

OSCE Human Dimension Implementation Meeting

Warsaw, 29 September to 10 October 2008

Specifically selected topic

Working sessions 10

“TOLERANCE AND NON-DISCRIMINATION”

Contribution of the Council of Europe

**COMBATING INTOLERANCE AND DISCRIMINATION AND PROMOTING MUTUAL
RESPECT AND UNDERSTANDING: A COUNCIL OF EUROPE PRIORITY**

The Council of Europe has always been active in the combat against all forms of racism and intolerance. The persistence of these phenomena on this continent has given a new urgency to this combat. In October 1993, the Vienna Summit of Council of Europe Heads of State and Government adopted a Plan of Action on Combating Racism, Xenophobia, Antisemitism and Intolerance. The Summit also took the decision to establish the **European Commission against Racism and Intolerance (ECRI)**, entrusted with the task of combating racism, xenophobia, antisemitism and intolerance from the perspective of the protection of human rights.

Although many positive steps have been taken at national, European and international level, the need to continue efforts to combat racism and racial discrimination has been confirmed by recent events and certain worrying trends in Council of Europe member States.

These trends include the increase in the dissemination of antisemitic ideas and in acts of violence perpetrated against members of Jewish communities and their institutions, the growing prejudices against Muslim communities, both within society in general and within certain public institutions, electoral gains of political parties spreading a xenophobic ideology, the dissemination of racist messages on the internet, racist acts and discourse against migrants, refugees and asylum-seekers, continuing discrimination towards Roma. Certain of these groups of persons have become particularly vulnerable to racism and racial discrimination, as a result of the fight against terrorism engaged since the events of 11 September 2001.

The Political Declaration and the General Conclusions of the European Conference against Racism, held in Strasbourg on 11-13 October 2000, both called for the strengthening of the action of ECRI. On 13 June 2002, The Committee of Ministers of the Council of Europe adopted a new Statute for ECRI, thereby consolidating its role as an independent human rights monitoring mechanism specialised in questions related to combating racism and racial discrimination.

The 3rd Summit of Heads of State and Government of the Council of Europe held on 16 - 17 May 2005 in Warsaw gave a new impetus to fight against all forms of intolerance and discrimination, in particular those based on sex, race and religion, including antisemitism and islamophobia. In the Action Plan adopted by this Summit, the Heads of State and Government decided to intensify the fight against racism, discrimination and every form of intolerance, by giving ECRI the necessary means to carry out its work and by disseminating widely ECRI's standards.

One important aspect of ECRI's programme of activities is its **country monitoring work**, whereby it carries out an in-depth analysis of the situation concerning manifestations of racism and intolerance in each of the Council of Europe member States. ECRI's findings, along with suggestions and proposals as to how each country might deal with any problems identified, are published in country reports drawn up after a contact visit to the concerned countries and a process of confidential dialogue with the national authorities.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in five-year cycles, covering nine to ten countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002 and work on the third round reports finished at the end of the year 2007. At the beginning of 2008, ECRI started its fourth round of country-by-country monitoring work.

The fourth round reports focus on "implementation" and "evaluation". They examine if ECRI's main recommendations from previous reports have been followed and implemented. They also include an evaluation of policies and new developments since the last report. In the fourth round of its country monitoring work, which will run from 2008 to 2012, ECRI introduced a new interim follow-up mechanism, asking member States - two years after the publication of the report - to provide information on the implementation of specific recommendations for which priority implementation was requested in the report.

ECRI is covering the following countries in 2008: Belgium, Bulgaria, Czech Republic, Germany, Greece, Hungary, Norway, Slovak Republic and Switzerland.

The following countries will be covered in 2009: Albania, Austria, Estonia, France, Poland, Serbia, "the former Yugoslav Republic of Macedonia", Turkey and the United Kingdom.

The following countries will be covered in 2010: Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Italy, Liechtenstein, Lithuania, Monaco, the Russian Federation and Spain.

The following countries will be covered in 2011: Andorra, Croatia, Denmark, Finland, Iceland, Latvia, Montenegro, Portugal, Romania and Slovenia.

The following countries will be covered in 2012: Georgia, Ireland, Luxembourg, Malta, Moldova, the Netherlands, San Marino, Sweden and Ukraine.

The second aspect of ECRI's programme comprises **work on general themes**, covering the main fields of combating racism and intolerance. ECRI elaborates General Policy Recommendations which are addressed to all member States and provide guidelines which policy-makers are invited to use when drawing up national strategies and policies and various areas. ECRI has adopted to date eleven General Policy Recommendations, covering some very important themes, including key elements of national legislation to combat racism and racial discrimination, the creation of national specialised bodies to combat racism and racial discrimination, combating racism against Roma, combating Islamophobia in Europe, combating the dissemination of racist and antisemitic material on the internet, combating racism while fighting terrorism; and combating antisemitism. ECRI's most recent General Policy Recommendations deal respectively with the issue of combating racism and racial discrimination in and through school education and the issue of combating racial discrimination in policing, including the problem of racial profiling. ECRI is currently preparing its 12th General Policy Recommendation on combating racism and racial discrimination in the field of sport.

Relations with civil society is the last major area of ECRI's work. Combating racism can only be effective if the anti-racist message filters down to society in general. For this reason, awareness-raising among the general public and a communication strategy are crucial. In 2002, ECRI adopted a programme of action to consolidate this aspect of its work. Alongside information sessions in member States, and contacts with the NGO world, this programme aims furthermore to involve all elements of society in an intercultural dialogue based on mutual respect.

One issue which recurs most regularly in ECRI's country-specific monitoring reports is that of the persistence of racial discrimination, which itself is closely linked to the lack of implementation of anti-discrimination legislation in member States. Thanks to the sustained efforts both at the national and international level, most Council of Europe member States now possess a more or less comprehensive body of anti-discrimination law. However, in some member States this positive development has had so far only a limited impact. There are also still some countries, which do not yet possess a complete body of legislation to combat discrimination, and ECRI therefore systematically recommends that member States should adopt specific and full anti-discrimination legislation, containing provisions in different fields of law and covering areas such as employment, housing, education, access to social and public services and so on.

ECRI's General Policy Recommendation N° 7, adopted on 13 December 2002, contains the main elements which ECRI considers should feature in the national legislation of the member States of the Council of Europe in order to combat racism and racial discrimination effectively.

The law is indeed a very powerful tool to combat racism and intolerance. Of special importance in this respect is Art 14 of the European Convention on Human Rights (ECHR), which contains a non-discrimination clause with respect to the rights and freedoms set forth in it. Furthermore, the entry into force on 1 April 2005 of Protocol no.12 to the ECHR, which contains a general, free-standing prohibition of discrimination, represents a major step forward in European anti-discrimination law.

The **European Social Charter** (ESC) is another key tool for combating racial discrimination. It requires that all rights protected be guaranteed without discrimination. Compliance with the rights guaranteed by the ESC is monitored by the European Committee for Social Rights (ECSR) through a mandatory reporting procedure and optionally through a collective complaints mechanism.

The protection of national minorities is also an integral element of the fight against racism and intolerance: the **Framework Convention for the Protection of National Minorities** and its monitoring mechanism, including an advisory committee of independent experts, play a central role in this respect.

Another important legal instrument of the Council of Europe for combating racism and intolerance is the **Additional Protocol to the Convention on Cybercrime**, which entered into force on 1 March 2006 and requires States to criminalize the dissemination of racist and xenophobic material through computer systems. This Protocol aims at harmonising criminal law, in the fight against racism on the Internet, and improving international co-operation in this area.

Roma are often singled out as a particular target for racism throughout Europe. The recently created **European Roma and Travellers Forum**, which was set up in Strasbourg with substantial support from the Council of Europe, has given Roma a voice on the European level.

Finally, also many other sectors of the Council of Europe (including Education, Youth, Sport, Media, Equality between women and men, etc.) actively contribute to combating racism and intolerance by building “a freer, more tolerant and just European society based on common values, such as freedom of expression and information, cultural diversity and the equal dignity of all human beings”¹. Of particular importance in this respect was the launching in September 2008 of the **Council of Europe Anti-Discrimination Campaign**. The main aim of this campaign is to support the media sector's own efforts to play a constructive role in an increasingly multicultural environment.

Just as the Universal Declaration of Human Rights states that “All human beings are born free and equal in dignity and rights”, the Council of Europe is convinced that combating all forms of racism is an integral part of the protection and promotion of human rights. The Organisation has accumulated an extensive experience as a result of its work in this area. Today, the Council of Europe deals with combating racism and racial discrimination by means of a global approach, covering the range of problems faced by society and, above all, involving all its member States on an equal footing.

The Council of Europe shares this conviction with many other actors on the international scene, such as the United Nations/OHCHR/CERD, the OSCE/ODIHR and the European Union/FRA. Co-operation is crucial to successfully combat racism and all forms of intolerance, and the different European and international bodies active in this field therefore aim to complement and reinforce each other in their work. For this reason, regular consultations for devising common projects and enabling the free flow of and exchange of information are held between the main actors in this field.

¹ Final Declaration of the Second Summit of the Council of Europe (Strasbourg, 10-11 October 1997)

The Council of Europe is deeply committed to close co-operation with the OSCE in the field of Tolerance and Non-discrimination, and presents the following specific recommendations in this respect:

1. Member States of the Council of Europe are encouraged to sign and ratify Protocol N° 12 to the European Convention on Human Rights.
2. OSCE participating States are encouraged to sign and ratify the Additional Protocol to the Council of Europe's Convention on Cybercrime, on the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
3. OSCE participating States are encouraged to enact and implement legislation against racism and racial discrimination, if such legislation does not already exist or is incomplete and to ensure that the key components set out in ECRI's General Policy Recommendation No7 are provided in such legislation.
4. Member States of the Council of Europe are encouraged to implement ECRI's recommendations contained in its country-specific monitoring reports as well as ECRI's General Policy Recommendations.
5. OSCE institutions are encouraged to continue their co-operation in the fight against racism, racial discrimination and all forms of intolerance with the Council of Europe by further strengthening mechanisms enabling the free flow of and exchange of information and data.