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International Developments in 2021

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*Published in:*  
European Yearbook of Minority Issues

Published: 01/06/2023

*Document Version*  
Accepted author manuscript

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[Link to publication](#)

*Please cite the original version:*  
Riekkinen, M. (2023). Cultural Activities/Facilities and the Media in the Context of European Minorities – International Developments in 2021. *European Yearbook of Minority Issues*, 20 (2021)(1).  
<https://urn.fi/URN:NBN:fi-fe202401193392>

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Cultural Activities/Facilities and the Media:  
2021 developments in the context of European minorities

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**Abstract**

Under review in the present article are the international developments in 2021 which relate to cultural activities and facilities, not to mention the problems of media, and more broadly freedom of expression, in the context of European minorities. Among the highlights are the series of cases from the European Court of Human Rights, which specifies the criteria for counteracting hate speech in public discourse and rules for investigating the alleged racial bias in the ill-treatment of members of national minorities by law-enforcement bodies. The theme of strengthening free minority self-identification and pursuing two-way cultural exchange in the diverse societies is also evident through the analysis of activities and the official documents issued by the UN Special Rapporteur on Cultural Rights, and monitoring organs within the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages.

**Keywords** self-identification, diverse society, counteracting hate speech, members of national minorities, minority cultures

## Keywords

### 1. INTRODUCTION

This report aims to examine the 2021 international developments in the area of cultural activities and facilities and in the field of minority media or, more broadly, freedom of expression, both in the context of the European minorities. We examine the developments inside the UN, based on the activities of the UN Special Rapporteur on Minority Issues, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the UN Special Rapporteur in the field of cultural rights, and continue with the advancements within the Council of Europe, based on the advancements within the Framework Convention for the Protection of National Minorities, European Court of Human Rights, and, the European Charter for Regional or Minority Languages, the EU, and particularly the European Union Agency for Fundamental Rights, and the OSCE, as exemplified by the work of The High Commissioner on National Minorities, The Office for Democratic Institutions and Human Rights, OSCE Representative on Freedom of the Media.

#### **Methods and materials**

Qualitative data used in the analysis is text represented by the published official documents, issued by international bodies dealing with human rights protection. Data is collected by retrieving documents, issued by the abovementioned authorities, which are in open access via the official sources.

The datasets are organized, based on the authority which issued the documents. The voluminous text collections are processed through analytic procedures, into an understandable analysis.<sup>1</sup> The data is analyzed by employing the method of *qualitative content analysis*<sup>2</sup> so that to define what the documents under analysis are about with respect to cultural activities and facilities, as well as the media in the context of European minorities. Our searches mostly reflect upon the developments regarding the implementation of the legally binding articles in international human rights law, i.e. Article 27 of the 1966 International Covenant on Civil and Political Rights (the ICCPR),<sup>3</sup> Articles 11 and 12 of the 1992 European Charter for Regional or Minority Languages (the ECRML), as well as Articles 5, 6 and 9 of the 1998 Framework

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<sup>1</sup> Graham Gibbs, *Analyzing qualitative data*. 2<sup>nd</sup> edition. SAGE Publications Ltd 2018.

<sup>2</sup> Ibid.

<sup>3</sup> The International Covenant on Civil and Political Rights, Adopted on 16 December 1966, entered into force 23 March 1976, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

Convention for the Protection of National Minorities (the FCNM). Against this background, the author identifies and structures pieces of text like the parts of a general picture, exemplifying the same descriptive idea. First, the data content was read, and the information that fits the aforementioned exemplification of the identified categories is chosen. Then the author resorts to a more systematic search for the consistency of the identified categories in the texts of the official documents regarding the aspects that fit the identified categories of cultural facilities, activities, and the media, against the background of the mentioned provision of international treaties. True, most of our analysis adds to this volume even though the author when reporting about this research, provides summaries that are to some extent an original analysis or structuring of the existing data.

Thus, this report is what was popularized by Clifford Geertz as a "thick description"<sup>4</sup>: detailed when demonstrating the richness of what is happening within the international monitoring and reporting procedures, with examples from the texts of the official documents, and it contributes to comprehending all the volumes of existing information. From this 'thick' description the author suggests some robust explanation. Thus, from this thick description" our qualitative data analysis strives to find patterns and produce robust explanations, where possible, of what is happening and possibly why.

UN

#### *A. UN Special Rapporteur on Minority Issues*

The 2021 (annual) thematic report of the Special Rapporteur Dr. Fernand de Varennnes to the UN Human Rights Council was devoted to the problem of hate speech, social media, and minorities.<sup>5</sup> It emphasized, in particular, that most incidents of impermissible hate speech worldwide involve minorities. Several recommendations were put forward. Most of them addressed *social media platforms* on which no restrictions should be imposed that fail to meet the international human rights law standards (para. 82), which need to be "narrowly defined," meeting the pressing social need and being proportionate in their benefit outweighing the harm on freedom of expression (para. 83). These platforms should collect data on hate speech (para. 87), introduce human rights review processes referring to "the groups most susceptible to hate speech" (para. 89), and integrate human rights standards into their content policies

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<sup>4</sup> Clifford Geertz, "Thick description: toward an interpretive theory of culture", pp. 3-30, in: The interpretation of cultures; selected essays. New York: Basic Books, 1973.

<sup>5</sup> Hate speech, social media and minorities - Report of the Special Rapporteur on minority issues, 3 March 2021, UN Doc. A/HRC/46/57, available at: <https://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/Annual.aspx>.

and decision mechanisms (para. 93), and target their moderation systems to commit to protecting vulnerable and marginalized minorities and other groups (para. 92).

Another theme of the report regarded the *requirements for national hate legislation*. This legislation should comply with the international obligations (para. 85) and incorporate “a list of protected characteristics or identifies the minorities (national or ethnic, religious and linguistic) that are recognized in international human rights law” (para. 86). It should require social media platforms to adopt policies identifying hate speech (para. 88).

Moreover, a number of *recommendations for action* were given to *the states*. States should use the existing guidance such as the threshold test in the Rabat Plan of Action and principle 12 of the Camden Principles on Freedom of Expression and Equality when deciding what constitutes forms of expression that may be restricted under international human rights law (para. 84). They should effectively and promptly counter hate speech against minorities, including in investigation, prosecuting, holding the perpetrators accountable, and ensuring for victims access to justice and remedy (para. 90), set up independent agencies to counter hate speech (para. 94), include the most targeted and vulnerable groups in advisory and other relevant boards (para. 98), to address “distortion and systemic bias against Jews and Muslims”, in cooperation with social media platforms (para. 96), arrange training to law enforcement agencies on minority rights (para. 95), adopt education initiatives on minority rights in school curricula (para. 97). Finally, some ideas were referred to the *international community* and *civil society*. The international community should develop “a global voluntary code of conduct for social media platforms to combat hate speech” (para. 91) and institutions of civil society are encouraged to use international mechanisms to combat online hate speech against minorities (para. 99).

#### *B. UN Special Rapporteur Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*

In 2021 Special Rapporteur Irene Khan issued two thematic reports. The report to the Human Rights Council entitled “Disinformation and freedom of opinion and expression”, delivered to the Human Rights Council<sup>6</sup> had few references to the cultural activities of minorities, nor to the minority media. It, nevertheless, pointed out that disinformation is used to attack vulnerable groups, including minorities.

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<sup>6</sup> Disinformation and freedom of opinion and expression – Report of the UN Special Rapporteur Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/47/25, 13 April 2021, available at: <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Report-on-disinformation.aspx>.

Another report, named “Gender justice and freedom of opinion and expression,” was addressed to UNGA<sup>7</sup> and had not made references to the issues relevant to our present discussion.

### *C. UN Special Rapporteur in the field of cultural rights*

In October 2021, Professor Alexandra Xanthaki was appointed UN Special Rapporteur in the field of cultural rights.

As for both 2021 annual reports, they were submitted by the team of the previous Special Rapporteur Karima Bennouna. The 2021 report to the Human Rights Council was devoted to the impact of the COVID-19 pandemic on cultures and cultural rights.<sup>8</sup> It stressed that members of minorities and indigenous peoples experience structural inequalities, being disproportionately affected by COVID-19 (para. 5). Visible was a stark digital divide whereby Internet access was hindered by the pandemic for the minority populations, including in wealthy nations (para. 30). Online harassment against members of minorities increased (para. 31). Yet there were also positive effects of the pandemic on implementing the cultural rights of vulnerable groups, e.g., “some marginalized voices”, including members of minorities could find “increased connections in virtual spaces” (para. 28). Accordingly, the states are recommended to assess the impact of all pandemic measures on members of minorities and indigenous peoples, to ensure they have benefited equally (para. 79 “m”).

The 2021 report to the UNGA touched upon the issues of cultural mixing and cultural rights improving the effective enjoyment of human rights and fundamental freedoms.<sup>9</sup> It emphasized that the “ability to speak openly about histories of cultural mixing is essential” and protecting the heritage of minorities is a “vital part of protecting the relevant rights” (para. 16). A concerning practice of recent was reported to be ignoring recognition of cultural mixing and mixed cultural identities in official and popular discourses, not to mention oppressing minority cultural expressions at various levels (para. 26). Respectively, the international community should “recognize and respond to histories of and ongoing realities of cultural hegemony, cultural assimilation, and cultural genocide” and counteract

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<sup>7</sup> Gender justice and freedom of opinion and expression – Report of the UN Special Rapporteur Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/76/258, 30 July 2021, available at: <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Report-Gender-Justice.aspx>.

<sup>8</sup> On the impact of the COVID-19 pandemic on cultures and cultural rights – Report of the UN Special Rapporteur in the field of cultural rights, 4 February 2021, UN Doc. A/HRC/46/34, available at <https://daccess-ods.un.org/tmp/4220756.88838959.html>.

<sup>9</sup> Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms - Report of the UN Special Rapporteur in the field of cultural rights, UN Doc. A/76/178, 19 July 2021, <https://www.undocs.org/en/A/76/178>.

commercializing the histories of indigenous peoples (para. 36). Work should be done in order to ensure the presence of minority, local and indigenous languages in the media, education, and in cultural programming (para. 59). States were recommended that the right to participate in cultural life should be specifically ensured “for those facing pervasive or historic discrimination, including indigenous peoples, minorities.” (para. 78 “a”). It was also recommended to “recognize and value cultural diversities, including within minority cultures” (para. 78 “f”). It is also significant to “support the protection of collective intellectual property, including of indigenous peoples and minorities” when it comes to cultural extractivist practices (para. 78 “s”).

#### *E. UN Special Rapporteur on the Rights of the Indigenous Peoples*

In 2021, Special Rapporteur Francisco Cali Tzay issued the annual report to the UN Human Rights Council, entitled “Indigenous peoples and coronavirus disease (COVID-19) recovery”.<sup>10</sup> This report is going to be released on the UN document collection system later on.

### 2. THE COUNCIL OF EUROPE

#### *A. Framework Convention for the Protection of National Minorities*

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<sup>10</sup> Indigenous peoples and coronavirus disease (COVID-19) recovery, Report of the UN Special Rapporteur on the Rights of the Indigenous Peoples, UN Doc. A/HRC/48/54, available at <https://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/AnnualReports.aspx>.

In 2021, the Committee of Ministers issued Resolutions on Albania,<sup>11</sup> Azerbaijan,<sup>12</sup> Bulgaria,<sup>13</sup> Cyprus,<sup>14</sup> Czech Republic,<sup>15</sup> Hungary,<sup>16</sup> Latvia,<sup>17</sup> Liechtenstein,<sup>18</sup> Malta,<sup>19</sup> the Republic of Moldova,<sup>20</sup> Montenegro,<sup>21</sup> Romania,<sup>22</sup> Serbia,<sup>23</sup> and Spain.<sup>24</sup>

Analyzing these recommendations with respect to reflecting the key issues of cultural activities and facilities as well as the media in a minority context, one can identify several themes, taken up in 2021.

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<sup>11</sup> Resolution CM/ResCMN(2021)2 on the implementation of the Framework Convention for the Protection of National Minorities by Albania, CM/ResCMN(2021)2, 13 January 2021, available at: [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=0900001680a0f45a](https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a0f45a)

<sup>12</sup> Resolution CM/ResCMN(2021)7 on the implementation of the Framework Convention for the Protection of National Minorities by Azerbaijan, CM/ResCMN(2021)7, 3 February 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?Objectid=0900001680a1410f](https://search.coe.int/cm/pages/result_details.aspx?Objectid=0900001680a1410f)

<sup>13</sup> Resolution CM/ResCMN(2021)1 on the implementation of the Framework Convention for the Protection of National Minorities by Bulgaria, CM/ResCMN(2021)1,13 January 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=0900001680a0f459](https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a0f459)

<sup>14</sup> Resolution CM/ResCMN(2021)3 on the implementation of the Framework Convention for the Protection of National Minorities by Cyprus, CM/ResCMN(2021)3,13 January 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=0900001680a0f45b](https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a0f45b)

<sup>15</sup> Resolution CM/ResCMN(2021)18 on the implementation of the Framework Convention for the Protection of National Minorities by the Czech Republic, CM/ResCMN(2021)18, 8 December 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?Objectid=0900001680a4d338](https://search.coe.int/cm/pages/result_details.aspx?Objectid=0900001680a4d338)

<sup>16</sup> Resolution CM/ResCMN(2021)8 on the implementation of the Framework Convention for the Protection of National Minorities by Hungary, CM/ResCMN(2021)8, 3 February 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?Objectid=0900001680a14110](https://search.coe.int/cm/pages/result_details.aspx?Objectid=0900001680a14110)

<sup>17</sup> Resolution CM/ResCMN(2021)9 on the implementation of the Framework Convention for the Protection of National Minorities by Latvia, CM/ResCMN(2021)9, 3 March 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?Objectid=0900001680a14111](https://search.coe.int/cm/pages/result_details.aspx?Objectid=0900001680a14111)

<sup>18</sup> Resolution CM/ResCMN(2021)15 on the implementation of the Framework Convention for the Protection of National Minorities by Liechtenstein, CM/ResCMN(2021)15, 7 July 2021, [https://search.coe.int/cm/Pages/result\\_details.aspx?Objectid=0900001680a31518](https://search.coe.int/cm/Pages/result_details.aspx?Objectid=0900001680a31518)

<sup>19</sup> Resolution CM/ResCMN(2021)10 on the implementation of the Framework Convention for the Protection of National Minorities by Malta, CM/ResCMN(2021)10,15 April 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=0900001680a22770](https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a22770)

<sup>20</sup> Resolution CM/ResCMN(2021)16 on the implementation of the Framework Convention for the Protection of National Minorities by the Republic of Moldova, CM/ResCMN(2021)16, 7 July 2021, [https://search.coe.int/cm/Pages/result\\_details.aspx?Objectid=0900001680a3153b](https://search.coe.int/cm/Pages/result_details.aspx?Objectid=0900001680a3153b)

<sup>21</sup> Resolution CM/ResCMN(2021)14 on the implementation of the Framework Convention for the Protection of National Minorities by Montenegro, CM/ResCMN(2021)14,3 June 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?Objectid=0900001680a2b177](https://search.coe.int/cm/pages/result_details.aspx?Objectid=0900001680a2b177)

<sup>22</sup> Resolution CM/ResCMN(2021)13 on the implementation of the Framework Convention for the Protection of National Minorities by Romania, CM/ResCMN(2021)13,19 May 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=0900001680a28db2](https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a28db2)

<sup>23</sup> Resolution CM/ResCMN(2021)11 on the implementation of the Framework Convention for the Protection of National Minorities by Serbia, CM/ResCMN(2021)11, 15 April 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=0900001680a22771](https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a22771)

<sup>24</sup> Resolution CM/ResCMN(2021)6 on the implementation of the Framework Convention for the Protection of National Minorities by Spain, CM/ResCMN(2021)6, 3 February 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?Objectid=0900001680a0f477](https://search.coe.int/cm/pages/result_details.aspx?Objectid=0900001680a0f477)



The theme of ensuring the principle of free *self-identification* during the forthcoming population censuses featured in most recommendations on Albania, Czech Republic, Hungary, Malta, and Montenegro. Some recommendations highlighted the need to provide a possibility to use **multiple affiliation** affiliations (on Azerbaijan, Bulgaria, Cyprus, Czech Republic, and Serbia) and to show the *use of more than one first language* in Azerbaijan. Resolution on Albania emphasized the urgency not to rely only on archival data from various civil registries but to verify the authenticity of self/identifications (para. 2). Most probably this implies that the population censuses, in the opinion of the Committee, should carry out the function of an agency that has functions to ascertain the authenticity of self-identification. One more thematic entry point can be identified for strengthening possibilities of free self-identification and it refers to ensuring opportunity for persons belonging to minorities to express their culture and identity in Hungary. Strengthening the meaning of minority self-identification, in its subjective implication, appears to run parallel with the strengthening of guarantees of self-identification as espoused in the 2019 preliminary views of the UN Human Rights Committee claiming that the prerogative to ultimately decide on issues of minority self-identification belongs to the association of minorities on the case of *Sainila Aikio v. Finland*.<sup>25</sup>

A number of themes are identifiable with respect to *promoting the minority media*. The urgency of *ensuring the independence of minority media* was stressed in the Recommendation on Serbia. Whereas in the Recommendation on Romania the need was emphasized in *combatting racist, xenophobic, and anti-Roma language* in the media. A number of recommendations highlighted the need to *expand the repertoire of minority language programs* in national media (Recommendations on Albania, Azerbaijan, and the Republic of Moldova) and *ensure the sustainability* of minority media (Recommendation on Montenegro). In the Recommendation on Bulgaria, there was a problem highlighted which regards facilitating written media in minority languages. Counteracting stereotypes against minority groups in media, without prejudice to the editorial independence of the media is topical for Spain.

Several problems were identified which relate to *implementing freedom of expression*, more generally. *Removing obstacles to freedom of expression* and taking affirmative action to ensure that persons belonging to minorities can exercise freedom of expression was seen as a matter of priority in Recommendations on Azerbaijan and Bulgaria. More states appeared to face challenges in *counteracting*

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<sup>25</sup> See, Anna Barlow, Participation, Citizenship and Transfrontier Exchanges—2019, in: 18 *European Yearbook of Minority Issues* (2021), Liudmila Ragozina, Gennady Chebotarev, and Elena Titova, Cultural Activities/Facilities and the Media: 2019 developments in the context of European minorities, in: 18 *European Yearbook of Minority Issues* (2019).

*hate speech* against persons belonging to national minorities, including in public and political discourse (Recommendations on Azerbaijan, Bulgaria, Czech Republic, the Republic of Moldova, Malta), including special efforts counteracting online hate speech in Montenegro.

The 2021 round of resolutions appears to be especially rich in comparison with the previous years with attention to protecting **the right to use topographical indications in minority languages** which is evident in recommendations on Albania, the Czech Republic, and the Republic of Moldova. Bulgaria was recommended to refrain from abolishing official place names in minority languages and strive towards bilingual place names.

Several problems are still topical for states in relation to ***supporting and preserving minority cultures***. *Increasing support for activities of local and central governments* for preserving and promoting minority cultures was highlighted as a need for improvement in the Republic of Moldova. Increasing the budget for preservation and development of minority cultures and participation of persons belonging to minorities in *cultural policies and projects* was highlighted as a direction for change in Bulgaria and Montenegro. These two states should also work on introducing and expanding *the role of cultural mediators in education*.

A separately identifiable theme regarded the goal of ***achieving a multicultural society***. *Reflecting the multicultural character of society and the issues of the contribution of minority groups in society* in school curricula is a matter of concern in Azerbaijan, Bulgaria, and the Czech Republic. *Promoting intercultural understanding* among different groups in society, and promoting intercultural dialogue is topical for Azerbaijan, Hungary, Latvia, Liechtenstein, Romania, the Republic of Moldova, and Montenegro. Work on including the theme of intercultural education in school programs should be done in Hungary, Serbia, and Spain.

Recommendations on Latvia and Montenegro were drafted with remarkably more scrutiny, i.e., included not only recommendations but a thorough analysis of progress achieved as well as the issues of concern. As for the Latvian context, the Committee considered it a positive development that those who obtained primary education in the Latvian language were released from the obligation to pass tests in the language, as well as demonstrate knowledge of the constitution, history, and culture of Latvia order to get citizenship. This resulted in an increased number of citizens who can benefit from the personal scope of FCNM application. Moreover, positive feedback related to supporting national minority cultural centers, in particular theatres and National Symphony Orchestra offering repertoire in Russian, museums providing information in Russian on their web pages, not to mention public libraries with collections in

minority languages. The Committee also praised the media for providing multiple outlets, including in minority languages, of which several publishers and broadcasters, including highly circulated newspapers, offer content in Russian. As for issues of concern, attitudes towards the use of Latvian language by persons belonging to minorities, albeit “neutral or positive”<sup>26</sup> are insufficient to advancing a cohesive society. This is because society remains under influence of “past divisions, with the principal national groups – the Latvian majority and the Russian minority”<sup>27</sup> with polarized perspectives on history and geopolitical matters, and different cultural identities. The interethnic climate is also affected by “inflammatory statements by public figures”<sup>28</sup> not followed by sufficient official response. Educational system, media, and the use of minority languages in public life are rather driven by “restrictive policies and other pressures driven by a political agenda”<sup>29</sup> than decision-making based on evidence. Tight legal regulation that requires the provision of documents confirming kinship or direct ascendance is a constraint for indicating ethnic affiliation. A worrying observation is also the lacking opportunities for Roma children to learn Romani at school, weakening their cultural identity and belittling the worth of their culture.

When it comes to Montenegro, the positive development was the criminalization of hate speech, and providing a strong framework for distributing funding in support of preserving and promoting minority cultures. At the same time, the criminalization of hate speech is not accompanied by sufficient monitoring of social media. On the positive side is the national education curriculum that reserves 20% for “open content”<sup>30</sup> which concerns “affirming the value of local culture”.<sup>31</sup> Although it can be used for education about the history and culture of persons belonging to national minorities, it appears to not be sufficiently utilized by the authorities in terms of accommodating the cultural component in education vis-à-vis the minority rights. As for the issues of concern, the increase of social distance between all groups is worrying as well as the “incidents of religious discord between different Orthodox communities”.

### *B. European Court of Human Rights*

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<sup>26</sup> Resolution CM/ResCMN(2021)9 on the implementation of the Framework Convention for the Protection of National Minorities by Latvia, CM/ResCMN(2021)9, 3 March 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?ObjectId=0900001680a14111](https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a14111)

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Resolution CM/ResCMN(2021)14 on the implementation of the Framework Convention for the Protection of National Minorities by Montenegro, CM/ResCMN(2021)14,3 June 2021, [https://search.coe.int/cm/pages/result\\_details.aspx?ObjectId=0900001680a2b177](https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a2b177)

<sup>31</sup> Ibid.

In 2021, the European Court of Human Rights (the ECtHR) issued a considerable amount of judgments entailing the issues of minority culture and minority self-identification.

In *Abdi Ibrahim v. Norway*<sup>32</sup> the Court dealt with the case having originated in the same application by Ms. Ibrahim which had already been considered in 2019.<sup>33</sup> This case considered the shortcomings of decision-making process around placing a child whose mother is of Somalian origin to the Christian adoptive family. The case was considered under ECHR Art.8 in the light of Art.9 and in the context of different cultural and religious backgrounds of mother and adoptive parents. Violation was found inter alia because the authorities attached insufficient significance to cultural backgrounds of mother and adoptive parents, ignoring mother's interests in her child retaining ties with his cultural origins.

The applicant was of a Somali origin faced difficulties in child-care which eventually led to the decision of Norwegian authorities on placing the child into ordinary foster care with a Christian family, still keeping contact rights with the mother. Albeit not objecting the placement as such, the mother insisted that her son is placed in Somalian or Muslim family. Later, the welfare authorities initiated an adoption procedure with no parental contacts and removing parental rights from the applicant. *Ms. Ibrahim* appealed, not insisting on child's return but asking contact rights for inter alia allowing the possibility of the child to maintain his cultural and religious roots. The national courts refused the right to leave an appeal which was argued by the applicant before the ECtHR.

The ECtHR found that the measures taken by the authorities violated ECHR Art.8 read in the light of Art.9 as interfering with Ms. Ibrahim's right to respect for her family life while not necessary in a democratic society relating to the respect for applicant's interests protected by the Art.9 . This interest was in avoiding her son's ultimate religious and cultural conversion. The fact that she had not applied for family reunification should not imply dispensing general obligation of authorities to consider the best interests of the child in maintaining family ties with the applicant yet a balancing exercise between the interest of the child and his biological family were not properly conducted. Thus, in the opinion of the ECtHR, the decision-making process leading to the applicant's ties with her child being ultimately cut

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<sup>32</sup> ECtHR, *Abdi Ibrahim v. Norway*, Appl. No. 15379/16, Judgment of 10 December 2021, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22minority%22%2C%22sort%22:%5B%22kupdate%20Descending%22%2C%22documentcollectionid%22:%5B%22JUDGMENTS%22%2C%22itemid%22:%5B%22001-214433%22%5D%7D>

<sup>33</sup> See, Liudmila Ragozina, Gennady Chebotarev, and Elena Titova, Cultural Activities/Facilities and the Media: 2019 developments in the context of European minorities, in: 18 European Yearbook of Minority Issues (2019).

off, had not been conducted in such a way as to ensure that all of her views and interests had been duly taken into account.

Series of cases regarded ineffective investigation of excessive use of force vis-à-vis based on (or entailing) ethnic origin. In some cases, there was not enough evidence to prove the violation. Such was the case of *Mikeladze and others v. Georgia*<sup>34</sup> where violation of ECHR Art.3 (prohibition of inhuman and degrading treatment) on a procedural limb was found in light of Art.14 (prohibition of discrimination) in allowing discrimination based on religion leading to ineffective investigation into the complaints of members of the Muslim minority against excessive use of force and discriminatory language by the police during their arrest and initial detention.

According to the applicants, during their arrest the police shouted insults, calling them and other protesters *inter alia* “Tatars,” using this term in an insinuating manner to stress that their Muslim faith was incompatible with being Georgian (para. 8). At the station, there was allegedly an atmosphere of fear and intimidation at the police station (para. 62). The applicants went through incidents of battery and other degrading treatment such as, e.g., being forced to stand facing the wall for two hours (para. 24) or having a seatbelt twisted around the neck in the police car (para. 55). Having examined the evidence, the ECtHR found a breach of ECHR Art.3 in the case of only one applicant who could provide medical records proving bodily injuries (para. 69). As for other applicants, the Court emphasized that the authorities failed to effectively investigate the relevant allegations, breaching their procedural obligations (para. 77).

In *Memedov v. North Macedonia*,<sup>35</sup> the Applicant of Roma origin alleged him being a of racially motivated police violence followed by a lack of proper investigation on the side of North Macedonian authorities. During the raid in the Roma neighbourhood, there was a clash between the police and the local residents (para. 5). Mr. Memedov, serving in the Macedonian army at the time of the incident, was in the vicinity of the raid and alleged the police intruding shops, shouting racial slurs, and exerting violence on those found suspicious (para. 7). Mr. Memedov alleged him having been beaten, arrested, and insulted on account of his Roma origin, as captured on CCTV (para. 23). After having been taken

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<sup>34</sup> ECtHR, *Mikeladze and others v. Georgia*, Appl. no. 54217/16, Judgment of 16 November 2021, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22minority%22%2C%22sort%22:%5B%22kdate%20Descending%22%2C%22documentcollectionid%22:%5B%22JUDGMENTS%22%2C%22itemid%22:%5B%22001-213203%22%5D%7D>

<sup>35</sup> ECtHR, *Memedov v. North Macedonia*, Appl. No. 31016/17, Judgment of 24 June 2021, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22minority%22%2C%22sort%22:%5B%22kdate%20Descending%22%2C%22documentcollectionid%22:%5B%22JUDGMENTS%22%2C%22kdate%22:%5B%222021-02-13T00:00:00.0Z%22%2C%222022-02-13T00:00:00.0Z%22%2C%22itemid%22:%5B%22001-210683%22%5D%7D>

into custody and released on the next day, the applicant had charges against him dropped. The Applicant had unsuccessfully complained the mistreatment before the national authorities. Due to constant police harassment following his criminal complaint, he fled Macedonia with his family to seek asylum in Germany (para. 18).

After application to the ECtHR, the Court found that North Macedonia violated ECHR Art. 14 read in conjunction with Art.3 in its procedural aspect. In particular, the authorities were found to fail in investigating possible racist motives of the incident and to comply with the duty to take all possible steps to ascertain whether or not a discriminatory attitude might have played a role in the events. Yet, it was found that there was insufficient evidence of the police raid in question was influenced by the residents' Roma origin to prove a violation of ECHR Art.14, read in conjunction with the substantive limb of Art.3. According to the ECtHR, there no information from international fora about Roma communities in the respondent state confronting institutionalised racism (para. 55). Thus, "while potentially relevant", there was no sufficient basis for finding racially motivated police abuse in the present case. In other words, in this case discrimination on racial grounds was found in relation to failure to investigate the possible racist motives but there was no evidence found to justify that the police violence itself was racially motivated.

The case of *Adzhigitova and others v. Russia*<sup>36</sup> unfolds around detention and ill-treatment of Avars by military servicemen of Chechen origin and failed proper investigation of the incidents. The applicants live in the village of Borozdinovskaya, mostly inhabited by Avars (people of a north-east Caucasian native ethnic group that originates in the territories of Dagestan), but also by several Chechen and Russian families. Avar village residents allegedly had a tense relationship with their Chechen neighbours. In proximities of the village a battalion was stationed, the members of which were recruited from ethnic Chechens. Special operation was entrusted to this battalion in order to find and arrest the perpetrators who organized violence in illegal armed group and could have been hiding in forests around the village. The village was sealed off, houses were searched. Also the male residents of the village were gathered and arrested at the local school. A number of the applicants' relatives went missing as soon as the operation was over. In respect of these incidents, the ECtHR found a violation of ECHR Art.14

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<sup>36</sup> ECtHR, *Adzhigitova and others v. Russia*, Appls. Nos. 40165/07 and 2593/08, Judgment of 22 June 2021, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22minority%22%2C%22sort%22:%5B%22kdate%20Descending%22%2C%22documentcollectionid%22:%5B%22JUDGMENTS%22%2C%22kdate%22:%5B%222021-02-13T00:00:00.0Z%22%2C%222022-02-13T00:00:00.0Z%22%2C%22itemid%22:%5B%22001-210754%22%5D%7D>

(prohibition of discrimination) for unlawful detention and mistreatment of Avars with no official investigation.

Violation was found when ECHR Art.14 was read in conjunction with Article 3 (prohibition of inhuman and degrading treatment), since national courts had established that the battalion personnel had arrested, ill-treated and unlawfully detained the village residents, albeit in a blanket manner, disregarding their ethnic origin. Yet following the interrogation at the school only those individuals were released who were of Chechen or Russian ethnicity. The Avars had been kept and beaten for several hours, accompanied by racist comments. Taking into account the reported tension between Chechens and Avars, the ECtHR concluded that the applicants' ethnic origin had been among the causal factors for their unlawful detention and ill-treatment.

When it comes to procedural obligation under ECHR Art.14, with respect of explicit racist insults allegedly made at the time of detention and ill-treatment at the local school, it was violated by a lack of effective investigation into the alleged ethnic hatred. Investigation had ignored any possibility that the crimes may have been motivated by ethnic hatred. As a result, the motive of hatred had not been included in the legal classification of the crimes. When several applicants had challenged in court that failure to include the motive of hatred, their complaints had been dismissed in a summary fashion.

No violations of ECHR Art.14 was found in conjunction with Arts 2 (right to life) and 8 (respect for home and private life) in the searches of houses in a blanket manner. Since not all of missing men were Avars, there was no evidence of racial prejudice as a cause for the military operation. It was not the Avar community, but individual members among the targets of the operation.

In *M.B. and others v. Slovakia*<sup>37</sup> a sixty-six-year-old woman was assaulted and robbed by a group of individuals near an area, mainly inhabited by Roma (para. 8). Three Romani individuals were arrested, two of whom were later found guilty of this assault, one applicant could not be tried because he was too young to be criminally liable (*Ibid.*). All three applicants alleged having been mistreated by the police while still minors in the car ride on the way to the police station. They appealed to the ECHR insisting *inter alia* that the investigation was inadequate, in part because of racial discrimination. The ECtHR reiterated that “investigating violent incidents triggered by suspected racist attitudes, the State authorities are required to take all reasonable action to ascertain whether there were racist motives and to establish whether feelings of hatred or prejudices based on a person’s ethnic origin played a role in the events.”

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<sup>37</sup> ECtHR, *M.B. and others v. Slovakia*, Appl. No. 45322/17, Judgment of 1 April 2021, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22minority%22%5D,%22sort%22:%5B%22kupdate%20Descending%22%5D,%22documentcollectionid%22:%5B%22JUDGMENTS%22%5D,%22itemid%22:%5B%22001-208879%22%5D%7D>

(para. 84). The Court took into account that this incident was a part of greater series of incidents at the station the lack of promptness in taking “all reasonable steps to unmask any possible racist motive, to establish whether or not ethnic hatred or prejudice may have played a role in the events, and thereby thoroughly to investigate all aspects of relevance” (para. 89). Thus, the violation of ECHR art.3 (inhuman or degrading treatment) was found with respect of a lack of proper investigation, irrespectively of racial motive (para. 93). As for the claim that Roma ethnicity was a decisive factor in ill-treatment which had not been duly investigated, no violation of ECHR Art.14 was found in conjunction with Arts. 3 and 13 (para. 109), since it “has not been supported by any tangible elements” (para. 105).

Two cases against Bulgaria, the case of *Budinova and Chaprazov v. Bulgaria*<sup>38</sup> and of *Behar and Gutman v. Bulgaria*<sup>39</sup> relate the same incidents of hate speech by national politicians. The applicants, ethnic Jews and Roma, insisted that the politician allowed harassment and discrimination against minority groups in his public speech. When it comes to discrimination against the Jew, it was in two books (in Behar and Gutman) and when it comes to discrimination against Roma (in Budinova and Chaprazov), it was in several public statements and in a book (in Budinova and Chapzarov). They insisted that, as members of a minority, they have been personally affected by insulting statements.

The ECtHR found a violation of ECHR Art. 14 (prohibition of discrimination) in conjunction with Art.8 (respect for home and private life) in negative public statements about a social group, affecting the “private life” of individual members of that group. The key question in these cases was to establish whether “negative public statements about a social group can be seen as affecting the “private life” of individual members of that group to the point of triggering the application of Article 8 of the Convention in relation to them” (Behar and Gutman, para. 60, Budinova and Chapzarov para. 51). The relevant factors for deciding whether Art.8 was applicable included, but were not necessarily limited to: a) the characteristics of the group and b) the precise content of the negative statements regarding the group, and c) the form and context in which the statements had been made, their reach, the position and status of their author, and the extent to which they could be considered to have affected a core aspect of the group’s identity and dignity (Behar and Gutman, para. 67, Budinova and Chaprazov v. Bulgaria, para. 63).

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<sup>38</sup> ECtHR, *Budinova and Chaprazov v. Bulgaria*, Appl. No. 12567/13, Judgment of 16 February 2021, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22minority%22%5D,%22sort%22:%5B%22kupdate%20Descending%22%5D,%22documentcollectionid%22:%5B%22JUDGMENTS%22%5D,%22itemid%22:%5B%22001-207928%22%5D%7D>

<sup>39</sup> ECtHR, *Behar and Gutman v. Bulgaria*, Appl. No. 29335/13, Judgment of 16 February 2021, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22minority%22%5D,%22sort%22:%5B%22kupdate%20Descending%22%5D,%22documentcollectionid%22:%5B%22JUDGMENTS%22%5D,%22itemid%22:%5B%22001-207929%22%5D%7D>



Hence, Jews (Behar and Gutman, para. 67) and Roma (Budinova and Chaprazov, para. 64) in Bulgaria were targeted as groups by the public statements in question, and thus could be seen as being in a vulnerable position. In the former case, the statements had been virulently anti-Semitic and rehearsed timeworn anti-Semitic narratives (in particular, regarding the statements denying the reality of the Holocaust and casting it as a story contrived as a means for financial extortion, this Court and former Commission had invariably seen such statements as attacks on the Jewish community and as incitement to racial hatred, anti-Semitism and xenophobia, Behar and Gutman, para. 69). In the former case, the statements were given in inflammatory terms, seeking to portray Roma as prone to crime and depravity (Budinova and Chapzarov, para. 64). In both cases, the statements transferred negative stereotyping meant to “vilify” those groups and to “stir up prejudice and hatred towards them” (Behar and Gutman, para. 104).

Although the statements in Behar and Gutman remain in two books, not in massive circulation, the fact that the author became a chairman of political party, winning second place in a presidential election a few years later, “must have added considerably the notoriety of his statements about Jews” (Behar and Gutman, para. 104). When it comes to statements against Roma in Budinova and Chaprazov, they were reinstated as a core message on many channels of communication, reaching a wide audience (Budinova and Chapzarov, para. 66). The applicants in both cases had lodged their claims against the politician at precisely the time when his political career had been on the rise and when his utterances had thus been gaining more notoriety.

In view of the entirety of all the said factors, the statements “had been capable of having a sufficient impact on the sense of identity” of Jews and Roma in Bulgaria (Behar and Gutman, para. 52, Budinova and Chapzarov, para. 68), and on their feelings of self-worth and self-confidence, to have reached the “certain level” or “threshold of severity” required. It had thus affected the applicants’ “private life”.

The authorities had not assessed the tenor of the politician’s statements in an adequate manner (Behar and Gutman, para. 104, Budinova and Chapzarov, para. 93). By refusing to grant the applicants redress in respect of the politician’s discriminatory statements, they had failed to comply with their positive obligation to respond adequately to discrimination on account of the applicants’ ethnic origin and to secure respect for their “private life” (Behar and Gutman, para. 106, Budinova and Chapzarov, para. 95). Hence, there was a violation of ECHR Art.8 and Art. 14.

### *C. European Charter for Regional or Minority Languages*

In 2021, the Committee of Ministers had not made self-standing recommendations, as it is usually a practice but took note of Evaluations of the Committee of Experts on Armenia,<sup>40</sup> the Slovak Republic,<sup>41</sup> Slovenia,<sup>42</sup> Spain,<sup>43</sup> and United Kingdom.<sup>44</sup> Examining the respective evaluations (on Armenia,<sup>45</sup> Slovak Republic,<sup>46</sup> Slovenia,<sup>47</sup> Spain,<sup>48</sup> and United Kingdom<sup>49</sup>) one can group the differentiated resolved issues into several categories.

1. ***Expanding of minority language use in media*** is topical for Armenia where action is needed with respect of providing sufficiently long duration for broadcasting in Assyrian (paras. 15-17) and Greek (paras. 28-30), and ensuring regular and sufficiently long broadcasting in Kurdish (paras. 38-40), in Yezidi (paras. 54-56). Action is needed also in Slovenia with respect of increasing the duration and frequency of programmes in Hungarian (para. 30) and concerning ensuring sufficient resources for

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<sup>40</sup> Committee of Ministers, Decision CM/Del/Dec(2021)1420/10.2, 8 December 2021, note of Evaluation by the Committee of Experts of the implementation of the recommendations for immediate action contained in the Committee of Experts' fifth evaluation report on Armenia, <https://rm.coe.int/cm-del-dec-2021-1420-1https://rm.coe.int/rma/drl/objectId/0900001680a4e4cb%200-2e/1680a4e4c9>

<sup>41</sup> Committee of Ministers, Decision CM/Del/Dec(2021)1407/10.4b, 16 June 2021, note of Evaluation by the Committee of Experts of the implementation of the recommendations for immediate action contained in the Committee of Experts' fifth evaluation report on the Slovak Republic, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a2da44](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a2da44)

<sup>42</sup> Committee of Ministers, Decision CM/Del/Dec(2021)1415/10.7, 20 October 2021, note of Evaluation by the Committee of Experts of the implementation of the recommendations for immediate action contained in the Committee of Experts' fifth evaluation report on Slovenia, <https://rm.coe.int/cm-decision1415-20-october-2021-slovenia/1680a442b5>

<sup>43</sup> Committee of Ministers, Decision CM/Del/Dec(2021)1407/10.4c, 16 June 2021, note of Evaluation by the Committee of Experts of the implementation of the recommendations for immediate action contained in the Committee of Experts' fifth evaluation report on Spain, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a2da42](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a2da42)

<sup>44</sup> Committee of Ministers, Decision CM/Del/Dec(2021)1407/10.4a, 16 June 2021, note of Evaluation by the Committee of Experts of the implementation of the recommendations for immediate action contained in the Committee of Experts' fifth evaluation report on the United Kingdom and Isle of Man, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a2da4c](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a2da4c)

<sup>45</sup> Evaluation by the Committee of Experts of the Implementation of the Recommendations for Immediate Action contained in the Committee of Experts' fifth evaluation report on ARMENIA, MIN-LANG(2021)17, 1 October 2021, <https://rm.coe.int/min-lang-2021-17-evalria5-armenia-en/1680a44d26>

<sup>46</sup> Evaluation by the Committee of Experts of the Implementation of the Recommendations for Immediate Action contained in the Committee of Experts' fifth evaluation report on the Slovak Republic, CM(2021)61, 20 May 2021, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a28e51](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a28e51)

<sup>47</sup> Evaluation by the Committee of Experts of the Implementation of the Recommendations for Immediate Action contained in the Committee of Experts' fifth evaluation report on Slovenia, CM(2021)134, 16 September 2021, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a3d8cb](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a3d8cb)

<sup>48</sup> Evaluation by the Committee of Experts of the Implementation of the Recommendations for Immediate Action contained in the Committee of Experts' fifth evaluation report on Spain, CM(2021)64, 20 May 2021, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a28e53](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a28e53)

<sup>49</sup> Evaluation by the Committee of Experts of the Implementation of the Recommendations for Immediate Action contained in the Committee of Experts' fifth evaluation report on the United Kingdom and Isle of Man, CM(2021)60, 20 May 2021, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a28e4d](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a28e4d)

Italian-language broadcasting (para. 33-36). In the Slovak Republic action is significant for increasing the presence of Ukrainian language the media, including broadcasting, audiovisual media, newspaper and online media (para. 46).

2. ***Promoting the use or adoption of places names in minority languages*** was topical for Armenia where immediate action is needed in order to facilitate proposals for naming geographical names ensuring the script and spelling in Assyrian, in accordance with the Law on geographical names (para. 18) and in order to promote the re-adoption of abandoned place names in Greek, under specific funding scheme (para. 31-33).

Action is required from the Slovak authorities when it comes to increasing visibility of the following minority languages: - Ruthenian language in public signage and places names in areas with sufficient numbers of minority language speakers, even though their numbers do not meet the 20% threshold (paras. 38-40). - German language in public, including in place names two municipalities - Kunešov/Kuneschhau and Krahule/Blaufuß (para. 24) as well as - Hungarian language in public signage and especially providing safety information in railways, even in bilingual towns and areas inhabited by a Hungarian majority requires (paras. 27-29).

3. Taking ***proactive approach for protecting minority languages related to cultural institutions***, such as museums and libraries is topical with respect of promoting the use of Serbian language in Slovakia (para. 41).

4. ***Promoting awareness of the minority language and culture in national mainstream education and media*** needs immediate action with respect of including the theme of Croatian, German, and Serbian languages and cultures in curriculums in Slovenia (para. 16, 27, 44), and also with respect of addressing in media the issues relevant for the Slovenian speakers (para. 44-46), and also for the Croatian and German speakers living in the area where the language has been traditionally spoken (para. 16-18, 27). Dissemination of knowledge about German culture in the Slovenian media is significant for counteracting persisting prejudices in society which can even lead to obstructing visibility of German culture by vandalism, etc. (para. 25).

5. ***Recognising minority languages as an expression of cultural wealth*** in regions requires action on behalf of authorities in Spain with respect of Valencian/Catalan in the Region of Murcia (para. 46).

6. ***Adopting a strategy on promoting the Irish language*** in Northern Ireland is an area where action is needed on behalf of authorities in the United Kingdom. Such a strategy should have been

drafted by the end of 2021, and had not yet materialized at the time when the Committee of Experts provided its Evaluation (para. 24). NO measures are foreseen inter alia with respect of using Irish in cultural activities (para. 25). Taking into account the risks of “political tension around the Irish language” (Ibid.), its promotion should be “as far as possible, depoliticized” (Ibid.). As for promoting the use of Scottish Gaelic language in education, it would benefit from inter alia increasing extra-curricular activities in this language (para. 51).

### 3. OSCE

#### A. *The High Commissioner on National Minorities (HCNM)*

In 2021, the High Commissioner Kairat Abdrakhmanov gave several speeches entailing the problems of promoting minority cultures and media. 29 November 2021 he addressed a conference on combating xenophobia, antisemitism and racism in Moscow, stressing the need of active counteracting discrimination, stereotyping and prejudice in pursuits of creating a positive and inclusive social space for any disadvantaged group.<sup>50</sup> During his August visit to Budapest, the High Commissioner stressed that his visits to OSCE participating States, target at seeking “positive examples of effective ways of managing diverse society.”<sup>51</sup> During his June visit in Belgrade, he welcomed the efforts of Serbian authorities in promoting the integration of diverse society, including through updated legislation and institutional mechanisms.<sup>52</sup>

#### B. *The Office for Democratic Institutions and Human Rights*

15 April 2021, the ODIHR Annual Report 2020 was promulgated.<sup>53</sup> The first part of the report drew on strengthening participation and accountability, highlighted the problems of election observations and voting and thus being not directly relevant for our discussion on cultural activities and the media. The second part highlighted the role of civil society in safeguarding human rights and security. It stressed that young people, in particular those of Roma and Sinti origin should move towards the roles of future

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<sup>50</sup> OSCE, OSCE High Commissioner on National Minorities addresses conference on combating xenophobia, antisemitism and racism in Moscow, available at <https://www.osce.org/hcnm/505843>.

<sup>51</sup> OSCE, High Commissioner builds on OSCE’s long-term co-operation with Hungary on national minority issues, available at <https://www.osce.org/hcnm/497038>.

<sup>52</sup> OSCE, OSCE High Commissioner on National Minorities welcomes efforts to promote integration on first visit to Serbia, available at <https://www.osce.org/hcnm/491063>.

<sup>53</sup> ODIHR, Democracy and Human Rights in the OSCE - The ODIHR Annual Report 2020, available at <https://www.osce.org/odihr/annual-report/2020>.

leaders and called on participating states to address media bias against these groups (p. 26). The third part of the Report dealt with promoting equal, inclusive societies, free from discrimination where the work should continue on changing the approach of media coverage of Roma and Sinti communities (pp. 35 and 38). The eagerness of young people to counteract “negative stereotyping and stigmatization” building “a culture of peaceful coexistence among individuals and communities of different ethnic, religious or belief backgrounds” (p. 40).

### C. OSCE Representative on Freedom of the Media

23 November 2021 a Special report was published by the Representative which focused on legal harassment and abuse of the judicial system against the media.<sup>54</sup> With references to our present discussion, this report highlighted the significance of the 2004 ECtHR judgment in case of *Cumpănă and Mazăre v. Romania* proclaiming *inter alia* that the imposition of a prison sentence for a press offence will be compatible with journalists’ freedom of expression as guaranteed by ECHR Article 10 “only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in the case of hate speech or incitement to violence.” (p. 7).

## IV. THE EUROPEAN UNION

### A. EU Fundamental Rights Agency (FRA)

In 2021 FRA Human Rights Report, three clusters regarded our topics, i.e., review of situation with equality and nondiscrimination (Chapter 3), with racism, xenophobia, and related intolerance (Chapter 4), and with Roma equality and inclusion (Chapter 5).<sup>55</sup>

As for achieving equality and non-discrimination, the Report stressed the EU general call for strengthening the national equality bodies (p. 74), emphasizing, in particular, that the COVID19 pandemic shifted the focus of national equality and non-discrimination bodies on issues related to structural inequalities and discrimination in particular against people with a minority racial or ethnic

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<sup>54</sup> Organization for Security and Co-operation in Europe, Special report on legal harassment and abuse of the judicial system against the media, 23 November 2021, available at <https://www.osce.org/representative-on-freedom-of-media/505075>.

<sup>55</sup> EU FRA, Fundamental Rights Report - 2021, available at [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2021-fundamental-rights-report-2021\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-fundamental-rights-report-2021_en.pdf).

background including, in particular, Roma (p. 72). Low reporting rates and awareness of equality bodies among Roma at national level was highlighted as a problem (p. 73).

With respect of racism, xenophobia, and related intolerance, the Report stressed that these were, again, exacerbated by COVID19 in 2020 (p. 97). Hate crime remained a pervasive scourge throughout the EU, targeting especially ethnic minorities in several states, and particularly online (p. 98). Combatting hate should be pursued via building awareness (p. 99).

When it comes to Roma equality and inclusion, the Report stresses the significance of the new EU Roma Strategic Framework for equality until 2030, which focuses on several key areas: non-discrimination, inclusion, participation, education, employment, health and housing (pp. 122 and 135). It also emphasizes the need to continue efforts combatting anti-Gypsyism (p. 125).

## 5. CONCLUDING SUMMARY

Summarizing the 2021 international developments in the area of cultural activities, facilities and the media in the context of European minorities, one can observe several trends which the international organizations under review appear to consistently address in their activities. Among such topics is the urgency to counteract hate speech against the members of minorities, especially online. Another common theme is the need to pursue a two-way, preferably depoliticized process of cultural exchange in the society where the individuals would be exposed to the multitude of cultures in modern societies, pursuing dialogues and learning in the process.

The work on strengthening the significance of free minority self-identification is especially evident through the monitoring process within the FCNM.

The goal of entrenching the obligation of national authorities to conduct balancing tests taking into consideration the child's minority cultural ties with the best interest of the child when deciding the issues of adoption is reinstated by the ECtHR in the 2021 case of *Abdi Ibrahim v. Norway* (which was first proclaimed in *Abdi Ibrahim v. Norway* in 2019). Another line of ECtHR's work in 2021 regards the further elaboration of three-tier threshold test in applying ECHR Art.8 in cases on counteracting hate speech in public discourse (*Budinova and Chaprazov v. Bulgaria* and *Behar and Gutman v. Bulgaria*) when deciding cases on investigating racially-based motives in the ill-treatment of members of national minorities on the side of police authorities (*Adzhigitova and others v. Russia*, *M.B. and others v. Slovakia*, *Memedov v. North Macedonia*, *Mikeladze and others v. Georgia*).

