

EGUZKILORE

Número Extraordinario 11.  
San Sebastián  
Diciembre 1997  
303 - 307

Conseil de l'Europe



CRI (96) 43

***ECRI***

***EUROPEAN COMMISSION  
AGAINST RACISM AND INTOLERANCE***

**ECRI general policy recommendation n°1:  
Combating racism, xenophobia,  
antisemitism and intolerance**

## **THE EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE**

Recalling the Declaration adopted by the Heads of State and Government of the member States of the Council of Europe at their Summit held in Vienna on 8-9 October 1993;

Recalling that the Plan of Action on combating racism, xenophobia, antisemitism and intolerance set out as part of this Declaration invited the Committee of Ministers to establish the European Commission against Racism and Intolerance with a mandate, *inter alia*, to formulate general policy recommendations to member States;

Bearing in mind the proposals contained in the Recommendation N° 1275 on the fight against racism, xenophobia, antisemitism and intolerance adopted by the Parliamentary Assembly of the Council of Europe on 28 June 1995;

Convinced that effectively countering racism, xenophobia, antisemitism and intolerance requires a sustained and comprehensive approach reflected in a broad range of measures which complement and reinforce one another, covering all aspects of life;

Recognising the social, economic and legal diversity of member States and the need for specific measures in this field to reflect this diversity;

Aware that racism, xenophobia, antisemitism and intolerance cannot be countered by legal measures alone, but emphasising that legal measures are nevertheless of paramount importance and that non-enforcement of relevant existing legislation discredits action against racism and intolerance in general;

Recalling that medium and long-term preventive strategies based on educational and other measures are crucial for curbing the various manifestations of racism, xenophobia, antisemitism and intolerance and expressing in this respect its support for the initiatives taken within the Council of Europe, in particular in the field of history teaching, as well as for Recommendation (84)18 on the training of teachers in education for intercultural understanding, notably in a context of migration and Recommendation R (85)7 on the teaching and learning of human rights in schools;

Acknowledging the active role the media can play in favour of a culture of tolerance and mutual understanding;

Seeking in this first general policy recommendation, complementary to other efforts at the international level, to assist member States in combating racism, xenophobia, antisemitism and intolerance effectively, by proposing concrete and specific measures in a limited number of areas which are particularly pertinent;

Recommends the following to the Governments of the member States:

### **A. Concerning law, law enforcement and judicial remedies**

– Ensure that the national legal order at a high level, for example in the Constitution or Basic Law, enshrines the commitment of the State to the equal tre-

atment of all persons and to the fight against racism, xenophobia, antisemitism and intolerance;

- Sign and ratify the relevant international legal instruments listed in the Appendix;

- Ensure that national criminal, civil and administrative law expressly and specifically counter racism, xenophobia, anti-semitism and intolerance, *inter alia* by providing:

- that discrimination in employment and in the supply of goods and services to the public is unlawful;

- that racist and xenophobic acts are stringently punished through methods such as:

- defining common offences but with a racist or xenophobic nature as specific offences;

- enabling the racist or xenophobic motives of the offender to be specifically taken into account;

- that criminal offences of a racist or xenophobic nature can be prosecuted *ex officio*;

- that, in conformity with the obligations assumed by States under relevant international instruments and in particular with Articles 10 and 11 of the European Convention on Human Rights, oral, written, audio-visual expressions and other forms of expression, including the electronic media, inciting to hatred, discrimination or violence against racial, ethnic, national or religious groups or against their members on the grounds that they belong to such a group are legally categorised as a criminal offence, which should also cover the production, the distribution and the storage for distribution of the material in question;

- In conformity with the aforementioned international obligations, take measures, including where necessary legal measures, to combat racist organisations –bearing in mind the fact that they can pose a threat to the human rights of minority groups– including banning such organisations where it is considered that this would contribute to the struggle against racism;

- Ensure that the general public is made aware of the legislation combating racism, xenophobia, antisemitism and intolerance;

- Ensure that criminal prosecution of offences of a racist or xenophobic nature is given a high priority and is actively and consistently undertaken;

- Ensure that accurate data and statistics are collected and published on the number of racist and xenophobic offences that are reported to the police, on the number of cases that are prosecuted, on the reasons for not prosecuting and on the outcome of cases prosecuted;

- Ensure that adequate legal remedies are available to victims of discrimination, either in criminal law or in administrative and civil law where pecuniary or other compensation may be secured;

- Ensure that adequate legal assistance is available to victims of discrimination when seeking a legal remedy;
- Ensure awareness of the availability of legal remedies and the possibilities of access to them;

## **B. Concerning policies in a number of areas**

- Take measures in the fields of education and information in order to strengthen the fight against racism, xenophobia, anti-semitism and intolerance;
- Adopt policies that enhance the awareness of the richness that cultural diversity brings to society;
- Undertake research into the nature, causes and manifestations of racism, xenophobia, anti-semitism and intolerance at local, regional and national level;
- Ensure that school-curricula, for example in the field of history teaching, are set up in such a way to enhance the appreciation of cultural diversity;
- Set up and support training courses promoting cultural sensitivity, awareness of prejudice and knowledge of legal aspects of discrimination for those responsible for recruitment and promotion procedures, for those who have direct contact with the public and for those responsible for ensuring that persons in the organisation comply with standards and policies of non-discrimination and equal opportunity;
- Ensure, in particular, that such training is introduced and maintained for the police, personnel in criminal justice agencies, prison staff and personnel dealing with non-citizens, in particular refugees and asylum seekers;
- Encourage public officials to bear in mind the desirability of promoting tolerance in their public comments;
- Ensure that the police provide equal treatment to all members of the public and avoid any act of racism, xenophobia, antisemitism and intolerance;
- Develop formal and informal structures for dialogue between the police and minority communities and ensure the existence of a mechanism for independent enquiry into incidents and areas of conflicts between the police and minority groups;
- Encourage the recruitment of members of public services at all levels, and in particular police and support staff, from minority groups;
- Ensure that all public services and services of a public nature such as health-care, social services and education provide non-discriminatory access to all members of the public;
- Take specific measures, such as providing targeted information, to ensure that all eligible groups *de facto* have equal access to these services;
- Promote and increase genuine equality of opportunity by ensuring the existence of special training measures to help people from minority groups to enter the labour market;

- Initiate research into discriminatory practices and barriers or exclusionary mechanisms in public and private sector housing;
- Ensure that public sector housing is allocated on the basis of published criteria which are justifiable, ie which ensure equal access to all those eligible, irrespective of ethnic origin;
- Since it is difficult to develop and effectively implement policies in the areas in question without good data, to collect, in accordance with European laws, regulations and recommendations on data-protection and protection of privacy, where and when appropriate, data which will assist in assessing and evaluating the situation and experiences of groups which are particularly vulnerable to racism, xenophobia, anti-semitism and intolerance.