

COMBATING SEXIST ADVERTISING: WAYS AHEAD



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COMBATING SEXIST ADVERTISING: WAYS AHEAD

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Combating sexist advertising: Ways ahead

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Acronyms

ARPP	Autorité de la Régulation Professionnelle de la Publicité (France)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CPAD	Commission for Protection against Discrimination (North Macedonia)
CPPD	Commission for Prevention and Protection against Discrimination (North Macedonia)
CSA	Conseil supérieur de l'audiovisuel (France)
EASA	European Advertising Standards Alliance
ECRI	European Commission against Racism and Intolerance of the Council of Europe
EIGE	European Institute for Gender Equality
EU	European Union
GEC	Gender Equality Commission of the Council of Europe
HCEfh	Haut Conseil à l'Égalité entre les Femmes et les Hommes (France)
ICC	International Chamber of Commerce
IGCA	Industrial Gender Committee of Advertising
ILO	International Labour Organisation
NAC	National Audio-visual Council (Romania)
NCCD	National Council for Combating Discrimination (Romania)
OECD	Organisation for Economic Co-operation and Development
PDG	The Public Defender of Georgia
PILPG	Public International Law and Policy Group
UN Women	The United Nations Entity for Gender Equality and the Empowerment of Women
UNFPA	United Nations Population Fund

Executive summary

The way genders are depicted in advertising represents a risk for human dignity. Sexist advertising is a form of gender discrimination as it contributes to reinforcement of gender stereotypes and inequality. This Study analyses sexism and gender-based discrimination in advertising and relating regulation in the different Council of Europe's member states. It also provides guidelines for preventing sexist advertising.

The first chapter, "Sexism, gender-based discrimination and sexist advertising" provides explanations of key terms, such as sexism, gender equality and gender discrimination, It also explains the effects of sexist advertising in relation to gender-based discrimination.

The second chapter, "International framework to combat sexism and sexist advertising" presents the international and European legislative framework in the field of gender equality, gender-sensitive media reporting and advertising.

The third chapter, "How to identify sexist advertising" provides guidelines to prevent and combat sexist advertising.

The fourth chapter, "Stakeholders involved and their related roles in combating sexist advertising" explains the role played by the main regulatory entities in the field of combating sexist advertising and their limitations.

The fifth and the last chapter, "Case studies on combating sexist and discriminatory advertising", presents the mechanisms for combating sexist and discriminatory advertising in eight countries: France, Georgia, North Macedonia, Republic of Moldova, Romania, Spain, Sweden and Ukraine.

As a result of several activities implemented in 2021, this Study aims to provide all relevant stakeholders with guidelines relating to the combating discriminatory advertising.

All above mentioned activities were conducted as part of regional anti-discrimination project: "Strengthening the access to justice through non-judiciary redress mechanisms for victims of discrimination, hate crime and hate speech in Eastern Partnership countries", funded by the European Union and the Council of Europe and implemented by the Council of Europe in their Partnership for Good Governance II 2019-2022.

This publication has been prepared beginning 2022, updated and published in February 2023.

1. Introduction

Gender equality entails equal rights for women and men, girls and boys, as well as the same visibility, empowerment, responsibility and participation, in all spheres of public and private life¹. It is foundation for a peaceful and prosperous society. Although gender inequalities may affect every person's life, historically women are disproportionately affected by gender inequalities, barriers and limitations. Many challenges remain: women continue to be underrepresented at all levels of decision-making, globally women are paid less than men for the same jobs and have lower access to resources. Women and girls continue to experience various types of gender-based violence. Gender norms which dictate stereotypes remain pervasive and negatively impact the lives of women and girls around the world. Many countries still have discriminatory or gender-blind legislation. However, men and boys can be negatively affected by gender norms in different ways as well, especially when they do not conform to certain gender expectations and masculinity.

Gender equality is an important policy goal of the Council of Europe. Council of Europe's member states have made strong commitments to the effective realisation of gender equality, both through the implementation of standards and through measures and activities in six priority areas:²

1. Prevent and combat gender stereotypes and sexism.
2. Prevent and combat violence against women and domestic violence.
3. Ensure the equal access of women to justice.
4. Achieve a balanced participation of women and men in political and public decision-making.
5. Protect the rights of migrant, refugee and asylum-seeking women and girls.
6. Achieve gender mainstreaming in all policies and measures.

To ensure the implementation of these commitments, on 7 March 2018, the Council of Europe adopted its new Gender Equality Strategy for 2018-2023. The overall goal of the Strategy is to achieve the effective realisation of gender equality and to empower women and men in the Council of Europe's member states, by supporting the implementation of existing instruments and strengthening the Council of Europe acquis in the field of gender equality, under the guidance of the Gender Equality Commission (GEC). One of the priority areas set up by the Strategy is to prevent and combat gender stereotypes and sexism.

An important milestone was reached in March 2019, when the Committee of Ministers of the Council of Europe adopted its Recommendation CM/Rec(2019)1 on preventing and combating sexism.³ This recommendation calls for specific action by member states to combat sexism in the areas of language and communications; internet and social media; media, advertising and other communication methods; workplace; public sector; justice sector; education institutions; culture and sport; and the private sphere⁴.

Considering the important role media and advertising have in shaping perceptions, attitudes, values and behaviours in society, including in the field of gender equality, the Recommendation CM/Rec(2019)1 includes the following measures for the governments of the member States:

- II.C.1. Introduce legislation banning sexism in media and advertising and encourage the monitoring and enforcement of such measures.
- II.C.3. Urge and provide support for the participation of the information and communication technology, media and advertising sectors in the drafting, adoption and implementation of self-regulatory policies and mechanisms for the elimination of sexism, including sexist hate speech within each sector.
- II.C.4. Promote the role of media watch and advertising organisations in addressing sexism.

1 Council of Europe, *Gender Equality Strategy 2018-2023* (coe.int), page 5

2 See <https://www.coe.int/en/web/genderequality/themes>

3 Council of Europe, *Recommendation CM/Rec(2019)1 on preventing and combating sexism* (coe.int), April 2019

4 *Preventing and combating sexism* (coe.int)

- II.C.5. Encourage the establishment of an institution that is competent to receive, analyse and review complaints in relation to sexism in the media and in advertising, and has the authority to require that sexist content or advertisements be withdrawn or modified.
- II.C.6. Encourage relevant bodies, such as gender equality commissions or national human rights institutions, to introduce education and training strategies, and tools for journalists and other media and communication professionals on the recognition of sexism, on how to promote positive and non-stereotypical portrayals of women and men in the media and in advertising, and on how to promote gender-sensitive communication.
- II.C.7. Support research on the prevalence and impact of sexist portrayals of women and girls in the media and in pornographic material, the extent to which they exacerbate gender inequalities and violence against women and girls, and also on their impact on women's physical, sexual and psychological health. Allocate resources to finance effective communication and awareness raising campaigns on the links between sexism, lack of gender equality and violence against women and girls; and promote positive and non-stereotypical portrayals of women and men in the media and in advertising.

In 2019, the Council of Europe started the implementation of the regional project ["Strengthening the access to justice through non-judicial redress mechanisms for victims of discrimination, hate crime and hate speech in Eastern Partnership countries"](#)⁵; funded by the European Union and the Council of Europe and implemented by the Council of Europe in the framework of their „Partnership for Good Governance II, 2019-2022“. The main goal of the project is to strengthen access to justice for victims of discrimination, hate crime and hate speech through non-judicial redress mechanisms in Eastern Partnership countries. In 2021, the project has organised an international seminar on combating sexism advertising, with over 100 participants, and many relating activities that resulted in the preparation of this Study and providing guidelines on the role of different national institutions in combating sexist advertising, and at the same time reflects the European Union and the Council of Europe efforts to combat gender-based discrimination, which is one of the priorities of their joint action and cooperation.

Methodology for this Study

The Study was developed in several phases. First of all, through desk research, various guidelines, surveys, reports and studies developed by individual researchers and national and international institutions working in the field of gender equality and/or combating sexist advertising were reviewed. The desk research looked also into the national and international normative framework, such as international conventions, resolutions and recommendations in the field of gender equality and non-discrimination in media and advertising, as well as guidelines to identify sexist advertising developed by various media and advertising self-regulatory bodies, public authorities and civil society organisations working in the field of gender equality and combating sexist advertising.

A second phase included in-depth interviews with institutions that have a mandate to regulate advertising, with institutions with a mandate in combating discrimination, such as equality bodies, and also with civil society representatives. These qualitative in-depth interviews involved stakeholders from eight Council of Europe member states. The 14 interviews allowed to develop extensive case studies on ways of combating sexist advertising.

Finally, on 28-29 October 2021, the Council of Europe organised the online international seminar "Combating sexist advertising: learning from practice", which served as a platform for participants from the member states of the Council of Europe and beyond to share practices on combating sexist advertising. The draft of this Study was presented at the seminar and it provided an opportunity to collect additional recommendations and information for its finalisation.

⁵ Council of Europe, [Regional Project "Strengthening access to justice through non-judiciary redress mechanisms for victims of discrimination, hate crime and hate speech in Eastern Partnership countries"](#) Factsheet (coe.int)

2. Sexism, gender-based discrimination and sexist advertising

At international level, sexism was defined by the Council of Europe in its Recommendation CM/Rec(2019)1 on preventing and combating sexism⁶, adopted by the Committee of Ministers, as “any act, gesture, visual representation, spoken or written words, practice or behaviour based upon the idea that a person or a group of persons is inferior because of their sex, which occurs in the public or private sphere, whether online or offline, with the purpose or effect of:

- i. violating the inherent dignity or rights of a person or a group of persons; or
- ii. resulting in physical, sexual, psychological or socio-economic harm or suffering to a person or a group of persons; or
- iii. creating an intimidating, hostile, degrading, humiliating or offensive environment; or
- iv. constituting a barrier to the autonomy and full realisation of human rights by a person or a group of persons; or
- v. maintaining and reinforcing gender stereotypes.”

Based on this definition, the Council of Europe’s Recommendation requires the governments of the member states to “take measures to prevent and combat sexism and its manifestations in the public and private spheres, and encourage relevant stakeholders to implement appropriate legislation, policies and programmes, drawing on the definition and guidelines appended to the Recommendation”.

Sexism negatively affects all areas of life by dictating the roles persons shall play in a society based on their gender and not their aptitudes, potential and ambitions. For example, women are less represented in decision-making positions, including in politics and in business, while men are less involved in care work. Women and men are encouraged to follow some types of behaviours and to get involved in some occupations traditionally associated with their gender, like men being expected to behave in a more assertive and tough behaviour, while women are expected to be submissive and kind. Sexism also affects people who do not identify with one of the two genders.

Sexism, gender equality and gender-based discrimination

Sexism can lead to gender-based discrimination. While sexism is the belief that one gender is superior or more valuable than others, gender-based discrimination is how sexism is transposed into an action or an inaction which harms people and violates their rights. Sexism represents the preconceived ideas about a person or a group of persons because of their sex and gender, whilst gender-based discrimination is a difference in treatment or manifested attitudes towards an individual because of their sex/gender.

Gender equality is the outcome of the elimination of sexism and gender-based discrimination and violence. According to the Council of Europe⁷, gender equality means an equal visibility, empowerment, responsibility and participation of women and men in all spheres of public and private life. It involves equal access to, and distribution of, resources between women and men and valuing them and their characteristics, equally. Gender equality aims to change the structures that contribute to maintaining unequal power relations between women and men. Achieving this aim is central to the protection of human rights, the functioning of democracy, respect for the rule of law, and economic development.

⁶ Council of Europe, *Recommendation CM/Rec(2019)1 on preventing and combating sexism (coe.int)*, April 2019

⁷ Council of Europe, *Equality between women and men (coe.int)*

Sexist advertising and discrimination

Gender stereotypes and the division of roles played by persons based on their gender is reflected in all areas of life, including advertising. Currently, sexist advertising is not defined by any legal document adopted at the international level. However, there are a number of definitions in the national legislation of some countries or in advertising/media codes adopted by self-regulatory bodies. Sexist advertising can perpetuate gender stereotypes by promoting images and messages with a stereotypical connotation and normalising them. Also, it may perpetuate the division of gender roles in all spheres of life.

Objectification and sexualisation by the advertising industry are part of a process that reduces people (mostly women) to objects, including sexual objects. Thus, people lose their individuality and their personality and are presented as voiceless objects. Sexualisation and objectification by advertising always contain an element of inferiority; the objectified character (mostly women) is depicted as inferior. Some studies⁸ connect the objectification of women in advertising to attitudes of acceptance of harassment, sexual harassment and violence.

Portrayal of unrealistic beauty standards can also contribute to the perpetuation of gender stereotypes and norms. According to research⁹, unrealistic beauty standards promoted by advertising and the media can contribute to psychological and other health disorders, especially among young women. Also, they can contribute to supporting gender inequalities and gender norms on how women and men should behave.

The need to address sexist advertising

Sexist advertising negatively affects the women and men's role in society. The gender models portrayed by media, movies, clips, advertising, magazines etc., substantively contribute to shaping public opinion on how women and men shall look and behave. According to the social learning theory, proposed by Albert Bandura and Richard Walters in 1963¹⁰, people develop their behaviour based on observations, modelling and imitation of behaviours, attitudes and emotional reactions of others. Considering that advertising promotes specific patterns of behaviours, it could be concluded that both children and adults will be prone to imitate these behaviours and to consider the depicted situations as normal or even desirable.

People tend to copy the beauty standards promoted by advertising, while such standards do not correspond to the complex realities people live in. This can cause psychological and eating disorders, as many people, especially young women, are inclined to make use of harmful practices to correspond to those, usually unattainable, standards. Research developed McKenzie M. et al. (2018) found that sexism in advertising has harmful impacts on health and wellbeing.

According to another report¹¹, people are influenced by advertising, and they are limited in their capacities to resist to it; "it seems that we may have little choice about whether or not we respond to advertising. If we see it or hear it - even if we are not consciously aware that we have seen or heard it - we process it, and there are limits to the extent to which we can choose whether it affects us or not."

8 See: Council of Europe (2016), Encouraging the participation of the private sector and the media in the prevention of violence against women and domestic violence: Article 17 of the Istanbul Convention, Council of Europe, Strasbourg;
McKenzie M. et al. (2018), *Advertising (in)equality: the impact of sexist advertising on women's health and wellbeing*, Women's Health Victoria, Melbourne

Katz J. (2011), *Advertising and the Construction of Violent White Masculinity: from BMWs to Bud Light*, Gail Dines and Jean M. Humez Media: A Critical Reader, 3rd edition, Sage publications, the USA;

Dr. Gurrieri L., Dr. Hoffman R. (2019), *Addressing and preventing sexist advertising: An analysis of local and global promising practice*, RMIT University, Melbourne

9 See: McKenzie M. et al. (2018)

10 <https://www.simplypsychology.org/bandura.html>

11 Alexander J., Crompton T., Shrubsole G. (2011), *Think of me as evil? Opening the ethical debates in advertising*, Public Interest Research Centre and WWF-UK, the United Kingdom

Furthermore, sexist advertising which uses the objectification of the human body may contribute to the promotion of gender-based violence against women. Some studies¹² found that the more men are exposed to objectified depictions of women, the more they will think of women as entities that exist for men's sexual gratification, and that this dehumanised perspective on women may then be used to inform attitudes regarding sexual violence against women. Specifically, the frequency of exposure to men's lifestyle magazines, reality TV programmes and pornography contributes to perceiving women as merely objects, which, in turn, anticipates stronger attitudes supportive of violence against women.

Sexist advertising is not the unique cause of gender stereotypes perpetuation; it is rather one of the many aspects of our socio-cultural environment, including cinematography, pop culture and musical clips, media products, fashion etc. Nonetheless, its role should not be diminished nor ignored, as the influence advertising has on people's perceptions about society is far-reaching.

¹² Wright P. J. and Tokunaga R.S. (2016), *Men's objectifying media consumption, objectification of women, and attitudes supportive of violence against women*, Archives of Sexual Behaviour

3. International framework to combat sexism and sexist advertising

The international human rights law, and in the context of the Council of Europe, the European Convention for the Protection of Human Rights and Fundamental Freedoms¹³ and the Convention on Preventing and Combating Violence against Women and Domestic Violence, contains provisions which emphasise the respect of human rights and fundamental freedoms without discrimination.

Specifically, the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) recognises the important role of the private sector and the media. Article 17 of this Convention requires state parties to encourage the private sector, in particular the information technology sector and the media, to take on the issue of violence against women and help shape, elaborate and implement internal and external policies in this field. As stated in the Analysis of the Article 17 of the Istanbul Convention¹⁴, "on the one hand, businesses can contribute to the trivialisation of violence against women by linking the marketing and retailing of goods and services to violence. On the other hand, by avoiding gender blindness and stereotyping and/or by actively promoting gender-sensitive messages, companies can promote equality and non-violence as part of their policies on goods and services and of their corporate social responsibility". In this respect, the Analysis stipulates that governments must take action to encourage the private sector to avoid the use of sexist, violent and harmful content in the design of goods and services, as well as in marketing, and recommend media organisations to contribute by introducing self-regulatory mechanisms, internal codes of conduct/ethics and internal supervision to promote gender equality, combat gender stereotypes, avoid sexist advertising, language and content, and refrain from the use of degrading images of women associating violence and sex.

At the Council of Europe, the Gender Equality Commission (GEC)¹⁵ was established to help ensure the mainstreaming of gender equality into all Council of Europe policies and to bridge the gap between commitments made at international level and the reality of women in Europe. The Commission, whose members are appointed by member states, provides advice, guidance and support to other Council of Europe bodies and to member states, and supports the implementation of the six objectives of the Council of Europe Gender Equality Strategy 2018-2023.

At international level, several human rights conventions, declarations and recommendations were issued tackling sexism and other aspects related to gender inequality. Already in 1979, the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹⁶, urging its member states, in the Article 5, to take appropriate measures "(a) to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".

In September 1995, the Beijing Declaration and Platform for Action (BpfA) was adopted¹⁷, which urges governments, regional organisations, the United Nations, other international organisations, research institutions, women's and youth organisations and non-governmental organisations to "encourage the media to examine the impact of gender role stereotypes, including those perpetuated by commercial advertisements which foster gender-based violence and inequalities, and how they are transmitted during the life cycle, and take measures to eliminate these negative images with a view to promoting a violence-free

13 European Court of Human Right, European Convention for the Protection of Human Rights and Fundamental Freedoms adopted on 4 November 1950

14 Council of Europe (2016), *Encouraging the participation of the private sector and the media in the prevention of violence against women and domestic violence: Article 17 of the Istanbul Convention (coe.int)*, Strasbourg

15 <https://www.coe.int/en/web/genderequality/gender-equality-commission>

16 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted by the UN General Assembly on 18 December 1979

17 Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women 4 – 15 September 1995

society". Paragraph 244 of the BPfA recommends mass media and advertising organisations to "(a) develop, consistent with freedom of expression, professional guidelines and codes of conduct and other forms of self-regulation to promote the presentation of non-stereotyped images of women; (b) establish, consistent with freedom of expression, professional guidelines and codes of conduct that address violent, degrading or pornographic materials concerning women in the media, including advertising".

At the same time, the Council of the European Union and the representatives of the governments of the member States adopted the Resolution of 5 October 1995 on the image of women and men portrayed in advertising and the media¹⁸, which mentions that "that sexual stereotyping in advertising and the media is one of the factors in inequality which influence attitudes towards equality between women and men; that this highlights the importance of promoting equality in all areas of social life; and that advertising and the media can play an important part in changing attitudes in society by reflecting the diversity of the roles and potential of women and men, their participation in all aspects of social life, as well as a more balanced sharing of family, occupational and social responsibilities between women and men".

More recently, in 2007, the Parliamentary Assembly of the Council of Europe adopted Resolution 1557 on the image of women in advertising¹⁹ and the Recommendation 1799²⁰, which recognise "the persistence of negative images and representations of women in advertising, which is partly due to the fact that many European states lack adequate laws and that national advertising codes are either ignored or are sometimes even non-existent". According to the Resolution 1557²¹, the Parliamentary Assembly accordingly asks the Council of Europe's member states to take the necessary measures to ensure that, whatever form it may take, women are represented in a dignified and non-discriminatory way, while respecting the basic principle of freedom of expression. Recommendation 1799²² builds on the provisions of the Resolution 1557. Both documents propose three types of actions: regulation, self-regulation and education to help people to react critically to advertising.

In 2013, the Committee of Ministers of the Council of Europe adopted the Recommendation CM/Rec(2013)1 on gender equality and media²³, which recommends that "member States should adopt an appropriate legal framework intended to ensure that there is respect for the principle of human dignity and the prohibition of all discrimination on grounds of sex, as well as of incitement to hatred and to any form of gender-based violence within the media". According to the provisions of the Recommendation, media organisations should develop and adopt internal policies aimed at promoting "a non-stereotyped image, role and visibility of women and men, avoidance of sexist advertising, language and content which could lead to discrimination on grounds of sex, incitement to hatred and gender-based violence". The following proposals are formulated as measures of implementation:

- the review and evaluation of gender equality policy and legislation,
- the adoption and implementation of national indicators for gender equality in the media,
- the provision of information and promotion of good practices,
- the development of accountability channels, including encouraging non-governmental organisations, media associations, individuals and other relevant stakeholders to consistently defend gender equality by bringing their concerns to self-regulatory bodies or other specialised bodies (e.g. press councils, ethical commissions, advertising councils, anti-discrimination commissions),

18 [Resolution of the Council and of the Representatives of the Governments of the Member States on the image of women and men portrayed in advertising and the media](#) (coe.int), adopted within the meeting of Council of 5 October 1995 (95/C 296/06)

19 Directorate General of Human Rights and the Rule of Law (2016), *Recommendations and resolutions adopted by the Parliamentary Assembly of the Council of Europe in the field of media and information society, Resolution 1557 on image of women in advertising adopted by the Assembly on 26 June 2007*, Council of Europe, Strasbourg

20 Idem

21 See <https://bit.ly/3zBiIDN>

22 See <https://bit.ly/3t5kquF>

23 [Recommendation CM/Rec\(2013\)1 of the Committee of Ministers to member States on gender equality and media](#) (coe.int) adopted by the Committee of Ministers on 10 July 2013 at the 1176th meeting of the Ministers' Deputies

- the support to research,
- media literacy and active citizenship.

In 2020, the Council of Europe published a report²⁴ on the progress made since the adoption of the Recommendation CM/Rec(2013)1. According to this analysis, the gender equality laws of the member states of the Council of Europe “often contain specific elements related to media, usually addressing issues such as equal opportunities, gender pay gap, advertising, and sometimes sexist content”. Several national legislations address sexist advertising, either through gender equality laws, media services acts or legislation on advertising. This is the case for Austria, Bosnia and Herzegovina, Bulgaria, Denmark, Finland, Germany, Greece, Iceland, Lithuania, Luxembourg, Poland, Romania, Serbia, Slovak Republic, Spain, and Ukraine. Several member states have also adopted specific laws against sex-based discrimination in advertising applicable to the public service media. In other countries such as Slovakia, the Advertising Standards Council has published guidelines and manuals on sexist advertising. The same analysis finds that several member states have introduced or supported initiatives that address gender equality in advertising. In 2018, the French Regulator CSA launched a charter against sexist stereotypes in advertising that was signed by the advertising industry. In Austria, advertising watch groups were formed in several federal states and are often supported by local authorities.

More recently, the Council of Europe adopted its 2018-2023 Gender Equality Strategy²⁵, which is based on the vast legal and policy *acquis* of the Council of Europe as regards gender equality, as well as the achievements of the first Council of Europe Gender Equality Strategy 2014-2017. The strategy outlines the goals and priorities of the Council of Europe on gender equality for the years 2018-2023, identifying working methods and main partners, as well as the measures required to increase the visibility of results²⁶. It is focused on six strategic areas: prevent and combat gender stereotypes and sexism; prevent and combat violence against women and domestic violence; ensure the equal access of women to justice; achieve a balanced participation of women and men in political and public decision-making; protect the rights of migrant, refugee and asylum-seeking women and girls; achieve gender mainstreaming in all policies and measures.

The 2018-2023 Gender Equality Strategy states that “gender stereotypes are preconceived social and cultural patterns or ideas whereby women and men are assigned characteristics and roles determined and limited by their sex. Gender stereotyping presents a serious obstacle to the achievement of real gender equality and feeds into gender discrimination. Such stereotyping can limit the development of the natural talents and abilities of girls and boys, women and men, their educational and professional preferences and experiences, as well as life opportunities in general”. The strategy emphasizes the important role media and social media have in combating gender stereotypes, stipulating also that “freedom of expression is often abused as an excuse to cover unacceptable and offensive behaviour”. When it comes to Strategic Objective 1: Prevent and combat gender stereotypes and sexism, the Council of Europe proposes to take the following actions, among others:

- to promote the implementation of recommendations from the Amsterdam Conference (2013) on “Media and the Image of Women”;
- to address gender stereotypes affecting men and boys by engaging them and working in specific sectors such as education, media and the private sector;
- to prepare a draft recommendation to prevent and combat sexism, including guidelines to prevent and combat it online and offline, covering new forms of sexism affecting women and men in private and public spaces, and addressing sexist language..., sexist hate speech, sexism in media and in advertising.

In relation to internationally accepted definitions, the international legal framework does not include a

24 Council of Europe, *Gender Equality and Media. Analytical report- 2019 data (coe.int)*, 2020

25 Council of Europe, *Gender Equality Strategy 2018-2023 (coe.int)*

26 <https://www.coe.int/en/web/genderequality/gender-equality-strategy>

unique accepted definition of sexist advertising, so each country can introduce their own in line with its legal framework, cultural and social features. In its Recommendation CM/Rec(2019)1 on preventing and combating sexism²⁷, the Council of Europe provides a list of the different ways sexism manifests itself in the media and advertising. According to this Recommendation, sexism in the media, advertising and other communication products and services is manifested through:

- “sexual, sexualised and racialised depictions and objectification of women, men, girls and boys, including in advertising, films, television, video games and pornographic material;
- derogatory or trivialising reporting about women’s appearance, dress and behaviour rather than balanced and informed discussion of their views and opinions;
- reporting and imaging women and men in stereotypical roles within the family and community;
- reproducing and perpetuating gender stereotypes with respect to victims of gender-based violence;
- unbalanced representation and the lack of meaningful participation of women in diverse professional and informative roles (experts, commentators), especially with respect to minority women.”

The Recommendation urges member States to consider a series of measures, like introduce legislation banning sexism in media and advertising; support media and advertising sectors in the drafting, adoption and implementation of self-regulatory policies and mechanisms for the elimination of sexism; encourage the establishment of an institution that is competent to receive, analyse and review complaints in relation to sexism in the media and in advertising; encourage the promotion of positive images of women as active participants in social, economic and political life, and of positive images of men in non-traditional roles such as carers.

Other international entities related to the advertising sector

Founded in 1919, the International Chamber of Commerce (ICC)²⁸ represents more than 45 million companies over 100 countries, aimed at promoting international trade and investment as vehicles for inclusive growth and prosperity. In 1937, the ICC developed the Advertising and Marketing Communications Code²⁹ – or the ICC Marketing Code/ ICC Code, which is a globally applicable self-regulatory framework. Since its development, the Code has been updated several times to reflect the changes occurring in legislation and in business practices, as well as the emergence of new technologies. It has served as the cornerstone for most self-regulatory systems around the world. In its Article 2, the Code stipulates that “marketing communications should respect human dignity and should not incite or condone any form of discrimination, including that based upon ethnic or national origin, religion, gender, age, disability or sexual orientation”.

The European Advertising Standards Alliance (EASA)³⁰ is a regulatory body aiming at promoting responsible advertising by providing detailed guidance on advertising self-regulation for the benefit of consumers and businesses. It has a network of 42 organisations representing 28 advertising standards national bodies from Europe and 13 organisations representing the advertising ecosystem (the advertisers, agencies, the media) and 1 digital pure play company. EASA could be joined by organisations from both EU and non-EU member states. EASA developed “Ad Standards”, a set of principles that local advertising ecosystems voluntarily comply with, and Ad Standards Codes. One of the principles promoted by EASA and its Codes is the responsible portraying of gender in advertising, stating that “it is important that women and men are portrayed positively and responsibly in advertising and that issues around the portrayal of gender should be handled with care in all marketing communications”³¹.

27 Council of Europe, *Recommendation CM/Rec(2019)1 on preventing and combating sexism*, April 2019

28 Available at <https://iccwbo.org/>

29 The International Chamber of Commerce (2018), *ICC Advertising and Marketing Communications Code*, 2018 edition, ICC, Paris

30 Available at <https://www.easa-alliance.org/>

31 <https://www.easa-alliance.org/issues/gender>

4. How to identify sexist advertising

Sexism has been present in advertising since early days. Portraying women in an over-sexualised manner or as obedient housewives and portraying men as incompetent in the private sphere or as over-confident, authority-holders and business-oriented are the most common examples.

When analysing the existing normative frameworks, the provisions of codes of ethics/conducts and various guidelines on the topic of sexist advertising, we can conclude that sexist advertising features one or several of the following:

- a) gender stereotypes
- b) denigratory, humiliating or offensive attitudes towards one sex/gender
- c) objectification³²
- d) sexualisation³³
- e) nudity
- f) gender-based violence.

Gender stereotypes

Sexist advertising uses gender stereotypes to portray people in traditional roles, regarded by society as being the ones to be performed specifically by women or by men at a given time in history. Advertising messages may resort to traditional gender clichés, which are then continuously repeated for a standardizing effect. Gender clichés reflect condensed and restricted perceptions, past and present, of what we consider (or ought to consider) as “feminine” or “masculine”.³⁴

Gender stereotypes depicted by sexist advertising can be both of descriptive, prescriptive and proscriptive nature. While the descriptive gender stereotypes define beliefs about how women and men typically act, the prescriptive gender stereotypes define beliefs about how they should act and the proscriptive stereotypes “involve characteristics that are undesirable in either sex, but are permitted in one sex, while being proscribed for the other”³⁵. The impact of these gender stereotypes resides in restricting “aspirations, expectations and participation of both women and men, with demonstrations of counter-stereotypical behaviours often met with resistance and backlash. These limitations are evident both between and among women and men, demonstrative of the power hierarchies that gender inequality and its drivers produce and sustain”.³⁶ The same article³⁷ stipulates that the attitudes towards gender stereotypes could be shifted “by increasing the knowledge/awareness of gendered stereotypes or norms, and the assumption that

32 *Objectification*- when a person's body is sexually objectified and treated as an object to be valued for its use by others. *Sexual objectification* occurs when a person's body or body parts are singled out and separated from them as a person and they viewed primarily as a physical object of sexual desire (Szymanski D. M., Moffitt L. B., Carr E. R. (2011)

33 *Sexualisation* - a situation occurring when a person's value comes only from his or her sexual appeal or behavior, to the exclusion of other characteristics; a person is held to a standard that equates physical attractiveness (narrowly defined) with being sexy; a person is sexually objectified-that is, made into a thing for others' sexual use, rather than seen as a person with the capacity for independent action and decision making; and/or sexuality is inappropriately imposed upon a person (American Psychological Association, Task Force on the Sexualization of Girls (2007)

34 Watch Groups Against Sexist Advertising Graz, *Salzburg and Vienna, Catalogue of Criteria for the Classification of Sexist Advertising*

35 Koenig A. M. (2018) *Comparing Prescriptive and Descriptive Gender Stereotypes About Children, Adults, and the Elderly*, *Front, Psychol.* 9:1086

36 Stewart R. et al (2021), *Gendered stereotypes and norms: A systematic review of interventions designed to shift attitudes and behaviour*, Heliyon, Volume 7, Issue 4

37 Idem

this will then lead to behaviour change". Advertising may also have a role in this respect, notably breaking down gender stereotypes by discontinuing their perpetuation in its content.

Some of the gender stereotypes portrayed by the advertising are related to women belonging to private sphere and men, to the public sphere, as well as to the tasks and duties performed by them: while women are expected to be housewives, to take care of home and family, men are perceived as breadwinners. The burden of their multiple roles in society is romanticised and women are perceived as putting the needs of men above their own. When considering how advertising can influence perceptions, the perpetuation of such gendered roles contributes to enhancing gender discrimination, as women and men are expected to behave in accordance with roles historically and societally attributed to them.

Other gender stereotypes prevalent in sexist advertising are related to age, ethnicity, physical appearance etc. of women and men, as women are expected to be nice and beautiful, while men are assumed to be fit and muscled. The persons who do not correspond to these beauty standards face shame.

Gender stereotype are also maintained by promoting of the idea of a "real woman" and a "real man" and that some products designed are specifically for women or for men. A sexist advertising can be the one which encourages certain behaviours or activities as prescribed to be performed by one gender, i.e., real men drink beer, real women wear make-up.

Denigratory, humiliating or offensive attitudes towards one sex/gender

This criterion emphasises that one sex/gender is inferior to another or depicts one gender in a way which can be considered offending. Denigratory, humiliating or offensive attitudes towards one sex/gender may be manifested through such situations, as showcasing someone being unable to act in a certain way, to think rationally or who is less talented to undertake a certain task, especially when it could be carried by all sexes/genders from a physiological point of view; showcasing one gender as being servile to another or being socially, culturally, emotionally and economically subordinate to another; infantilisation of one sex/gender, etc.

Objectification

Objectification is the process of treating someone as an object rather than as a human being. This phenomenon is often present in advertising, mostly women being objectified. For example, a commercial depicts a person's static body to advertise a service or a product which does not have any direct connection with the portrayed body. In this case, the person's body appears as a simple decoration. Other elements of objectification are replacing objects or pieces of the objects with parts of a human body, association of the human body with animal-like characteristics, presenting someone as a product, which could be sold or bought, without their consent, association of the human being with an object, using body parts without faces, and so on.

Sexualisation and objectification often overlap in advertising, with people being objectified in a sexualised manner.

Sexualisation

Sexualisation could be considered as the most used technique in selling goods and services. Sexualisation can appear when the following elements are included in commercials: focus on erogenous body parts; depiction of body-shaped objects or visual association made between some products and a person's body form; persons portrayed in a pornographic context, when the product or services is not related to any sexual activity; persons depicted as selling themselves for sex, being sexually available; people depicted as a sexual object used to please other; persons depicted undressed; persons depicted in overly sexualised gaze or in submissive postures, and so on. In these cases, the products advertised have little or no connec-

tion with sexuality or reproductive rights.

Although men are featured in some commercials in a sexualized manner, in most cases women are those depicted as sexual objects, mere decorations and tools for pleasure. Sexualisation does not only portray women as the inferior gender, but also to the male domination and violence against women.

According to McKenzie M. et al. (2018)³⁸, “influenced by ‘post-feminist’ notions of women’s liberation and equality, traditional images of women as mothers or housewives have been replaced by portrayals of women as sexually assertive, independent and ambitious. Advertisers have embraced these changing cultural ideals, often presenting women as sexually powerful and in control, rather than as passive objects. Advertising agencies frequently defend their use of these portrayals by framing them as progressive and empowering. However, these representations ultimately undermine efforts to promote gender equality by constructing female success as being predicated on physical attractiveness, by relying on limiting, unrealistic images of women’s bodies and by linking women’s power to their sexual desirability to men. These ‘empowered’ portrayals have been shown to have damaging impacts on women’s body image”.

Nudity

Usually going together with sexualisation, nudity is about portraying people totally undressed. Nudity may be used as a technique in advertising, unless it is expressly forbidden by the law, and only if it is relevant to the advertised product and it does not objectify/offend the person’s dignity. In these cases, nudity should be relevant in relation to the advertised product. Products or services which are advertised shall have a direct linkage to the human’s body, like in case of lingerie, skin products, massages, epilation etc. In all other situations, the depiction of a naked or semi-naked body is not justified and shall be considered sexist.

Nudity should also not lead to objectification or to offending the person’s dignity. Even if the person is nude or semi-nude, their posture should not objectify or over-sexualise them. The situations when a person’s dignity is offended may occur when some characters are depicted being naked or semi-naked, while other people are dressed; some of them having a more submissive body posture, while others- a more assertive, or dominant- submissive positions (i.e., someone is lying down, while others are standing).

Gender-based violence

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention)³⁹ defines “gender-based violence against women” as violence that is directed against a woman because she is a woman or that affects women disproportionately. Sexism, the trivialisation of violence or the hyper-sexualisation of women that can be found in the media, including social media and advertising, can exacerbate and trivialise violence against women.⁴⁰

Article 17 of the Istanbul Convention highlights the crucial role of the private sector and media in combating violence against women. As stated in the analysis of Article 17 of the Istanbul Convention⁴¹, “sexism, the trivialisation of violence or the hypersexualisation of women that can be found in the media, including social media, and advertising can even exacerbate violence against women. Gender stereotyping and violence against women are intrinsically connected. Ideas about the inferiority of women, notions of male entitlement, or preconceived views of female or male sexuality significantly influence behaviour and justify men’s use of violence against women as a form of control”.

38 McKenzie M. et al. (2018), *Advertising (in)equality: the impact of sexist advertising on women’s health and wellbeing*, Women’s Health Victoria, Melbourne

39 Council of Europe (2011), *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Explanatory report* (coe.int)

40 Council of Europe (2016), *Encouraging the participation of the private sector and the media in the prevention of violence against women and domestic violence: Article 17 of the Istanbul Convention* (coe.int), Strasbourg

41 Idem

The Explanatory Note to the Istanbul Convention⁴² emphasises that the Article 17 “intends to encourage the ICT sector and the media to adopt self-regulatory standards to refrain from harmful gender stereotyping and spreading degrading images of women or imagery which associates violence and sex”.

Portraying gender-based violence in commercials is very linked with the phenomena of objectification and sexualisation. The depiction of women as sexual objects is very much correlated with the perpetuation and tolerance of gender-based violence in society. Portraying violent behaviour for men as appealing, including its rewards, is coded into mainstream advertising in numerous ways: from violent male icons (such as particularly aggressive athletes or superheroes) overtly threatening consumers to buy products, to advertisements that exploit men’s feelings of not being big, strong, or violent enough by promising to provide them with products that will enhance those qualities (Katz J., 2011). According to Dr. Gurrieri L., Dr. Hoffman R. (2019), objectifying and sexualised advertisements and media content are associated with attitudes that support violence against women, including a greater support for sexist beliefs, attitudes that blame victims for sexual violence, a greater tolerance of sexual aggression, and men’s use of sexually coercive behaviour.

The following could be considered as depiction of gender-based violence in commercials: violence is depicted as romantic, sensual, aesthetically pleasing and full of power; presenting violence with an element of amusement, as something which could be made fun of or mocked; persons are shown as being supposed to any type of aggressive behaviour⁴³, images and statements containing brutal, aggressive and asocial behaviour or encouraging such behaviour⁴⁴, texts or messages support violence or blame the victims, and so on.

Portraying the LGBTI community

Advertising portrays heterosexuality very often as the norm. Women and men are usually the characters presented in ads, with non-binary people being almost excluded. Traditional norms and gender roles remain the common representation of genders, with men depicted mostly in public spheres and women in the private ones and families appear in their traditional format composed of father-mother-children.

According to the “Catalogue of the criteria for the classification of sexist advertising⁴⁵”, in those rare cases when ads portray LGBTI people, they follow some stereotypes, like “gay men are often denied their maleness, they are awarded female attributes, such as a particularly well-groomed appearance, language, way of talking, behaviour or typically female professions. They are associated with “female” topics, such as beauty, health, the home, décor and fashion. In some cases, they are shown as sex-driven, unusual and either more or less perverse. Lesbian women are denied their femaleness, they are often depicted as unwomanly or even manly, or they are shown in erotic poses that are to attract the heterosexual observer”.⁴⁶

42 Council of Europe (2011), *Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence* (coe.int), Council of Europe Treaty Series - No. 210, Istanbul

43 Gurrieri L., Brace-Govan J., Cherrier H. (2016), *Controversial advertising: transgressing the taboo of gender-based violence*, *European Journal of Marketing*, Vol. 50

44 Watch Groups Against Sexist Advertising Graz, *Salzburg and Vienna, Catalogue of Criteria for the Classification of Sexist Advertising*

45 Idem

46 Idem

How to avoid sexist advertising

Portrayal of gender stereotypes and denigratory, humiliating or offensive attitudes towards one sex/ gender	
Avoid	Prefer
<p>Depiction of women and men in traditional roles (i.e., women as caretakers, men as breadwinners); depiction of women and men with behaviours and traits stereotypically ascertained to their genders (weak, emotional women; brave, courageous men).</p>	<p>Balance/change gender roles and behaviours ascertained to genders (i.e., women as CEOs, leaders; men as caretakers; women as assertive and courageous, men as caring and nurturing).</p>
<p>Depiction of one gender as teaching/ being more skilful in performing a task which traditionally is assigned to them, for example women teaching men how to do the laundry or men teaching women on the functioning of home appliances.</p>	<p>Balance gender roles: equal representation of genders in performing the same tasks. Present both women and men with knowledge and skills to perform a variety of tasks.</p>
<p>Portrayal of only persons corresponding to unrealistic beauty standards.</p>	<p>Portrayal of a wide range of models, representing different ages, (dis)abilities, races, ethnicities, genders, body shapes, etc.</p>
Objectification, sexualisation, nudity	
Avoid	Prefer
<p>Sexual objectification, sexualisation and nudity, when the advertised product/service does not have any direct connection with people's body, health or sexuality activity.</p>	<p>Sexualisation may be featured only in those cases when the advertised product/service is related to the promotion of sexuality education, safe sex, sexual and reproductive rights. Use nudity to advertise only products related to the body. When portraying naked people and people involved in any sexuality activity, depict people of all genders as assertive and confident and depict people in the same way (don't portray naked women and dressed men).</p>
<p>Depiction of the human body or body parts to advertise a product/service, if the body/body part is not directly linked to product/service. Replacing objects with human's body parts. Presenting a person as a product, which could be sold or bought.</p>	<p>Using persons as active characters rather than passive ones, for example if advertising furniture, avoid featuring a woman lying near the product, rather portray persons being actively involved in using the product, according to its function. When featuring persons as active characters, bear in mind to avoid the perpetuation of gender roles and/or gender stereotypes.</p>
<p>Showcasing one gender as being servile and submissive to another or being socially, culturally, emotionally and economically subordinate to another. Showcasing women as light-minded creatures, who cheat on their partners, or who easily sell themselves for sex, who always party and drink. Portraying of one gender in an infantilised manner.</p>	<p>All persons depicted by the commercial shall be represented as being equal and self-confident. Change the ways women and men are usually portrayed, i.e., women standing and men sitting, women in front of men, and so on.</p>

Gender-based violence	
Avoid	Prefer
Depiction of any form of violence: presenting persons beaten, assaulted, tied up etc.	Scenes of violence may appear only in the social advertising aimed at raising awareness on this phenomenon.
Sexist language	
Avoid	Prefer
Generalisation: stating that all women/men are the same or behave in a specific manner and/or when certain behaviour is ascribed to women/men. I.e., "girls play with ribbons, women know what to do with them".	Avoid using generalisation. Prefer using "some people" instead of "women/men".
Attributing colours based on gender stereotypes, i.e., attributing pink/red to women and girls and blue to men and boys.	When depicting a gender, use varied colours.

5. Stakeholders involved in combating sexist advertising

Different national settings and entities are present in the Council of Europe's member states, with varied mandates covering the topic of combating sexist advertising. As will be described at length in the following chapters, the legislative framework of some countries contains definitions of sexist advertising, while others do not. The legislative framework and judicial practice of some countries categorise sexist advertising as a commercial matter, while in others it falls under the category of gender-based discrimination or incitement to discrimination, or even as hate speech.

Countries may rely on specialised anti-discrimination equality bodies, state institutions, like audio-visual councils, and advertising self-regulatory mechanisms to review cases on sexist advertising or may have a combination of these mechanisms. Advertising self-regulatory bodies

Self-regulatory bodies in the field of advertising are those organisations/networks created by representatives of the advertising industry and other relevant stakeholders to regulate the field of advertising and ensure that commercials correspond to the principles envisaged by the normative framework and/or by codes and guidelines developed by the self-regulatory bodies. They may develop their own codes or guidelines which may contain criteria to assess, *inter alia*, sexist advertising. They may act as the main actor in the field of regulating sexist advertising (like in Sweden), or they may be one of the entities with competences to issue decisions on this matter (like in Ukraine). In countries like Ukraine and Sweden, these regulators got involved in sanctioning sexist advertising. In countries like the Republic of Moldova and Sweden, the private sector may request an expert opinion from the advertising self-regulatory bodies before publishing a commercial. Moreover, advertising self-regulatory bodies proved to be very efficient in raising awareness on the negative effects of sexist advertising. However, due to their mandate and competences, their decisions are non-binding, and the advertising self-regulatory bodies cannot apply pecuniary sanctions, thus their role seems mostly an advisory one. Also, they are not competent to express their opinions regarding non-commercial advertising, like the ones developed within social campaigns, which could be discriminatory as well.

Media regulatory authorities

In some countries analysed for the purpose of this Study, media regulatory authorities have also a mandate on combating or sanctioning sexist advertising. For example, in North Macedonia and France, the media regulatory authorities with the mandate to regulate the audio-visual market (radio and TV) have competences to review complaints on sexist advertising.

The Recommendation Rec(2000)23 of the Committee of Ministers of the Council of Europe to member states on the independence and functions of regulatory authorities for the broadcasting sector⁴⁷ includes provisions in relation to the role of independent regulatory authorities in combating sexism. According to Article 12 of the Appendix of the Recommendation Rec(2000)23, the regulatory authorities should have the power to adopt regulations and guidelines concerning broadcasting activities. Article 21 stipulates that the regulatory authorities should have the power to consider complaints, within their field of competence, concerning the broadcasters' activity and to publish their conclusions regularly.

Moreover, the Recommendation Rec(2013)1⁴⁸ encourages media organisations to "adopt self-regulatory measures, internal code of conduct/ethics and internal supervision, and develop standards in media coverage that promote gender equality." It also encourages third parties to "consistently defend gender equality

⁴⁷ Council of Europe (2000), [The Recommendation Rec\(2000\)23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector](#) (coe.int), adopted on 20 December 2002

⁴⁸ Council of Europe (2013), [Recommendation CM/Rec\(2013\)1 of the Committee of Ministers to member States on gender equality and media](#) (coe.int), adopted on 10 July 2013

by bringing their concerns to self-regulatory bodies”.

Based on the observations made studying the experience of eight countries, state media regulatory authorities have a role in combating discrimination in the media field. Considering the duties of these institutions to monitor the broadcasted media, they are responsible to monitor advertising and to ensure that it corresponds to the legal provisions and the provisions envisaged by media codes of ethics/conduct. Some countries proved to have a good collaboration between media regulatory authorities and equality bodies (like in North Macedonia). This collaboration is specifically beneficial if the media regulatory authorities cannot issue binding decisions and apply sanctions, while the equality bodies can. The experience of other countries (like Romania) shows a reduced involvement of the media regulatory bodies in addressing sexist advertising. For example, the media regulatory authority cannot handle cases of billboard ads or social media ads. In some countries, like in France, the media regulatory body addresses sexist advertising in the scope of the audio-visual media, while the advertising self-regulatory body covers advertising broadcasted by the audio-visual media, as well as advertising posted in other forms.

The practice is uneven, and each country has its own regulatory mechanism with competent institutions, be it equality bodies, media regulatory authorities or advertising self-regulatory bodies. Nonetheless, the legislators should act carefully to avoid any legal gaps and ensure that the institutions have mandates to consider all the types of advertising and have enough tools to act in this respect.

According to GEC⁴⁹, the following is recommended to ensure a functional complaint mechanism:

- Publish clearly on the websites of media organisations and self-regulatory and regulatory bodies’ links to complaints machinery directing the public to the applicable procedure.
- Provide the public with real-time information about the decisions taken by regulators or self-regulatory bodies so as to raise the profile of these bodies’ decisions and increase public confidence.
- Facilitate public access to the annual reports of the regulatory and self-regulatory bodies.
- Introduce a system of thematic classification of decisions and include a keyword search engine on the websites of regulatory and self-regulatory bodies so that decisions concerning gender equality can be identified more easily and their profile is raised.
- Make the codes of practice and guidelines for journalists’ work accessible to the public.
- Hold open days to publicise the regulatory and self-regulatory bodies.
- Encourage the media to cover and publish these bodies’ decisions.

Specialised equality bodies in the field of combating discrimination

Some examples of the good practices of monitoring relating to the combating sexist advertising conducted by the equality bodies can be found later in the text.

One of the main documents regulating the scope and the functioning of equality bodies is the General Policy Recommendation no. 2⁵⁰ of the European Commission against Racism and Intolerance of the Council of Europe, which focuses on the key elements for the establishment, independence and effective functioning of equality bodies that make a real impact in the field of equality. These bodies may have mandates that address:

- a. The promotion and achievement of equality, prevention and elimination of discrimination and intolerance, including structural discrimination and hate speech, and promotion of diversity and of good relations between persons belonging to all the different groups in society (equality mandate).*

⁴⁹ Council of Europe (2015, Handbook on the implementation of Recommendation CM/Rec(2013)1 of the Committee of Ministers of the Council of Europe on gender equality and media (coe.int), Strasbourg

⁵⁰ European Commission against Racism and Intolerance (2018), General Policy Recommendation N°2 on Equality Bodies to combat racism and intolerance at national level (coe.int), adopted on 13 June 1997 and revised on 7 December 2017

- b. *The discrimination grounds covered by ECRI's mandate, which are "race", colour, language, religion, citizenship, national or ethnic origin, sexual orientation and gender identity, as well as multiple and intersectional discrimination on these grounds and any other grounds such as those covered by Article 14 of the European Convention on Human Rights, while also integrating a gender perspective. Equality bodies may also cover additional grounds such as sex, gender, age and disability.*
- c. *All areas in both the public and private sectors, in particular: employment, membership of professional organisations, education, training, housing, health, social protection and social advantages, social and cultural activities, goods and services intended for the public, whether commercially or freely available, public places, exercise of economic activity and public services and functions, including law enforcement.*
- d. *The whole territory of the member State.*

The legislation in the field of combating discrimination and ensuring equality from the eight countries analysed (see next chapter) contains provisions aimed at combating discrimination on any grounds, including sex/gender, and appoint equality bodies from the respective countries with competences to interfere in cases of discrimination on any grounds, including on sex/gender. The fact that for an EB effective monitoring in this field is crucial to have competence also on the private sector as not many EB in CoE MSs have it.

According to a report developed by the European Commission (Crowley N., 2018), equality bodies have the potential to contribute to social change for individuals, institutions and society. This involves them in action to empower people experiencing discrimination, enable institutions to introduce equality and diversity systems and promote awareness and engage equality values in society. According to the same report, the limitation of competences undermines the effectiveness of equality bodies in that they cannot deploy the strategic mix of interventions required to contribute to social change.

The limitation of competences in combating sexist advertising appeared also during the interviews carried out as part of this Study development. Based on the analysis of the legal framework of eight countries (Georgia, Ukraine, Republic of Moldova, Romania, North Macedonia, Sweden, Spain and France), it appears that in those countries where the national frameworks provide equality bodies with competences to deploy the strategic mix of interventions required to contribute to social change-like equality bodies have competences to issue legally binding decisions and/or impose sanctions- their involvement is much more effective. At the same time, in some countries, some equality bodies do not have any mandate on the issue of sexist advertising (like in the case of Sweden).

6. Case studies on combating sexist and discriminatory advertising

The following eight case studies describe the regulatory framework and practices of combating sexist and discriminatory advertising in France, Georgia, North Macedonia, Republic of Moldova, Romania, Spain, Sweden, and Ukraine. The cases are presented in descriptive and explicit manner, as published and relevant for understanding of this issue and relating decisions and actions.

France

The 1958 Constitution of France⁵¹ enshrines equality as a fundamental principle, stipulating in its Article 1 that “France shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. Statutes shall promote equal access of women and men to elective offices and posts as well as to professional and social positions”. France does not have a stand-alone anti-discrimination law, but rather a number of provisions in different laws, such as Law no. 2001-1066 of 16 November 2001 to fight against discrimination⁵² and the 2014 Law on real equality between women and men.⁵³ The French public institution mandated to protect and promote human rights is the Ombudsperson (Defenseur des Droits), which is an independent state institution created in 2011, with a mandate to defend people whose rights are not respected and allow everyone to have equal access to their rights⁵⁴. However, its mandate does not include handling sexist advertising.

The French Media Law is the most relevant in relation to combating sexist advertising. The Freedom of Communication Law⁵⁵ stipulates that “audio-visual communication is free. The exercise of this freedom may be limited only to the extent required, ..., for the respect of human dignity, the freedom and property of other people, the pluralistic nature of the expression of ideas and opinions ...”. In addition, Law no. 2006-396 of 2006 introduces a provision that prohibits discrimination in the field of audio-visual media. Under Article 15 of the Law, the High Authority for Audio-visual Media- Conseil supérieur de l’audiovisuel or CSA-monitors the respect for human dignity in all publicly available programmes, and sanctions broadcasts that contravene the law (PILPG, 2015). Based on the amendment of the Freedom of Communication Law, the CSA was appointed as the responsible institution to ensure the respect of women’s rights in the field of audio-visual communication. It monitors the image of women broadcasted in audio-visual programmes, in particular by fighting stereotypes and prejudice, degrading images, violence against women and violence committed within couples. Also, the CSA has the mandate to exercise a control, by all appropriate means, on the object, the contents and the modalities of programming of commercials. It ensures the respect for the dignity of all people and the image of the women who appear in these commercials. It can take into account the recommendations of the advertising self-regulatory bodies.

Every year, the CSA evaluates the broadcasted programmes and their compliance with the provisions of the law. However, the CSA never intervenes prior to the broadcasting of a programme. The CSA has sanctioning powers over TV and radio channels, overseen by an adversarial procedure. The CSA may:- suspend programs/broadcasts/distribution;- reduce the length of the authorisation to broadcast;- withdraw the authorisation to broadcast;- impose a financial penalty;- refer matter to the national prosecutor (PILPG, 2015).

51 [The Constitution of France](#), 4 October 1958

52 [Law no. 2001-1066 of 16 November 2001 to fight against discrimination](#)

53 [Law no. 2014-873 of 4 August 2014 on real equality between women and men](#)

54 <https://defenseurdesdroits.fr/fr/institution/organisation/defenseur>

55 [Freedom of Communication Law no. 86-1067 of 30 September 1986](#)

In 2017, the CSA published the Study on the image of women in TV advertising.⁵⁶ The CSA reviewed more than 2,000 advertising spots broadcasted on TV channels between October 2016 and April 2017. Following the development of the Study, the CSA initiated a discussion with representatives of the media, communications and advertising sectors in order to reinforce their actions on combating gender stereotypes in advertising. As a result, in March 2018, these entities signed a Charter⁵⁷ on voluntary commitment to engage in the fight against sexual, sexist and gender stereotypes in advertising. As of 2018, the CSA publishes on a yearly basis a report on how this Charter is followed by its signatories.

Another public institution with a role in ensuring the equality between women and men is the High Council of Equality between Women and Men (Haut Conseil à l'Égalité entre les Femmes et les Hommes or HCEfh)⁵⁸. In cases of sexist advertising or gender-based discrimination in the media, the HCEfh notifies the relevant institutions. Thus, in 2014, the HCEfh submitted a complaint⁵⁹ to the Jury of Advertising Ethics, a body under the ARPP, invoking an advertising published by an Internet service provider which contained two slogans "Download as fast as your wife changes her mind" and "Download as fast as your husband forgets his promises". The HCEfh considered that these ads included a sexist cliché and were spreading the idea that women cannot have a reasoned opinion. The Jury of Advertising Ethics reviewed the complaint and issued the decision⁶⁰ declaring the sexist character of the advertising.

In France, there is an advertising self-regulatory mechanism, called the Professional Advertising Regulation Authority (Autorité de la Régulation Professionnelle de la Publicité, ARPP⁶¹), which was created in June 2008 as an independent association. Its main mission is to monitor the content of advertising, by ensuring the respect of freedom of speech and the respect of consumers. It can review complaints on sexist advertising distributed by all types of media. ARPP bases its activity on a set of Recommendations developed by the institution, and which are applied to all professionals and to all media. The Recommendations were updated in 2016 and there are based on ICC Code provisions. The Recommendation on the image and respect of the person⁶² stipulates that "commercial communications must respect human dignity and must not incite or condone any form of discrimination, including on the basis of ethnic or national origin, religion, sex, age, disability or sexual orientation". Besides this, it declares that "advertising must not reduce human beings, and in particular women, to the function of an object. Advertising must not endorse the idea of a person's inferiority because of their sex, origin, membership of a social group, sexual orientation or identity or any other criterion of discrimination, in particular by reducing its role and responsibilities in society. Advertising cannot promote, even indirectly, feelings or behaviour of exclusion, intolerance or sexism."

As described by Boddewyn J.J., Loubradou E. (2011) in their article, French advertisers, agencies and media members of the ARPP may apply for non-binding advice to the ARPP at the pre-publication stage (15,196 projects were scrutinised in 2009). However, pre-clearance is mandatory before the broadcasting of all television commercials, and the ARPP can require modifications and even ban the proposed commercial if it is in breach of the law and its Recommendations. In terms of sanctions, the authors mention that the ARPP penalties consist of asking transgressors to modify or remove their ads, requesting the media to stop an offending ad, and the possibility of taking the case to court.

According to Dr. Gurrieri L. and Dr. Hoffman R. (2019), the case of outdoor advertising highlights a gap in the French legislative framework, because the CSA has a mandate only over audio-visual broadcast content. Posters and billboards thus remain under the review of the ARPP. A 2017 ARPP ruling against the fashion brand Yves Saint Laurent led to the introduction of municipal bans⁶³ regulating outdoor advertising in Paris. This advertising campaign⁶⁴ attracted more than 120 formal complaints and was judged by the ARPP

56 Le Conseil supérieur de l'audiovisuel (2017), *Women's representation in TV advertising*

57 Le Conseil supérieur de l'audiovisuel (2018), *5 years of actions for women's rights*

58 <https://bit.ly/3tQg1fp>

59 <https://bit.ly/39bUJPM>

60 <https://www.jdp-pub.org/avis/avis-jdp-n-304-14-telephonie/>

61 https://www.arpp.org/qui-sommes-nous/roles-et-missions/#toc_0_1

62 <https://bit.ly/2Z2awz1>

63 <https://bit.ly/3nL7Hwu>

64 <https://r29.co/3CpLXKT>

to have “incontestably breached” the self-regulatory code. The ARPP ordered the brand to modify the advertisements (Dr. Gurrieri L. and Dr. Hoffman R. (2019).

Public pressure is used as a tool for combating sexist advertising. The French Association of Consumers Pepite Sexiste⁶⁵, which started with a Twitter page created in March 2018 where a young entrepreneur was posting examples of sexist ads, offers a platform for consumers to denounce ordinary sexism and stereotypes. Its main goal is to call on brands who use sexism in their advertising and raise awareness on ordinary sexism and stereotypes. Everyone who identifies a sexist ad can share it on the Association’s Twitter, Facebook or Instagram page or to send to the association’s email address. In spring 2020, the association expanded internationally and currently has eight branches – in Mexico, the US, Quebec, Morocco, Mauritius, Switzerland, United Kingdom and Germany.⁶⁶

Discriminatory advertising on other grounds than sex/gender

The same normative framework and regulatory mechanisms as described above should be followed in case of discriminatory advertising on other grounds than sex/gender, with the CSA being responsible to issue decisions regarding the advertising broadcasted by audio-visual media, while the ARPP has the authority on all types of advertising.

Discriminatory advertising cases can also be taken to court, under civil law.

Georgia

In Article 11, the Constitution of Georgia⁶⁷ enshrines the right to equality of all persons and prohibits discrimination based on sex. It obliges the State to guarantee equal rights and opportunities for men and women, to take special measures to ensure the essential equality of men and women and to eliminate inequality.

In 2010, Georgia adopted the Law on Gender Equality⁶⁸, which sets up the equality principles between men and women in political, economic, social and cultural life and provides definitions for discrimination, including direct and indirect discrimination. The amendments of the Law on Gender Equality, adopted on 15 December, 2022 introduce as an obligation to the state to ensure essential equality (article 2 4, Para 1).

The Law on Advertising provides the definition of “unethical advertising”, which is considered to be the one which discriminates based on a list of attributes, including gender. Also, this law appoints the Georgian National Communication Commission and local self-government bodies with competences to regulate advertising, however none of the listed bodies undertook any measures to prevent or combat sexist advertising.

The Law of Georgia on the elimination of all forms of discrimination adopted in 2014⁶⁹, known also as the Anti-Discrimination Law, prohibits discrimination and appoints the Public Defender of Georgia (PDG) as the institution responsible for monitoring the issues on elimination of discrimination and ensuring equality.

Specific provisions aimed at defining or prohibiting sexist advertising, sexist speech or non-discriminatory representation of women and men in media are not contained by any normative act or bylaw. Sexist advertising is regulated by the provisions of the Anti-Discrimination Law and is interpreted as an incitement to discrimination, mandated to be revised by the Public Defender of Georgia⁷⁰, as the national human rights

65 <http://pepitesexiste.fr/a-propos#association>

66 <https://bit.ly/3Ao5Np5>

67 Constitution of Georgia, adopted in 1995

68 Law on Gender Equality no. 2844 of 26 March 2010

69 Law on the elimination of all forms of discrimination no. 2391-II of 2 May 2014

70 See <https://www.ombudsman.ge/eng/mandati>

institution. The Public Defender can issue general proposals⁷¹ and recommendations⁷² in cases of violations. Georgia was confronted with some cases of sexist advertising. In 2014, the PDG issued a general proposal to the Bank of Georgia related to a sexist image published by the Bank on its official social media account. The advertising was featuring a man likened to an ATM or cash point machine while a woman, based on the script of the advertisement, seemed to be materially dependent on the man. The name of the advertising was so-called “kmarkomati”, which is roughly translated as “husband point”. The PDG considered the mentioned ad to be of a sexist nature perpetuating a gender stereotype.⁷³ The PDG called on the Bank of Georgia to refrain from developing sexist and discriminatory commercials and instead promote respectful treatment towards women, by depicting them as equals to men.

In 2016, the Public Defender issued a general proposal⁷⁴ towards Tabula TV Company, which featured in one of its video spots a naked woman, whose body was used as an object for placing food. As per its general proposal, the Public Defender decided that the woman’s body was presented as a valueless item, which devalues the woman’s personality. There was no logical connection between the programme and the content of the ad, as the focus was made not on the food but on the woman’s objectified body. Given that the respondent refused to remove the advertising, the Public Defender addressed the TV Company to delete the ad from the Internet and to respect the principle of equality in its future activities. Despite the general proposal, at the date of developed of the current case study, the video spot was still available on the YouTube.⁷⁵

The last decision⁷⁶ issued by the PDG on using sexist advertising was in 2018. In this respect, the Public Defender of Georgia expressed her negative attitude towards the poster of LLC Marsi (Crystalbet). The poster was containing a message – “Slots that give”- and was illustrating a woman. The Public Defender considered that the ad had a sexual connotation and that it perpetuates the stereotype that women easily agree to sexual intercourse. The Public Defender called on LLC Marsi to change the poster in a way which does not perpetuate discrimination against women or any other groups.⁷⁷

During 2014-2020, the Public Defender of Georgia issued five general proposals and one public statement concerning sexist advertising, with the most complaints being submitted between 2016-2017.

To raise public awareness and to promote gender-sensitive advertising, in 2018 the PDG developed an informative video spot⁷⁸, which was widely shared on the institution’s accounts on YouTube and social media. The video promotes the equality of all genders in their roles in society.

Discriminatory advertising on other grounds than sex/gender

The Georgian legislation and practice do not make distinctions between the grounds for discriminatory advertising. As both the Law on Advertising and the Anti-Discrimination Law contain provisions prohibiting discrimination on any grounds, including in advertising, the Public Defender is mandated to examine cases of discriminatory advertising based on several grounds. In its practice, the institution reviewed a case of a discriminatory advertising on the ground of gender identity and financial status. In 2016, the Public Defender issued a general proposal⁷⁹ with a reference to the microfinance organisation CC Loan. In fact, the company produced and broadcasted 3 commercial spots: 1) the first one contained a scene where people

71 Issued to prevent discrimination. There are two types of general proposals: decision on suspension of the proceedings and decisions on termination of the proceedings. According to the respondent, general proposals cover mostly systemic issues.

72 Issued when a fact of discrimination is confirmed as a result of the examination of an application/claim by the Public Defender and if the consequences of discrimination are not eliminated and concludes the proceedings regarding Activities to be performed to restore infringed equality. According to the respondent, recommendations target mostly individual cases.

73 See <https://bit.ly/2Ux91af>

74 See <https://bit.ly/2XupBsf>

75 See <https://bit.ly/3svncsQ>

76 See <https://bit.ly/37XJRoe>

77 <https://metronome.ge/story/131378>

78 See <https://www.youtube.com/watch?v=8TV06hI0jqY>

79 See <https://bit.ly/2W667cS>

were engaged in prostitution. The main character, a man, was wearing a dress and a wig. At the end of the advertisement, his mother calls him, and he tells her that he has not time to speak as he is working. 2) The second one showed a woman who steals money from her child, while the surprised child entered the room. The mother tried to run away and frightened the child with spiders. 3) The third spot was featuring a grandchild who was taking his grandmother sitting in a wheelchair to a pawn shop. The grandchild leaves the wheelchair at the pawn shop and goes back home carrying his grandmother on his back. The Public Defender considered that these contributed to strengthening the negative stereotypes against transgender persons and people with financial problems and urged the company to remove the content from TV and the Internet. At the date of case study development (August 2021), all three spots were still broadcasted on the company's YouTube account.

North Macedonia

The 1991 Constitution⁸⁰ enshrines the freedom of rights of individuals as a fundamental value. Article 9 states that “citizens... are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status” and Article 110 prohibits discrimination on the ground of sex, race, religion or national, social or political affiliation.

The Article 3 of the Law on Equal Opportunities for Women and Men⁸¹ adopted in 2012 prohibits discrimination, harassment and sexual harassment on the ground of gender in the public and private sectors, including in the areas of information and media. Public consultations on a new Law on gender equality were opened in September 2022; once adopted the new law will replace the 2012 law.

The non-discrimination legislation, the Law on Prevention of and Protection against Discrimination⁸², prohibits any discrimination based on different grounds, including sex/gender. It also regulates the competences of the Commission for Protection against Discrimination, the specialised equality body.

North Macedonian has several laws with a relevance to the field of advertising. The Law on audio and audio-visual media services⁸³ stipulates that audio-visual commercial communication, which includes inter alia, television advertising, teleshopping, sponsorship, and product placement, shall not participate in, or promote, any discrimination on the grounds of gender, race, ethnicity, nationality, religion or conviction, disability, age or sexual orientation.

The Law on media⁸⁴ contains provisions prohibiting discrimination. Article 4 stipulates that “the publishing, i.e., transmission of media content must not threaten the national safety, call for violent destruction of the constitutional order of the country, call for military aggression or armed conflict, incite or spread discrimination, intolerance or hatred based on race, sex, religion or nationality”.

The equality body acting in North Macedonia is the Commission for Prevention and Protection against Discrimination (CPPD), an autonomous and independent body established in 2021⁸⁵ based on the provisions of the anti-discrimination legislation. Its predecessor, the Commission for the Protection against Discrimination (CPAD), had a successful collaboration with the Agency for Audio and Audiovisual Media Services in taking a stand in the case of a radio station which aired sexist audio spots.

The Agency for Audio and Audiovisual Media Services is an independent, non-profit regulatory body. The Agency has the power to sanction media outlets in cases of distribution of sexist advertising. In this respect, the Agency can adopt a decision with written warning. It may also file a complaint for initiating a misdemeanour procedure in cases where despite the adopted warning decision, the institution continues

80 [Constitution of the Republic of North Macedonia](#), 1991

81 [Law on Equal Opportunities for Women and Men](#), 2012, published in the Official Gazette no. 06/2012, 30/2013, 166/2014, 150/2015

82 [Law on prevention and protection against discrimination of 27 October 2020](#)

83 [Law on audio and audiovisual media services](#), 2013, published in the Official Gazette no. 184 of 26 December 2013

84 [Law on media](#), 2013, published in the Official Gazette no. 184 of 26 October 2013

85 See <https://bit.ly/3DkXBrM>

with the same violation. It may also submit a proposal to the Agency Council for revoking a license or adopt a decision for the deletion of the institution from the registry in accordance with the Law.

Any citizen or legal entity may submit a complaint/reaction to the Agency for Audio and Audiovisual Media Services on contents aired by the radio and television stations, the programme packages of the operators and the print media.⁸⁶ Following the complaint, the Agency issues an analysis, which is sent to the media outlet with a recommendation, as well as to the plaintiff. Besides applying sanctions, the Agency undertakes raising awareness and educational initiatives as well.

In 2017, the Agency reviewed a complaint on sexist radio spots produced. The City Radio, Club FM Radio and Metropolis Radio Network had been airing spots, as part of a joint campaign of their own production, which, as they stated, were targeting “overly emancipated women”. Namely, the campaign was presenting the emancipation of women and men as two mutually exclusive processes, depicting women’s emancipation as a negative phenomenon. Successful women were exposed to scorn and hatred, and a message was being sent to children and youth of both sexes that they are not equal and should not aim for equality⁸⁷. The campaign was composed of six different spots, presenting examples of popular and successful women portrayed in a negative way, like “You want to be Marie Curie. Maybe you can be. But don’t overestimate yourself if you can’t. Do you need a Nobel Prize or just a certificate that you are the best?” or “You have everything, but you don’t have sex”. The Agency decided that the campaign was gender-discriminatory, was spreading misogyny and sexism, and flagrantly violated the provisions of the Law on Audio and Audio-visual Media Services. The Agency informed the radio outlet of its decision⁸⁸ and sent a report to CPAD to review the case. Following the report submitted by the Agency, the CPAD reviewed the complaint and issued a decision qualifying the campaign as discriminatory and harming women’s dignity. The CPAD recommended to withdraw the spots and avoid similar campaigns in the future.

In 2018, the Agency issued two TV and one radio spots raising the awareness of the public and the media field about the importance of gender equality and combating gender stereotypes and prejudices.⁸⁹ In 2021, the Council of the Agency adopted the „Guidelines on Monitoring of the Reporting Standards in Cases of Gender-Based Violence in the Media.“ The Guidelines, prepared in the framework of the joint EU/ Council of Europe media project aim to provide the regulator, the media, and all relevant stakeholders with the information on relevant international standards and domestic legislation in this field, explaining the importance of both regulation and self-regulation, providing in the same time examples of good practice and practical advice for monitoring of media reporting on gender-based violence.

Discriminatory advertising on other grounds than sex/gender

The same normative framework and regulatory mechanism described above can be used in North Macedonia in case of discriminatory advertising on other grounds than sex/gender. Both the Law on media and the Law on audio and audio-visual media services contain provisions prohibiting discrimination on several other grounds, including in the audio-visual commercial communication. The CPPD and the Agency for Audio and Audio-visual Media Services have mandates to intervene in such cases.

Republic of Moldova

In Article 16, the Constitution of the Republic of Moldova⁹⁰ stipulates that “all citizens of the Republic of Moldova are equal before the law and public authorities, regardless of the race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin”.

⁸⁶ See <https://avmu.mk/en/citizens/>

⁸⁷ <https://bit.ly/3klYeZg>

⁸⁸ The Agency for Audio and Audiovisual Media Services, Report of 2 November 2017

⁸⁹ See <https://bit.ly/38cKmul>

⁹⁰ Constitution of the Republic of Moldova of 1994

In 2006, the Law on ensuring equal opportunities for women and men⁹¹ was adopted, aiming at ensuring equality of women and men in the political, economic, social, cultural, and other spheres of life. Article 8 sets the ground for combating gender discrimination in media.

In 2016, following the adoption of legislative amendments, the Law on advertising⁹² introduced the definition of the sexist advertising as advertising that “a) presents a woman or a man as a sexual object, in humiliating or degrading, violent circumstances that offend human dignity; b) promotes sexist stereotypes for discriminatory purposes, maintaining a traditional perception of the woman as a weak, vulnerable, and dependent being, who has an inferior social position”. The law prohibits sexist advertising. The sanctions applied for using sexist advertising are stipulated by Article 364 of the Misdemeanour Code.⁹³

In 2012, the Law on ensuring the equality⁹⁴ or Equality Law was adopted which prohibits discrimination on several grounds. Based on the provisions of the Law, the Council for preventing and eliminating discrimination and ensuring equality (the Equality Council) was set as the main specialised equality body. Its mission is to prevent and protect against discrimination, to ensure equality and to promote equal opportunities and diversity.⁹⁵ The Equality Council is mandated to take actions and/or to receive complaints on any forms of discrimination, including on sexist advertising. The Equality Council issues decision recognising or denying the sexist character in advertising. It may recommend to the company to remove the sexist advertising. In case the company fails to act according to the decision, the Equality Council issues a contravention report of non-compliance with an administrative act.

Before the 2016 amendment of the Law on advertising, the Equality Council was reviewing complaints on sexist advertising based on the provisions of Equality Law and Law on ensuring equal opportunities for women and men. According to the Equality Council, the number of complaints on sexist advertising increased after the adoption of the 2016 legal amendments. If before 2017, the Council has reviewed only five cases of sexist advertising, during the period 2017-2020 the total number of cases extended to 32.

The Competition Council previously had the mandate to review complaints on sexist advertising. The Competition Council was acting as an ascertaining agent, being responsible for determining the sexist character of the advertising and applying fines. The Council closely collaborated with the Equality Council by requesting expert opinions or by applying sanctions based on the decisions issued by the Equality Council. However, in 2018, the Law on Advertising was amended by restraining the competences of the Competition Council and lifting up its role of ascertaining agent. According to the Competition Council Letter no. CN-04/173-1295 of 2 August 2021, during the period 2016-2020 the Council reviewed 18 complaints on sexist advertising, out of them 16 being had been submitted by third parties and 2 being initiated by the institution itself.

A case of resonance occurred in 2020, when a company installed a billboard to promote its sales. The billboard featured a woman’s body part, from the waist to the hips, with a computer mouse situated in the part of woman’s intimate zone, emphasizing it. The picture was accompanied by a slogan “Those days are coming”. A group of activists submitted a complaint to the Equality Council, which, in its decision⁹⁶, confirmed the sexist character of the advertising. The Equality Council declared that the plaintiff had chosen an illustration which reflects a part of a woman’s body from an indecent perspective, because the intimate area of the body is used to capture the attention, although this image is not linked in any way with the product or service advertised.

In relation to raising awareness within the advertising field, the Association of Advertising Agencies from

91 [Law no. 5-XVI of 9 February 2006 on ensuring equality between women and men](#), published in the Official Gazette no. 47-50/200 of 24 March 2006

92 [Law no. 1227 of 27 June 1997 on advertising](#), published in the Official Gazette no. 67-68 of 16 October 1997

93 [Contravention Code no. 218 of 24 October 2008](#), published in the Official Gazette no. 78-84 of 17 March 2017

94 [Law no. 121 of 25 May 2012 on ensuring equal opportunities](#), published in the Official Gazette no. 103 of 29 May 2012

95 <http://egalitate.md/en/prezentare-general/>

96 Equality Council, [Decision of 10 December 2020 in Case No. 253/20](#)

Moldova developed guidelines to assess sexism in advertising. This document was presented to the various advertising agencies to be taken into account when developing a commercial.

A good practice is the support provided by the Equality Council to those companies that want to ensure the respect of non-discrimination principles when developing their advertising. In this respect, the Equality Council has been contacted by the private sector to provide its expert opinion on some ads before they were finalised.

In 2017, UN Women developed and broadcasted a video spot⁹⁷, aiming at raising public awareness on sexist advertising and the related sanctions. Another campaign supported by UN Women was launched in 2019⁹⁸, promoting body positivity as an alternative to sexist advertising.

Discriminatory advertising on other grounds than sex/gender

The legislation of the Republic of Moldova doesn't explicitly envisage the prohibition of discrimination on other grounds than sex/gender in advertising. In theory, based on the provisions of both the Equality Law and the Law on advertising, a similar procedure should be followed when reviewing complaints on discriminatory advertising on other grounds than sex/gender. However, so far there haven't been any cases examined.

Romania

The principle of equality is enshrined in Article 4 of the Constitution of Romania, which states that "Romania is the common and indivisible homeland of all its citizens, without any discrimination on the ground of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin".⁹⁹

In 2000, the Ordinance on Preventing and Punishing all Forms of Discrimination¹⁰⁰ was adopted and stipulates that "the term 'discrimination' shall encompass any difference, exclusion, restriction or preference based on race, nationality, ethnic appurtenance, language, religion, social status, beliefs, sex or sexual orientation, age, disability, chronic non-communicable disease, HIV infection, appurtenance to a disfavoured category or any other criterion, aiming to or resulting in a restriction or prevention of the equal recognition, use or exercise of human rights and fundamental freedoms or legally recognized rights in the political, economic, social and cultural field or in any other fields of public life".

In 2002, the Parliament adopted the Law 202/2002 on equal opportunities between women and men¹⁰¹ (Gender Equality Law). Article 19 contains provisions on discriminatory advertising on the ground of sex. The Law prohibits the depiction of people in advertising in situations where persons, regardless of their gender, are presented in degrading, humiliating and pornographic manners. Advertising agencies are obliged to respect the principle of equal opportunities and treatment, as well as not to use gender stereotypes in advertising productions. Article 37 envisages the application of sanctions, the National Council for Combating Discrimination being responsible to ascertain the case of discrimination and to apply sanctions.

Another legislative act which regulates discriminatory advertising on the ground of sex is the Law on advertising.¹⁰² Article 6 of the Law prohibits, among others, discriminatory advertising on the ground of race, sex, language, origin, social origin, ethnic identity or nationality. According to Article 24, the representa-

97 See <https://www.facebook.com/watch/?v=904464276377069>

98 See <https://bit.ly/3sKVUI5>

99 Constitution of Romania, 2003, published in the Official Gazette, Part I, no. 767 of 31 October 2003

100 Ordinance of the Government no. 137 of 31 August 2000 on Preventing and Punishing All Forms of Discrimination, republished in the Official Gazette no. 166 of 7 March 2014

101 Law no. 202 of 19 April 2002 on equal opportunities and treatment between women and men, republished in the Official Gazette, Part I, no. 326 of 5 June 2013.

102 Law no. 148 of 26 July 2000 on advertising, published in the Official Gazette, Part I, no. 359 of 2 August 2000

tives of local public authorities are responsible to ascertain the violation of Article 6 and to apply sanctions. Also, the authorised bodies to apply sanctions are entitled to ask for an opinion of the representatives of the self-regulatory professional organisations. Besides applying a fine, the authorities may impose the following measures: the prohibition of advertising, if it has been or is to be broadcast, the retract of advertising until the date of its modification, the publication at the expense of the offender of one or more rectifying announcements.

The Audiovisual Law¹⁰³ contains additional provisions related to advertising. It defines TV audio-visual commercial communication (or advertising) as any sound or image messages, with or without sound, which are intended to promote, directly or indirectly, the goods, services or image of a natural or legal person carrying out an economic activity. Also, the Law prohibits any discrimination on the ground of race, ethnicity, nationality, religion, belief, disability, age, sex or sexual orientation, distributed by the audiovisual commercial communication. According to the Law, the National Audiovisual Council is the responsible institution to ascertain the case of discrimination and to apply sanctions.

Established by the Ordinance on Preventing and Punishing All Forms of Discrimination (2000), the National Council for Combating Discrimination (NCCD) is the specialised equality body. It can take decisions and apply sanctions in cases of discrimination. Another competence of NCCD is to monitor discrimination cases.¹⁰⁴

Between January 2016 - August 2021, the Council issued 11 decisions regarding sexist advertising. Nevertheless, out of the 11 decisions, only three of them recognise the use of sexist advertising and prescribe the application of the fines. When it comes to the legislation referred to in the decisions, the practice is uneven. In two decisions, NCCD based its arguments solely on the provisions of the Ordinance on Preventing and Punishing All Forms of Discrimination (2000), while in one case the Council made reference to the provisions of both the Gender Equality Law and the 2000 Ordinance.¹⁰⁵ Moreover, in 2016 the Council issued some decisions stipulating that the institution does not have the necessary competences to review cases of video commercial spots broadcasted on TV and that the Romanian Council on Advertising or the National Audiovisual Council are mandated to review them.¹⁰⁶ Besides, one of the NCCD's decisions on sexist advertising was cancelled by the court, which declared that the National Audiovisual Council is the competent authority to apply fines. Considering that the National Audiovisual Council did not react in those cases referred to them by the NCCD, the NCCD started to review similar complaints and to issue decisions on sexist advertising.

The National Audiovisual Council (NAC) is an autonomous public institution which ensures that the public in general, and children in particular, are protected from inappropriate or abusive TV and radio programmes.¹⁰⁷ The National Audiovisual Council functions in accordance with the provisions of the Audiovisual Law.

The NAC took some decisions in cases of sexist advertising and applied fines. One of the cases occurred in 2010, when the NAC issued a decision¹⁰⁸ confirming the use of sexist advertising for promoting potato chips. The spot¹⁰⁹ portrayed two young persons in love- a woman and a man-, hugging in a corner, while another young woman walks nearby them eating chips. A voiceover says the following: "You like your boyfriend, don't you? Do you see that girl? She likes him too. Look, she bought a pack of chips and she will probably win 2,000 euros in the promotion. Then she'll put on silicone and one day she'll run into your friend, by chance, obviously. And you will be left alone". The video portrays the story the voiceover presents. In its Decision, the NAC stipulated that this spot is likely to harm human dignity, as the viewer is led to the idea that, regardless of a person's moral, intellectual or educational qualities, the only aspect that matters or determines a person's choice, either for men or women, it is physical appearance. The NAC prohibited the broadcasting of this ad.

103 [Law no. 504 of 11 July 2002 on audiovisual](#), published in the Official Gazette no. 534 of 22 July 2002

104 <https://bit.ly/38jcWe8>

105 See [Decision no. 557 of 11 October 2017](#), National Council for Combating Discrimination

106 See [Decision no. 274 of 6 April 2016](#), National Council for Combating Discrimination

107 <https://www.cna.ro/-Mission-.html>

108 <https://www.cna.ro/Decizia-nr-202-din-26-01-2010.html>

109 See https://www.youtube.com/watch?v=rFoksT_ZMDc

In 2020, the NCCD received a complaint from a group of women's civil society organisations against a factory producing sweets, specifying that the banners installed by the company are sexist. The banners featured women eating the sweets produced by the company in an oversexualised posture. The messages accompanying the advertising had a sexual connotation as well ("she likes it with closed eyes"). Moreover, the activists pointed out a series of banners produced by the same company, which were featuring men in a power position, involved in recreational activities. On 29 January 2020, the NCCD issued its decision¹¹⁰, declaring that the advertising is sexist and sanctioning the company with fine of 10.000 RON (Romanian leu).

In relation to awareness raising, in 2012, the NGO Center Filia published a collection of sexist advertising examples. Each advertising is explained in relation to its harms. A similar publication by Center Filia was developed in 2013. In 2015, the organisation launched a blog¹¹¹ aimed at providing a free platform for women to write about sexist advertising and to share examples, as well as to share the examples of positive advertising, which is developed in accordance with the principles of gender equality.

Discriminatory advertising on other grounds than sex/gender

The same legal framework as described above applies in case of discriminatory advertising on other grounds than sex/gender and the same institutions have the mandate to review complaints (the NCCD and the NAC).

In 2005, the National Council for Combating Discrimination (Ionescu I., 2007) reviewed a complaint regarding a discriminatory advertising on the ground of disability. This ad was a TV video spot depicting a woman, dressed like an inmate, who struggles to enter a building with a stroller. While neighbours remain indifferent, she discovers a metal cell door instead of the door of her apartment. The spot ends with the message "Do not condemn your life forever". The spot targets pregnant women, who are urged to go to the gynaecological examination during pregnancy to find out if they will give birth to a healthy baby. The message of the spot is that a child with disability can destroy the mother's life. The campaign faced strong reactions from civil society organisations, who declared that the spot harms the image of children with disabilities and of their families, as it equals the birth of a child with disabilities to a life sentence. Civil society organisations submitted a complaint to the NCCD, which confirmed the discriminatory character of the advertising and issued a warning. Later, the decision of the NCCD was cancelled in court, as the court retained that only the NAC has a mandate on taking decisions in cases of discriminatory advertising such as the one described.

Spain

Article 1 of the Constitution of Spain¹¹² enshrines equality as a fundamental value. Article 14 stipulates that "Spanish citizens are equal before the law and may not in any way be discriminated on the ground of birth, race, sex, religion, opinion or any other personal or social condition or circumstance".

According to Gender Equality Country Report for 2020¹¹³, Spain has two law-making levels: the State and the Autonomous Communities. Spain recognises certain legislative autonomy in its Autonomous Communities for the execution of legislation, but anti-discrimination legislation is an exclusive task of the State. In Spain, the most important step for gender equality policy was the approval of Organic Law 3/2007 on effective equality between women and men¹¹⁴ (known as the Equality Law), which is applied at national, regional and local level¹¹⁵. Title III of this law foresees measures to further the equality in the media field with specific rules for State-owned media. Article 41 of the Law stipulates that "advertising that carries out discriminatory conduct

¹¹⁰ Decision no. 79 of 29 January 2020, National Council for Combating Discrimination

¹¹¹ See <https://nupublicitatiiofensatoare.blogspot.com/>

¹¹² The Constitution of Spain of 1978 with Amendments through 2011

¹¹³ Taramundi D. M. (2021), *Country Report. Gender Equality: how are EU rules transposed into national law?*, European Commission, Spain

¹¹⁴ Law 3/2007 on effective equality between women and men of 22 March 2007

¹¹⁵ <https://bit.ly/3CqE7AG>

in accordance with this Law shall be deemed to be unlawful advertising, in accordance with the provisions of general advertising and institutional communication legislation". An innovation of this Law represents the Business Distinction on Equality: the Ministry of Equality can create a distinction to recognise those companies particularly active in further gender equality. The Distinction is awarded also on the consideration that the company does not use sexist advertising to sell its products or services. The Law mandates the Institute of Women, or equivalent bodies of the Autonomous Communities, with competencies to exercise the cessation action when they consider that companies may have been engaged in alleged misleading advertising. Article 74 of the same Law stipulates that the Institute of Women or equivalent regional bodies will be authorised to interrupt advertising in this respect if found to be misleading. A new provision was introduced in 1994 to transpose Directive 89/552/EEC, which stipulates that "television advertising or sales intended for minors must convey an egalitarian, plural and non-stereotyped portrayal of women and men."

The main normative act which regulates advertising is the General Advertising Law.¹¹⁶ Article 3 of this law defines illegal all advertising that "presents women in a vexatious or discriminatory way, either by using their body or parts of their body as mere objects unrelated to the product that is intended to be promoted, or if their image is associated with stereotypical behaviours that violates the foundations of the legal system by helping to generate violence". The same article prohibits advertising which generates violence or discriminates against minors or promotes stereotypes of a sexist, racist, aesthetic, homophobic, transphobic or disability nature.

Another normative act which regulates non-discriminatory advertising is the General Audiovisual Communication Law.¹¹⁷ Article 4 stipulates that "audiovisual communication shall never incite to hate or discrimination based on gender or any personal or social circumstance and must be respectful towards human dignity and constitutional values, with a special attention to eradicating conducts that favour women's inequality". Article 18 adds that "any commercial communication that violates human dignity or encourages discrimination based on sex, race or ethnic origin, nationality, religion or belief, disability, age or sexual orientation is prohibited. Likewise, any advertising that uses the image of women in a degrading or discriminatory way is prohibited". The Law entitles the Autonomous Communities with competencies to supervise, control and protect the compliance with the legal provisions and, where appropriate, to sanction the audiovisual communication services.

As of August 2021, the government works on a Draft Law on Audiovisual Communication¹¹⁸, which explicitly states the respect of equality and non-discrimination on the ground of sex/gender as a main principle. Also, the draft law promotes the adoption of self-regulatory codes that protect users from content that may violate the dignity of women or promote sexism, discrimination or stereotypes.

When it comes to institutions with competences to review complaints on sexist advertising, the Institute of Women - an autonomous body attached to the Ministry of Equality through the State Secretariat for Equality and Against Gender-Based Violence - exercises this mandate through its Women's Image Observatory. The Observatory was founded in 1994 as an instrument aimed at ensuring the legal commitments in the promotion of a balanced, non-stereotypical representation of women. Its main goal is to assess the representation of women in advertising and the media in general, to identify the most significant roles attributed to them and to take actions to end sexist or stereotypical representations. The Observatory monitors the media and advertising content, either directly or through complaints submitted by citizens, to detect sexist or discriminatory treatment of women. After reviewing the complaint, the Observatory issues a non-binding decision on the sexist character of the advertising. The Institute of Women issues two types of acts: -reclamations, in case of obvious infringement of the legislation; and -recommendations, in case the sexism is not so evident. The Institute of Women can send letters to the advertising companies or media outlets to request the removal or the change of the advertising. The number of submitted complaints is considerably

¹¹⁶ Law no. 34/1988 on General Advertising of 11 November 1988, amended by the Sixth Additional Provision of Organic Law 1/2004 on Comprehensive Protection Measures against Gender Violence of 28 December 2004

¹¹⁷ General Audiovisual Communication Law no. 7/2010 of 3 March 2010

¹¹⁸ Draft Law on Audiovisual Communication.

high. Only in 2018, 494 complaints were submitted on discriminatory advertising.¹¹⁹ The institution sees its role as an educational one, sanctions not being its main goal. The institution had very few situations when it sued a company in court when it repeatedly continued to use sexist advertising, asking for their removal.

One compliant reviewed by the Women's Image Observatory was against an advertising issued by the company Dolce & Gabbana, which was disseminated in several countries, including Spain. The advertising featured a half-naked man holding a woman to the ground by her wrists while four other men look on.¹²⁰ According to several Spanish organisations, including the Women's Image Observatory, the advert encouraged violence against women. Because of the public debate created around this ad in Spain, the company withdrew the advert, but only from Spain. On announcing their decision, the designers Dolce and Gabbana accused Spain of being "in the dark ages". They defended the advert by saying that the artistic photo had *nothing to do with real life*.¹²¹ Later, the advertising was banned in Italy as well.¹²²

In Spain, a self-regulatory mechanism in the field of advertising exists as well, the so called Autocontrol. This is an independent advertising self-regulatory organisation established in 1995 as a non-for-profit association. It brings together advertisers, advertising agencies, media and professional associations and its goal is to work for responsible advertising: truthful, legal, honest and loyal. Autocontrol handles complaints with regard to commercial communications, submitted by consumers, consumer associations, businesses and public offices. It also provides advice and training for companies. Its Code of Advertising Practice prohibits discriminatory advertising. Specifically, it points out that "advertising commercial communications that can be degrading or discriminatory towards women must be avoided, including those which use the woman's body, or its parts, as a mere object detached from the product or service that is intended to be promoted or associated with stereotypical behaviours that undermine equality between women and men". The failure to comply or acting contrary to the agreements adopted by the governing bodies of the Association and repeated failure to comply with the rules regulating commercial communication are considered as serious infringements and can be sanctioned.

In Spain, companies can also be taken to court for sexist advertising. Such a case happened in 2013, when various consumer and women's groups in Spain took the airline company Ryanair to court for sexism. This case concerned the advertising campaign of Ryanair for its annual Girls of Ryanair calendar, which showed women cabin crew stripped down to bikinis. The Court ordered the company to take down the advertising. The latest complaint, lodged by the consumer group Adecua, as well as by the Institute of Women, claimed that the calendar used "sexual connotations" to advertise the services and called for it to be banned.¹²³ The claim was upheld in the first instance court in Málaga and, after the company's appeal, in the second instance by the Provincial Court.

Civil society and activists' protests as a form of manifestation against sexist advertising is a successful tool to combat discrimination in Spain. In 2015, civil society mobilised against an advertising broadcasted by the Spanish chain of opticians. The ad featured a man walking into a "wild west" themed bar filled with women, who immediately turn around to watch him – because he's wearing the brand's glasses – all whilst a voiceover says "Have that incredible first time feeling any time you want!". The company issued as a result a statement apologising and took down the ad.¹²⁴

Some of the Autonomous Communities in Spain appointed different institutions with competencies to review complaints and issue decisions against sexist advertising. For instance, in Andalusia and Catalonia, the Audiovisual Councils have some competences regarding gender-based discrimination in commercials. The Audiovisual Council of Andalusia has the mandate to analyse the content of the advertising broadcasted by radio and television outlets, both public and private, and to ensure that they comply with the

119 The Women's Image Observatory (2018), *2018 data summary*

120 <https://bit.ly/2XBEwBA>

121 <https://bit.ly/3CkZTWq>

122 See <https://bit.ly/3kpp1Fq>

123 <https://bit.ly/3hPXM4Y>

124 <https://cnb.cx/2XwiK1J>

law and they respect the rights of citizens.¹²⁵ In 2018, the institution issued a list of criteria to identify sexist advertising.¹²⁶ A similar publication was produced in 2019 as a result of a cooperation process between the Col·legi de Publicitaris i Relacions Públiques de Catalunya, the Catalan Audiovisual Council and the Institut Català de les Dones.¹²⁷

Discriminatory advertising on other grounds than sex/gender

The normative acts which ban discriminatory advertising on other grounds than sex/gender are the General Advertising Law, which prohibits advertising which generates violence or discriminates against minors or promotes stereotypes of a sexist, racist, aesthetic, homophobic, transphobic or disability nature, and the General Audio-visual Communication Law, which stipulates that “any commercial communication that violates human dignity or encourages discrimination based on sex, race or ethnic origin, nationality, religion or belief, disability, age or sexual orientation is prohibited”. Complaints against discriminatory advertising on other grounds than sex/gender can be submitted to Autocontrol or to courts.

Sweden

The gender equality principle was enshrined for the first time in the Constitution of Sweden, and it is also included in the following documents:¹²⁸ the 1974 Instrument of Government, the 1810 Act of Succession, the 1949 Freedom of Press and the 1991 Fundamental Law of Freedom of Expression. The Instrument of Government states that public power is to be exercised with respect for the equal worth of all and the liberty and dignity of the individual and that public institutions are to combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, disability, sexual orientation, age or any other circumstance affecting the individual.

The Discrimination Act (2008) regulates discrimination and appoints the Equality Ombudsman (Diskrimineringsombudsmannen) as the responsible institution to ensure that discrimination does not occur in any area of life. Nonetheless, neither marketing nor advertising are mentioned in the scope of the application of the Discrimination Act. Because of this, the Equality Ombudsman cannot review the complaints on sexist advertising.¹²⁹

The main legal document in the advertising field is the Marketing Act (2008)¹³⁰, which promotes broadly the interests of consumers and of the business community in connection with the marketing of products. Nonetheless, one ruling issued by the Swedish Market Court (Marknadsdomstolen) in 1976 made it impossible to use the act to regulate sexist advertising. Marknadsdomstolen maintained that the Marketing Act does not include sexist advertising, as the advertisements are offensive to women based on their gender and not on their role as consumers.¹³¹ Ever since this case, it is no longer possible to file a complaint against gender discriminatory advertisements before the Swedish courts (PILPG, 2015).

Sweden is the only Nordic country which does not have legal provisions on sexist advertising. This matter was last raised in a government public inquiry, which was presented in January 2008. The inquiry concluded that legislation against sexist advertising was needed, proposed a definition of “sexist advertising” and suggested that the Consumer Ombudsman be appointed as the supervisory authority. However, the inqui-

¹²⁵ <https://bit.ly/2Z61Mry>

¹²⁶ The Audiovisual Council of Andalusia (2018), *Criteria and indicators on discriminatory advertising for women and sexist stereotypes*

¹²⁷ The Audiovisual Council of Catalonia (2019), *Guidelines for equal advertising. The benefits of including a gender perspective in advertising communications*, Barcelona

¹²⁸ Ministry of Justice, *the Constitution of Sweden*

¹²⁹ See: Kosunen N. et al (2017), *Regulation of Gender-Discriminatory Advertising in the Nordic Countries*, the Nordic Council of Ministers, Denmark

¹³⁰ *The Marketing Act*, issued on 5 June 2008

¹³¹ The Swedish Women's Lobby, *Sexist advertisement in the Nordic countries- an evaluation of regulations and implementation*

ry did not result in such a law being passed.

A good practice in Sweden is that each municipality has the right to its own regulations on advertising. In June 2018, according to The Local¹³², Stockholm's city council voted to impose guidelines, accordingly to the ones applied by the Advertising Ombudsman, in the agreement made with outdoor operators renting billboard space in Stockholm, with the possibility for the municipality to remove advertising from billboards in the Swedish capital that do not follow the guidelines.

Currently, the Swedish institution with competences to control sexist advertising is Reklamombudsmannen (the Advertising Ombudsman)¹³³, a self-regulatory organisation, founded in 2009 on the initiative of the Swedish Advertising Association and the Confederation of Swedish Enterprises. Its main task is to review commercial advertising and make sure advertising standards are kept high by the industry. The Advertising Ombudsman also informs different government agencies and educates the industry and the public in marketing ethics. The Advertising Ombudsman applies the ICC Code, which prohibits gender discrimination in advertising. Besides this, the Advertising Ombudsman's Jury developed its own criteria, supplementing Article 2 of the ICC Code on sexist advertising. In this regard, the following could be considered a sexist advertising: 1) objectifying advertising, which portrays men or women as sex objects that can be considered offensive and/or objectifying, 2) stereotypical advertising, which portrays men or women in a stereotypical way in terms of gender roles and where men or women are represented in a derogatory way (stereotyping) and 3) advertising that is discriminating or derogatory in other ways.¹³⁴

The decisions issued by the Advertising Ombudsman are not binding and the institution has no means to impose financial sanctions. The decisions are regarded as guidelines to advertisers on what is to be considered as good marketing practice. Advertisers can also acquire a copy advice, a non-binding guidance on a specific campaign before it is published.

One of the most prominent movements against sexist advertising was launched by the Swedish Women's Lobby (Sveriges Kvinnolobby)¹³⁵, an independent umbrella organisation established in 1997, which unites 47 member organisations with the mutual aim to improve the status of women and girls in the Swedish society. In 2013, Sveriges Kvinnolobby conducted an online survey among women and men aged 13-30 on the impact of advertising on health. The results¹³⁶ revealed the negative impact advertising has on the self-respect of both women and men, women being more affected. This resulted in the launch of a nationwide campaign Ad Watch or Reklamera¹³⁷, aimed against sexist and gender stereotypical images of women in advertising. The campaign continues nowadays, and it mainly takes place on social media platforms (Facebook and Instagram). It urges people to make their voice heard and act against sexist advertising. They can do this by photographing sexist advertising and sending it to Ad Watch. Later, the organisation files a complaint to the Swedish Advertising Ombudsman and contacts the company behind the ad. In October 2014, the organisation had another advertising campaign in the Stockholm metro. Instead of pictures of half-naked and retouched women's bodies, travellers could see messages about acting against sexist advertising, which were set in place by the organisation. In 2016, in collaboration with the Reklamér and Reklamere campaigns in Denmark and Norway respectively, Sveriges Kvinnolobby analysed the content of Nordic regulations to counteract sexist advertising and how they are implemented. The result is the report "Sexist advertisement in the Nordic countries – An evaluation of regulations and implementation", which developed recommendations on legislative amendments.¹³⁸ One of the current campaigns of the organisations is to encourage people to submit Citizens' proposals to municipalities to urge them to adopt ethical guidelines against sexist advertising. The organisation developed a template for such proposals, which is published on their website.¹³⁹

132 <https://bit.ly/3kDnXfQ>

133 <https://reklamombudsmannen.org/en/about-ro/>

134 <https://bit.ly/3ysEbgI>

135 <https://sverigeskvinnolobby.se/en/about-the-swedish-womens-lobby/>

136 Swedish Women's Lobby (2013), *Results of Swedish Women's Lobby survey on sexist advertising and mental health among young people*

137 <https://bit.ly/3ynI2vH>

138 <https://bit.ly/3yqfamI>

139 <https://sverigeskvinnolobby.se/project/reklamera/>

Some of the cases of sexist advertising reported to the Advertising Ombudsman are of big resonance, as the one reviewed in 2018. The stock image, also known as Man Looking at Other Woman, by Antonio Guillem, a photographer from Barcelona, named meme of the year in April¹⁴⁰, was used by the internet service provider Bahnhof for a recruitment advertising, which labelled the boyfriend “You”, the girlfriend “Your current workplace”, and the second woman “Bahnhof”. The advertising was posted on the Bahnhof social networks and faced a lot of negative reactions. Being reported to the Advertising Ombudsman, the Jury issued the Decision 1804-63¹⁴¹ stating that the advertising is sexist. In its Decision, the Jury concluded that the picture shows a situation where a person is clearly more interested in someone other than their partner, and a partner who is upset about this. The situation alludes to jealousy and longing for something that is better than what you already have. In the advertiser’s version of the meme, the character “you” (as a figurative job candidate) is more interested and attracted to Bahnhof than his/her current employer. The Advertising Ombudsman issued the decision stating sexist character of the advertising.

Another case of resonance was reviewed by the Advertising Ombudsman in 2020, when a popular influencer, who is also a business owner, published on her social media account a photo of herself, promoting her products. Based on the submitted complaint, the Jury reviewed the case and issued its decision¹⁴² concluding that the ad was sexist. The photo showed a woman in a sexualised posture, and the text “Exactly one week left until launch of my brand-new products”. The Advertising Ombudsman concluded that the advertising objectifies the woman by presenting her as sex object, thus is sexist.

Discriminatory advertising on other grounds than sex/gender

The same procedure as described above shall be followed in case of a discriminatory advertising on other grounds than sex/gender. The Advertising Ombudsman does not have any specific criteria to assess discriminatory advertising on other specific grounds than sex/gender and the existing campaigns against discriminatory advertising mostly target sexist advertising.

Nevertheless, Sweden has had cases of discriminatory advertising on other grounds. This is, for example, the case for the brand H&M. In 2018, H&M developed an ad that featured a child of colour with a sweatshirt with the words “coolest monkey in the jungle” etched on the front. The scandal drew public accusations of racism. Since the scandal, the parents of the child featured in the image have publicly stated that they do not believe the ad was racist, and the company has taken several actions, including hiring a diversity leader and issuing a public apology that was featured at the top of its website.¹⁴³ Nevertheless, this advertising has never been taken up as a case in Sweden and has not been reviewed by the Advertising Ombudsman.

The webpage of the Advertising Ombudsman contains examples of some other advertisings which were found to be discriminatory on other grounds. One of the latest cases of discriminatory advertising is reviewed by the institution’s Decision no. 2010-231.¹⁴⁴ In fact, the reported advertising was displayed on a digital billboard in the Stockholm metro. It contained the text “No meat. No eggs. No Chinese investors. No gluten” in capital letters. The text “No Chinese investors” was highlighted in green, while the rest of the text was in black. Next to the text is a pack of burgers. There was impressive public criticism over this ad. On the same day, the company issued a public statement explaining its point of view and apologising for causing any offence. The Decision issued by the Jury of the Advertising Ombudsman states that the advertising lists several things that can be perceived as something that some consumers do not want food to be associated with. One of these is Chinese investors. The phrase “No Chinese investors” gives the impression that it is negative to be associated with people of Chinese descent. According to the Jury, the advertising was degrading and discriminatory against Chinese persons and was therefore contrary to the first paragraph of Article 2 of the ICC Code.

140 <https://bit.ly/3Dz9mL2>

141 The Advertising Ombudsman, [Decision no. 1804-63 of 15 August 2018](#)

142 The Advertising Ombudsman, [Decision no. 1912-259 of 9 June 2020](#)

143 <https://wapo.st/3gNFhOe>

144 The Advertising Ombudsman, [Decision 2010-231 of 26 January 2021](#)

Ukraine

In Article 24, the Constitution of Ukraine¹⁴⁵ envisages equal constitutional rights and freedoms for all citizens. There shall be no privileges or restrictions based on race, colour of skin, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics. It ensures equality of rights for women and men.

In 2005, the Law of Ukraine on ensuring equal rights and equal opportunities of women and men¹⁴⁶ was approved, aimed at ensuring the equality and parity of women and men in all spheres of society by enforcing equal rights and opportunities for women and men, the elimination of discrimination on the grounds of gender and the implementation of special provisional measures, aimed at eliminating the disbalance between the opportunities of women and men to exercise equal rights. In its Article 21¹, the Law recognises the role of the media in combating gender discrimination, gender-based violence and the discriminatory perception of the role of women and men in the society.

The Anti-Discrimination Law¹⁴⁷, adopted in 2012, contains an open-ended list of prohibited grounds in Article 1(2), with the following grounds receiving explicit protection: race; colour; political, religious and other beliefs; sex; age; disability; ethnic or social origin; family and property status; place of residence; and language.¹⁴⁸

The main normative act regulating relations in the field of advertising is the Law on advertising.¹⁴⁹ An important development happened in September 2021, when the Verkhovna Rada of Ukraine adopted the amendment of the Law on advertising, entered into force in January 2022, which introduced the definitions of discriminatory advertising and discriminatory advertising on the ground of sex. The amendment also modified the fines applicable for the distribution of discriminatory advertising on the ground of sex.

When it comes to regulatory mechanisms, Ukraine has a complex system, as there are at least seven institutions with competencies to revise complaints on sexist advertising and to issue decisions.

The State Service of Ukraine for Food Safety and Consumer Rights¹⁵⁰ is a body with duties to issue fines in case of discriminatory advertising and to adopt decisions related to banning it. Through its Consumer Protection Department, the institution exercises control in the field of advertising, including sexist advertising. The institution may review complaints, but only if the advertising also violates norms regarding food safety and consumers' rights. The institution also decides on the applicable fines. During 2018, eight complaints were received, four cases were filed and four decisions on applying fines were adopted.¹⁵¹

The Industrial Gender Committee on Advertising (IGCA)¹⁵², a self-regulatory mechanism created by the professional associations of advertisers and marketers that have adopted gender non-discriminatory advertising standards, aims to promote these standards in advertising and marketing and to monitor how professional associations meet these standards. It also submits complaints to the State Service of Ukraine for Food Safety and Consumer Rights. IGCA considers appeals, complaints and suggestions regarding the content of advertising and marketing products, including cases of possible violations of the Standards for gender non-discriminatory advertising, and offers to improve the quality of advertising and marketing products that are submitted to the Secretariat. IGCA takes decisions on sexist advertising and notifies the plaintiff and defendant in writing. Nevertheless, its decisions are not binding and in case there is no feedback from the plaintiff, the information is submitted to the State Service of Ukraine on Food Safety and

145 Constitution of Ukraine, adopted at the Fifth Session of the Verkhovna Rada of Ukraine on 28 June 1996

146 Law no. 2866-IV of 8 September 2005 on ensuring equal rights and equal opportunities of women and men

147 Law no. 5207-VI of 6 September 2012 on the principles of preventing and combating discrimination in Ukraine

148 The Equal Rights Trust (2013), *Legal Analysis: Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine"*, ERT, United Kingdom

149 Law no. 270/96-BP of 3 July 1996 on advertising

150 See <https://dpss.gov.ua/>

151 Available at <https://bit.ly/3kfo7tE>

152 See <http://uam.in.ua/gkr/eng/tasks/>

Consumer Protection to apply fines. The latter may request IGCA to provide expert advice on some cases of sexist advertising. The Committee's website states that in 2018 they received 120 complaints, out of which 85 were found as reflecting cases of sexist advertising.¹⁵³ In 2011, IGCA developed the Standards of advertising free of gender discrimination¹⁵⁴ as a mechanism for self-regulation of the advertising market, which contains criteria for determining sexist and non-sexist advertising.

The Ukrainian Parliament Commissioner for Human Rights (the Office of the Ombudsperson)¹⁵⁵ is another body with the mandate to review complaints on sexist advertising. The institution exercises control over the observance of equal rights and opportunities for women and men and considers appeals on cases of discrimination on the grounds of sex and violence on the grounds of sex. As in the case of IGCA, its decisions regarding sexist advertising are not binding and are considered as an expert opinion. The institution may receive complaints submitted by individuals and may act *ex officio*.

The National Committee for Television and Radio Broadcasting is a constitutional, permanent,¹⁵⁶ collegial, supervisory and regulatory state body of Ukraine in the field of television and radio broadcasting. It may revise complaints on sexist advertising broadcasted on TV and radio stations. It may apply sanctions as well, including fines and the revocation of a TV channel license.

The Commission on Journalism Ethics¹⁵⁷ is a self-regulation body for journalists and editorial teams (newsrooms) in Ukraine. It is a civil society organisation, working like a press council, considering conflicts of ethical and professional nature arising inside the journalists' community and between this community and the public on the basis of the journalists' professional duties execution.¹⁵⁸ Its work is based on the provisions of the Code of Ethics of Ukrainian Journalists, which prohibits discrimination in mediatic products based on various grounds, including sex (Article 15).

The Expert Council on the Prevention and Counteraction of Discrimination on the Grounds of Sex that operates under the Ministry of Social Policy (based on the Order no. 376 of 11 April 2016)¹⁵⁹ was created to respond to complaints and appeals submitted by citizens regarding gender discrimination. Most of the complaints submitted to the Council are related to discriminatory advertising. The institution issues recommendations to relevant media outlets, broadcasting and advertising agencies.

Another institution that developed standards on gender representation in advertising is the State Enterprise "Ukrainian Research and Training Center of Standardisation, Certification and Quality".¹⁶⁰ The Enterprise is mandated to undertake activities in the field of standardisation and certification. In 2011, it developed and published the Standard of the Ukrainian organisation: non-discriminatory advertising based on gender. In practice, the courts request the expert opinion of the Enterprise when reviewing complaints on sexist advertising and make reference in their decisions to the expert opinions.

If a company does not comply with the recommendations issued by those institutions whose decisions are non-binding, it could be sued in the court. Nevertheless, the decisions issued by the courts are many times contradictory, i.e., the decisions released by the first instance court can declare the sexist character of an advertising, while the appeal court may cancel the decision.

A good practice of Ukraine is the existence of an active civil society that implements activities and initiatives aimed at preventing and combating sexist advertising. Feminist activists and civil society organisations are the most vocal in the fight against sexist advertising. So far, the organisations designed and implemented various raising awareness campaigns. For example, in 2008-2009, activists of the Women's Consortium of Ukraine held a number of discussion clubs in several cities of Ukraine on "Stereotypical images of women

153 <http://www.uam.in.ua/gkr/eng/how/>

154 The Industrial Gender Committee on Advertising (2011), *Standards of advertising free from gender discrimination*

155 See <https://ombudsman.gov.ua/>

156 See <https://www.nrada.gov.ua/>

157 <https://cje.org.ua/about/>

158 <https://presscouncils.eu/members-ukraine>

159 <http://usznavasilkiv.gov.ua/news/211-schodo-dyskryminacinoi-reklamy.html>

160 See <http://uas.org.ua/en/zagalni-vidomosti-pro-dp-ukrmdnts/>

and men in advertising.” Also, it launched a campaign against sexism in media and in politics “Povaha”.¹⁶¹ Within the campaign, a website was developed which contains information on gender equality topics, monitoring of public sexist statements and media articles which contain sexism, respond to sexist remarks, etc. One of the published informative materials contains information on how to assess sexism in advertising and on the reporting mechanism.¹⁶²

In 2017, the NGO League for the Protection of Women’s Rights “Harmony of Equals” launched a social project entitled “Ukraine without sexism”.¹⁶³ The project aimed at supporting the establishment of a network of so-called anti-sexist inspectors, whose duties would be to monitor the cases of sexism in the capital and in the regions. Among other cases, the inspectors recorded numerous cases of sexist advertising. The identified examples are reported to the relevant authorities.

The NGO Centre of Gender Culture implemented a project aimed at monitoring sexist advertising during 2018-2020.¹⁶⁴ In the framework of the project, the organisation developed “Methodological recommendations on monitoring of sexist advertising”, which explain specific criteria, like sexualisation, objectification, perpetuation of gender stereotypes, etc.

In 2022, Ukraine ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence, the Istanbul Convention. Also, it is expected that the issues relating to sexists advertising and reporting on gender-based violence will be discussed in the scope of the adoption of a new law on advertising and new law on media expected as part of legislative reforms relevant for EU accession.

Discriminatory advertising on other grounds than sex/gender

When it comes to discrimination in advertising on other attributes than sex/gender, both the Anti-Discrimination Law and the Law on Advertising prohibit discrimination. The main difference occurred after the adoption of the Law no. 3427, which provides a specific definition of sexist advertising. The above-listed institutions, except the IGCA, have competences to review complaints on **other grounds than gender/sex**.

161 See <https://povaha.org.ua/>

162 See <https://bit.ly/383qQAP>

163 See https://youtu.be/ENkUkgD_h5Q

164 <https://bit.ly/3sEDEas>

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The way genders are depicted in advertising represents a risk for human dignity. Sexist advertising is a form of gender discrimination as it contributes to reinforcement of gender stereotypes and inequality. This study analyses sexism and gender-based discrimination in advertising and relating regulation in the different Council of Europe's member states. It also provides guidelines for combating discriminatory advertising, considering international legislative framework and roles of all relevant stakeholders that can contribute to improvement in this field.

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