

ECRI

European Commission against Racism and Intolerance
Commission européenne contre le racisme et l'intolérance

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European Commission against Racism and Intolerance

ECRI general policy
recommendation n°2:

Specialised bodies to combat
racism, xenophobia, antisemitism
and intolerance at national level

Adopted by ECRI on 13 June 1997

Strasbourg



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The European Commission against Racism and Intolerance (ECRI):

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;

Taking into account Resolution 48/134 adopted by the General Assembly of the United Nations on 20 December 1993 on National Institutions for the Promotion and Protection of Human Rights;

Taking into account also the fundamental principles laid down at the first International Meeting of the National Institutions for the Promotion and Protection of Human Rights held in Paris from 7-9 October 1991 (known as the "Paris Principles");

Recalling the different Resolutions adopted at the first and second European meetings of National Institutions for the Promotion and Protection of Human Rights, held respectively in Strasbourg on 7-9 November 1994 and in Copenhagen on 20-22 January 1997;

Taking into account Recommendation N° R (85) 13 of the Committee of Ministers on the institution of the Ombudsman;

Taking also into account work carried out by the Steering Committee for Human Rights (CDDH) relating to the establishment of Independent National Human Rights Institutions;

Emphasising that combating racism, xenophobia, antisemitism and intolerance forms an integral part of the protection and promotion of fundamental human rights;

Recalling the proposal of ECRI to reinforce the non-discrimination clause (Article 14) of the European Convention on Human Rights;

Profoundly convinced that everyone must be protected against discrimination based on race, colour, language, religion or national or ethnic origin or against discrimination which might stem indirectly from the application of the law in these areas;

Convinced of the necessity of according the highest priority to measures aiming at the full implementation of legislation and policies intended to combat racism, xenophobia, antisemitism and intolerance;

Recalling that an effective strategy against racism, xenophobia, antisemitism and intolerance resides to a large extent on awareness-raising, information and education of the public as well as on the protection and promotion of the rights of individuals belonging to minority groups;

Convinced that specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level can make a concrete contribution in a variety of ways to strengthening the effectiveness of the range of measures taken in this field and to providing advice and information to national authorities;

Welcoming the fact that such specialised bodies have already been set up and are functioning in several member States;

Recognising that the form such bodies might take may vary according to the circumstances of member States and may form part of a body with wider objectives in the field of human rights generally;

Recognising also the need for governments themselves to provide information and to be accessible to specialised bodies and to consult them on matters relevant to their functions;

recommends to the governments of member States:

1. to consider carefully the possibility of setting up a specialised body to combat racism, xenophobia, antisemitism and intolerance at national level, if such a body does not already exist;
2. in examining this question, to make use of the basic principles set out as an appendix to this recommendation as guidelines and a source of inspiration presenting a number of options for discussion at national level.

Appendix to ECRI general policy recommendation N° 2

Basic principles concerning specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level

Chapter A: The statutes establishing specialised bodies

Principle 1

Terms of reference

1. Specialised bodies should be given terms of reference which are clearly set out in a constitutional or other legislative text.
2. The terms of reference of specialised bodies should determine their composition, areas of competence, statutory powers, accountability and funding.

Chapter B: Alternative forms of specialised bodies

Principle 2

1. According to the legal and administrative traditions of the countries in which they are set up, specialised bodies may take different forms.
2. The role and functions set out in the above principles should be fulfilled by bodies which may take the form of, for example, national commissions for racial equality, ombudsmen against ethnic discrimination, Centres/Offices for combating racism and promoting equal opportunities, or other forms, including bodies with wider objectives in the field of human rights generally.

Chapter C: Functions and responsibilities of specialised bodies

Principle 3

Subject to national circumstances, law and practice, specialised bodies should possess as many as possible of the following functions and responsibilities:

- a. to work towards the elimination of the various forms of discrimination set out in the preamble and to promote equality of opportunity and good relations between persons belonging to all the different groups in society;
- b. to monitor the content and effect of legislation and executive acts with respect to their relevance to the aim of combating racism, xenophobia, antisemitism and intolerance and to make proposals, if necessary, for possible modifications to such legislation;
- c. to advise the legislative and executive authorities with a view to improving regulations and practice in the relevant fields;
- d. to provide aid and assistance to victims, including legal aid, in order to secure their rights before institutions and the courts;
- e. subject to the legal framework of the country concerned, to have recourse to the courts or other judicial authorities as appropriate if and when necessary;
- f. to hear and consider complaints and petitions concerning specific cases and to seek settlements either through amicable conciliation or, within the limits prescribed by the law, through binding and enforceable decisions;
- g. to have appropriate powers to obtain evidence and information in pursuance of its functions under f. above;
- h. to provide information and advice to relevant bodies and institutions, including State bodies and institutions;
- i. to issue advice on standards of anti-discriminatory practice in specific areas which might either have the force of law or be voluntary in their application;
- j. to promote and contribute to the training of certain key groups without prejudice to the primary training role of the professional organisations involved;
- k. to promote the awareness of the general public to issues of discrimination and to produce and publish pertinent information and documents;

- l. to support and encourage organisations with similar objectives to those of the specialised body;
- m. to take account of and reflect as appropriate the concerns of such organisations;

Chapter D: Administration and functioning of specialised bodies

Principle 4

Composition

The composition of specialised bodies taking the form of commissions and the like should reflect society at large and its diversity.

Principle 5

Independence and accountability

1. Specialised bodies should be provided with sufficient funds to carry out their functions and responsibilities effectively, and the funding should be subject annually to the approval of parliament.
2. Specialised bodies should function without interference from the State and with all the guarantees necessary for their independence including the freedom to appoint their own staff, to manage their resources as they think fit and to express their views publicly.
3. Specialised bodies should independently provide reports of their actions on the basis of clear and where possible measurable objectives for debate in parliament.
4. The terms of reference of specialised bodies should set out clearly the provisions for the appointment of their members and should contain appropriate safeguards against arbitrary dismissal or the arbitrary non-renewal of an appointment where renewal would be the norm.

Principle 6

Accessibility

1. Specialised bodies should be easily accessible to those whose rights they are intended to protect.
2. Specialised bodies should consider, where appropriate, setting up local offices in order to increase their accessibility and to improve the effectiveness of their education and training functions.

Chapter E: Style of operation of specialised bodies

Principle 7

1. Specialised bodies should operate in such a way as to maximise the quality of their research and advice and thereby their credibility both with national authorities and the communities whose rights they seek to preserve and enhance.
2. In setting up specialised bodies, member States should ensure that they have appropriate access to governments, are provided by governments with sufficient information to enable them to carry out their functions and are fully consulted on matters which concern them.
3. Specialised bodies should ensure that they operate in a way which is clearly politically independent.