



**SUPPLEMENTARY
M E E T I N G**

**THE ROLE OF NATIONAL INSTITUTIONS AGAINST
DISCRIMINATION IN COMBATING RACISM AND
XENOPHOBIA WITH A SPECIAL FOCUS ON PERSONS
BELONGING TO NATIONAL MINORITIES AND MIGRANTS**

Side Event: Roundtable for Civil Society

FINAL RECOMMENDATIONS

On 29 May 2008 the Office for Democratic Institutions and Human Rights of the OSCE (OSCE/ODIHR) gathered civil society representatives from across the OSCE region in Vienna to discuss the role of national institutions against discrimination in combating racism and xenophobia, exchange information on the best practices and facilitate and enhance coalition-building across diverse communities and civil society groups throughout the OSCE region. Participants of the Roundtable discussed prospects for partnerships between national institutions and civil society and challenges national institutions face in fulfilling all aspects of their mandate, including legal support work, assistance to victims and monitoring, awareness-raising, and promotion of policy and legal reform. Participants also deliberated on how national institutions can best identify and tackle systemic and structural discrimination and how they can increase their effectiveness with regard to particularly vulnerable groups.

Introduction

- We are grateful to the Chairmanship and the ODIHR for initiating an NGO roundtable to prepare recommendations for the Supplementary Human Dimension Meeting (SHDM);
- We welcome the opportunity for civil society representatives to make introductory speeches, and in particular to present the conclusions and the recommendations of the Civil Society Roundtable during the opening session of the SHDM;
- We recommend that this initiative be institutionalized in future OSCE human dimension meetings;
- We encourage all OSCE participating States to establish specialised institutions for combating racism and xenophobia if they have not yet done so;
- We recommend to all OSCE participating States to create special departments or units in their Ministries of Internal Affairs or Ministries of Justice or other

appropriate Ministries. These units should be tasked to monitor the situation with hate crimes, coordinate efforts of other ministries to combat racism and xenophobia and elaborate measures for further improvement of existing national anti-discrimination policies. Experts from non-governmental and international organizations should be invited to contribute to the work of these units;

- We acknowledge the value of highlighting and exchanging the best practices on combating racism and xenophobia, in particular those relating to the functioning of National Institutions against Discrimination (NIADs).

Functions, responsibilities and operation of NIADs:

1. We recognise that when participating States intend to establish NIADs, involvement of NGOs, lawyers, human rights experts and academic institutions is crucial and should be ensured, and participating States should draw upon existing international and regional documents, i.e. the UN Paris Principles, General Policy Recommendations of the European Commission Against Racism and Intolerance (ECRI) and the European Union Directive on Race Equality;
2. We recommend that the mandates of NIADs should cover the following functions and responsibilities: assistance to victims; investigative powers and prerogatives; the right to initiate, and participate in, court proceedings; monitoring legislation and advice to legislative and executive authorities; awareness-raising of issues of racism and racial discrimination among society and promotion of policies and practices to ensure equal treatment, in line with the ECRI General Policy Recommendations No 2 and No 7;
3. NIADs should give advice and analysis on implementation of OSCE tolerance and non-discrimination commitments, i.e. Ministerial Council's Decisions on Tolerance and Non-Discrimination adopted in Maastricht (No.4/03), Sofia (No.12/04), Ljubljana (No.10/05), Brussels (13/06), Madrid (No.10/07) and Permanent Council Decisions 621 on Tolerance and the Fight against Racism, Xenophobia and Discrimination, 607 on Combating Anti-Semitism, 633 on Promoting Tolerance and Media Freedom on the Internet; as well as conclusions and recommendations of the United Nations treaty bodies, special procedures and other international human rights mechanisms;
4. Mandates of NIADs should include the tracking of the implementation by governments of their OSCE commitments, monitoring and publicly reporting on violent hate crimes.
5. NIADs should encourage harmonization of hate crime data collection and analysis by different public and private entities;
6. Independent bodies and ombudsman institutions dealing with discrimination should cooperate closely in order to assure common standards, complementary efforts and equal protection for those facing discrimination;

7. Participating States should provide the financial resources required by NIADs for them to operate effectively and with autonomy. We stress the importance of NIAD's autonomy and independence from government bodies if they are to effectively fulfil their mandate;
8. In setting up NIADs, participating States should ensure that they have appropriate access to all parts of government and are fully consulted on matters which concern them. The charters or legislative foundations for NIADs should ensure they have the prerogative to seek and receive all official information necessary for the fulfilment of their mandates, including criminal justice and relevant national security data, ensuring their capacity to carry out informed analysis, public reporting, and to make policy recommendations;
9. We call upon participating States to extend the mandates of NIADs to address all forms of discrimination, including religious intolerance and sexual orientation bias;
10. Recognizing, the overlaps that exist between racial and religious discrimination, migration and nationality, the mandate of NIADS should provide a safe space to address all forms of discrimination independently from the legal status of a victim of discrimination;
11. We urge States to ensure that the mandates of NIADs take into account the intersection of multiple forms of discrimination, in particular the relation of racism and xenophobia, religious intolerance and ethnicity, and the double-discrimination of racism and gender-bias.

Analysis, legislative and policy advice

12. NIADs should monitor the content and effect of primary and secondary legislation pertaining to tolerance and non-discrimination with the view to formulating policy advice and amendments to legislative and administrative measures;
13. NIADs should be entitled to provide information and advice to relevant state bodies and institutions. Participating States should ensure that the advice of NIADs is taken into account in the formulation of public policy and, when necessary, translated into administrative and legislative measures;
14. In order to fulfil the monitoring and advisory aspect of their mandate, NIADs should have access to criminal justice data, including data concerning violent hate crimes and incidents, and have the authority to publish findings and recommendations based on this information;
15. NIADs should undertake research and analysis concerning patterns of discrimination in the public and private sectors. In particular they should focus on vulnerable groups, such as migrants, Roma and Sinti, Muslim, Jewish, LGBT groups and other visible minorities; and should, in order to make use of relevant experience and expertise, work together closely with civil society organisations that represent these groups.

Awareness-raising

16. We acknowledge that work of NIADs on public awareness-raising about discrimination and education for tolerance should be informed by results of their monitoring and reporting work;
17. In order to enhance the relevancy of awareness-raising campaigns, NIADs should cooperate with civil society organisations representing vulnerable groups such as migrants, Roma and Sinti, Muslim, Jewish, LGBT groups and other visible minorities.

Case work

18. NIADs should be mandated to provide aid and assistance to victims of discrimination, including hate-motivated violence, to include legal aid, in order to secure their rights before state institutions and the courts;
19. In order to provide affective assistance on individual cases, NIADs should have appropriate powers to obtain evidence and information, as well as to have recourse to the courts or other judicial authorities, if national laws permit so;
20. NIADs should be entitled to consider complaints concerning individual cases and to seek settlements either through amicable conciliation or, within the limits prescribed by the law, through binding and enforceable decisions;
21. We note that NIAD's work on individual cases may affect their monitoring and reporting role, and therefore we encourage NIADs to find effective ways to accommodate both of these functions;
22. When identifying larger patterns of discrimination and analyzing violent hate crimes and incidents, NIADs should also rely on data collated from reports by police and other government sources, local NGOs, and the media;
23. NIADs should incorporate analysis of individual cases into their general monitoring and advisory role, taking into account privacy and confidentiality rules;
24. NIADs should ensure that their work on individual cases assists in identification of larger patterns of discrimination, and vice versa.

Vulnerable groups

25. NIADs should acknowledge the unique characteristics of manifestations of intolerance and discrimination against vulnerable groups such as migrants, Roma and Sinti, Muslim, Jewish, LGBT groups and other visible minorities, including by means of:

- coordinating and cooperating closely with officers, departments, and specialized units in governmental bodies and ministries in charge of vulnerable groups;
 - coordinating and cooperating closely with civil society groups representing vulnerable groups, including migrants, Roma and Sinti, Muslim, Jewish, LGBT groups and other visible minorities, and creating appropriate structures and programmes to address these phenomena;
 - ensuring representation of vulnerable groups among staff of NIADs;
 - launching targeted awareness-raising campaigns, in cooperation with the minority groups;
 - supporting targeted monitoring and encouraging reporting and registration of hate-motivated incidents against vulnerable groups;
 - informing migrants about available remedies to discrimination, while improving channels of information through which migrants can safely and in confidence report incidents of discrimination, including discrimination in the form of criminal violence;
 - addressing problems of access to justice for those who have no legal status;
26. NIAD's in their strategic planning should aim to promote equality as regards the development of national policies, and not only combat discrimination. Through changing policies, practice and targeting resources NIAD's have a remit to mainstream equality and substantially contribute towards the creation of intercultural societies.

NGOs and civil society

27. We stress the importance for civil society of the systematic collection of quantitative and qualitative data on combating racism and xenophobia;
28. We recognise the role of NGOs in monitoring, reporting, and advocacy on discrimination and in gathering and recording information through victim surveys;
29. We highlight the importance of partnerships between NIADs and civil society, in particular, when developing complaints mechanisms, gathering information, and liaising with affected communities;
30. Such partnerships should be realised as financial support to NGOs in implementing activities aiming at preventing and combating racism and xenophobia, including through the collection and analysis of qualitative and quantitative data, as well as monitoring and documenting cases. This could take the form of an exchange between NGOs and NIADs, with NGOs providing data, case studies and expertise to NIAD without becoming (politically) dependant on them;

31. NIADs can also provide valuable support to NGOs and grassroots organisations in the perusing of strategic litigation that has the potential to have broader positive consequences for victims of discrimination and racism. Whilst NIADs can in such instances provide legal expertise and possible financial advice, locally and nationally based NGOs and grassroots organisations are working directly with people who have experienced discrimination and racism be it indirect, institutional, personal, etc and have built up relationships and trust.

OSCE and Other International Organizations

32. International organizations should take the necessary steps to raise the capacity of and train NGOs in monitoring, reporting and documenting cases of discrimination;

33. International organizations should encourage participating States to strengthen state institutions that provide a first recourse to the victims of racism and xenophobia. This should include support for the capacity of the courts, state prosecution services, and police to address civil and criminal cases of discrimination, as well as for institutions such as ombudsman institutions, anti-discrimination commissions, and specialized social services at the national, regional or municipal level that provide material and legal support to victims;

34. ODIHR should organise annual regional or OSCE-wide conferences and meetings with involvement of civil society and government representatives working on anti-discrimination in order to discuss issues relating to combating racism and intolerance;

35. ODIHR should foster cooperation between governmental structures with genuinely independent institutions representing civil society;

36. ODIHR should consider elaborating Guidelines for the NIADs based on the ECRI General Policy Recommendation No.2 and start monitoring implementation of the Guidelines by the OSCE participating States;

37. Given the increased usage of "the fight against extremism" as a pretext to curtail civil rights, OSCE and ODIHR should develop Guiding Principles for the governmental response to Neo-Nazism and extreme nationalism in order to provide best practices on how to find balance between combating these phenomena and respecting human rights standards.