

European Commission against Racism and Intolerance (ECRI) General Policy Recommendation No. 8 on combating racism while fighting terrorism (2004)

Adopted by ECRI on 17 March 2004

The European Commission against Racism and Intolerance:

Having regard to the European Convention on Human Rights, and in particular to its Article 14;

Having regard to Protocol N° 12 to the European Convention on Human Rights;

Having regard to the International Covenant on Civil and Political Rights, and in particular to its Articles 2, 4 (1), 20 (2) and 26;

Having regard to the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees;

Having regard to the Guidelines of the Committee of Ministers of the Council of Europe on human rights and the fight against terrorism;

Recalling the Declaration adopted by ECRI at its 26th plenary meeting (Strasbourg 11-14 December 2001);

Recalling ECRI General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination and ECRI General Policy Recommendation No.5 on combating intolerance and discrimination against Muslims;

Recalling the Convention on cybercrime and its additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems as well as ECRI General Policy Recommendation N° 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet;

Recalling the European Convention on the Suppression of Terrorism, the Protocol amending the European Convention on the Suppression of Terrorism and other international instruments against terrorism, notably those adopted in the framework of the United Nations;

Firmly condemning terrorism, which is an extreme form of intolerance;

Stressing that terrorism is incompatible with and threatens the values of freedom, democracy, justice, the rule of law and human rights, particularly the right to life;

Considering that it is therefore the duty of the State to fight against terrorism;

Stressing that the response to the threat of terrorism should not itself encroach upon the very values of freedom, democracy, justice, the rule of law, human rights and humanitarian law that it aims to safeguard, nor should it in any way weaken the protection and promotion of these values;

Stressing in particular that the fight against terrorism should not become a pretext under which racism, racial discrimination and intolerance are allowed to flourish;

Stressing in this respect the responsibility of the State not only to abstain from actions directly or indirectly conducive to racism, racial discrimination and intolerance, but also to ensure a firm reaction of public institutions, including both preventive and repressive measures, to cases where racism, racial discrimination and intolerance result from the actions of individuals and organisations;

Noting that the fight against terrorism engaged by the member States of the Council of Europe since the events of 11 September 2001 has in some cases resulted in the adoption of directly or indirectly discriminatory legislation or regulations, notably on grounds of nationality, national or ethnic origin and religion and, more often, in discriminatory practices by public authorities;

Noting that terrorist acts, and, in some cases, the fight against terrorism have also resulted in increased levels of racist prejudice and racial discrimination by individuals and organisations;

Stressing in this context the particular responsibility of political parties, opinion leaders and the media not to resort to racist or racially discriminatory activities or expressions;

Noting that, as a result of the fight against terrorism engaged since the events of 11 September 2001, certain groups of persons, notably Arabs, Jews, Muslims, certain asylum seekers, refugees and immigrants, certain visible minorities and persons perceived as belonging to such groups, have become particularly vulnerable to racism and/or to racial discrimination across many fields of public life including education, employment, housing, access to goods and services, access to public places and freedom of movement;

Noting the increasing difficulties experienced by asylum seekers in accessing the asylum procedures of the member States of the Council of Europe and the progressive erosion of refugee protection as a result of restrictive legal measures and practices connected with the fight against terrorism;

Stressing the responsibility of the member States of the Council of Europe to ensure that the fight against terrorism does not have a negative impact on any minority group;

Recalling the pressing need for States to favour integration of their diverse populations as a mutual process that can help to prevent the racist or racially discriminatory response of society to the climate generated by the fight against terrorism;

Convinced that dialogue, including on culture and religion, between the different segments of society, as well as education in diversity contribute to combating racism while fighting terrorism;

Convinced that thorough respect of human rights, including the right to be free from racism and racial discrimination, can prevent situations in which terrorism may gain ground;

Recommends to the governments of member States:

- to take all adequate measures, especially through international co-operation, to fight against terrorism as an extreme form of intolerance in full conformity with international human rights law, and to support the victims of terrorism and to show solidarity towards the States that are targets of terrorism;
- to review legislation and regulations adopted in connection with the fight against terrorism to ensure that these do not discriminate directly or indirectly against persons or groups of persons, notably on grounds of "race", colour, language, religion, nationality or national or ethnic origin, and to abrogate any such discriminatory legislation;
- to refrain from adopting new legislation and regulations in connection with the fight against terrorism that discriminate directly or indirectly against persons or groups of persons, notably on grounds of "race", colour, language, religion, nationality or national or ethnic origin;
- to ensure that legislation and regulations, including legislation and regulations adopted in connection with the fight against terrorism, are implemented at national and local levels in a manner that does not discriminate against persons or groups of persons, notably on grounds of actual or supposed "race", colour, language, religion, nationality, national or ethnic origin;
- to pay particular attention to guaranteeing in a non discriminatory way the freedoms of association, expression, religion and movement and to ensuring that no discrimination ensues from legislation and regulations - or their implementation - notably governing the following areas:
 - checks carried out by law enforcement officials within the countries and by border control personnel
 - administrative and pre-trial detention
 - conditions of detention
 - fair trial, criminal procedure
 - protection of personal data
 - protection of private and family life
 - expulsion, extradition, deportation and the principle of *non-refoulement*
 - issuing of visas
 - residence and work permits and family reunification
 - acquisition and revocation of citizenship;

- to ensure that their national legislation expressly includes the right not to be subject to racial discrimination among the rights from which no derogation may be made even in time of emergency;
- to ensure that the right to seek asylum and the principle of *non-refoulement* are thoroughly respected in all cases and without discrimination, notably on grounds of country of origin;
- to pay particular attention in this respect to the need to ensure access to the asylum procedure and a fair mechanism for the examination of the claims that safeguards basic procedural rights;
- to ensure that adequate national legislation is in force to combat racism and racial discrimination and that it is effectively implemented, especially in the fields of education, employment, housing, access to goods and services, access to public places and freedom of movement;
- to ensure that adequate national legislation is in force to combat racially motivated crimes, racist expression and racist organisations and that it is effectively implemented;
- to draw inspiration, in the context of ensuring that legislation in the areas mentioned above is adequate, from ECRI General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination;
- to ensure that relevant national legislation applies also to racist offences committed via the Internet and to prosecute those responsible for these kinds of offences;
- to ensure the existence and functioning of an independent specialised body to combat racism and racial discrimination competent, *inter alia*, in assisting victims in bringing complaints of racism and racial discrimination that may arise as a result of the fight against terrorism;
- to encourage debate within the media profession on the image that they convey of minority groups in connection with the fight against terrorism and on the particular responsibility of the media professions, in this connection, to avoid perpetuating prejudices and spreading biased information;
- to support the positive role the media can play in promoting mutual respect and countering racist stereotypes and prejudices;
- to encourage integration of their diverse populations as a mutual process and ensure equal rights and opportunities for all individuals;
- to introduce into the school curricula, at all levels, education in diversity and on the need to combat intolerance, racist stereotypes and prejudices, and raise the awareness of public officials and the general public on these subjects;
- to support dialogue and promote joint activities, including on culture and religion, among the different segments of society on the local and national levels in order to counter racist stereotypes and prejudices.