it is legitimate to promote a State language through positive means and incentives, including accessible public programmes for learning that language;
- Language can also be used to exclude those deemed insufficiently proficient from specific roles or professions or from symbolic acceptance into a community. States should refrain from adopting policies to promote a State language that are disproportionate or are inadequately balanced with the linguistic rights of persons belonging to minorities;
- States should ensure that minorities enjoy sufficient support in maintaining and developing their linguistic identities. This can include guaranteeing the right to use minority or regional languages in private and family life and by supporting their use in private and in public. For example, States can provide signs, inscriptions, place names, street names and other topographical indications in the minority language or bilingually in the State and minority languages.

43. Promoting multilingualism for all members of society can contribute to integration in linguistically diverse societies.

Integration is a two-way process involving both majorities and minorities. Therefore, in linguistically diverse societies, integration can be greatly facilitated when all members of society learn the other languages used in their country. This means that members of the majority should also be encouraged to learn minority languages, especially in linguistically mixed areas. This can be a key to acknowledging the mutual adaptation inherent in the process of integration.

Multilingualism, and especially learning the language of persons with whom one interacts regularly, is collectively enriching and a tool for enhancing mutual understanding and tolerance. Despite the perceived link between language and identity, any language competence or lack thereof, as well as the mere use of a language, must not automatically be linked to affiliation with a particular group or with the enjoyment of linguistic rights.¹⁰⁸ Therefore, multilingualism should be promoted for all as an element of integration, particularly in linguistically diverse societies.

Education

44. Education policies should be formulated in line with and as part of integration policies. In this way, they can better provide the basis for the integration of society and foster knowledge, interaction and understanding between pupils of different communities.

Education is one of the most important tools for furthering integration and social cohesion and should be an integral part of integration policies. Education is crucial in equipping all members of society with the necessary skills to enable their full and effective participation in all spheres of life on an equal footing. Education is a principal means to maintain and transmit essential elements of identity, and one of the most effective ways to promote intercultural contact and understanding and a shared sense of civic identity.

¹⁰⁸ Commentary on Language, paragraph 16.

Those responsible for developing the education system should seek to combine interaction and participation of all with support for the maintenance and development of diverse identities.¹⁰⁹

45. States should respect the right of persons belonging to minorities to be taught their language or to receive instruction in this language, as appropriate, especially in areas inhabited by them traditionally or in substantial numbers. States should complement this by developing integrated and multilingual education systems at all levels designed to provide equal access, opportunities and educational outcomes for all pupils, regardless of their majority or minority background. Such integrated education should also include teaching all pupils about the diversity in their society.

Education policies should strive to find an appropriate balance between respecting the established right of persons belonging to minorities to be taught their minority language or, where conditions are met, to receive instruction in this language¹¹⁰ and the need to create a common educational space with equal opportunities for all to receive quality education. In this context, it is important that segregation in education, even when self-induced by minority communities, is avoided, while fully respecting the educational rights of persons belonging to minorities.¹¹¹

In pursuing such a balance, integrated education policies should be based, *inter alia*, on the following:

- Education policies at all levels, from pre-school to adult learning, should be directed towards ensuring equal opportunities for every individual to fulfil his or her potential to develop the skills, knowledge, capacities and networks necessary to become a productive and engaged member of an integrated and cohesive society;
- Policies should aim to foster common integrated and inclusive educational environments that recognize, value and respond to diversity and promote a culture of respect for others within the student body and beyond;
- The education system should develop and teach a general compulsory curriculum with associated learning materials that includes teaching about the

¹⁰⁹ As put forward, *inter alia*, by the Hague Recommendations and the Commentary on Education.

¹¹⁰ FCNM, articles 12–14, and the Hague Recommendations.

¹¹¹ Also see Guideline 7.

histories, religions, cultures, traditions and contributions of both minority and majority groups within the State, while reflecting different perspectives. Respect for diversity and pluralism should be mainstreamed into all subject areas covered by the curriculum;¹¹²

- In multilingual societies, a balanced and inclusive education system should combine tuition in the State and official language(s) with adequate opportunities for pupils to learn their minority language or receive instruction in this language.¹¹³ Multilingual education adds value for pupils of all communities and society at large and should be encouraged for minorities and majorities alike;¹¹⁴
- Adequate provision should be made to train, recruit and provide on-going support to suitably qualified staff, while ensuring that staff reflect the diversity of the society and are properly prepared to teach in a diverse classroom environment;
- Where appropriate, specific bilateral agreements regarding teaching materials and the exchange of teachers might be concluded with other relevant countries;¹¹⁵
- Additional support for members of disadvantaged minority communities should be provided, as required, to ensure that they can function in the classroom, in future employment and in other socio-economic contexts on an equal footing with other members of society;
- To ensure full participation of all key stakeholders and a sense of ownership, education practices should aim to foster the engagement and participation of all students, parents and communities at the local and school levels;
- States should respect minorities' right to establish or maintain separate education institutions (public or private) for linguistic or religious reasons that provide education in keeping with the wishes of the pupil's parents or legal guardians.¹¹⁶ Participation in such systems and attendance at such institutions should be optional and the education provided should conform to national standards established by the competent authorities;
- Where institutions are established on the basis of culture, language or religion, arrangements for promoting understanding and regular interaction between students attending different institutions or classes should be promoted. Steps for ensuring some diversity of intake should be considered and combined with measures to ensure an environment conducive to retaining this qualified diversity;
- If students from certain communities are disproportionately assigned to special schools or separate buildings or classes without an objective and reasonable

¹¹² Also see Convention on the Rights of the Child, article 29(d).

¹¹³ FCNM, article 14, and the Hague Recommendations.

¹¹⁴ Guideline 43.

¹¹⁵ Bolzano/Bozen Recommendations, Recommendation 18

¹¹⁶ Convention on the Rights of the Child, article 18.

justification, this is discrimination. In such cases, States must take immediate and effective measures to redress the situation and monitor developments to assess the need for additional measures;

- Outside the formal education system, public education policies and measures, such as adult and life-long learning, should also promote respect for diversity and the integration of society.

Security and law enforcement

46. Security and law-enforcement agencies should be professional, accountable and fully respectful of human rights. They should reflect the diversity of society and be designed to meet the needs of all segments of the population, including minorities, through targeted policies, where appropriate.

A lack of interaction and co-operation between security and law-enforcement structures and persons belonging to minorities can lead to negative reactions from minority communities and even conflict.¹¹⁷ Inter-ethnic relations and the integration of society can be improved when the police service is representative of the community it serves and when communication between police and minority communities is enhanced.

Integration policies should mainstream the principles underlying these Guidelines by elaborating and implementing policies on security and law enforcement, including, in particular, with regard to recruitment and representation, training and personal development, operational practices, and prevention and management of conflict.

The armed forces can also play a constructive role in the integration of society. While their role and relations with the public at large differ, many of the principles concerning law enforcement also apply to the armed forces.

¹¹⁷ As underlined by the *Recommendations on Policing in Multi-Ethnic Societies*, 2006.

When designing the policies of security and law-enforcement structures, States should consider the following:

- Policies should be developed and measures pursued to build trust and co-operation between all segments of the population, including minority communities, and law-enforcement agencies. This also enhances the operational effectiveness and capacity of law-enforcement agencies;
- Recruitment and retention of members of minorities within the law-enforcement agencies should be an aim of a targeted policy to ensure adequate representation at all levels;
- Community policing strategies can be an effective approach to establishing sustainable co-operative relations with minority communities. Such measures as ensuring the intercultural competences and multilingual proficiency of police officers likely to be in contact with members of different communities can support communication and build trust;
- States should ensure effective equal treatment legislation in law and in fact, including the prohibition against discrimination. This includes providing training and raising awareness about discrimination and remedies to members of law-enforcement agencies. In addition, specific anti-discrimination policies to address direct, indirect and institutional discrimination should be elaborated, implemented and monitored within the law-enforcement agencies themselves. Specific capacity-building measures should be taken in this respect;
- An adequate legal framework and policies for its implementation should be put in place and training provided to ensure that hate crimes are properly identified and recorded, effectively investigated and prosecuted. Measures should be taken to prevent such crimes;
- Communications issued by law-enforcement agencies, including printed materials for distribution to the public, should be culturally sensitive and reach out to all communities, including by using minority languages, where possible.

Access to justice

47. States should, as a matter of priority, assess the situation with regard to access to justice and develop a comprehensive strategy and policies aiming to guarantee effective access to justice for all. Equal access to effective and impartial justice is essential for the integration of society.

Trust in an impartial and effective judicial system and the availability of accessible remedies regardless of legal status are vital to the integration of society. An ineffective justice system can easily be perceived as being discriminatory against persons belonging to minorities. Lack of trust in the justice system or a perception that the system favours members of the majority undermines social cohesion, fosters alienation and can increase the risk of conflict, including of an inter-ethnic nature.

In this context, judicial policies should reflect the following:

- Legislation should provide for adequate representation of persons belonging to minorities in the judicial system;
- Appropriate policies should be developed to train, recruit, retain and promote judges, prosecutors and staff. The effectiveness of these policies should be regularly monitored and, where appropriate, special measures should be put in place to enhance the participation of persons belonging to minorities;
- Barriers in accessing justice should be identified and removed, including those particularly affecting members of minorities, be they of a financial, linguistic or social nature. Providing for the use of minority languages in accessing free legal aid and in judicial proceedings and administrative procedures, above and beyond the minimum human rights standards regarding criminal procedures,¹¹⁸ promotes equality of treatment, trust in the authorities and reduces potential causes of conflict;
- Measures to ensure equal access to justice should be broader than simply providing access to the courts. Such measures can include other remedies, as well as access to independent and effective complaints bodies and to alternative dispute resolution mechanisms;

¹¹⁸ ICCPR, article 9.2; ECHR, article 6, and FCNM, article 10.3.

- States should, as a matter of urgency, provide effective judicial remedies to the victims of gross human rights violations and promote appropriate reconciliation mechanisms, in particular in post-conflict societies. Adequate venues should be established and resources allocated for the effective and timely resolution of, for example, outstanding property claims, the protection of the right to return home, the restoration of citizenship and other conditions necessary for victims to participate and fulfil their roles in the process of the integration of society.

Media

48. State policies should aim to promote and facilitate the capacity and awareness of the media to reflect and respond to the diversity within their societies, including by promoting inter-cultural exchange and by challenging negative stereotypes and prejudices and in other ways countering intolerance.

The media perform two important roles in the process to integrate societies.¹¹⁹ First, they provide a key forum for persons belonging to minorities to exercise their rights, including their rights to use their language and promote their culture. Second, as tools for receiving and transmitting information, the media are essential to foster a climate that is conducive to intercultural dialogue and mutual understanding, including by countering negative stereotypes, prejudices and intolerance in society.

State policies should promote intercultural exchange in the media and challenge negative stereotypes and intolerance. Measures in this regard may range from specific criminal and administrative sanctions for violations of law to active support for the presence of minority languages and cultures in the media, including by means of special funding. Furthermore, media policies, self-regulatory frameworks and licensing regimes should aim to create an enabling environment for an independent and pluralistic media conducive to the communication of ideas and information that reflects and is responsive to the needs of different communities.

¹¹⁹ As underpinned, *inter alia*, by FCNM, articles 6 and 9, and the *Guidelines on the Use of Minority Languages in the Broadcast Media*, 2003 (hereinafter: "Media Guidelines").

The key societal and democratic role that the media play implies that their freedom has to be especially protected.¹²⁰ At the same time, the fact that the media plays such an important role in shaping the societal climate, also regarding intercommunity relations, implies that they need to take the effect of their work on social cohesion and integration into account. The media need to be mindful of the potential consequences when they report statements made by politicians or other public figures that contribute to negative stereotyping and other divisive activities.

49. Measures to promote the State or official language(s) in the media should not disproportionately curtail the right to use a minority language.

The meaningful presence of minority languages in locally produced media signals an inclusive policy towards minorities and reflects a positive value put on linguistic diversity. States should therefore develop policies, in consultation with minorities, to address the use of minority language(s) in the broadcast media.¹²¹ Policies should be based on the right of persons belonging to minorities to receive and impart information and ideas also in their own languages,¹²² as a precondition for their equal and effective participation in public, economic, social and cultural life.

At the same time, States may legitimately promote the State language, especially in the public media, within the limits specified above,¹²³ provided that this does not disproportionately curtail the rights of persons belonging to minorities to use their languages in the media or unduly restrict existing linguistic diversity.

In pursuing this balance, policies should be based, *inter alia*, on the following:

- While no language limitations are permitted for print and internet-based media, any limitations on choice of language in the broadcast media, whether public or private, need to be carefully evaluated to ensure proportionality and full respect for freedom of expression;

¹²⁰ As underlined, *inter alia*, by the OSCE Permanent Council's Decision no. 193, 1997 (Mandate of the OSCE Representation on Freedom of the Media); also see ECHR, article 10 and its interpretation in case law, in particular *Jersild v Denmark*, no. 15890/89, 23-09-1994.

¹²¹ Media Guidelines, Guideline 5.

¹²² FCNM, article 9.

¹²³ Guideline 42.

- Quotas for public broadcasting in the State language may be legitimate, but should be complemented by special provisions to ensure that the linguistic rights of persons belonging to national minorities are guaranteed; for instance, through the flexible implementation of such quotas and/or through exemptions for regions where minority communities live in substantial numbers. Furthermore, imposing language quotas must never imply regulation of content and must fully respect the freedom of the media. The imposition of rigid quotas on private broadcasters may conflict with freedom of expression. Therefore, promotion of the State language in private broadcasting, where justified by a legitimate aim, may be better achieved through using various economic incentives, including distribution of State grants and support for content production;¹²⁴
- If subtitling, quotas and/or rebroadcasting requirements are introduced to promote integration, the State should provide adequate financial and technical support to ensure it does not disproportionately affect minority-language use. In some contexts, subtitling can be an effective tool for improving cross-community communication and outreach. For example, multilingual programmes are sometimes created and subtitled in both majority and minority languages to encourage interaction among groups and overcome language barriers;
- Minorities' access to and presence in general public media programming should be promoted, including by creating conditions favourable to diversity and pluralism in the media;
- Public service broadcasting should reflect the cultural and linguistic diversity of society. As such, it should guarantee that persons belonging to minorities, including numerically smaller national minorities, and their languages are given adequate representation. This also applies to bodies regulating the broadcast media. States should ensure that the interests of minority-language users are represented or taken into account specifically within regulatory bodies¹²⁵;
- Although it is not uncommon for minorities living in border areas to access broadcasts from neighbouring States with which they may share a common language, this does not absolve the host State from its responsibilities to safeguard minority rights, including linguistic and media-related rights. In any case, it is in the State's interest to provide information on matters relevant within the State to all members of society. Such outreach is necessary to build a common framework for understanding social processes and thus for the integration of society. The State should consider means to ensure that sufficient information is also available in minority languages;

¹²⁴ Commentary on Language, paragraph 43.

¹²⁵ European Charter for Regional or Minority Languages, article 11(3).

- Efforts should be made to recruit and retain journalists with minority backgrounds into mainstream public media and to ensure that minorities are also represented in broadcasting councils. Special attention should be paid to the needs of numerically smaller minorities or particularly vulnerable groups that usually have very limited access to media in their own languages and suffer from a lack of qualified journalists trained to work in a minority language;¹²⁶
- With regard to private media, States should consider creating incentives for private and community media providers; for instance, through funding and allocating frequencies, and by increasing, especially numerically smaller, minorities' access to the media, including media in their languages. Although it may not be illegitimate, per se, to require that private media meet State-language quotas, this is particularly problematic, as it has the potential to unduly limit private initiative and the very existence of minority-language media;¹²⁷
- Due to the particular significance that print media in minority languages have for minority communities, States should ensure that general rules relating to press subsidies, which often contain conditions such as a minimum print run or nationwide distribution, should not be applied to minority-language print media that are unlikely ever to meet these conditions;¹²⁸
- The potential of new technologies to facilitate the reception of programming in minority languages that have been produced in other, often neighbouring, countries, should be recognized and may be encouraged, as appropriate. However, they should not substitute locally produced programmes in minority languages.

¹²⁶ Commentary on Language, paragraphs 41 and 42.

¹²⁷ Commentary on Language, paragraphs 45 and 46.

¹²⁸ Commentary on Language, paragraph 47.

Diversity of symbols and their use in the public domain

50. States should promote integration by respecting the claims and sensitivities of both minority and majority groups regarding the display and use of symbols in shared public space. While being mindful of freedom of expression, States should avoid the divisive use of symbols and discourage such displays by non-State actors. Where appropriate, opportunities to promote inclusive symbols should be sought.

Symbols, such as flags, signs, statues, monuments, place and street names, commemorative occasions or holidays, historical sites and burial sites, can have profound meanings related to identity. Symbols can have a powerful impact on social relations, and can be used to promote inclusion and cohesion as well as separation and division. The inappropriate use of symbols can cause tensions and incidents that can escalate into conflict and intercommunity violence. This can be avoided by including balanced and fair rules to address potential issues relating to symbols as essential elements of integration policies.

Where symbols are concerned, integration policies should be based, *inter alia*, on the following:

- The display of symbols related to identity by private persons in public falls under freedom of expression and should not be prohibited unless there are legitimate and clearly defined legal grounds for doing so. These grounds should, in any case, be interpreted narrowly and any prohibition must be proportional to the legitimate aims;
- Displaying flags and symbols within or on the premises of local governments or other public institutions can be contentious and create tensions. In such cases, States should consider regulating such displays, based on principles of inclusiveness and good governance, achieving a balance between the reasonable interests of all groups in society;
- Minority rights provide for the display of topographical and street signs in minority languages (which may include, as appropriate, the alphabet used) under certain conditions.¹²⁹ Because they also have a symbolic meaning, States could, where appropriate, provide for the right to display topographical indications in minority languages even if minorities do not live in the area traditionally or in substantial numbers. Furthermore, when thresholds are established for enabling the right to

¹²⁹ FCNM, article 11.

topographical signs in minority languages, such thresholds should not constitute a disproportionate obstacle with respect to certain minority languages. In addition, road traffic safety or the use of different alphabets are not reasonable arguments against bilingual signposts. Instead, such display of bilingualism should be promoted, as it conveys the message that a given territory is shared in harmony by various population groups;¹³⁰

- When introducing or prohibiting symbols or erecting or dismantling statues, monuments and other symbolic objects or buildings, States should take due account of both historical and contemporary community relations. In this context, State policies should aim to foster intercultural links and mutual recognition and the accommodation of all groups in society;
- When naming or re-naming streets, buildings and other public spaces, special attention should be paid to the impact this might have on the integration of society. In this regard, it is essential that such decisions are made in an inclusive and participatory manner and that the outcome is not divisive among groups in society;
- With regard to the display of religious symbols in public, the construction or reconstruction of religious sites, religious observance and dietary and/or clothing customs, approaches vary greatly between participating States. Nevertheless, minorities practising a different religion from the majority are at some risk of disadvantage and may face discrimination. Although the margin of appreciation of States regarding the public display of religious symbols is wide, States should ensure that no discrimination based on religion takes place in law or in fact. States should also ensure that minorities' religious rights, notably their freedom of religion, belief or non-belief, are respected. States should respect religious diversity and should consider applying the principle of reasonable accommodation to religion-based claims. States should also promote, where appropriate, inter-religious dialogue.

¹³⁰ Commentary on Language, paragraph 67.

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