

7. A salient feature of CoE actions to combat the problems of racism and racial discrimination is that it consistently approaches them from the perspective of protecting and promoting human rights and therefore ensuring that states meet their obligations in this area. These obligations involve on the one hand avoiding racism and

Roma, Travellers and Anti-Gypsyism

12. Racism and discrimination targeting Roma and Travellers is one of the most widespread, persistent, complex and deep-rooted problems in Europe. It is also one of the most difficult problems to address. Since the WCAR, the Council of Europe has continued to

Roma origin in special schools for children with learning disabilities amounted to indirect discrimination in violation of Article 14 (prohibition of discrimination) of the European Convention on Human Rights read in conjunction with Article 2 of Protocol No.1 (right to education).⁶ The problem of channelling Roma children into schools for children with mental disabilities or other forms of segregated schooling exists in several European countries. With this decision, the Court

46. In addition, GPR 7 stipulates that for all other criminal offences the law should provide that racist motivation constitutes an aggravating circumstance.
47. Recently, the Council of Europe's European Commission for Democracy through Law ("the Venice Commission") examined European legislation on blasphemy, incitement to hatred (including religious hatred) and religious insult. Having studied the relevant international standards, including the case-law of the European Court of Human Rights, as well as the recommendations adopted by the Committee of Ministers, the Parliamentary Assembly and ECRI, the Venice Commission report concludes that incitement to hatred, including religious hatred, should be subject to criminal sanctions. This is already the case in almost all European states. The report finds that it is neither necessary nor desirable to create an offence of religious insult (i.e.: insult to religious feelings) as such, without the element of incitement to hatred as an essential component of the offence. The report also recommends that the offence of blasphemy should be abolished. While recognising the important task of independent courts in deciding whether a statement amounts to incitement to hatred or in ruling on civil-law claims for damages, the Commission stresses the need for a new ethic of responsible intercultural relations in Europe and in the rest of the world going well beyond the realm of the law and into the areas of education and awareness-raising. On the one hand, ethical behaviour can prompt a responsible exercise of the freedom of expression. On the other hand, the level of tolerance of individuals who would feel offended by the legitimate exercise of freedom of expression should be raised. Open debate and persuasion, as opposed to a ban or oppression, are the most democratic means to protect fundamental values and counter shocking or anti-democratic ideas.¹⁹

Establishment and reinforcement of independent specialised national institutions

48. ECRI is the Council of Europe's independent specialised body responsible for combating racism, racial discrimination, xenophobia, anti-Semitism and related intolerance. ECRI's action covers all necessary measures to combat violence, discrimination and prejudice against persons or groups of persons on grounds of

Contribution to the World Conference) contained a commitment "To consider how best to reinforce European bodies active in combating racism, discrimination and related intolerance, in particular the European Commission against Racism and Intolerance." On 13 June 2002, the Committee of Ministers of the Council of Europe adopted an autonomous Statute for ECRI, thereby providing it with a firm legal basis and consolidating its role as an independent human rights monitoring body. ECRI's statutory activities include country-by-country monitoring of phenomena of racism and discrimination with specific recommendations addressed to each country separately; the drafting of standards on important issues in the fight against racism in Europe in the form of General Policy Recommendations; and communication and co-operation activities with civil society actors in order to ensure that ECRI's anti-racist message and work filter down to the grassroots level.

51. The Council of Europe's body with a more general mandate to promote the effective observance of human rights, the Commissioner for Human Rights (CHR), also focuses extensively on issues of racism, discrimination, xeno

efforts should take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

55. ECRI also asks governments to collect data on the perception of discrimination by potential victims of discrimination.²¹ Lastly, ECRI encourages member states to monitor the effectiveness of criminal and civil law provisions by developing and maintaining systems for recording incidents of racism, intolerance and discrimination.

56.

minority groups.”²³ In each of these areas it recommends that member states take a range of measures.

61. In both its country work and its General Policy Recommendations, ECRI regularly encourages states to take positive measures designed either to prevent or compensate for disadvantages suffered by persons belonging to minority groups or to facilitate their full participation in all fields of life. These include measures such as information and outreach programmes; assistance and support services; training and capacity building initiatives; financial and material support; conditions to provide access to property and resources; and targets to promote employment and public participation.
62. Article 4(2) of the FCNM provides that: “The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities”. This provision requires measures which take into account the specific conditions of the persons concerned, where this is important in bringing about full and effective equality.²⁴ The Advisory Committee monitors the application of the provisions of the FCNM in each of the 39 member states which have ratified this Convention. Under Article 4, it systematically evaluates the strategies and measures, including positive measures, which states have taken to combat discrimination against persons belonging to national minorities in key fields of life.
63. In May 2008, the Congress of Local and Regional Authorities adopted a Resolution and recommendation on the “social approach to the fight against racism at local and regional level”.²⁵ In these documents the Congress calls on local and regional authorities to use their substantial powers to take a wide range of active measures to combat all forms of racism.

Politicians and political parties

64. In September 2003, the President of the CoE’s Parliamentary Assembly (PACE), along

racism, as well as support for such groups and participation in their activities; and the establishment of an obligation to suppress public financing of organisations which promote racism, including public financing of political parties. ECRI also calls on political parties to formulate a clear political message in favour of diversity in European societies and for courageous and effective political leadership which respects and promotes human rights. ECRI also regularly addresses

acts of racism and racial discrimination in a comprehensive way. ECRI also recommends that the law should provide for effective, proporti

¹ In the 1973 case of *East African Asians v. the United Kingdom* the European Commission for Human Rights first recognised that discrimination could constitute degrading treatment. It stated that “a special importance should be attached to discrimination based on race, and that publicly to single out a group of persons for differential treatment on the basis of race might, in certain circumstances, constitute a special form of affront to human dignity... differential treatment of a group of persons on the basis of race might be capable of constituting degrading treatment in circumstances where differential treatment on some other ground, such as language, would raise no such question.” Later cases of the European Court of Human Rights also indicate that discrimination on other grounds can reach the level of degrading treatment where it indicates contempt or a lack of respect for the personality of individuals.

² In its General Policy Recommendation No.7 on “National legislation to combat racism and racial discrimination” adopted on 13 December 2002, ECRI defined racism broadly as meaning: “the belief that a ground such as race, colour, language, religion, nationality or national

¹⁹ Report on the relationship between freedom of expre

Convention on Human Rights, Paragraph 16. These guidelines were prepared by the CoE Group of Specialists on Human Rights in the Information Society in close cooperation with Interactive Software Federation of Europe (ISFE).

³⁵ European Roma Rights Center (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004; European Roma Rights Center (ERRC) v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005; European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006 and International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007.

³⁶ European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 46/2007; European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 48/2008; INTERIGHTS v. Greece, Complaint No. 49/2008; European Roma Rights Center (ERRC) v. France Complaint No. 51/2008.

³⁷ As concerns civil and administrative legislation ECRI's recommendations include: awareness-raising campaigns and training sessions aimed at judges, magistrates, lawyers and law enforcement officials on the content of relevant provisions and manifestations of racial di