

INTERNATIONAL ACTION AGAINST RACISM, XENOPHOBIA, ANTI-SEMITISM AND INTOLERANCE IN THE OSCE REGION

A COMPARATIVE STUDY

SEPTEMBER 2004



ACKNOWLEDGEMENTS

This study was produced by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR). It is based on a longer study commissioned by the ODIHR and written by Merja Pentikäinen, a researcher in International Law from the University of Lapland in Finland. The longer study is available upon request from the ODIHR.

The OSCE/ODIHR would like to express its gratitude to the following people for contributing expertise, advice, and comments at various stages of the process. Without their input, this study could not have been developed:

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The OSCE/ODIHR would especially like to thank Peter Eicher for his contributions and editing.

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INTRODUCTORY REMARKS

1. BACKGROUND OF THE STUDY

There have been increasing demands within the OSCE to enhance the work of the Organization in the area of action against racism, xenophobia, discrimination, and anti-Semitism. The 11th Ministerial Council, meeting in December 2003 in Maastricht, drew particular attention to the question of tolerance and non-discrimination. It encouraged the participating States to collect and keep records and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism. The Ministerial Council also gave concrete responsibilities to the OSCE institutions, including the Office for Democratic Institutions and Human Rights (OSCE/ODIHR), which was tasked, in full co-operation, *inter alia*, with the United Nations (UN) Committee on the Elimination of Racial Discrimination, the European Commission against Racism and Intolerance (ECRI), and the European Monitoring Centre on Racism and Xenophobia (EUMC), as well as with relevant NGOs, with serving as a collection point for information and statistics collected by participating States. The OSCE/ODIHR was also tasked with reporting regularly on these issues, as well as with promoting best practices and disseminating lessons learned in the fight against intolerance and discrimination. In addition, OSCE Permanent Council decisions on combating anti-Semitism, adopted in April 2004, and on tolerance and the fight against racism, xenophobia and discrimination, adopted in July 2004, included further taskings, particularly to the OSCE/ODIHR.

Highlighting the OSCE's increased emphasis on action against racism and intolerance, a number of special OSCE conferences have been organized in the course of 2003 and 2004. These include the:

- Conference on Anti-Semitism on 19-20 June 2003 in Vienna;
- Conference on Racism, Xenophobia and Discrimination on 4-5 September 2003 in Vienna;
- Conference on Anti-Semitism on 28-29 April 2004 in Berlin;
- Meeting on the Relationship between Racist, Xenophobic and Anti-Semitic Propaganda on the Internet and Hate Crimes on 16-17 June 2004 in Paris; and
- Conference on Tolerance and the Fight Against Racism, Xenophobia and Discrimination on 13-14 September 2004 in Brussels.

These issues were also given a special emphasis at the Human Dimension Implementation Meeting (HDIM) held in October 2003.

2. OBJECTIVES AND CONTENT OF THE STUDY

This study provides an overview of action against racism, xenophobia, anti-Semitism and intolerance by various international organizations or actors in the OSCE region. It is intended to assist the OSCE/ODIHR to identify meaningful activities and methodology it might undertake in a field where other international organizations are already active. The study looks at ways in which the OSCE/ODIHR can assume a role that does not duplicate the work already being done by others and builds on existing efforts.

In this study, the emphasis is placed on key international institutions, instruments, and standards that relate specifically to racism, xenophobia, discrimination, and anti-Semitism. The work of the ECRI, the EUMC, and the UN Committee on the Elimination of Racial Discrimination provides the central focus because of their work in the field and because they have been explicitly and repeatedly referred to in the pertinent OSCE decisions. In particular, the study examines the definitions they use, as well as their mandates and structures, monitoring and reporting methodology, co-ordination with international organizations and NGOs, and the challenges facing them. In addition, other bodies or mechanisms are briefly presented in order to provide a broader picture of current actors in the field.

At the end of the study, the possible role of the OSCE in the area of combating racism, xenophobia, anti-Semitism, and intolerance is discussed. In addition, the study proposes recommendations for a meaningful role for the OSCE, and particularly for the ODIHR.

3. TERMINOLOGY AND DEFINITIONS

There are no universally accepted definitions of racism, xenophobia, anti-Semitism, racial discrimination, or intolerance. For instance, “racism” has not been defined in any inter-state instrument adopted so far. However, international documents include definitions of “discrimination”, including “racial discrimination”. The definitions used by the various institutions and bodies are examined under the relevant sections of the study. The term “Roma” is used as a general term to refer to all categories of Romany people and to all people who may face discrimination due to being perceived by others as “Gypsies”.¹

¹ The OSCE generally uses the term “Roma and Sinti”, while CoE documents often refer to “Roma/Gypsies”; the term “Travellers” also appears in certain contexts.

INTERNATIONAL ORGANIZATION ACTION AGAINST RACISM, ANTI-SEMITISM AND INTOLERANCE IN THE OSCE REGION

I. COUNCIL OF EUROPE

The Council of Europe (CoE) has not concluded a convention specifically addressing racial discrimination and racism. CoE actions in the area of combating racism and intolerance are based on its human rights standards, including the European Convention on Human Rights, as well as on the UN standards such as the Convention on the Elimination of All Forms of Racial Discrimination. However, the CoE has addressed racism and intolerance in a number of political documents. These include, particularly, the CoE summit documents of 1993 and 1997 and the Political Declaration adopted at the 2000 European Conference Against Racism. The Framework Convention for the Protection of National Minorities includes provisions of direct relevance to combating racism and related intolerance, as does the CoE Convention on the Participation of Foreigners in Public Life at Local Level.² In addition, the CoE's Committee of Ministers and its Parliamentary Assembly have addressed these issues through resolutions and recommendations.

Action against racism and intolerance is viewed by the CoE as an integral part of the protection and promotion of human rights. The CoE's work in many fields is linked to action against racism. For instance, the CoE's work on such issues as migration, refugees, nationality, minorities, education, youth, media, equality between women and men, and sport all contribute to the fight against racism and related intolerance. However, the ECRI has become the principal CoE body in this area. In addition, the Advisory Committee of the Framework Convention for the Protection of National Minorities and the Commissioner for Human Rights play important roles. The CoE has also developed a number of activities relevant to Roma. The Congress of Local and Regional Authorities of the CoE (CLRAE) and the European Centre for Global Interdependence and Solidarity (North-South Centre) also conduct work relevant to combating racism and intolerance.

² The Budapest Declaration adopted on the 50th anniversary of the CoE in 1999 is also relevant.

1. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

1.1 Definitions

In its General Policy Recommendation No. 7 of December 2002, the ECRI provided definitions of both “racism” and “racial discrimination”. According to the the ECRI’s definition, “racism” includes such phenomena as xenophobia, anti-Semitism, and intolerance:

“‘racism’ shall mean the belief that a ground such as ‘race’, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.”

Regarding the use of the word “race”, the ECRI notes that:

“all human beings belong to the same species and ECRI thereby rejects theories based on the existence of different ‘races’. In this recommendation ECRI uses this term in order to ensure that those persons who are generally and erroneously perceived as belonging to ‘another race’ are not excluded from the protection provided by the legislation.”

According to the same General Policy Recommendation:

“‘Direct racial discrimination’ shall mean any differential treatment based on a ground such as race, colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification. Differential treatment has no objective and reasonable justification if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised.”

“‘Indirect racial discrimination’ shall mean cases where an apparently neutral factor such as a provision, criterion or practice cannot be as easily complied with by, or disadvantages, persons belonging to a group designated by a ground such as race, colour, language, religion, nationality or national or ethnic origin, unless this factor has an objective and reasonable justification. This latter would be the case if it pursues a legitimate aim and if there is a reasonable relationship of proportionality between the means employed and the aim sought to be realised.”

According to the ECRI's definitions, intolerance and discrimination on the grounds of religion also amount to racism and racial discrimination, even when not linked to an ethnic group. The ECRI has also adopted two General Policy Recommendations relevant to religion, No. 5 on combating intolerance and discrimination against Muslims and No. 9 on the fight against anti-Semitism.

In addition, by expressly including grounds such as language, and even nationality, the ECRI made its definitions on racism and racial discrimination broader than those existing in other contexts.

1.2 Mandate and Structure

The ECRI was established pursuant to decisions made at the first summit meeting of the Heads of State or Government of the CoE, in 1993 in Vienna. In the Vienna Declaration, the states, at their highest political level, condemned racism in all its forms, xenophobia, anti-Semitism, intolerance, and all forms of religious discrimination. The establishment of the ECRI was among the means the CoE's member states devised to combat these phenomena at the European level. In June 2002, the CoE's Committee of Ministers adopted a new statute for the ECRI, thereby consolidating its role as an independent human rights monitoring mechanism specialized in questions relating to combating racism and intolerance.³

The ECRI is composed of independent and impartial experts appointed by each member state of the CoE for a period of five years. Although members are appointed by their governments, they serve in an individual capacity. Governments may also appoint a deputy member. The variety of members' backgrounds contributes to a broad and multidisciplinary outlook. The ECRI meets for plenary sessions three times a year in Strasbourg. The ECRI's Secretariat includes an Executive Secretary and seven full-time staff members.

According to the ECRI's statute, its task is to combat racism, xenophobia, anti-Semitism, and intolerance, as well as racial discrimination, at the level of greater Europe and from the perspective of the protection of human rights. The ECRI's terms of reference are to:

- Review member states' legislation, policies, and other measures to combat racism, xenophobia, anti-Semitism, and intolerance, and their effectiveness;
- Propose further action at local, national, and European levels;
- Formulate general policy recommendations to member states;

³ See Resolution 2002/8 of 13 June 2002. The new statute took effect as of 1 January 2003.

- Study applicable international legal instruments with a view to their reinforcement;
- Develop relations with civil society;
- Promote dialogue and mutual respect among the general public;
- Organize awareness-raising and information activities.

1.3 Monitoring and Reporting Methodology

1.3.1 The Country-by-Country Approach

The country-specific area of the ECRI's work focuses on monitoring racism, racial discrimination, xenophobia, anti-Semitism, and intolerance in the CoE's member states, primarily by preparing country reports. This country-by-country reporting procedure covers all CoE member states on an equal footing, that is, states are subject to the ECRI's review on the basis of their membership of the CoE and not on the basis of accession to a particular international instrument or any other mechanism.

The ECRI has completed two rounds of country reports, the first from 1994 to 1998 and the second from 1999 to 2002.⁴ The third round began in 2003 and will be finished in 2007. Due to the increase in the number of states to be scrutinized, and to the increasingly detailed level of analysis, the time required for each reporting round has increased, now taking about five years and covering eight to ten countries per year.

The ECRI's reporting procedure differs from that of many other international monitoring bodies in that it produces its own country reports on the basis of information from various sources, both governmental and non-governmental, rather than being based on reports submitted by the states themselves. The ECRI also conducts contact visits to obtain as detailed and comprehensive a picture as possible of the situation in the country under examination.

For the preparation of draft country reports, the members of the ECRI are divided into so-called country-by-country (CBC) groups, each consisting, as a rule, of four to five ECRI members. These groups are responsible for monitoring a certain number of designated states, usually four to five countries per group. Two members of the CBC group function as rapporteurs responsible for carrying out the examination of the situation in

⁴ At the time of the first reporting round, the CoE had 40 member states, and the ECRI produced reports on all of them. The second reporting round covered the new member states: Armenia, Azerbaijan, and Georgia.

the designated country and, together with a member of the ECRI's Secretariat, for conducting the contact visit to the country under examination. During the contact visit, the ECRI team meets with national public authorities and officials, as well as representatives of NGOs and others working in the field (representatives of minority groups, human rights experts, etc.). The duration of a country visit is four to five days.

ECRI country reports contain analyses and recommendations on how each country might deal with the problems identified. The preliminary drafts are prepared by the team that carried out the contact visit. Since the beginning of the second reporting round, the actual drafting has been carried out, under the instructions of the two rapporteurs, by a member of the ECRI Secretariat participating in the visit in order to systematize the content and format of the country reports. The preliminary drafts are transmitted for the consideration of all ECRI members, who may submit proposals for changes. The preliminary drafts and the proposed amendments are then considered in the plenary session of the ECRI. The ECRI member from the state under scrutiny may react to all proposed amendments submitted, given his or her knowledge of the actual situation in the country.

After the preliminary drafts have been considered in the ECRI's plenary, they are adopted in the form of draft texts and transmitted to the member state concerned for a process of confidential dialogue. In light of this dialogue, the content of the report is reviewed by the ECRI with a view to correcting any possible factual mistakes.⁵ After this, the draft report comes once more to the consideration of the ECRI's plenary, which adopts it in its final form. The adopted final report is then transmitted to the government of the state concerned, through the intermediary of the Committee of Ministers of the CoE. The report is then made public, unless the government in question is expressly against its publication. So far, no government has opposed publication.

The publication of the ECRI's country reports is considered an important step in the development of a dialogue between the ECRI and the authorities of the member states, with a view to identifying solutions to the problems of racism and intolerance. The ECRI has also adopted the practice of permitting the state concerned to attach an appendix to the country reports that includes its observations. This appendix does not, however, form part of the ECRI's analysis or proposals concerning the situation in the country.

The ECRI's monitoring has become more detailed and specific over the years. The present method is to follow up on the proposals and recommendations put forth in earlier country reports and to update the reports' general content, taking into account new

⁵ The ECRI takes into account the information provided by the government, not the government's views on the ECRI's interpretation.

developments and issues of possible concern in the state under review. The ECRI has stated that, for its third-round reports, its aim is to achieve an even greater level of detailed and concrete analysis and proposals.

In its country-by-country work, the ECRI pays attention to:

- National legislation and the views of relevant national authorities and institutions, including various ministries, ombudspersons, etc.;
- The ECRI's own material, including its General Policy Recommendations and earlier country reports;
- State reports, concluding observations, and individual communications from UN monitoring bodies such as the Committee for the Elimination of Racial Discrimination; the Human Rights Committee; the Committee against Torture; the Committee on Economic, Social and Cultural Rights; the Committee on the Rights of the Child; and the Committee on the Elimination of Discrimination against Women, as well as reports of the Special Rapporteur on contemporary forms of racism;
- State reports submitted to the CoE relating to the Framework Convention for the Protection of National Minorities (as well as opinions of the Advisory Committee based on these reports), the European Social Charter, and the European Charter for Regional or Minority Languages, and reports of the Commissioner for Human Rights;
- Judgments of the European Court of Human Rights;
- EUMC documents, such as reports and Eurobarometer surveys;
- Documents from the OECD, ILO, UNHCR, UNICEF, and the OSCE;
- Material published by other agencies, institutions, or governments, including expert presentations, books, articles, newspapers, newsletters, and press releases;
- NGO information, including in particular information from Amnesty International, the International Helsinki Federation for Human Rights, Human Rights Watch, the European Roma Rights Centre, national Helsinki Committees, and alternative or "shadow" reports submitted by NGOs to UN and CoE treaty-monitoring bodies.

Since information is sometimes given to the ECRI confidentially, the ECRI cannot always reveal its source of information. In some instances, the ECRI cannot verify the information received. In such cases, the ECRI makes clear that it is reporting allegations and considers that, in principle, the information must be derived from at least two sources.

1.3.2 Work on General Themes

The second aspect of the ECRI's programme of activities, work on general themes, includes the issuance of General Policy Recommendations addressed to all member states of the CoE and the collection and dissemination of examples of good practices.

The themes for the ECRI's General Policy Recommendations are discussed and decided at the ECRI's plenary. Once a theme has been approved, a working group is set up among ECRI members to prepare a draft text. The draft is discussed at the ECRI's plenary meeting, revised by the working group, and then returned to the plenary for the final approval. So far, the ECRI has adopted nine General Policy Recommendations.⁶

Compiling collections of good practices is also initiated by the ECRI plenary, which selects a theme and then establishes a working group to decide whether the ECRI Secretariat or an external consultant will compile the examples. These compilations are not intended as recommendations to member states of the CoE but, rather, to provide inspiration to interested parties.

In its series of examples of good practices, the ECRI has produced publications on:

- *Combating Racism and Intolerance: A Basket of Good Practices* (1996);
- *Examples of "Good Practices" to Fight against Racism and Intolerance in the European Media* (2000);
- *Practical Examples in Combating Racism and Intolerance against Roma/Gypsies* (2001);
- *Specialized Bodies to Combat Racism, Xenophobia, Anti-Semitism and Intolerance at National Level* (2004).

1.3.3 Issues and Groups at Focus

The ECRI has developed a comprehensive approach, stressing the need for both legal and non-legal measures. In particular, it has underlined the importance of:

- States' adherence to relevant international instruments;
- The existence of sufficient anti-discrimination legislation;
- Considering racist motivation to be an aggravating circumstance in crimes;
- Effective implementation of legislation at the domestic level;
- Monitoring, e.g., by specialized national bodies;
- Human rights education and training, and awareness-raising;
- Collecting statistics, e.g., for the purpose of monitoring incidents of a racist nature;
- The need for research to assess the situation of minorities, racist crimes, etc.;
- The role of the media (and the Internet), politicians, other opinion leaders, authorities, and civil society in combating racism and intolerance.

⁶ See Annex 3, ECRI's General Policy Recommendations.

Regarding various groups and issues, the ECRI has drawn special attention to the situation of:

- Roma;
- Various religious groups, including, in particular, Jewish and Muslim communities;
- Migrants, refugees, and asylum-seekers;
- The effect of the fight against terrorism on racism and racial discrimination.

1.3.4

Co-ordination with International Organizations and Civil Society

Within the CoE, the ECRI has co-operated in particular with the Commissioner for Human Rights, the Advisory Committee of the Framework Convention for the Protection of National Minorities, and the Group of Specialists on Roma/Gypsies. The Parliamentary Assembly of the Council of Europe also contributes actively to the ECRI's work. According to the ECRI's Statute, both the Parliamentary Assembly and the CLRAE are represented in the ECRI without the right to vote.

At the same time, however, the ECRI has also created links with other international actors active in the field. In particular, it has established links with the EUMC, on the basis of the Agreement signed in February 1997 between the CoE and the European Union. The agreement provides, for example, for the appointment of an ECRI member to the Management and Executive Boards of the EUMC. The ECRI and the EUMC also organize joint Bureau meetings to discuss and identify joint activities for each year. Joint activities have included, for example, a roundtable entitled "Local Solutions to Combat Racism", which was also attended by civil society actors. According to the ECRI's Statute, the Holy See and the Management Board of the EUMC shall be invited to be represented in the ECRI without the right to vote. The European Commission is also invited to participate in the ECRI's work without the right to vote.

The ECRI also aims to strengthen its links and working relationships with national specialized bodies as its strategic partners in the fight against racism and intolerance.

The ECRI is attaching increasing importance to its relations with civil society. In March 2002, it adopted its "Programme of Action on Relations with Civil Society", an acknowledgement that a successful strategy against racism and intolerance depends to a large extent on raising awareness and involvement of civil society. The priority areas of the ECRI's work with civil society are:

- Organization of information sessions and roundtables in member states at the time of publication of the ECRI's country reports, in co-operation with national partners;
- Thematic meetings and consultations with NGOs;

- The development of a communication strategy for media awareness-raising of the ECRI's work;
- Contacts with the youth sector.

Since the adoption of its civil society Programme of Action, the ECRI has held national roundtables each year in three or four of the countries on which it has published reports. These roundtables bring together NGOs, representatives of public authorities, national institutions, intergovernmental organizations, journalists' associations, academic institutions, and representatives of minority groups with the aim of contributing to the debate on combating racism and encouraging reflection in governmental and non-governmental circles. Also in the context of the Programme of Action, the ECRI has regularly held consultation meetings with international NGOs. The first was held in November 2002, and the ECRI recently decided to organize at least two consultations with NGOs per year on specific themes.

The ECRI has also involved NGOs in the process of adopting its General Policy Recommendations. NGOs can submit written comments on the draft recommendations, and a hearing may be held to discuss their views. All NGO contributions are examined by the relevant working group. Likewise, NGOs can and do provide the ECRI with examples of good practices to combat racism and intolerance.

1.4 Challenges

In conclusion, the ECRI has developed a distinct method to combat racism and intolerance, using a multidisciplinary and practical approach. Through its activities, the ECRI aims to contribute to the translation of international standards into practice at the national (including regional and local) level. Whereas the ECRI is building its actions on existing international standards, it aspires to a comprehensive approach using an expansive interpretation of these standards.

Like all organizations working in the field, the ECRI continues to face challenges. National monitoring systems in CoE member states regarding racism and intolerance are not always satisfactory. Often, a reliable system of data collection is not in place. Thus, there is a need to develop a harmonized or common system of data collection. In addition, there is a considerable time lag between reports issued on the same country under the country-by-country reporting procedure, presently about five years. After the consideration and adoption of the country report by the ECRI, the next time the ECRI considers the situation in the same country is during the next reporting round. In its annual report, the ECRI does make remarks on the main trends; however, these tend to be of an extremely general nature.

2. OTHER RELEVANT ACTORS

2.1 Framework Convention for the Protection of National Minorities and the Advisory Committee

The Framework Convention for the Protection of National Minorities, which creates legally binding obligations for the states parties, explicitly incorporates a dimension to tackle racism and intolerance. As a framework convention, however, it is limited to stipulating principles and programme-type provisions setting out the objectives that states parties undertake to pursue. There is no individual-complaints mechanism. The evaluation of the adequacy of the implementation of the Framework Convention by states parties is carried out by the CoE's Committee of Ministers, which is assisted in this task by an Advisory Committee made up of 18 members.

The most interesting provision of the Framework Convention from the point of view of this study is Article 6. Its scope of application is very wide, covering also persons belonging to groups that have not traditionally inhabited the country, including immigrants, refugees, and asylum-seekers. The text of Article 6 does not explicitly refer to racism, xenophobia, anti-Semitism, or intolerance, but Paragraph 1 of the article stresses a spirit of tolerance and intercultural dialogue and points out the importance of promoting mutual respect, understanding, and co-operation among all persons residing on the territory of the state party. Article 4 is also extremely important in that it deals with the right of equality before the law and equal protection of the law. This Article also has a provision dealing with special measures.

The main activity of the Advisory Committee is to examine the reports submitted by the states parties to the Framework Convention. The states parties are required to submit a report containing full information on legislative and other measures taken to give effect to the principles of the Framework Convention within one year of the Convention's entry into force. Further reports are due on a periodic basis, in practice every five years, and whenever the Committee of Ministers so requests. The first state reports were received by the Advisory Committee in 1999. The second cycle of monitoring under the Framework Convention commenced in 2004.

The Advisory Committee – as with other treaty-monitoring bodies – is faced with the problem of delayed state reports. For this reason, the Advisory Committee approached the Committee of Ministers to obtain, in case of particularly lengthy delays, authorization to start the monitoring even in the absence of the (initial) state report. The CoE's Committee of Ministers accepted in March 2003 the possibility of initiating the monitoring

procedure even in the case of the non-submission of a state report. The actual commencement of such monitoring is still, however, dependent on a specific mandate by the Committee of Ministers.

The Advisory Committee prepares an opinion on the measures taken by the state party to meet its obligations under the Framework Convention and may request additional information from a state party and also receive and actively seek information from other sources, including NGOs and individuals. Country visits have become a customary element of the monitoring procedure.

Regarding specific groups, Roma have received a considerable amount of attention in the opinions of the Advisory Committee. The Advisory Committee has also put forth some general references to the need to pay attention to religious communities and groups. Anti-Semitism has been a subject of attention.

A number of states parties have taken the initiative to organize, in co-operation with the CoE, follow-up seminars bringing together governmental representatives, experts from the national administration, and representatives of civil society, as well as members of the Advisory Committee, to discuss the implementation of the monitoring results. These seminars are among the most important aspects of the follow-up procedure.

In general, the Advisory Committee faces more constraints in its monitoring work than the ECRI, which does not have to contend with the problem of delayed procedures because of the late or non-submission of state reports.

2.2 Commissioner for Human Rights

The main tasks of the Commissioner are:

- The promotion of education in, and awareness of, human rights in member states;
- The promotion of respect for human rights; and
- The identification of shortcomings in the law and practice of member states.⁷

The Commissioner's actions in the field of racism and intolerance fall within these mandates.

⁷ Article 3, Resolution (99)50 on the Council of Europe Commissioner for Human Rights, adopted by the Committee of Ministers on 7 May 1999.

As part of his promotional activities, the Commissioner has organized thematic seminars and conferences, for instance, on relations between religion and human rights. In the context of his country visits, the Commissioner has paid particular attention to more-vulnerable groups, whose situation demands greater vigilance with regard to respect for their rights. The situation of Roma has been an ongoing concern for the Commissioner. The Commissioner also attaches great importance to the situation and integration of foreign communities. In his country reports, the Commissioner has frequently addressed issues relating to racism and discrimination against ethnic and other minorities.

The Commissioner has encouraged close ties between ombudspersons and civil society as a means of bringing his concerns to the attention of authorities and of extending the reach of ombudspersons, through NGOs and other groups, to the most-vulnerable sectors of society.

The role of the Commissioner is essentially preventive and promotional, providing advice and information on the protection of human rights and the prevention of human rights violations. Although the Commissioner legally has no enforcement powers, his findings and opinions carry significant moral weight – as they come from an independent and prominent authority, democratically elected by the Parliamentary Assembly representing the peoples of Europe. Moreover, the Commissioner's recommendations to governments to improve the effective respect for human rights are carefully examined and discussed by national authorities, which often agree to implement fully. In general, the Commissioner's work invariably provides an excellent opportunity for a sound debate on relevant human rights issues at national level and receives strong support by the member States of the CoE. The Commissioner has underlined the importance of the follow-up given to his reports, recommendations, and opinions, not only by national authorities but also by the CoE's Committee of Ministers and Parliamentary Assembly.

2.3 Mechanisms on Roma

In addition to its work on minorities and combating racism in general, the CoE has developed a broad and substantive range of activities on the problems faced by Roma. In 1994, a Co-ordinator for Roma/Gypsy Activities was appointed to co-ordinate the CoE's activities on Roma and to develop co-operative links with other international organizations, NGOs, and Roma representatives. The Specialist Group on Roma/Gypsies was created in 1995 to make recommendations concerning the situation of Roma in

Europe.⁸ The CoE has initiated a number of projects concerning Roma, on its own and jointly with other international organizations or actors.⁹ Of particular interest is the work being carried out with a view to setting up a European forum for Roma.

3. NOTES ON THE EUROPEAN CONFERENCE AGAINST RACISM AND ITS FOLLOW-UP

The European Conference Against Racism “All different all equal: from principle to practice” took place on 11-13 October 2000 as the preparatory meeting at the European level to the UN World Conference Against Racism held in Durban. The ministers of the CoE’s member states adopted a Political Declaration at the concluding session of the Conference, in addition to which the Conference adopted a set of General Conclusions. These were forwarded to the Preparatory Committee of the UN World Conference as Europe’s contribution.

In the Political Declaration, the ministers underlined the importance of the fight against racism and discrimination and also noted the key role of the CoE in combating racism, xenophobia, anti-Semitism, and intolerance. In addition, they committed their governments to take a number of further legal, policy, educational, and training measures “to prevent and eliminate racism, racial discrimination, xenophobia, anti-Semitism and intolerance, and to monitor and evaluate such action on a regular basis”.

The participants in the European Conference expressed their concern at the continued occurrence of intolerance on grounds of religion and belief in its many forms in Europe. This concern, together with a number of explicit references to anti-Semitism and the need to intensify the fight against it in Europe, was incorporated into both the Political Declaration and the General Conclusions of the Conference.

To follow up the decisions and recommendations made at the European and World Conferences, the CoE organized an *ad hoc* meeting of experts in February 2002 to exchange views on the implementation of the conclusions. Furthermore, the various bodies and mechanisms of the CoE have been encouraged to incorporate the results of the Conferences into their activities. The ECRI, for example, has provided encouragement and guidance to member states concerning the elaboration of national action plans to combat racism, which was a key recommendation of both Conferences.

⁸ Recommendation No. R (2000) 4 of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe and Recommendation No R (2001) 17 on improving the economic and employment Situation of Roma/Gypsies and Travellers in Europe.

⁹ Regarding joint projects, note, for example, the project “Romani Women and Access to Public Health Care” carried out jointly by the CoE, the OSCE, and the EU as part of the programme “Roma under the Stability Pact in South-Eastern Europe”.

II. EUROPEAN UNION

Within the EU, the fight against racism and intolerance is a high-priority human rights issue. According to the Annual Reports on Human Rights produced by the EU Council, the fight against racism, racial discrimination, and xenophobia lies at the core of EU human rights policy.¹⁰ The European Community showed interest in these problems as early as the 1980s and did so increasingly throughout the 1990s.¹¹ The EU states declared 1997 *the European Year Against Racism*; a wide range of events took place throughout that year to raise awareness of the fight against racism. Building on this, the EU states established the European Monitoring Centre on Racism and Xenophobia (EUMC) in June 1997. The Treaty of Amsterdam, agreed in June of the same year, included new provisions on non-discrimination on the basis of racial or ethnic origin and religion or belief.¹² The implementation of the new non-discrimination provisions of the Amsterdam Treaty has been guided by two directives: the so-called Racial Equality Directive and the Employment Equality Directive. New anti-discrimination programmes have also been introduced.

*The Racial Equality Directive*¹³ prohibits racial and ethnic discrimination in the fields of employment, education, social security and health care, and access to goods and services and housing. It also contains definitions of direct and indirect discrimination, harassment, and victimization; gives victims of discrimination the right to complain through a judicial or administrative procedure, and provides penalties for those who discriminate; places the burden of proof on the respondent in civil and administrative cases; and provides for the establishment in each member state of an organization to promote equal treatment and provide independent assistance to victims of racial discrimination. It further recognizes that implementation measures should promote equality between women and men. *The Employment Equality Directive*¹⁴ implements the principle of equal treatment in the areas of employment and training, irrespective of religion or belief, disability, age, or sexual orientation.

¹⁰ EU Annual Reports on Human Rights have been published since 1999. References to the importance of the fight against racism, racial discrimination, and xenophobia can be found in all reports published so far. See particularly the Annual Reports from the years 2001 and 2002.

¹¹ See, for example, Jutta Gras (2000), pp. 14-15.

¹² See Art. 13 of the Amsterdam Treaty. The Amsterdam Treaty was agreed on 17 June and signed on 2 October 1997. It entered into force on 1 May 1999. For other relevant provisions, see references on the EU's website at <http://europa.eu.int/scadplus/leg/en/lvb/r10100.htm>.

¹³ Racial Equality Directive, i.e., the directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Council Directive 2000/43/EC.

¹⁴ Employment Equality Directive, i.e., the directive establishing a general framework for equal treatment in employment and occupation, Council Directive 2000/78/EC.

The EU's legislative framework is backed by its *Action Programme to Combat Discrimination (2001-2006)*, adopted by the Council of Ministers in November 2000.¹⁵ The purpose of this Programme, which tackles various forms of discrimination, as well as racism, xenophobia, and anti-Semitism, is to support and supplement the efforts made at the EU level and in the member states to prevent and combat discrimination, racism, xenophobia, and anti-Semitism.

The adoption of the *Charter of Fundamental Rights of the EU* by the European Council in December 2000 in Nice has been among central efforts to reinforce fundamental rights and non-discrimination in the EU. The articles most relevant to racism and intolerance are Article 1, guaranteeing the respect and protection of human dignity, and Article 21, prohibiting discrimination based on any grounds, including sex, colour, ethnic or social origin, language, and religion or belief. The Charter was adopted in the form of a declaration but has since been incorporated into the new Constitutional Treaty for Europe adopted by the European Council in June 2004 in Brussels. Thus, when the Treaty enters into force, it will enhance the status of the Charter. In addition, the EU Commission adopted an *Action Plan against Racism* in 1998. The Plan aims to strengthen the EU fight against racism, for instance, by integrating it as an objective into all EU actions and policies at all levels.¹⁶

The EU has linked civil society organizations to its action and provides them with financial assistance to combat racial discrimination and racism. The EU also channels considerable funding to concrete projects to combat discrimination and inequality.

1. EUROPEAN MONITORING CENTRE ON RACISM AND XENOPHOBIA (EUMC)

1.1 Definitions

The EUMC employs a broad interpretation of the term "racism", which includes actions that are racist in their consequences, such as exclusions on grounds of race, ethnicity, religion, or culture. According to the EUMC, racism also includes anti-Semitism, xenophobia, and Islamophobia. The EUMC recognizes that racism and intolerance may take different forms, such as physical attacks; hate speech; indirect discrimination; denial

¹⁵ Council Decision 2000/750/EC of 27 November 2000.

¹⁶ Note also *The European Union against Racism, Commission report on the implementation of the Action Plan against Racism, Mainstreaming the fight against racism*. References to the Action Plan, see also, for example, the EUMC's Annual Report 1999, p. 91.

of entry to a restaurant; or access to goods, services, or employment, based on a person's "race", ethnicity, religion, culture, belief, or national origin.¹⁷

Rather than providing formal definitions, the EUMC has formulated working definitions of basic concepts, which are lists of examples of various situations that may be characterized as racist or discriminatory. The EUMC is presently collecting various definitions used at the national level in the EU states.¹⁸ The EUMC's anti-Semitism report published in 2004 includes working definitions on anti-Semitism.¹⁹

Two EC directives adopted in 2000²⁰ define the concepts of direct and indirect discrimination. Council Directive 2000/43/EC, Article 2, reads:

1. For the purpose of this Directive, the principle of equal treatment shall mean that there shall be no direct or indirect discrimination based on racial or ethnic origin.
2. For the purposes of paragraph 1:
 - (a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin;
 - (b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

The EUMC has underlined the importance of anti-discrimination legislation in the fight against racism, xenophobia, and anti-Semitism, but it has also stressed the importance of education and awareness-raising and the role of the mass media. The issues that have been given a special focus in the Annual Reports include racist violence and crimes, racism and hatred on the Internet, racism and the mass media, and discrimination in employment and education. The Annual Reports also focus on the integration of groups whose members are potential victims of racism, xenophobia, and discrimination. In addition to reviewing the situation in various EU member states, the Annual Reports also systematically include references to good practices. Explicit reference is made to

¹⁷ See the EUMC's Annual Report 1999, p. 15. In its Annual Report 2001, the EUMC refers to "racism and the closely related phenomenon of anti-Semitism". See p. 24. See also the EUMC's Annual Report 2002, Part II, p. 49. Information also from the EUMC on 23 July 2004.

¹⁸ Interview of the EUMC staff on 10 June 2004 in Vienna.

¹⁹ Information from the EUMC on 22 June 2004. See *Manifestations of Anti-Semitism in the EU 2002-2003, based on information by the National Focal Points of the RAXEN Information Network* (2004), pp. 11-14. It is pointed out in the report that an adequate definition of the phenomenon addressed is important and the basic premise for valid monitoring and analysis. See p. 25.

²⁰ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment, irrespective of racial or ethnic origin, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

groups such as immigrants; foreigners; migrants; undocumented migrants; migrant workers; people of foreign descent; resident foreigners; minority groups; ethnic, cultural, and religious minorities; asylum-seekers; refugees; Islamic communities; and Jewish communities.

The EUMC has pointed out that the events of September 2001 have triggered the need to improve awareness of the rights and needs of religious minorities.²¹ Consequently, the EUMC has paid increasing attention to Islamophobia and anti-Semitism. In response to the rise in anti-Semitic and xenophobic attacks in Europe, the EUMC supported roundtable discussions focusing on both these issues, as well as the publication of reports and studies on them.²²

1.2 Mandate and Structure

The EUMC was set up in 1997 by decision of the European Council to provide the EU and its member states with data on racism, xenophobia, and anti-Semitism to help them deal with these issues. It began its activities in July 1998 in Vienna. Initially, the EUMC was asked to carry out this work focusing on certain fields, including free movement of persons within the EU, media, education, vocational training and youth, and social policy, including employment, free movement of goods, and culture.²³ The EUMC has since moved into other fields.

The EUMC functions as a monitoring body whose task is to inform and make recommendations to policy makers specifically in the field of racism and xenophobia. The two central bodies responsible for the operational oversight and supervision of the work of the EUMC are the Management Board and the Executive Board.

The *Management Board* takes decisions necessary for the operation of the EUMC. In particular, it determines the EUMC's annual Work Programme, adopts the Annual Report and its conclusions, and adopts the annual budget. The Management Board is composed of one member nominated by each EU member state and one representative appointed by each of the European Parliament, the CoE,²⁴ and the European

²¹ Foreword to the EUMC's Annual Report 2001.

²² Publications include "Islamophobia, Anti-Islamic Reactions in the EU after the Terrorist Acts against the USA", and two reports on anti-Semitism published in March 2004, i.e., "Manifestations of Anti-Semitism in the EU 2002-2003" and "Perceptions of Anti-Semitism in the European Union". See the EUMC's website for these publications.

²³ See Council Regulation (EC) 1035/97 establishing the EUMC, Arts 2 and 3. See also the Evaluation Report, pp. 1, 7.

²⁴ The CoE representative has been a member of the ECRI.

Commission. Their term of office is three years, which can be renewed once. The members appointed by governments are expected to be independent. The Management Board meets at least twice a year. The recent enlargement of the EU of 1 May 2004 has also had an effect on the composition of the Management Board, since the new member states may each nominate a member to the Management Board. This increases the Board from 18 to 28 members.²⁵

The Executive Board supervises and monitors the work of the EUMC. It is composed of the Chair and Vice-Chair of the Management Board and a maximum of three other members of the Management Board. In addition, the persons appointed by the CoE and the European Commission are *ex officio* members.

The EUMC's top official is its *Director*, who is appointed by the Management Board upon proposal by the European Commission. The Director has a four-year term of office. The Director implements the objectives of the EUMC and promotes their further development. In the execution of his/her office, the Director is responsible to the Management Board. He/she also participates in meetings of both the Management Board and the Executive Board. The number of posts in the EUMC is presently about 30.

According to a decision made by the European Council in December 2003 in Brussels, the mandate of the EUMC will be broadened to cover human rights so that the EUMC will become a human rights agency. This decision also stresses the importance of human rights data collection and analysis with a view to defining European Union policy in this field.²⁶

The objectives of the EUMC can be divided into three groups:

- The prime goal is to provide the EU and its member states with objective, reliable, and comparable data on racism, xenophobia, and anti-Semitism in order to help them take measures or formulate courses of action;
- The second objective is to study the extent and development of racism, xenophobia, and anti-Semitism; analyse their causes, consequences, and effects; and examine examples of good practice in dealing with them; and
- The third objective is to disseminate information, data, and examples of good practice with a view to contributing to the development of policies and practices in the member states to combat racism, xenophobia, and anti-Semitism.²⁷

²⁵ See also Council Regulation 1035/97, Art. 8, for the Management Board. The new Management Board was nominated in June 2004. See the EUMC's website for its composition.

²⁶ See Conclusions of the Representatives of the Member States (2004), the Annex, p. 27.

²⁷ See, for example, the EUMC's Work Programme 2004, p. 4.

1.3 Monitoring and Reporting Methodology

The EUMC collects information from:

- The European Information Network on Racism and Xenophobia (RAXEN);
- Other international bodies and organizations;
- Its own surveys/studies or opinion polls;
- Research studies and surveys.²⁸

RAXEN is one of the central tools for the EUMC to provide the EU and its member states with objective, reliable, and comparable data, including models for good practice. Through RAXEN, the EUMC collects information, data, and definitions in member states and identifies gaps in existing information. This information-gathering is carried out with the assistance of National Focal Points (NFPs), one in each member state of the EU, contracted by the EUMC to collect data and information at the national level. NFPs include, for example, specialized bodies, NGOs, and research institutions chosen on the basis of calls for tenders and contracted to the EUMC. In addition, the NFPs contribute to disseminating information collected by the EUMC and participate in roundtable meetings at the national and European levels. Collecting data through the RAXEN network is secondary-level data-collecting, i.e., the NFPs collect data and information available from different sources, including public authorities, NGOs, specialized bodies, etc., and compile reports on this basis for the EUMC according to the common EUMC guidelines.²⁹

The EUMC also maintains links to international networks and organizations to gather data. The information collected in this framework includes statistical data and reports or studies from EU sources (Eurostat, Eurobarometer, the DG for Research, etc.), as well as from international organizations and institutions (the CoE, the ILO, UNESCO, the UN, etc.). The EUMC shares information with the ECRI and meets annually with it to co-ordinate mutual activities or set out areas for complementary action. At the NGO level, the EUMC participates in the annual meeting of European Network Against Racism (ENAR). The EUMC aims to strengthen this exchange and broaden it to cover also other international thematic networks and centers of excellence.³⁰

Other sources of information include national official statistics (such as crime statistics), national authorities, research centres, studies, articles, and national NGOs. Of the international sources, the Committee on the Elimination of Racial Discrimination and

²⁸ Work Programme 2004, p. 7.

²⁹ Interview of the EUMC staff on 10 June 2004 in Vienna, and information from the EUMC on 22 June and 23 July 2004.

³⁰ Work Programme 2004, pp. 7-8.

the ECRI, as well as NGOs such as Amnesty International, Human Rights Watch, and the International Helsinki Federation for Human Rights, are prominent. In future, the EUMC intends to rely more on national than international sources.³¹

The EUMC makes use of EU surveys, studies, or opinion polls such as Eurobarometer or the European Social Survey, adding its own questions to ensure relevance and consistency for its work.³² In addition, the EUMC collects information and data directly, through research studies and surveys.

The EUMC organizes annual European Round Table Conferences. These are usually two-day conferences with representation from the European Commission, the ECRI, ENAR, the RAXEN NFPs, experts, and candidate countries. The EUMC also facilitates and encourages regular roundtable discussions or meetings at the national level, with the participation of key social partners, research centres, academics, NGOs, representatives of responsible public authorities, and other national experts, although the actual organization of national roundtables is the responsibility of member states.

Information is also collected via roundtable meetings. A key aim of the roundtable meetings is to improve the exchange of information used in drafting the EUMC's recommendations and Annual Reports. Roundtable meetings also provide grass-roots feedback on trends with regard to racism and intolerance, supplementing the information from RAXEN and other sources. The roundtable meetings engage representatives of civil society and public authorities in a dialogue and encourage their co-operation in identifying key issues and good practices in the member states.

The EUMC's **primary objective** of collecting reliable and comparable data about racism and xenophobia is greatly complicated by a lack of uniformity among member states. Each has its own definitional, conceptual, terminological, methodological, and cultural differences, resulting in different approaches to collecting data on racism, xenophobia, and anti-Semitism. This has rendered the task of collecting "objective, reliable and comparable data" at the European level difficult and has weakened the comparability of the data collected in various EU states. To overcome these comparability problems, the EUMC has been working on the establishment of definitions, indicators, and common criteria and on the development of methods to improve the comparability, objectivity, and reliability of data at the EU level (as well as the official statistics from member states on

³¹ Information from an interview of the EUMC staff on 10 June 2004 in Vienna. The EUMC has also referred to contradictions between the government and non-government records. See, for example, the EUMC's Annual Report 2002, Part II, pp. 15 and 80.

³² Information from the EUMC on 23 July 2004. See also the Work Programme 2004, p. 7. Eurobarometer surveys are the regular surveys of attitudes among the general population in member states. See, for example, the Evaluation Report, p. 25.

racial violence and racial discrimination). The implementation of the two directives related to Article 13 of the Amsterdam Treaty helps to provide a common framework to set indicators and improve comparability. In addition, the EUMC has also relied on definitions incorporated in documents such as the Convention on the Elimination of All Forms of Racial Discrimination and the ECRI's General Policy Recommendation No. 7 on national legislation. The use of the ECRI as a reference source is particularly valuable to ensure complementarity and consistency in the approach at the European level. The EUMC is also working on concepts and definitions to elaborate indicators and benchmarks for monitoring racism in various fields such as employment, health, and education.³³

The EUMC has developed a rapid-response process to enable it to collect information on urgent and topical matters in a short time frame. This can also serve as an early-warning mechanism at the European level to raise awareness and improve understanding. A rapid response may be requested by the EU institutions, but the EUMC itself can take the initiative. For instance, following the 11 September 2001 terrorist attacks in the United States, the EUMC asked the National Focal Points to prepare at short notice a report on the situation of the minority communities (and in particular the Islamic community) in their respective countries.³⁴ The rapid-response activity has also been used to gather information on anti-Semitic incidents in the EU member states and on good practices to prevent and reduce them. The EUMC asked RAXEN to report incidents of violence, verbal aggression/hate speech, and other, subtler forms of discrimination and changes in attitudes. The EUMC has also used the rapid-response activity to get background information for a report on the human rights situation in the EU (2001) for the European Parliament.³⁵ The rapid-response process always involves all EU states, not just one or some of them.

The EUMC's **second objective**, as noted above, is studying, analysing, evaluating, and advising on the extent and development of racism and examining examples of good practices to combat it. Since the EUMC's internal research capability has been rather limited, much of its research and analytical work has been carried out through external studies.³⁶ The EUMC has initiated and financed several research projects a year.³⁷ The EUMC

³³ Work Programme 2004, p. 8. Information also from an interview of the EUMC staff on 10 June 2004 in Vienna, and from the EUMC on 22 June and 23 July 2004.

³⁴ EUMC's Annual Report 2001, p. 92. Note also remarks in the Annual Report 2002, Part I, pp. 11-12. Among the results was the publication of reports such as "Islamophobia, Anti-Islamic Reactions in the EU after the Terrorist Acts against the USA". Evaluation Report, p. 20.

³⁵ EUMC's Annual Report 2002, Part I, pp. 12, 26.

³⁶ Evaluation Report, pp. 27, 29-33.

³⁷ For example, three research studies were initiated in 2001. The EUMC's Annual Report 2001, pp. 96-97. In 2002, six studies were finalized, and eight new studies were initiated. The EUMC's Annual Report 2002, Part I, pp. 17-21. See also the EUMC's website where some of the reports of the research projects are available.

aims at developing a greater capacity for in-house research and analysis in order to provide better and more targeted information to enable the EUMC not only to improve the analysis of data collected through RAXEN but also to undertake gap analysis and collect data to fill the identified gaps.

Information, data, and examples of good practice are disseminated through reports and studies commissioned by the EUMC, including the Annual Report, the quarterly magazine *Equal Voices*, the monthly information bulletin *EUMC News*, and media releases.³⁸ The Annual Reports provide an overview of trends and tendencies in member states, as well as focusing on specific issues identified by the Management Board.³⁹ Since 2002, the Annual Report has been divided into two separate publications, Part I covering the activities of the EUMC, and Part II providing information on the situation regarding racism and xenophobia in the EU and its member states, and highlighting examples of good practice. The RAXEN National Focal Points provide the basis for Part II, with additional material from the member states. In addition, the information presented in roundtables may be used for the preparation of the EUMC's Annual Reports, as well as information from international organizations. The EUMC's Management Board approves Part II of the Annual Report at its October meeting, and it is presented to the European Parliament usually in December.⁴⁰

The EUMC's **third priority**, dissemination of data and good practices, is handled in a variety of ways, including a documentation centre, a website, and publications such as the Annual Reports, a magazine, and a monthly information bulletin. The roundtables are also important for attaining the EUMC's third objective.

1.4 Current Priorities

For 2004, the EUMC is focusing on three key areas: enlargement, in-house research and analysis capacity, and optimization of work in existing areas.

Although the EUMC's work is centred on the EU member states, it started developing its mechanism to cover most EU candidate countries even prior to the recent enlargement of the EU. For example, the EUMC undertook a mapping exercise with a view to

³⁸ See also the Work Programme 2004, pp. 12-13.

³⁹ Work Programme 2004, p. 11.

⁴⁰ Information concerning the Annual Report 2002 in the EUMC's Progress Report (2003), p. 1.

establishing National Focal Points in these countries to collect data and information.⁴¹ The present candidate countries, i.e., Bulgaria, Romania and Turkey, co-operate with the EUMC and attend the meetings of the EUMC Management Board as observers. In addition, organizations from these states will be invited to participate in the European Round Table.⁴²

EU enlargement has affected the operational areas of the work of the EUMC in many ways, particularly in the area of data collection and documentation.⁴³ Work previously done in 15 member states needs to be carried out in the 10 new members as well. With respect to these states, one of the first tasks of the EUMC is to bring them into line with existing procedures for data collection. In addition, a review of anti-discrimination legislation in the new member states is being carried out to identify any changes needed in national legislation in order to comply particularly with the EC Directives on Race Equality and Employment Equality.⁴⁴ This work builds on the activities undertaken prior to the enlargement under the Phare programme and aims to broaden outreach to key targets such as national administrations, equal-treatment bodies, NGOs, and experts.⁴⁵

Regarding thematic issues, in 2004, the EUMC has given priority to monitoring racial violence (including monitoring of physical and verbal attacks against persons or attacks on property, with a particular focus on Jewish and Muslim communities), employment, legislation (including jurisprudence), education, and housing.⁴⁶

⁴¹ This work was carried out under the Phare programme, and it covered eight of the 10 new member states. Only Cyprus and Malta did not participate in this exercise prior to their membership in the EU. Interview of the EUMC staff on 10 June 2004 in Vienna.

⁴² The EUMC undertook a mapping exercise (under the Phare project) also in Bulgaria and Romania in 2003.

⁴³ In the EUMC's Work Programme for 2004, enlargement is noted to have an impact, for instance, on the following administrative areas of work of the EUMC: RAXEN, with the need to establish NFPs in the new member states; national liaison officers, and the need to establish close links with the national authorities in the new member states; roundtables, and the need to facilitate and encourage the new member states to organize national roundtables and participate in the annual European Round Table; information about the results, recommendations, and activities in the field of racism, especially to update the new member states about the work of the EUMC; the Management Board, with a possible growth from 18 members to 28 members; and translation and interpretation, the costs of which will increase considerably after enlargement. Work Programme 2004, p. 4.

⁴⁴ Work Programme 2004, p. 5. The task of assessing the legislation of new member states has already been carried out by the European Commission as part of assessing compatibility with the EC directives. The EUMC would only seek to complement what has been already done. Information from the EUMC on 23 July 2004.

⁴⁵ Work Programme 2004, p. 3. Information also from the EUMC on 23 July 2004.

⁴⁶ Work Programme 2004, p. 7.

1.5

Co-ordination with International Organizations and Civil Society

The EUMC has so far developed co-operation particularly with the CoE and notably with the ECRI. The Commission, on behalf of the EUMC, entered into agreement with the CoE in 1997 for the purpose of establishing co-operation between the EUMC and the ECRI. As noted previously, an ECRI member also sits on the EUMC's Management and Executive Boards, while the Statute of the ECRI provides for a member of the EUMC's Management Board to attend the ECRI's plenary meetings as an observer. In addition, the agreement on co-operation between the EUMC and the ECRI provides for regular contact between the Director of the EUMC and the Secretariat of the ECRI, the mutual exchange of non-confidential information and data, the sharing of results of their work in order to ensure that findings are disseminated to as wide an audience as possible as quickly as possible, and a formal consultation and co-ordination process to ensure that the activities and work programmes of the EUMC and the ECRI are complementary. There is also a provision that joint and/or complementary activities on subjects of common interest can be carried out. The EUMC and the ECRI participate in each other's roundtables. On the occasion of the International Day for the Elimination of Racial Discrimination on 21 March 2003, the EUMC and the ECRI organized a joint roundtable in Strasbourg entitled "Local Solutions to Combat Racism". This event was the first joint roundtable of the EUMC and the ECRI and also the third roundtable of the EUMC in the series of the European roundtable discussions on anti-Semitism and Islamophobia.⁴⁷

Although the EUMC and the ECRI work on the same subject matter, their work is not unnecessarily duplicative. The two bodies have different working methods, for instance, in the area of information-gathering. The EUMC has also characterized its role as creating "networks of knowledge" and facilitating the establishment of contacts among key actors.⁴⁸ Thus, these bodies have somewhat different approaches to their similar mandates. At the same time, the EUMC and the ECRI also rely to some extent on the information collected by each other.

Furthermore, the EUMC commissions and carries out studies and surveys in a way that the ECRI does not. For example, in its Annual Reports, the EUMC assesses and makes an attempt to compare the situations of the EU member states, a function the ECRI does not undertake in respect of the member states of the CoE. In addition, coun-

⁴⁷ The EUMC Executive Board and the ECRI Bureau meet every year to share and exchange information and decide on potential joint activities.

⁴⁸ See the EUMC's Annual Report 1999, p. 9. The Annual Report 2002 refers to the EUMC's role as a networking organization, as well as a driving force in combating racism and xenophobia, see Part I, p. 31.

try-by-country assessments of the EUMC are published annually, whereas the ECRI's country-by-country cycle is presently about five years.

Regarding co-operation with the OSCE, the EUMC participated in the OSCE's working group on tolerance in November 2002, which resulted in the adoption of the Declaration on Tolerance at the OSCE Ministerial Council Meeting in December of the same year in Porto. The EUMC has also been involved in the follow-up to this Declaration, by providing advice to the EU member states' delegations and the European Commission in the OSCE conferences on anti-Semitism in June 2003 and racism in September 2003.⁴⁹ In 2004, the EUMC has continued its participation in relevant OSCE conferences, including the Berlin Anti-Semitism Conference in April and the Paris meeting on racism and the Internet in June. The EUMC has also produced background papers for these OSCE meetings and conferences.

The EUMC has also worked with the UN, for instance, participating in the 2001 UN World Conference Against Racism and its preparatory meetings, both on its own and as part of the EU delegation. The EUMC served as an expert facility at the World Conference for the EU member states to draw upon specifically in the areas of data collection, data protection, European-level activities, and co-operation at the European level.⁵⁰ The EUMC aims to develop its work with the UN in the context of the follow-up to the World Conference Against Racism. It also supports the continuing exchange of information on developments in national action plans among its Government Liaison Contacts.⁵¹

The EUMC considers its work with civil society to be a priority. Co-operation with NGOs is concretized particularly through roundtables, RAXEN, and the workshops organized by the EUMC. In addition, the EUMC collects and reviews reports and publications from NGOs.⁵² The NGO information is channeled to the EUMC essentially through the work of the RAXEN National Focal Points and is evaluated at several levels.⁵³ The EUMC has also strengthened its co-operation with private foundations in the fields of combating racism, immigrant integration, asylum, and migration.⁵⁴

⁴⁹ The EUMC's Progress Report (2003), p. 6.

⁵⁰ Evaluation Report, pp. 75-77.

⁵¹ Work Programme 2004, p. 15.

⁵² Work Programme 2004, p. 16.

⁵³ Information from the EUMC on 22 June 2004.

⁵⁴ EUMC's Annual Report 2002, Part I, pp. 26-27.

1.6 Challenges

The main challenges that the EUMC is facing in its work include:

- ***Objectivity, reliability and comparability of the data collected***
The EUMC faces significant challenges in the framework of its information-gathering system, particularly within RAXEN, due to substantial differences among EU member states in their definitional, conceptual, terminological, methodological, and cultural approaches. Differences in data-collection mechanisms and datasets across the member states have rendered the task of collecting “objective, reliable and comparable data” at the European level difficult.
- ***Particular challenges relating to collecting comparable data***
The experience of the EUMC has shown how comparison of data collected in various states can be particularly challenging. For example, different national traditions and different stages of institutional development in combating racism and intolerance weaken the comparability of the data collected in various states. The lack of a common definition of racism contributes to the problem.
- ***Ongoing challenges***
Even where progress has been made, it is a challenge to remain vigilant and to see further progress on integration, equality, anti-racism, and inclusion/cohesion.⁵⁵
- ***In-house research and analysis capacity***
The EUMC has noted that there is an urgent need for it to expand its in-house research and analysis capacity to meet the EUMC’s goals of providing member states with objective, reliable, and comparable data and to study, analyse, evaluate, and advise on the extent and development of racist phenomena. New demands also derive from analysing the substantial amount of data, studies, and reports from the new member states.⁵⁶

⁵⁵ Information from the EUMC on 22 June 2004.

⁵⁶ Work Programme 2004, p. 3.

III. UNITED NATIONS

UN action to combat racism and intolerance has been multifaceted and long-standing. The UN Charter lists as one of the four purposes of the United Nations "...encouraging respect for human rights and for fundamental freedoms for all without distinction as to race..."⁵⁷ The Universal Declaration of Human Rights also stipulates that all persons are entitled to human rights "without distinction of any kind, such as race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status".⁵⁸

Racism has been considered in a number of frameworks within the UN, including three separate "Decades against Racism and Racial Discrimination" proclaimed by the General Assembly.⁵⁹ The International Convention on the Elimination of All Forms of Racial Discrimination (henceforth referred to as "the Convention") is viewed as the cornerstone international instrument in the field. In addition, despite great political controversies at the UN 2001 World Conference against Racism, the Declaration and the Programme of Action of this conference (the Durban Document) is also among the central UN documents in this context.

This chapter examines the Convention and the work of the Committee on the Elimination of Racial Discrimination (henceforth referred to as "the Committee") established to supervise its implementation. Other relevant UN actors in the area of combating racism and intolerance are also briefly presented.

⁵⁷ Charter of the United Nations, Article 1.3.

⁵⁸ Universal Declaration of Human Rights, Article 2.

⁵⁹ The Third Decade to Combat Racism and Racial Discrimination ran from 1993 to 2003. The UN General Assembly adopted specific Programmes of Action for the decades. For the Programme of Action and some other material concerning the third decade, see the UN website at <http://www.unhcr.ch/html/menu2/issracis.htm>.

1. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION AND THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

1.1 Definitions

The widely ratified Convention⁶⁰ provides a definition of “racial discrimination” in its Article 1:

In this convention, the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.⁶¹

The basic objective of the Convention is to address the problem that individuals may not be able to enjoy their human rights and fundamental freedoms because of their race, colour, descent, or national or ethnic origin. The substantive provisions of the Convention oblige the states parties to take steps at the national level to prohibit and eliminate racial discrimination and racism.

Although the Convention had its origins in the particular concerns of the early 1960s, especially decolonization, it is also a good example of a living instrument that

⁶⁰ The text of the Convention was adopted by the UN General Assembly in December 1965; it was opened for signatures and ratifications in March 1966; and it entered internationally into force in January 1969. The Convention had been ratified by 169 states as of July 2004. Of the OSCE participating States, 54 have ratified, and Andorra has signed.

⁶¹ Note also the General Recommendations adopted by the Committee, a number of which aim at clarifying the content of the concept of “racial discrimination”. See particularly General Recommendations No. 8 on identification with a particular racial or ethnic group (adopted in 1990); No. 14 on definition on racial discrimination (adopted in 1993); No. 24 on reporting of persons belonging to different races, national/ethnic groups, or indigenous peoples; No. 29 on descent-based discrimination (adopted in 2002); and No. 30 on discrimination against non-citizens (adopted 2004), which replaces General Recommendation No. 11 on non-citizens adopted in 1993. General Recommendations No. 22 on refugees and displaced persons, No. 23 on indigenous peoples, and No. 27 on Roma are also worth noting.

The definition of racial discrimination laid down in the Convention is based on that found in the 1958 ILO Convention (No. 111) on Discrimination in Occupation and Employment. Michael Banton (2000), p. 76.

takes into account new dimensions or aspects of racism and racial discrimination. For instance, in the 1990s, the Committee considered the question of ethnic-cleansing. In addition, it has also become generally accepted that such groups as refugees and indigenous peoples fall within the ambit of the Convention.⁶²

Although the Convention does not refer to religion or the religious dimension of racial discrimination and racism in its text, the Committee has considered religious freedom in cases when persons of particular racial or ethnic origin are unable to manifest their religious beliefs in a state party. Consequently, the Committee has addressed religious aspects of discrimination and intolerance only in those situations where religious freedom concerns some ethnic group.

1.2 Mandate and Structure

The international supervision of the implementation of the Convention is carried out by the Committee.⁶³ The main function of the Committee is to review the reports submitted by the states parties to the Convention and to give its observations and comments to the states on the implementation of the Convention at the national level.

The Committee is composed of 18 experts “of high moral standing and acknowledged impartiality” elected for a term of four years by the states parties to the Convention. The experts serve in their personal capacity.⁶⁴ The backgrounds of the present members include active and retired diplomats and civil servants, academics, persons from national human rights institutions and NGOs, a retired UN staff member, a judge, and an independent lawyer.⁶⁵ The Committee holds two regular sessions a year, in practice two three-week meetings in March and August in Geneva, although it may also hold special sessions. Its meetings are held in public.

⁶² Michael Banton (2000), pp. 56, 58-60, 75-76.

⁶³ See Art. 8 of the Convention. The Committee held its first meeting in 1970. Michael Banton (2000), p. 56.

Information on the CERD can be found on the website: <http://www.ohchr.org/english/cerd/index/english/bodies/cerd/index.htm>.

Information, including various documents relevant to the work of CERD, can also be found at: <http://www.unhcr.ch/tbs/doc.nsf>.

⁶⁴ The composition of the Committee should also take into account an equitable geographical distribution, as well as the representation of different forms of civilizations and the principal legal systems. For the membership criteria, see Art. 8 of the Convention. The gender imbalance of the Committee has been the target of some criticism.

⁶⁵ Information from the Committee Secretariat on 7 June 2004.

1.3 Monitoring and Reporting Methodology

The three primary functions of the Committee are:

- 1) examination of the situations in the states parties to the Convention;
- 2) publication of General Recommendations; and
- 3) consideration of communications.

1.3.1 Examining the Situation in the States Parties to the Convention

Pursuant to Article 9 of the Convention, the states parties have undertaken to submit for consideration by the Committee a report on the legislative, judicial, administrative, or other measures they have adopted to give effect to the Convention. Each state party should submit its initial report within one year after the entry into force of the Convention, and thereafter a report every two years, or whenever the Committee so requests. In practice, in recent years, the Committee has sometimes considered a number of reports from a particular state at the same time, for example, when the state concerned has not submitted its earlier reports on time. Furthermore, to ease its workload, the Committee has recommended that some states submit a number of their periodic reports simultaneously in one document. Consequently, in practice, the actual review cycle is much longer than two years, on average four to five years.⁶⁶

The Committee assesses implementation by the states parties based on the information presented in their reports.⁶⁷ The Committee Secretariat also provides country presentations concerning the states parties. These are confidential documents containing a summary of available information on the country from other sources. In addition, national human rights institutions and NGOs may provide information in informal meetings outside the Committee's working hours to members wishing to attend such meetings.⁶⁸ It has also become commonplace for national and international NGOs to produce their own

⁶⁶ A state report comes to the consideration of the Committee about 4-12 months after it is received by the Secretariat. Information from the Secretariat on 7 June 2004.

⁶⁷ The Committee has issued reporting guidelines to provide states with indications on what their reports should include. For the guidelines applicable presently, see CERD/C/70/Rev.5, 5 December 2000.

⁶⁸ Committee report to the UNGA concerning 2003, Annex IV, p. 165. NGOs that can participate may be national or international, holding consultative status with the UN Economic and Social Council (ECOSOC) or not; thus, there are no specific limitations. Information from the Secretariat on 7 June 2004.

reports (so-called shadow or alternative reports) on the implementation of the Convention by the state party. These reports are usually sent to the Committee Secretariat with a request that they be distributed to the members.⁶⁹

The Committee also exchanges information with the other UN treaty bodies, the Commission on Human Rights, and other organs or bodies of the UN system, as well as the UN specialized agencies. The Secretariat distributes to the Committee the concluding observations adopted by the other treaty bodies, and information from the UN Special Rapporteurs, including the Special Rapporteur on racism, but also from others (such as the rapporteurs on migrants, the right to housing, indigenous issues, torture, violence against women, etc.). The Committee receives confidential reports from the UN High Commissioner for Refugees and non-confidential reports from the International Labour Organization. UNESCO representatives have also had a dialogue with the Committee.⁷⁰

State reports are considered at oral hearings, which form a fundamental part of the dialogue between the Committee and the reporting state. In the hearing, the representatives of the state concerned introduces the report and provides additional information concerning new data or aspects that are not reflected in the report. A member of the Committee designated as country rapporteur then gives his or her presentation, highlighting aspects relevant to the fulfillment of obligations and shortcomings or deficiencies. The rapporteur may also put questions to the state representative aimed at supplementing or clarifying the information presented.⁷¹ After this, other Committee members may comment on the report. The information collected from various other sources by the Secretariat (including, for example, NGO shadow reports) also serves as an important basis for the exchange of views between the Committee and the state party.

After the oral hearing, the country rapporteur prepares, together with a member of the Secretariat, draft concluding observations that are reviewed, revised, and approved by the Committee. The text of the concluding observations, including recommendations to the state concerned, is then forwarded to the state party and to other interested parties, including NGOs, national human rights institutions, etc. States parties are entitled to

⁶⁹ Information from the Secretariat on 7 June 2004. In the past, the use of NGO information was an issue of some controversy. Only in the 1990s did the Committee start to receive a significant inflow of information from national NGOs. Michael Banton (2000), pp. 65, 69, 72. Nowadays, The Committee relies on any relevant NGO information. Information from the Secretariat on 7 June 2004.

⁷⁰ Information from the Secretariat on 7 June 2004.

⁷¹ If the representative of the state cannot provide the additional information needed, it may be included in the next periodic report of the state concerned.

make comments on the recommendations made by the Committee, and such comments may be included in the Committee's annual report to the UN General Assembly.⁷²

Although reporting by states parties is the fundamental mechanism by which the Committee monitors compliance with the Convention, the Committee has also adopted a *review procedure* for considering the situation of states parties that have not submitted an initial report or whose periodic reports are considerably overdue.⁷³ The Committee has decided that it would proceed with the review of the implementation of the Convention by states parties whose reports are overdue by five years or more.⁷⁴ In the absence of a periodic report or an initial state report, the Committee considers information submitted by the state party to other organs of the UN, or reports and information prepared and collected within the UN and its specialized agencies, as well as other international organizations.⁷⁵ The Committee also considers information from other sources, including NGOs.⁷⁶

The Committee has also examined the situation of several states parties under its *early-warning and urgent procedures* and has adopted decisions in this framework.⁷⁷ These procedures were created in 1993. Early-warning measures aim to address existing structural problems to prevent them from escalating into conflicts. They also include confidence-building measures to identify and support structures to strengthen racial tolerance and solidify peace in order to prevent a relapse into conflict. Urgent procedures aim to respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Criteria for initiating an urgent procedure include a serious, massive, or persistent pattern of racial discrimination or a serious situation with risk of further racial discrimination.⁷⁸

⁷² It is notable that the comments made by the states parties are not annexed to the concluding observations of the Committee. This contrasts with the procedure of the ECRI, which is described above. For information on the procedure of examining state reports, see the Committee report to the UNGA for 2003, Annex IV, pp. 167-168. For examples on the comments of states parties, see Annex VII to the same report.

⁷³ The review procedure was initiated in 1991. Information from the Secretariat on 7 June 2004.

⁷⁴ Most states that have not submitted their reports on time are states outside the OSCE region. However, the list of states at least five years late in submitting reports has included such OSCE states as Bosnia and Herzegovina, Tajikistan, Monaco, Bulgaria, Serbia and Montenegro, Belarus, and the former Yugoslav Republic of Macedonia. See the list in the Committee report to the UNGA for 2003, pp. 103-105.

⁷⁵ This includes information collected by the UNHCR, the ILO, UNESCO, UNICEF, the FAO, and USAID. Sources such as the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, as well as the reports of the OAS missions, may also be considered. Information from the Secretariat on 7 June 2004.

⁷⁶ Committee report to the UNGA for 2003, pp. 105, 168. The Committee has requested the Secretary-General to continue sending reminders automatically to those states parties whose reports are overdue, p. 106.

⁷⁷ Regarding 2003, see the Committee report to the UNGA, pp. 14-18.

⁷⁸ See a working paper on early-warning and urgent procedures adopted by the Committee in 1993, A/48/18, Annex 1.

The members of the Committee may also undertake missions to states parties with the consent of the government of the state party concerned.⁷⁹

1.3.2 Adoption of General Recommendations

The second key function of the Committee is the publication of General Recommendations relating to the provisions and application of the Convention. General Recommendations cover issues of broad concern or relevance, and they also provide guidance on the interpretation of the provisions of the Convention. Through mid-2004, the Committee had published 30 General Recommendations that have, for instance, given guidance on the definition of racial discrimination; commented on the situation of non-citizens, indigenous peoples, and Roma; and elaborated the gender-related dimensions of racial discrimination.⁸⁰

1.3.3 Consideration of Communications

The third major element of the Committee's mandate is the possibility to consider communications submitted by states, individuals, or groups of individuals. The Convention contains a provision allowing states parties to submit communications concerning non-compliance by other states parties. In practice, however, this provision has never been used.

The Committee may also consider communications from individuals or groups of individuals concerning violations of the Convention with regard to states parties that have made a declaration recognizing the competence of the Committee to receive them, in accordance with Article 14 of the Convention. However, the number of states parties that have made the required declaration is rather low considering the large number of states parties to the Convention.⁸¹ So far, the Committee has issued opinions on only about thir

⁷⁹ Committee report to the UNGA for 2003, Annex IV, p. 169.

⁸⁰ For the General Recommendations, see, for example, *International Human Rights Instruments. Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies*, Note by the Secretariat, 2003, pp. 195-214. General Recommendations may also be accessed through the UN website.

⁸¹ For the time being (July 2004), only 45 states parties to the Convention have made the declaration under Art. 14. Of the OSCE states, 32 have made this declaration. See Annex 2 "OSCE States that are also parties to the ICERD".

ty individual communications.⁸² It is noteworthy that most individual or group communications come from a small number of states, most of which are OSCE participating States.

1.4 Co-ordination with International Organizations and Civil Society

The representatives of the ILO, UNESCO, and the UNHCR are invited to attend the Committee's sessions, which enables it to draw on their expertise. The Committee has also invited other institutions or actors to participate in its meetings.

The exchange of information also extends to regional mechanisms or bodies entrusted with monitoring the observance of, and respect for, human rights, particularly in matters covered by the Convention or the Durban Document.⁸³ For example, the Committee systematically receives the ECRI's country reports. The Secretariat conducts searches on websites to collect relevant information from other organizations to distribute to Committee members. Such information includes, for instance, EU reports on the accession of candidate countries, the opinions of the Advisory Committee of the CoE's Framework Convention for the Protection of National Minorities, and the reports of the CoE's Commissioner for Human Rights. Material from the OSCE is also made available to the Committee, including OSCE mission reports, OSCE Annual Reports, and the material of the OSCE High Commissioner on National Minorities. The Secretariat also provides Committee members with press releases and newspaper articles.⁸⁴

1.5 Challenges

Some challenges or problems linked to the functioning of the Convention and faced by the Committee include:

- **Reports not submitted or overdue**
The Committee has tried to overcome this problem through adoption of the review procedure under which the implementation of the Convention may be reviewed despite the absence of state reports.
- **Insufficient information in state reports, including insufficient statistical data**
State reports do not always provide the Committee with the information it needs to assess the implementation of the Convention. The Committee frequently receives

⁸² A great number of communications are never considered on their merits, since communications have been declared inadmissible, e.g., on the basis of non-exhaustion of domestic remedies.

⁸³ Committee report to the UNGA concerning 2003, Annex IV, p. 166.

⁸⁴ Information from the CERD Secretariat on 7 June 2004.

insufficient statistical data. Consequently, it has called on states to collect precise statistical data, for instance, on ethnic composition and on persons belonging to various minorities. In general, the Committee has underlined the need for data disaggregated by ethnicity and sex.⁸⁵

- **Length of the review cycles**
In practice, the actual review cycle for states parties is a minimum of four to five years. In the interim, the Committee has no mechanism for following up on the implementation of its recommendations.
- **Underutilization of the communication procedures, including the individual communication procedure**
States parties have shown a general reluctance to resort to the inter-state complaints mechanisms of the Convention. With regard to individual complaints, the numbers may be low in part because so few states have made the necessary declaration to allow individual complaints. Even among states that have made the declaration, individuals and groups of individuals may not be sufficiently informed about the possibility to file communications.
- **Follow-up procedure**
In August 2004, the Committee appointed its first co-ordinator on follow-up to recommendations addressed to states parties.

2. OTHER ACTORS

2.1 Mechanisms of the Commission on Human Rights

The UN Commission on Human Rights has established a number of mechanisms that relate to racism and intolerance, in particular, special rapporteurs. The mandates and activities of the special rapporteurs are set out in the Commission's resolutions establishing their specific mandates. The mandates vary to some extent, but the basic task of the special rapporteurs is to examine, monitor, advise, and publicly report on human rights situations either in specific countries or territories (known as country mandates) or on major human rights issues worldwide (known as thematic mandates). Of particular importance for this study is the Special Rapporteur on contemporary forms of racism,

⁸⁵ The Committee has noted that if progress in eliminating discrimination based on race, colour, descent, or national and ethnic origin is to be monitored, some indication is needed of the number of persons who could be treated less favourably on the basis of these characteristics. In addition, the inclusion of information on the situation of women is important for the Committee to consider whether racial discrimination has an impact upon women different from that upon men, in conformity with General Recommendation No. 25 on gender-related dimensions of racial discrimination. Reporting Guidelines, Paras. 8 and 9.

racial discrimination, xenophobia, and intolerance (the Special Rapporteur on racism, in short). Other rapporteurs may consider issues relevant to racism and intolerance, including especially the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on migrant workers.

In carrying out their mandates, special rapporteurs undertake country missions (visits) and report back to the Commission on Human Rights (as well as to the UN General Assembly). The rapporteurs may seek and receive information from governments, inter-governmental organizations, NGOs, or any other source. The thematic special rapporteurs may look into the situation in any UN member state. Consequently, a number of the OSCE participating States have been addressed in reports.

Individuals may also submit complaints to special rapporteurs on the basis of which the rapporteur may initiate an exchange with the state concerned. Special rapporteurs may suggest that national authorities undertake investigations relating to a case or an incident.⁸⁶

In addition to rapporteurs, the Commission on Human Rights has established an intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and a Working Group of Experts on People of African Descent, both of which have mandates directly relevant to combating racism.

2.2 Special Rapporteur on Contemporary Forms of Racial Discrimination, Xenophobia and Related Intolerance

The mandate of the Special Rapporteur on racism was established by the UN Commission on Human Rights in 1993. In 1994, the mandate was made more detailed, and the Rapporteur was asked to examine incidents of contemporary forms of racism; racial discrimination; any form of discrimination against Blacks, Arabs, and Muslims; xenophobia; Negrophobia; anti-Semitism; and intolerance, as well as governmental measures to overcome them. The Rapporteur was also asked to exchange views with relevant mechanisms and treaty bodies within the UN system. In addition, the Commission called upon governments, inter-governmental organizations, and other relevant organizations of the UN system, as well as NGOs, to supply information to the Special Rapporteur, who was encouraged to use all sources of information, including country vis-

⁸⁶ More information on the special procedures and the special rapporteurs can be found on the UN website <http://www.unhchr.ch/html/menu2/2/mechanisms.htm> (visited in July 2004).

its and the mass media. The Special Rapporteur was asked to present further recommendations concerning human rights education with a view to preventing actions giving rise to racism and racial discrimination, xenophobia, and related intolerance. He was also asked to present recommendations on specific measures that could be taken at the national, regional, and international levels, with a view to preventing and eradicating problems within his mandate.

Over the years, the Special Rapporteur on racism has addressed a number of OSCE states, for instance, in the framework of examining allegations of violations submitted to him. On the basis of such allegations and cases, the Rapporteur has initiated exchanges of views with the relevant authorities of the state concerned by requesting information concerning the reported allegations. In 2003, the Special Rapporteur considered cases in respect of Belgium, Greece, Slovakia, and Ukraine.⁸⁷ The Rapporteur also drew attention to the measures taken by the U.S. and French Governments.⁸⁸ In 2002, the Special Rapporteur examined allegations concerning Germany, Spain, the Russian Federation, Greece, and the United Kingdom.⁸⁹ Other OSCE countries were considered in previous years.⁹⁰

The Special Rapporteur has also paid a number of country visits, many of which have been to OSCE states.⁹¹ The Special Rapporteur has used his country visits, for instance, those carried out in 2003, also to promote the Durban Document.⁹² The Special Rapporteur has been paying particular attention recently to Islamophobia and anti-Semitism, as well as to the situation of Roma.⁹³

The Special Rapporteur on racism noted that in 2004 he intends to concentrate on racism in sport and on countries that have been most affected by a growing wave of racism, discrimination, and xenophobia related to immigration; anti-Semitism; Islamophobia; and the caste problem.⁹⁴

⁸⁷ See the Rapporteur's report concerning 2003, pp. 2, 11-17.

⁸⁸ Rapporteur's report concerning 2003, pp. 9-11.

⁸⁹ Rapporteur's report concerning 2002, pp. 2, 18-43.

⁹⁰ E.g., the Rapporteur's report concerning 2001 refers to Canada, Latvia, Germany, Spain, the Czech Republic, and Sweden. The report even contains a short section on the EU. The Rapporteur's report concerning 2000 contains references to Belarus, Spain, the Netherlands, Austria, Canada, Germany, Hungary, the Czech Republic, Romania, the United Kingdom, Switzerland, and France.

⁹¹ The most recent visit to an OSCE state was a visit paid to Canada in September 2003. Earlier, the Special Rapporteur visited Hungary (1999), the Czech Republic (1999), Romania (1999), the United Kingdom (1995), France (1995), Germany (1995), and the United States (1994). See the Rapporteur's website (referred to above) for the details.

⁹² Rapporteur's report concerning 2003, p. 2.

⁹³ See, for example, the Rapporteur's report concerning 2003, pp. 2, 4, 8-9 (for Islamophobia and anti-Semitism), and pp. 2, 7-8 (for Roma), and the report concerning 2002, pp. 2, 15 (for anti-Semitism), and pp. 2, 14-15 (for Roma). The Rapporteur also addressed these in his earlier reports.

⁹⁴ Rapporteur's report concerning 2003, p. 5.

2.3 UN High Commissioner for Human Rights

The post of UN High Commissioner for Human Rights (HCHR) was created in 1993.⁹⁵ The HCHR has a broad mandate to promote and protect all human rights and is the official with principal responsibility for UN human rights activities. The Office of the High Commissioner for Human Rights (OHCHR), which is situated in Geneva, aims to ensure the practical implementation of human rights norms. Its role is to strengthen the UN activities in the field of human rights and to work on integrating human rights thinking and standards throughout the work of the UN. The OHCHR offers research, expertise, advice, and administrative services to the main UN human rights bodies. It provides support for the meetings of the UN Commission on Human Rights and its Sub-Commission and follow-up to their deliberations. Its staff assists the numerous experts appointed by these bodies, including special rapporteurs and human rights treaty bodies such as the Committee on the Elimination of Racial Discrimination. The tasks of the OHCHR also include ensuring a communication flow among these bodies to maximize the impact of their efforts. The OHCHR has also established a number of field presences to ensure that international human rights standards are progressively implemented and realized at the national level.⁹⁶ Some of these have worked on issues intrinsically connected to racism, such as the aftermath of genocide in Rwanda.

The day-to-day activities of the OHCHR in combating racism cover several areas, for example, servicing the Committee on the Elimination of Racial Discrimination, assisting the Special Rapporteur on racism, and servicing the follow-up mechanism to the World Conference against Racism (WCAR) within the UN system. In practice, these WCAR-relevant activities of the OHCHR are concentrated in its Anti-Discrimination Unit (ADU).⁹⁷

The ADU gathers information on measures by states; UN bodies and specialized agencies; national human rights institutions; and international, regional, and non-governmental organizations to implement the recommendations of the WCAR. It presents this information in its annual reports to the UN General Assembly and to the Commission on Human Rights. On the basis of the provisions of the Durban Document,⁹⁸ the ADU has initiated a worldwide database on good practices against racism. Taking into account that challenges posed by racism and discrimination vary from region to region, the ADU has

⁹⁵ Louise Arbour from Canada is the present HCHR.

⁹⁶ For general information on the HCHR, see the HCHR's website (<http://www.unhcr.ch/about>).

⁹⁷ Information from the OHCHR on 6 April 2004.

⁹⁸ Para. 191(d) of the Programme of Action.

studied the modalities for practical implementation of the Durban Document in each UN region by organizing regional seminars of experts, including in Europe.⁹⁹

In addition, the ADU has managed technical co-operation projects at the national level, for example, to develop national action plans to combat racism. The ADU has organized awareness-raising activities during the sessions of the Commission on Human Rights on the International Day for the Elimination of Racial Discrimination (21 March). Since the OHCHR is the lead UN office responsible for UN anti-racism programmes, the ADU has engaged in dialogue with other UN agencies with the objective of integrating the recommendations of the WCAR into their mandates and projects. In the framework of this co-operation, joint activities with other UN agencies have been organized, such as panel discussion with the ILO and a workshop with UNESCO.¹⁰⁰

The ADU also maintains contacts with NGOs and youth organizations to share information and to facilitate their participation in meetings, seminars, and workshops convened by the ADU. In addition, ADU representatives participate regularly in NGO meetings related to racism, to exchange ideas and information, to promote public awareness of OHCHR follow-up activities to the WCAR, and to encourage their participation in implementation efforts. The ADU's NGO Liaison Officer also organizes trainings for NGO representatives in different parts of the world.¹⁰¹

2.4 UN Specialized Agencies

Many UN specialized agencies have activities relevant to action against racism and intolerance, notably the ILO and UNESCO. The ILO's work in the area of international standard-setting is particularly noteworthy. As mentioned above, the definition of racial discrimination in the International Convention on the Elimination of All Forms of Racial Discrimination is based on the definition in ILO Convention No. 111 on Discrimination in Occupation and Employment.¹⁰² A number of ILO conventions are also expressly relevant in the work of other international monitoring bodies. For example, ILO Convention No. 111 is among the documents that the ECRI deems relevant to its work. ILO Convention

⁹⁹ The Regional Seminar of Experts for Eastern Europe was organized in September 2003 in Prague (see E/CN.4/2004/17/Add.1) and the Regional Seminar of Experts for Western States in December 2003 in Brussels (see E/CN.4/2004/17/Add.2).

¹⁰⁰ For example, the joint workshop of the OHCHR and UNESCO to develop a publication to combat racism and foster tolerance was organized in February 2003. For this and other follow-up activities related to the Durban Conference, see the HCHR's website.

¹⁰¹ *Information Note on the Follow-up to the World Conference against Racism, racial Discrimination, Xenophobia and Related Intolerance* by the ADU, 26 February 2004, pp. 2-4.

¹⁰² Note the reference above in Section 1.4.

No. 169 concerning Indigenous and Tribal Peoples in Independent States has been explicitly referred to both by the ECRI and the Committee on the Elimination of Racial Discrimination in their activities. Furthermore, the Committee has expressly made note of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. In general, the ILO's focus on the areas of labour and employment and its efforts to eradicate discrimination and promote equality of opportunity and treatment in these contexts are of great significance in the struggle against racism and intolerance.¹⁰³

The fight against racism and discrimination is at the heart of UNESCO's mandate. UNESCO has directed efforts, for instance, towards drafting international instruments relevant to the topic. These include an important document from 1960, the UNESCO Convention against Discrimination in Education. In 1978, UNESCO adopted the Declaration on Race and Racial Prejudice, and in 1995 the Declaration of Principles of Tolerance. In addition, UNESCO has developed operational programmes and projects in the field. UNESCO was also active with regard to the World Conference against Racism. It prepared, in collaboration with the UN High Commissioner for Human Rights, a publication entitled "United to Combat Racism" for the World Conference. UNESCO has also followed up recommendations of the World Conference in its activities.¹⁰⁴

¹⁰³ For the activities and documents of the ILO, see the ILO's website (<http://www.ilo.org>).

¹⁰⁴ For the information presented and for various UNESCO activities and documents, see UNESCO's website (<http://portal.unesco.org>).

IV. THE ROLE OF THE OSCE IN ACTION AGAINST RACISM, XENOPHOBIA, ANTI-SEMITISM, AND INTOLERANCE

Although OSCE commitments against discrimination are long-standing – going all the way back to the Helsinki Final Act of 1975¹⁰⁵ – there have been increasing demands recently within the OSCE to intensify its efforts to combat racism, xenophobia, anti-Semitism, and intolerance. As a result of the decisions taken at the last three Ministerial Council meetings – in Bucharest in 2001, in Porto in 2002, and in Maastricht in 2003 – the OSCE has re-affirmed its concern about manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism, and violent extremism and has called upon participating States to increase their efforts to promote tolerance and non-discrimination.¹⁰⁶ As a follow-up to a decision taken at the Porto Ministerial Council, two OSCE Conferences were organized in Vienna during 2003: the Conference on anti-Semitism (19-20 June) and the Conference on Racism, Xenophobia and Discrimination (4-5 September). Both Conferences had a significant influence in strengthening and defining an increased role for the OSCE in the area of tolerance and non-discrimination.

Decision No. 4 of the Maastricht Ministerial Council meeting in 2003 was of particular importance to the role of the OSCE in that it committed the participating States and institutions of the OSCE to undertake actions to combat racism and intolerance. Specifically, the Decision encouraged participating States to collect and keep records on reliable information and statistics on hate crimes, including violent manifestations of racism, xenophobia, anti-Semitism, and discrimination. The participating States were also asked to inform the OSCE/ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination and, where appropriate, to seek the OSCE/ODIHR's assistance in the drafting and review of such legislation. The Maastricht Ministerial

¹⁰⁵ Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975. The Final Act includes a list of principles guiding the relations among states. Principle VII is respect for human rights, "...without distinction as to race..." and also includes language on freedom of religion or belief and equal rights for persons belonging to minorities. Commitments related to racism and related intolerance are also included in many other OSCE documents. See *OSCE Human Dimension Commitments, A Reference Guide* (Warsaw, OSCE/ODIHR, 2001), pp. 87-95, also available on the ODIHR website, www.osce.org/odihr.

¹⁰⁶ See Decision No. 6 on Tolerance and Non-Discrimination adopted by the 2002 Porto Ministerial Council, and Decision No. 4/03 on Tolerance and Non-Discrimination adopted by the 2003 Maastricht Ministerial Council. These decisions may be found in the annex. Note also Decision No. 5 of the 2001 Bucharest Ministerial Council that reaffirmed concern about aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism, and violent extremism.

Council Decision also served as a catalyst for two additional OSCE Conferences in follow-up to the 2003 Conferences: the OSCE Conference on Anti-Semitism, held in Berlin on 28-29 April 2004, and the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination in Brussels on 13-14 September 2004. In addition to these two Conferences, an OSCE Meeting on the Relationship between Racism, Xenophobic and anti-Semitic Propaganda on the Internet and Hate Crimes was held in Paris on 16-17 June 2004.

Also of significance to the OSCE's enhanced role in addressing racism and intolerance were the Permanent Council Decision on Combating anti-Semitism (No. 607) and the Decision on Tolerance and the Fight against Racism, Xenophobia and Discrimination (No. 621), which committed the OSCE participating States to reinforce their common efforts to combat anti-Semitism and fight manifestations of intolerance across the OSCE region. The Decisions committed the participating States to ensure that their legal systems prohibit discrimination and provide a safe environment free from anti-Semitism and harassment and also committed OSCE states to combat hate crimes fuelled by racist, xenophobic, and anti-Semitic propaganda in the media and on the Internet. The Decisions also require OSCE states to promote and enhance educational programmes for fostering tolerance and combating racism, xenophobia, anti-Semitism, and discrimination. Specifically in Decision No. 607, participating States made a commitment to promote remembrance of, and, as appropriate, education about, the tragedy of the Holocaust and the importance of respect for all ethnic and religious groups. In Decision No. 621, the OSCE states committed themselves to promote and facilitate open and transparent interfaith and intercultural dialogue and partnerships towards tolerance, respect, and mutual understanding and agreed to take steps to combat discrimination and violence against Muslims in the OSCE area. In addition, OSCE states agreed to take steps, in conformity with their domestic law and international obligations, to combat discrimination against migrants and migrant workers and agreed to consider undertaking activities to raise public awareness of the enriching contribution of migrants and migrant workers to society. Decision No. 621 also committed OSCE states to consider establishing training programmes for law-enforcement and judicial officials on legislation and enforcement of legislation related to hate crimes and to examine the possibility of establishing within countries appropriate bodies to promote tolerance and combat racism, xenophobia, anti-Semitism, and discrimination or intolerance, including against Muslims.

The OSCE has a number of mechanisms that it can bring to bear in combating racism, xenophobia, anti-Semitism, and intolerance. Its institutions include the Office for Democratic Institutions and Human Rights, the High Commissioner on National Minorities, and the Representative on Freedom of the Media, all of which have dealt with issues related to racism, xenophobia, anti-Semitism, and intolerance in the past. The High Commissioner's work is especially relevant and has focused on preventing conflicts

that can emerge from minority issues. In addition, the Economic Co-ordinator has responsibility for issues relevant to racism and intolerance. The OSCE also maintains field operations of various kinds in more than a dozen countries. These offices can be a valuable resource to assist in OSCE efforts against racism, xenophobia, anti-Semitism, and intolerance. The OSCE Parliamentary Assembly is yet another OSCE body with a broad mandate that can include action against racism, xenophobia, anti-Semitism, and intolerance.

1. OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS

1.1 Mandate

The OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the principal institution of the OSCE responsible for the human dimension.¹⁰⁷ The 1992 Helsinki Document set the OSCE/ODIHR's mandate to help OSCE participating States "ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and...to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society." Until 2003, efforts to combat racism and intolerance were undertaken within existing programmes, particularly through the work of the Contact Point for Roma and Sinti Issues, mainly in the thematic areas of freedom of religion or belief and the promotion of non-discrimination and tolerance. To a lesser extent, the issues of racism and xenophobia were also addressed through the OSCE/ODIHR's activities in the promotion of gender equality and freedom of movement.

The Decision on Tolerance and Non-Discrimination taken by the Maastricht Ministerial Council (Decision No. 4) in 2003 significantly increased the role of the OSCE/ODIHR in the area of combating racism and intolerance and required the OSCE/ODIHR to undertake a number of activities to support OSCE participating States in their efforts to combat racism, xenophobia, anti-Semitism, and discrimination.

- Specifically, the Maastricht Ministerial Council decided that the OSCE/ODIHR should:
- Serve as a *collection point* for information and statistics gathered by participating States on hate crimes, including violent manifestations of racism, xenophobia, discrimination, and anti-Semitism;

¹⁰⁷ The "human dimension" refers to the OSCE's concept of security, which includes, as an integral element, the recognition of human rights, the rule of law, and democracy.

- Report regularly on the information received from states, including in the format of the Human Dimension Implementation Meeting;
- Receive information from OSCE states on their existing legislation regarding crimes fuelled by intolerance and discrimination;
- Promote best practices and disseminate lessons learned in the fight against intolerance and discrimination;
- Provide assistance, where requested by participating States, in drafting and reviewing legislation regarding crimes fuelled by intolerance and discrimination.¹⁰⁸

The Maastricht Ministerial Council Decision further required that, in its information-gathering activities, the OSCE/ODIHR should seek full co-operation particularly with the ECRI, the EUMC, and the UN Committee for the Elimination of Racial Discrimination, as well as with relevant NGOs.¹⁰⁹ The Ministerial Council also called upon the OSCE/ODIHR to reinforce its activities with respect to discrimination against migrant workers, asylum-seekers and refugees, as well as with respect to the integration of migrant workers into societies in which they are legally residing.¹¹⁰ The Maastricht Ministerial Council also tasked the Permanent Council, as well as the OSCE/ODIHR, the HCNM, and the RFoM, in close co-operation with the Chairman-in-Office, with ensuring the effective follow-up to the relevant provisions of the decision taken.¹¹¹

The role of the OSCE/ODIHR in combating racism and intolerance was also strengthened under the Decision of the OSCE Permanent Council on Combating Anti-Semitism (Decision No. 607) adopted in April 2004, which tasked the OSCE/ODIHR to:

- Follow closely, in full co-operation with other OSCE institutions, as well as the CERD, ECRI, and the EUMC and other relevant international institutions and NGOs, anti-Semitic incidents in the OSCE area, making use of all reliable information available;
- Report its findings to the Permanent Council and to the HDIM and to make these findings public;
- Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to anti-Semitism and, if requested, offer advice to participating States in their efforts to fight anti-Semitism.¹¹²

¹⁰⁸ Para. 7 of Decision No. 4/03 on Tolerance and Non-discrimination. See Para. 6 for collecting information on legislation and for providing legislative support. Note also that Para. 12 of Decision No. 6 of the 2002 Porto Ministerial Council refers to the role of the ODIHR in ensuring an effective follow-up to that decision.

¹⁰⁹ Para. 7 of Decision No. 4/03 on Tolerance and Non-discrimination.

¹¹⁰ Paras. 11 and 12 of Decision No. 4/03 on Tolerance and Non-discrimination.

¹¹¹ Para. 16 of Decision No. 4/03 on Tolerance and Non-discrimination.

¹¹² Para. 2 of Decision No. 607 on Combating Anti-Semitism.

The additional tasks given to the OSCE/ODIHR under the Permanent Council Decision on Tolerance and the Fight against Racism, Xenophobia and Discrimination (Decision No. 621) adopted in July 2004 reiterated to a large extent the three tasks for the OSCE/ODIHR stipulated in the decision on anti-Semitism. In Decision No. 621, the tasks are taken to a broader context, i.e., they relate generally to the issues concerning “racism, xenophobia, or intolerance” as well as discrimination. Regarding the task for the OSCE/ODIHR in the area of following incidents, the UN Office of the High Commissioner for Human Rights is now also explicitly referred to as being among the international institutions the OSCE/ODIHR should co-operate with. The clearest substantive addition in the Permanent Council’s July decision, compared to its earlier decision on anti-Semitism, concerns the OSCE/ODIHR’s task to “support the ability of civil society and the development of partnerships to address racism, xenophobia, discrimination or intolerance, including against Muslims, and anti-Semitism.”¹¹³

On the basis of the wordings of the tasks adopted by the Maastricht Ministerial Council and the Permanent Council, it may be observed that there are some important differences, including that the Permanent Council’s tasks for the ODIHR are clearly more proactive, i.e., requiring a more active role on the part the OSCE/ODIHR as regards monitoring, as well as information-gathering, reporting, and dissemination. Furthermore, pursuant to the Permanent Council’s decisions, the OSCE/ODIHR should also, though upon request, offer advice to participating States in their efforts to fight anti-Semitism, racism, xenophobia, and discrimination. This assistance role is again broader than that referred to in the Maastricht mandate, since here it is not limited to legislative support but is of a more general nature. It may also be observed that the Maastricht Ministerial Decision seems to be more explicit about the attention to be drawn to the aggressive or violent manifestations of racism and intolerance than the two decisions of the Permanent Council.¹¹⁴

1.2 Current Priorities

As a result of its new responsibilities in the area of combating racism and intolerance, the OSCE/ODIHR has established a new Tolerance and Non-Discrimination Programme. Throughout 2004, the focus of the OSCE/ODIHR has been on studying existing efforts of international and national organizations, particularly the ECRI, the EUMC, and the UN Committee for the Elimination of Racial Discrimination, in the area of

¹¹³ Para. 2 of Decision No. 621 on Tolerance and the Fight against Racism, Xenophobia and Discrimination.

¹¹⁴ Note preambular Paras. 5 and 6, and Para. 6 of the Maastricht Ministerial Council Decision No. 4/03 on Tolerance and Non-discrimination and that there are no similar kinds of references in the two decisions of the Permanent Council.

racism and intolerance and in developing a programme to support, strengthen, and complement such existing efforts. Under the OSCE/ODIHR's 2005 Programme Outline for Tolerance and Non-Discrimination, the following activities are proposed:

- Developing mechanisms, including a network of focal points from the OSCE participating States, to collect and compile consistent and reliable information and statistics from participating States on hate crimes, including forms of violent manifestations of racism, xenophobia, anti-Semitism, and discrimination;
- Providing analysis of the information and statistics received, including the development of recommendations to participating States;
- Closely following incidents motivated by racism, xenophobia, or intolerance, including against Muslims, and anti-Semitism in the OSCE area;
- Preparing reports based on the information received for the Permanent Council and in the format of the Human Dimension Implementation Meeting;
- Increasing co-operation with international institutions, in particular with the ECRI, the EUMC, and the UN Committee for the Elimination of Racial Discrimination, through the organization of interagency meetings to exchange information, consider lessons learned, discuss methodology for data collection (including the use of definitions), and further the implementation of policy recommendations;
- Increasing co-operation with NGOs through the establishment of a network of NGOs that could serve as a monitoring and early-warning resource to the OSCE/ODIHR for cases and incidents of racism, xenophobia, discrimination, and anti-Semitism;
- Establishing close co-operation with other OSCE institutions, including the High Commissioner on National Minorities and the Representative on Freedom of the Media, to ensure effective follow-up of the Maastricht Ministerial Council Decision and the related Permanent Council Decisions;
- Providing support to the OSCE field missions in increasing their capacity to respond to complaints and incidents of racism, xenophobia, and anti-Semitism and to promote tolerance and non-discrimination;
- Supporting participating States, through the assistance of the Panel of Experts on Freedom of Religion or Belief, in their efforts to strengthen interfaith and intercultural dialogue, to enact legislation in accordance with international standards and OSCE commitments pertaining to freedom of religion or belief, and to promote greater tolerance, respect, and mutual understanding;
- Providing support and assistance to participating States, as requested, in areas such as legislative support, training of government officials, strengthening data-collection mechanisms, awareness-raising, and educational activities to promote tolerance and non-discrimination;
- Facilitating the exchange and promotion of best practices among the participating States, as well as NGOs, on how to counter racism, xenophobia, anti-Semitism, and discrimination, including by organizing and facilitating workshops and seminars, and by disseminating manuals and materials.

The ability of the OSCE/ODIHR to conduct these activities will be contingent upon the availability of funds in 2005. It is also anticipated that the proposed role and plan of activities for the OSCE/ODIHR in 2005 will need to be amended in order to reflect new priorities arising out of the Ministerial Council Meeting in Sofia in December 2004.

1.3 Monitoring and Reporting Methodology

The monitoring and reporting methodology of the OSCE/ODIHR is focused on two key areas: information received through **periodic reports** and information related to actual **incidents**. The role of the OSCE/ODIHR in receiving periodic reports derives from the Maastricht Ministerial Decision that tasked the OSCE/ODIHR with serving as a collection point for reliable information from states on hate crimes and violent manifestations of racism, xenophobia, anti-Semitism and discrimination. In order to take up its role as a collection point, the OSCE/ODIHR sent out a series of Notes Verbale requesting OSCE participating States to provide:

- All pertinent and reliable information, including statistics where available, on hate crimes;
- Information concerning existing relevant criminal legislation – in particular which type of racist, xenophobic, or anti-Semitic acts are defined as criminal offences;
- All information collected on racist, xenophobic, or anti-Semitic violence and crimes and on initiatives to combat them at the national level;
- An overview of anti-Semitic incidents in 2004 and responses to these incidents, as well as information, on an ongoing basis, about such incidents as they arise;
- The names of authorities with the responsibility for collecting and transmitting that information and who could serve as focal points for the OSCE/ODIHR.

The responses of the participating States to the Notes Verbale was then compiled and consolidated into a consistent format and submitted by the OSCE/ODIHR to the Permanent Council on 15 July 2004.

In its Maastricht Decision, the Ministerial Council attempted to minimize duplicative requests for information and statistics to the participating States by specifically requiring the OSCE/ODIHR to co-ordinate the collection of information with the ECRI, the EUMC, and the UN Committee for the Elimination of Racial Discrimination. Therefore, in an effort to co-ordinate such information requests, the OSCE/ODIHR conducted a mapping exercise for all the OSCE states in order to have an overview of which countries have been included in reports of the ECRI, the EUMC, and the UN Committee. After obtaining a list of all available reports, the OSCE/ODIHR then requested confirmation from OSCE states whether or not such information should be considered as their official response to the

OSCE/ODIHR's request for information. The OSCE/ODIHR also commissioned a needs assessment of its information and data-management needs and is now in the process of developing a comprehensive information and data-management system that will enable the OSCE/ODIHR to organize, index, and search available information, as well as disseminate the information via the Internet.

Apart from serving as a collection point for information and statistics, the OSCE/ODIHR was also tasked with reporting to the Permanent Council and in the format of the Human Dimension Implementation Meeting on the information received. Once again, in order not to duplicate the efforts of the ECRI, the EUMC, the UN Committee and other relevant organizations, the main focus of the OSCE/ODIHR, in undertaking its information-collection and reporting functions, has been to build upon the analysis conducted by these organizations and to support the implementation and follow-up of existing recommendations rather than replicate what already has been developed.

The second type of monitoring and reporting conducted by the OSCE/ODIHR is based on the requirement that it *closely follow incidents* motivated by racism, xenophobia, anti-Semitism, or intolerance, including against Muslims in the OSCE area. In this regard, the OSCE/ODIHR's efforts are focusing not only on the collection of information related to incidents but more significantly on closely following the responses of government, law-enforcement authorities, judicial officials, national institutions, and civil society to such incidents. In doing so, the OSCE/ODIHR's efforts are focusing on collecting and compiling information on best practices of OSCE states in preventing and responding to such incidents. In areas where the response of OSCE states needs to be further strengthened, the OSCE/ODIHR's role is to formulate recommendations and offer advice to OSCE states in order to support them in strengthening their response to such incidents.

1.4

Work on General Themes

1.4.1

Freedom of Religion or Belief

In its Decision on Tolerance and Non-Discrimination, the Ministerial Council in Maastricht affirmed the importance of freedom of thought, conscience, religion, or belief; condemned all discrimination and violence against any religious group or individual believer; and emphasized the importance of continued and strengthened interfaith and intercultural dialogue to promote greater tolerance, respect, and mutual understanding. The Decision also committed the participating States to ensure and facilitate the freedom of the individual to profess and practise a religion or belief, alone or in community with

others, through transparent and non-discriminatory laws, regulations, practices, and polices. Under the Decision, participating States were also encouraged to seek the assistance of the OSCE/ODIHR and its Panel of Experts on Freedom of Religion or Belief. One of the recent activities undertaken by the Panel was the development of “Guidelines for Review of Legislation Pertaining to Religion or Belief”, which were also endorsed by the CoE’s Venice Commission on 18 June. The OSCE/ODIHR Panel of Experts on Religion or Belief has also initiated a joint project with the UN OHCHR to develop a training module on freedom of religion or belief for civil society leaders. This training would also benefit employees of state authorities and security services in some OSCE participating States. Using the manual as the basis, the OSCE/ODIHR is planning to conduct training workshops for interested NGOs and state authorities on freedom of religion or belief.

1.4.2 Roma/Sinti

Since its establishment in 1994, the OSCE/ODIHR Contact Point for Roma and Sinti Issues has been actively involved in addressing racism and intolerance as it affects Roma and Sinti communities. Specifically, the CPRSI has worked to promote full integration of Roma and Sinti communities into the societies they live in while preserving their identity.

In November 2003, the OSCE’s Permanent Council adopted the OSCE Action Plan for Improvement of the Situation of Roma and Sinti. Among its aims, the Action Plan seeks to further strengthen the OSCE/ODIHR’s ability to assist OSCE governments in fulfilling their commitments to improve the situation of Roma and Sinti in their countries. The Maastricht Ministerial Council’s Decision on Tolerance and Non-Discrimination contained a commitment to promote the implementation of the Action Plan within the OSCE area. Through 2004, the Action Plan has been the main priority of the OSCE/ODIHR Contact Point for Roma and Sinti Issues.

1.4.3 Anti-Semitism

During the last few years, almost all European countries have seen a rise in anti-Semitism. The OSCE reacted to this situation by adopting a Permanent Council Decision (Decision No.607) on Combating Anti-Semitism in April 2004 and a Declaration, resulting from the OSCE Conference on Anti-Semitism held in Berlin the same month. In the Berlin Declaration, the OSCE declared Anti-Semitism, along with other forms of intolerance, to pose a threat to democracy, the values of civilization, and, therefore, to overall security

in the OSCE region and beyond. In the Declaration, the OSCE participating States committed themselves to strive to ensure a safe environment free from anti-Semitic harassment, violence, or discrimination in all fields of life and to promote educational programmes for combating Anti-Semitism, as well as education about the tragedy of the Holocaust. Both documents also strengthened the OSCE/ODIHR's role in combating Anti-Semitism in the OSCE area by reinforcing the application of previous tasks and stressing the importance of the ODIHR in serving as a collection point for information and data received from participating States and NGOs and in collecting and disseminating best practices throughout the OSCE region. To fulfill this enhanced role, the OSCE/ODIHR created a new position in the Tolerance and Non-Discrimination Programme for an Adviser on Anti-Semitism Issues.

1.5

Co-ordination with International Organizations and Civil Society

In order to implement its responsibilities effectively without duplicating the work already being done by other international actors in the area, the OSCE/ODIHR's initial priority has been to develop a comprehensive overview of existing reports, projects, and activities undertaken by such actors and to develop an approach that complements, supports, and builds upon existing efforts.

During the spring of 2004, the OSCE/ODIHR held meetings with representatives of the ECRI, the EUMC, the UN Committee for the Elimination of Racial Discrimination, and the UN OHCHR in order to identify possible synergies and areas where OSCE/ODIHR efforts to implement its new tasks could support and complement existing efforts. On 28 April 2004, during the OSCE Conference on Anti-Semitism in Berlin, the OSCE/ODIHR organized a joint workshop with the ECRI, the EUMC, and the UN Committee on "Implementation of the Ministerial Council Decision on Tolerance and Non-Discrimination". Among the key recommendations emerging from the workshop was the need for practical co-operation, including regular meetings among the four agencies at least annually to discuss progress, methods, and possible joint action. For example, during the workshop, a suggestion was made for the organization of a meeting with specialized bodies on the question of data collection. It was also recommended that, using the EUMC model as a basis, the OSCE/ODIHR develop a network of focal points to collect information in participating States where such focal points do not already exist.

Regarding efforts to strengthen its co-operation with NGOs, the OSCE/ODIHR is in the process of establishing a network of NGOs that could serve as a monitoring and early-warning resource to the OSCE/ODIHR for cases and incidents of racism, xenophobia, anti-Semitism, and discrimination.

2. OTHER RELEVANT ACTORS

2.1 High Commissioner on National Minorities (HCNM)

The HCNM was created by the decision laid down in the 1992 Helsinki Document. It was specified as a conflict-prevention instrument. It is not a mechanism of the human dimension.¹¹⁵ The mandate of the HCNM puts limits on the HCNM's involvement: the HCNM is to address situations with the potential to develop into a conflict affecting peace, stability, or relations between particular states. Thus, according to the mandate, the HCNM's involvement is limited to those minority issues that have a bearing on security. The HCNM is not to consider individual cases concerning persons belonging to national minorities. More generally, the HCNM is not a mechanism supervising compliance by states with their international obligations and commitments, although he often calls for such compliance in the interest of conflict prevention. The HCNM's mission is two-fold: first, to address and de-escalate tensions before they ignite, and second, to act as a trip-wire, meaning that the HCNM is responsible for alerting the OSCE whenever such tensions threaten to develop to a level at which he cannot alleviate them with the means at his disposal.¹¹⁶ Although the mandate of the HCNM has a number of restrictions that serve to focus his attention, it nevertheless remains very broad.¹¹⁷

The role of the HCNM regarding racism and intolerance was first referred to in the document adopted by the 1992 Stockholm meeting of the Council of Ministers. At the 1993 Rome meeting of the Council of Ministers, the participating States invited the HCNM, in light of his mandate, to pay particular attention to all aspects of aggressive nationalism, racism, chauvinism, xenophobia, and anti-Semitism. The 2003 Maastricht Ministerial Council Decision on Tolerance and Non-Discrimination refers to the importance of the recommendations of the HCNM on education, public participation, and language, including on its use in broadcast media, and tasks the HCNM with ensuring an effective follow-up to the relevant provisions of the decision.¹¹⁸

¹¹⁵ The mandate of the HCNM as stipulated in the 1992 Helsinki Document states that the HCNM is to provide "early warning" and, as appropriate, "early action" at the earliest possible stage "in regard to tensions involving national minority issues which have not yet developed beyond the early warning stage, but, in the judgment of the HCNM, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States..." Chapter II, Para. 3 of the 1992 Helsinki Document.

¹¹⁶ See, for example, the Annual Report on the OSCE Activities 2003, p. 138. See also the HCNM's website.

¹¹⁷ John Packer (2001), pp. 645-647.

¹¹⁸ Paras. 10 and 16 of the Maastricht Ministerial Decision No. 4/03 on Tolerance and Non-discrimination. Note also that the 2002 Porto Ministerial Council Decision No. 6 on Tolerance and Non-Discrimination tasked, for example, the HCNM to ensure an effective follow-up to that decision. See Para. 12 of this decision.

So far in his activities, the HCNM has not paid particular attention to the issues of racism and intolerance except insofar as they involve national minorities that are the focus of his attention. One case in connection with which the HCNM has explicitly addressed these issues (including racial violence and racially motivated attacks) is in regard to Roma. The HCNM prepared two substantial reports on Roma in 1993 and 2000. The HCNM's recommendations in 1993 also contributed to the establishment of the CPRSI at the OSCE/ODIHR.¹¹⁹ The HCNM has paid particular attention to the situation of Romany women¹²⁰ and has played an initiating role in the joint project of the OSCE, the CoE, and the EUMC on Romany women's access to health care.¹²¹ Furthermore, the HCNM has participated in human dimension meetings and seminars in which he has addressed racism and discrimination faced by Roma.

The HCNM has addressed racism and intolerance as they affect his mandate at OSCE conferences such as the one held in September 2003 in Vienna,¹²² at OSCE meetings to review implementation of OSCE commitments, and in other forums.¹²³

Many issues considered by the HCNM are important in addressing racism and intolerance. Such matters include languages and their use in broadcasting, minority education and public participation. The very issue of integration of minorities has also been visible on the agenda of the HCNM since the beginning of his functions.¹²⁴ Integration of minorities, particularly in education, has been on the agenda of the HCNM since the start of his mandate. The HCNM's mandate as a conflict-prevention instrument naturally serves to focus the HCNM's activities in this context.

¹¹⁹ The initiative for the preparation of the HCNM's first report on Roma came from the OSCE states, more specifically from the then-existing CSCE Committee of Senior Officials. See the Preface to the HCNM's report on Roma (2000).

¹²⁰ Note, for example, the HCNM's report on Roma (1993), p. 8.

¹²¹ Note also the references to this project above in the text on the EUMC. Presently (July 2004), the HCNM has no Roma-specific projects. Information from the office of the HCNM on 21 July 2004.

¹²² HCNM's speech on "Combating Extremism: Preventing and Fighting Racism, Xenophobia and Discrimination", 4 September 2003.

¹²³ See, for example, the HCNM's speech at the Human Dimension Implementation Review Meeting, 9 September 2002.

¹²⁴ Note, for example, the intervention of the HCNM at the Human Dimension Implementation Meeting, 28-29 September 1993.

¹²⁵ Information from the office of the HCNM on 2 July 2004. See also the Annual Report on OSCE Activities 2003, pp. 138-141.

2.2 Representative on Freedom of the Media (RFoM)

The post of the Representative on Freedom of the Media (RFoM) was established at the OSCE in 1997.¹²⁶ The RFoM has two basic functions: first, to observe relevant media developments in OSCE participating States with a view of providing an early warning on violations of freedom of expression, and second, to assist participating States by advocating and promoting full compliance with OSCE principles and commitments regarding freedom of expression and free media. The RFoM follows and reacts to specific cases of violations of freedom of expression in the participating States. The RFoM outlines issues and problems that are characteristic of more than one state, such as “censorship by killing” and “structural censorship”. In reaction to specific cases, the RFoM intervenes with the relevant governments. Since 2001, the RFoM has provided legal support in the media field to the OSCE missions, including review of media legislation of the country where missions exist. The RFoM’s mandate underlines that the RFoM closely co-operates with participating States, the OSCE Permanent Council, the ODIHR, the HCNM, and, where appropriate, other OSCE bodies, as well as with national and international media associations.¹²⁷

Regarding the role of the RFoM in the area of racism and intolerance, the Plan of Action for Combating Terrorism adopted by the 2001 Bucharest Ministerial Council tasked the RFoM to consider developing projects aimed at supporting tolerance towards people of other convictions and beliefs through the use of the media. The RFoM was also tasked to promote measures aimed at preventing and countering aggressive nationalism, racism, chauvinism, xenophobia, and anti-Semitism in the media. The 2003 Maastricht Ministerial Council decision on tolerance and non-discrimination refers to the relevance of some recommendations for the RFoM and tasks the RFoM in ensuring an effective follow-up to the relevant provisions of the decision.¹²⁸

The “Mobile Culture Container” project initiated in 2001 by the RFoM has been the most concrete activity of the RFoM in the area of combating racism and intolerance.¹²⁹

¹²⁶ The mandate was approved by the OSCE Permanent Council on 5 November 1997. The first holder of this post was politician, human rights activist, writer, and journalist Freimut Duve from Germany. In winter 2004, writer, journalist, human rights advocate, and university professor Miklós Haraszti from Hungary was appointed to the post. He assumed his office on 10 March 2004.

¹²⁷ See the decision on the mandate. Note also the Factsheet on the RFoM.

¹²⁸ See Para. 12 of the Plan of Action for Combating Terrorism, and Paras. 10 and 16 of the Maastricht Ministerial Decision No. 4/03 on Tolerance and Non-discrimination.

Also the 2002 Porto Ministerial Council Decision No. 6 on Tolerance and Non-Discrimination tasked, for example, the RFoM to ensure an effective follow-up to that decision. See Para. 12 of this decision. Information from the office of the RFoM on 11 June 2004. The project was initiated by the RFoM, and it was implemented in the framework of the Stability Pact for South-Eastern Europe. It had both state and private sponsors. The project consisted of a mobile culture container that travelled in the area of the former Yugoslavia. The target group of the project was particularly the young generation in the post-conflict societies, and it aimed at bringing together young people of different ethnic groups. See the Factsheet on the RFoM. The project has also been presented in a booklet “mobile.culture.container. In Defence of our Future”.

The RFoM's ongoing, long-term projects include "Media in Multi-lingual Societies", "Freedom of the Media and the Internet", "Libel Legislation in OSCE Participating States", "Freedom of the Media and National Security: What Comes First?", "Legal Reviews", and the "Annual Central Asian Conference". Of these, the first one is especially relevant to combating discrimination, promoting tolerance, and building a stable peace in multilingual societies.¹³⁰

The present RFoM has outlined, among other things, three areas of focus: libel and the need to decriminalize it, freedom of expression and the Internet, and the relationship between freedom of the media and national-security concerns (particularly in the fight against terrorism). The RFoM held a two-day Internet Conference in 2003 and a one-day Seminar on "Guaranteeing Media Freedom on the Internet" on 30 June 2004 in Vienna. This seminar served as a preparation for the second Internet Conference that was held on 27-28 August 2004 in Amsterdam. A cookbook compiling best practices and recommendations towards Media Freedom on the Internet will be released at the end of the year. The RFoM noted in the seminar that an important challenge for his office is to identify ways in which to counter hate speech without restricting freedom of expression on the Internet and without curtailing the civil rights of Internet users.

The RFoM produced a report on the role of the media in the events of mid-March 2004 in Kosovo.¹³¹ The report addresses the issues of freedom of expression and hate speech in the media. According to the report, there is credible concern that the electronic broadcast media's reckless, sensationalist reporting might have been one of the reasons for the outbreak of the violence.¹³² The RFoM has pointed out how biased reporting, lack of plurality, and the failure of public-service broadcasting contributed to a practical, even if temporary, loss of media freedom and did great disservice to ethnic peace and democracy in Kosovo.¹³³

It can be concluded that the issue of hate speech, particularly in the context of the Internet, is being addressed by the RFoM, both in long-term projects and in efforts to present best practices and recommendations. The RFoM also addresses it in speeches delivered at various OSCE conferences and meetings relevant to racism and intolerance, including at the Berlin OSCE Conference on anti-Semitism in April 2004 and at the Paris OSCE Meeting on the Relationship between Racism, Xenophobia and anti-Semitic Propaganda on the Internet and Hate Crimes in June 2004.

¹³⁰ For the presentation of the projects, see, for example, Speaking Notes for the OSCE PA, 19/20 February 2004. Note also the references in the Annual Report on OSCE activities 2003, p. 144.

¹³¹ "The Role of the Media in the March 2004 Events in Kosovo", 21 April 2004. The research for the report was provided by an outside expert.

¹³² Report, p. 3.

¹³³ RFoM's statement to the Permanent Council on 22 April 2004.

2.3 Field Operations¹³⁴

Human dimension issues are often an intrinsic part of OSCE field operations; however, the importance given to these issues often depends on the specific mandate of an individual operation.¹³⁵ While combating racism and intolerance is not expressly addressed in many of the field operations,¹³⁶ the field operations do have impact. Some field operations have activities on minority rights and non-discrimination, including activities with respect to Roma.¹³⁷ Some activities in the area of education are also directly related. There are also projects aiming specifically at enhancing multiethnic co-operation and reconciliation or promoting interethnic relations.¹³⁸

In some contexts, the International Convention on the Elimination of All Forms of Racial Discrimination has been among key international instruments used as a basis for the work of field operations.¹³⁹ Furthermore, the mandates of some field operations include investigating specific incidents.¹⁴⁰ Field operations co-operate with the OSCE/ODIHR, the HCNM and the RfOM, and with the OSCE PA on issues of racism and intolerance.

2.4 Parliamentary Assembly (OSCE PA)¹⁴¹

The OSCE PA is the parliamentary dimension of the OSCE, comprised of members of parliaments of the participating States, and with the primary task to facilitate inter-

¹³⁴ General information on OSCE field operations may be found on the OSCE's website (<http://www.osce.org>).

¹³⁵ For an overview of OSCE field operations and their human dimension activities, see, for example, the Annual Report on OSCE Activities 2003, pp. 44-125.

¹³⁶ The author of this paper consulted the Annual Report of OSCE Activities 2003 and the information on field operations on the OSCE's website. Also, Fredrik Schiller, Deputy Director of the OSCE Conflict Prevention Centre and the Head of Mission Programme Section, confirmed to the author that presently missions have not specifically been tasked with projects against racism. Information by e-mail from Fredrik Schiller on 13 July 2004.

¹³⁷ For Roma and addressing their exclusion from society, see, for example, information on the OSCE Mission to Bosnia and Herzegovina on the OSCE website under "Roma rights" (visited in July 2004).

¹³⁸ See, for example, the activities of the OSCE missions to Croatia, Kosovo, and Skopje and of the OSCE Centre in Almaty, and the references, for example, in the Annual Report on OSCE Activities 2003, pp. 54, 56-58, 65-66, and 108, respectively.

¹³⁹ See, for example, the Mission to Bosnia and Herzegovina and the introduction to the mission on the OSCE's website (visited in July 2004).

¹⁴⁰ See, for example, the OSCE Mission to Moldova and the information on the mission's mandate on the OSCE's website (visited in July 2004).

¹⁴¹ General information on the activities of the OSCE PA can be found on its website (<http://www.oscepa.org>).

parliamentary dialogue.¹⁴² The OSCE PA convenes Annual Sessions, and it organizes a number of other meetings, conferences, and seminars. It has played a key part in the monitoring of elections, particularly parliamentary elections, in the OSCE area in close co-operation with the OSCE/ODIHR. The OSCE PA has also organized regular parliamentary visits to OSCE field offices and missions. In addition, OSCE PA representatives have participated in various OSCE conferences and meetings.

Regarding the combat of racism and intolerance, the OSCE PA organized a conference in 2003 that focused on religious freedom, religious tolerance in pluralistic societies, and democracy. The OSCE PA has paid particular attention to the issue of anti-Semitism and adopted resolutions on anti-Semitism at its Annual Sessions in 2002 and 2003.¹⁴³ A delegation of more than thirty parliamentarians from OSCE states attended the Berlin OSCE Conference on Anti-Semitism in April 2004. On this occasion, the representative of the OSCE PA indicated that the OSCE PA is undertaking efforts to meet the future challenges of anti-Semitism and racism.¹⁴⁴ The document adopted at the OSCE PA's Annual Session of 2004 organized in July 2004 in Edinburgh includes references to racism, xenophobia, anti-Semitism, Islamophobia, and intolerance.¹⁴⁵

There is ongoing dialogue aimed at further developing ties and co-operation between the intergovernmental and parliamentary OSCE branches. In an effort to strengthen these ties, the OSCE PA established a Liaison Office in Vienna in January 2003.¹⁴⁶ The OSCE Permanent Council's decisions both on anti-Semitism, taken in April 2004, and on tolerance and the fight against racism, xenophobia and discrimination, taken in July 2004, refer to work with the OSCE PA on this theme.¹⁴⁷

¹⁴² The PA was established at the CSCE by the decisions made at the 1990 Paris Summit to promote greater involvement in the CSCE by national parliaments. For this information, see, for example, the Annual Report of OSCE Activities 2003, p. 38.

¹⁴³ Annual Report of OSCE Activities 2003, pp. 38-40.

¹⁴⁴ Information on the OSCE PA's website (visited in July 2004).

¹⁴⁵ See the Edinburgh Declaration of the OSCE PA and the Resolution on Fulfilling OSCE Commitments Regarding the Fight against Racism, Anti-semitism and Xenophobia attached to the declaration.

¹⁴⁶ Annual Report of OSCE Activities 2003, pp. 38, 41. Note also the Resolution on Co-operation between the OSCE and OSCE PA attached to the Edinburgh Declaration adopted at the OSCE PA's Annual Session of 2004.

¹⁴⁷ See Para. 1 of the Permanent Council Decision No. 607 on Combating Anti-Semitism, and Para. 1 of the Permanent Council Decision No. 621 on Tolerance and the Fight against Racism, Xenophobia and Discrimination.

CONCLUSIONS

In planning for and implementing its new responsibilities related to racism and intolerance, it is critical that the OSCE/ODIHR, and the OSCE in general, assume a role that does not duplicate the work already being done by other international actors, particularly the ECRI, the EUMC, and the UN Committee for the Elimination of Racial Discrimination, but, rather, that is complementary and builds on existing efforts. As a first step in this regard, the OSCE/ODIHR undertook this study to provide an overview of the activities of the key international organizations working against racism and intolerance in the OSCE region. Understanding the work of others and co-operating with them will assist the OSCE/ODIHR to identify meaningful and non-duplicative activities and methodology in the field. The activities of the ECRI, the EUMC, and the UN Committee will be given particular attention as the OSCE/ODIHR develops a Tolerance and Non-Discrimination Programme.

One of the added values of the OSCE in combating racism and intolerance lies in providing a platform for raising political awareness among participating States, even if this means repeating a message already familiar from other international forums. Through its regular reports to the Permanent Council, the OSCE/ODIHR can lend support to the ECRI, the EUMC, and the UN Committee for the Elimination of Racial Discrimination by raising issues with OSCE states.

The OSCE/ODIHR can also provide a regular opportunity, through the mechanism of the Human Dimension Implementation Meeting (HDIM), to review and evaluate the progress of OSCE states in implementing not only their OSCE commitments but also their international legal obligations and the policy recommendations of the ECRI, EUMC, and UN. Issues of tolerance and non-discrimination have been regular agenda items in these meetings. At the 2003 HDIM, the prevention of discrimination, racism, xenophobia, and anti-Semitism was among the selected topics considered during the second week of the meeting. During the 2004 HDIM, a special day will again be devoted to racism and intolerance and, in particular, to the progress participating States have made in meeting their commitments under the Maastricht Ministerial Council Decision and related Permanent Council Decisions. In addition to the HDIM, the annual Human Dimension Seminar and Supplementary Human Dimension Meetings organized by the OSCE/ODIHR also offer a forum for the exchange of views among participating States, NGOs, and international organizations on the implementation of human dimension commitments. Many of these seminars and meetings in past years have addressed issues directly or indirectly relevant to combating racism and intolerance. Such meetings are important partly because they facilitate the active participation of NGOs in the discussion

of issues and the assessment of the extent to which OSCE states are meeting their political and legal commitments. The events can also serve to support the efforts of the ECRI, the EUMC, and the UN Committee for the Elimination of Racial Discrimination.

Among the OSCE's assets is also its institutions' linkages to the ongoing and daily political work of the OSCE. The HCNM, the RFoM, the Director of the OSCE/ODIHR, and the heads of OSCE field operations pay regular visits to the OSCE Permanent Council, which convenes every week in order to inform the OSCE states about the activities taken by them and also about worrying trends and situations they have detected in their work. The OSCE Permanent Council's Decisions on Combating Anti-Semitism and on Tolerance and the Fight against Racism, Xenophobia and Discrimination explicitly refer to the role of the OSCE/ODIHR in reporting on the findings to the Permanent Council.

From the viewpoint of geographical coverage, it can be observed that most OSCE participating States, and particularly the member states of the CoE and the EU, are already considerably well covered by the activities of international monitoring mechanisms in the area of combating racism and intolerance. They are covered by the systematic monitoring activities of both the regional European and the UN monitoring mechanisms. It may be considered that the OSCE may have some kind of a complementary role in the area of addressing racism and intolerance particularly with respect to those 10 OSCE states that are outside the systematic monitoring work of the regional European mechanisms or other regional actors. These states are Belarus, Canada, the Holy See, Kazakhstan, Kyrgyzstan, Monaco, Tajikistan, Turkmenistan, the United States of America, and Uzbekistan. However, it is also important that the OSCE not become the guardian of the situations solely or primarily in a certain set of states but that it pay attention to the whole OSCE area.

In the OSCE's effort to enhance its role in the area of racism and intolerance, it is important to still pay attention to Roma. Roma are often the most marginalized of all ethnic groups in Europe. They are facing persistent discrimination, prejudice, racism, and social rejection that may be said to have its own characteristics.¹⁴⁸ For complex and inter-related reasons, the vast majority of Roma could be regarded as (traditionally) occupying an extremely vulnerable position in societies, economies, and political systems all over the OSCE area. The economic and political changes at the turn of the 1990s, moreover, generally exacerbated the vulnerability of Roma. Several conflicts have led to challenges such as refugee and migration questions among Roma and Sinti communities. Because of the extremely precarious situation of Roma, special attention should be given to them

¹⁴⁸ It has been observed that racism against Roma has its own special characteristics and expressions, including the long history of stereotyping and collective scapegoating. See the HCNM's report on Roma (1993), pp. 5-6.

by as many international actors as possible in order to keep their situation firmly on the international agenda and to remind states of the necessity to take actions at their national level. Roma issues should remain on the agenda of the OSCE. The 2003 Maastricht Ministerial Council decision on tolerance and non-discrimination expressly refers to the OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area and the commitment of the Ministerial Council to promote its implementation.¹⁴⁹

Finally, an added value of the OSCE in the area of combating racism, xenophobia, anti-Semitism, and intolerance lies in providing an ongoing opportunity to raise concerns that have a bearing on security questions. The OSCE's characteristics, strengths, and comparative advantages in general relate to its comprehensive approach to security, combining various dimensions of security to its consensual, co-operative, and operational character. In comparison to other international organizations or actors, the OSCE possesses the flexibility to respond to changing circumstances. It also has a relatively small, but overall effective, number of operational instruments, including its field operations. Furthermore, civil society actors, including NGOs, have good access, perhaps better than in many other intergovernmental forums.

In defining a meaningful role for the OSCE in the combat of racism and intolerance, it is also important to regard the OSCE's overall mandate as a security organization. In this regard, the meaningful role for the OSCE could be in following aggressive or violent manifestations of racism and intolerance. The links of racism and intolerance to terrorism and trafficking in human beings also fall well within the OSCE's overall mandate. In the area of trafficking, for instance, the links of trafficking in human beings to international organized crime and thereby to national and international security should be firmly on the OSCE agenda. In addition, larger or broader questions relating to migration and asylum, as well as to structural or institutional racism and discrimination reflecting widespread problems, may be viewed to fit well into the overall mandate of the OSCE.

¹⁴⁹ Para. 1 of the Maastricht Ministerial Council Decision No. 4/03.

RECOMMENDATIONS

Based on the mandate and activities of the other key organizations identified in this study, several initial conclusions may be drawn about the approach and direction the OSCE/ODIHR should take in implementing its new tasks under the Maastricht Ministerial Council Decision and the related Permanent Council Decisions.

- 1) *Collection of Information and Statistics*
 - a. The OSCE/ODIHR, in serving as a collection point for information and statistics from participating States on racism, xenophobia, anti-Semitism, and intolerance, should, to the greatest extent possible, rely on existing sources of information available from the ECRI, the EUMC, and Committee for the Elimination of Racial Discrimination.
 - b. The OSCE/ODIHR should ensure that its information requests to participating States do not duplicate, and are co-ordinated with, similar requests by the ECRI, the EUMC, and the Committee.
 - c. The OSCE/ODIHR should, in co-operation with the ECRI, the EUMC, and the Committee, undertake efforts to assist OSCE participating States to increase their capacity to produce data and statistics that are reliable and consistent.

- 2) *Monitoring and Responding to Incidents*
 - a. In its efforts to *closely follow incidents* motivated by racism, xenophobia, anti-Semitism, and intolerance, the OSCE/ODIHR should focus on closely following the *responses* of government, law-enforcement authorities, judicial officials, national institutions, and civil society to such incidents rather than duplicating the work already being done by other organizations.
 - b. The OSCE/ODIHR should report on, and widely disseminate within the OSCE area, good practices of OSCE states in preventing and responding to such incidents.
 - c. In areas where the response of OSCE states needs to be further strengthened, the OSCE/ODIHR should target its efforts at formulating recommendations and offering advice and assistance to OSCE states in order to support them in strengthening their response to incidents motivated by racism, xenophobia, anti-Semitism, and intolerance.
 - d. Attention should also be paid to the OSCE's field operations. This OSCE field presence is obviously most useful to follow closely the situations, including incidents, in the countries hosting field operations.

- 3) *Supporting the Implementation of Recommendations, Policies and Standards*
- a. The OSCE/ODIHR should use its reports to the Permanent Council and the Human Dimension Implementation Meeting to support and advance the implementation of existing recommendations, policies and standards developed by the ECRI, EUMC, and UN (including ECRI Policy Recommendations and CERD Concluding Observations) and the ratification of international instruments.
- 4) *Institutionalizing Co-operation and Co-ordination*
- a. A high-level interagency meeting could be convened annually (with a focus on formalizing co-operation/information-sharing among the four organizations).
 - b. Regular working-level meetings among the organizations could focus on concrete issues and activities, operational problems, and co-operation.
 - c. During the first interagency meeting, priority could be given to the efforts to support countries in improving their capacity to collect information and statistics related to racism, xenophobia, anti-Semitism, and intolerance. A special focus should also be placed on the identification of ways in which the organizations can minimize overlapping information requests to participating States.
 - d. Since the OSCE commitments and decisions also give tasks to the HCNM and the RFoM, as well as refer generally to the need for co-operation among the OSCE institutions in the area of racism, xenophobia, anti-Semitism, and intolerance, it would also be useful to clarify the role of the various OSCE institutions in the area in order to create meaningful and complementary co-operation within the OSCE itself.
 - e. The OSCE/ODIHR CPRSI has experience in enhancing interaction between OSCE structures, governments, and NGOs, and this experience should be resorted to when possible.
- 5) *Defining Concepts and Terminology*
- a. In some contexts, the term “racism” is also considered to include the phenomena of xenophobia and anti-Semitism, as well as intolerance. While one single concept instead of many may facilitate discussions and debates, it is important that this kind of merging of various phenomena under one umbrella concept not contribute to losing sight of the differences between various phenomena that have their own characteristics.
 - b. Different actors currently give varied content to such terms as racism and racial discrimination. OSCE documents use terms like “aggressive nationalism”, “chauvinism”, and “violent extremism” for which clarification of content would be valuable. It should not be taken for granted that all OSCE participating States understand the terms “hate speech” and “hate crimes” similarly. If all actors are expected to submit information related to these terms, clarification of their meanings may be useful.

ANNEXES

Annex 1

Member States of the Council of Europe

(Information on the CoE's website (<http://www.coe.int>), situation in July 2004)

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, the United Kingdom.

States candidate for membership: Belarus, Monaco.

Observers to the Committee of Ministers: Canada, the Holy See, Japan, Mexico, the United States of America.

National parliaments that are observing members of the Parliamentary Assembly: Canada, Israel, Mexico.

Participating States of the OSCE

Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Turkmenistan, Ukraine, the United Kingdom, the United States of America, Uzbekistan.

Member States of the EU

Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, the United Kingdom.

Annex 2

States Parties to the CoE's Framework Convention for the Protection of National Minorities

(Status as of 16 July 2004, available e.g. at the website of the Framework Convention (http://www.coe.int/T/E/human_rights/minorities/)):

Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Italy, Liechtenstein, Lithuania, Malta, Moldova, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia and Montenegro, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine, the United Kingdom.

Signatories of the Convention: Belgium, Georgia, Greece, Iceland, Latvia, Luxembourg, the Netherlands.

OSCE States that are also parties to the ICERD

(Information on the UN website (<http://www.unhcr.ch/tbs/doc.nsf>), situation in July 2004).

All other OSCE States except Andorra, which has signed the convention.

OSCE States that are parties to the ICERD and have made the declaration under Article 14 of the ICERD to allow the consideration of individual communications

(Status as of 21 July 2004, information from the CERD Secretariat).

Austria, Azerbaijan, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine.

Annex 3

International instruments of the ECRI, including those relevant to its work

The following instruments have been referred to in the appendix to ECRI's General Policy Recommendation No. 1, Combating racism, xenophobia, antisemitism and intolerance, adopted on 4 October 1996 (CRI(96)43rev):

European Convention on Human Rights and Protocols thereto (after the adoption of Protocol No. 12 to the European Convention, ECRI has paid considerable attention to its ratification by the member States of the CoE)

UN Convention Relating to the Status of Refugees

ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation

European Social Charter and its additional protocols

UNESCO Convention against Discrimination in Education

International Convention on the Elimination of All Forms of Racial Discrimination
 International Covenant on Economic, Social and Cultural Rights
 International Covenant on Civil and Political Rights and its Optional Protocol
 European Charter for Regional or Minority Languages
 Framework Convention for the Protection of National Minorities

Subsequently ECRI has also referred, e.g., to the following international instruments (references to the following documents can be found in the section on international legal instruments incorporated in the country reports produced by ECRI, but also in the texts of the reports):

Revised European Social Charter
 Convention on the Participation of Foreigners in Public Life at Local Level
 European Convention on the Legal Status of Migrant Workers
 European Convention on Nationality
 European Charter for Local Self-Government
 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
 Protocol to the UN Convention Relating to the Status of Refugees
 ILO Convention No. 169 on Tribal and Indigenous Peoples in Independent Countries
 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
 UN Convention on the Rights of the Child
 Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems
 Convention on the Elimination of All Forms of Discrimination against Women
 UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

ECRI has also made references to the EU instruments (treaties and EC directives) with respect to the EU States. (Note e.g. the second report on Belgium.)

General Policy Recommendations adopted by ECRI

The General Policy Recommendations can be accessed e.g. through ECRI's website (www.coe.int/ecri).

General Policy Recommendation No. 1: Combating racism, xenophobia, antisemitism and intolerance (1996), CRI(96)43 rev.

General Policy Recommendation No. 2: Specialised bodies to combat racism, xenopho-

bia, antisemitism and intolerance at national level (1997), CRI(97)36.
 General Policy Recommendation No. 3: Combating racism and intolerance against Roma/Gypsies (1998), CRI(98)29.
 General Policy Recommendation No. 4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims (1998) CRI(98)30.
 General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims (2000), CRI(2000)21.
 General Policy Recommendation No. 6: Combating the dissemination of racist, xenophobic and antisemitic material via the Internet (2000), CRI(2001)1.
 General Policy Recommendation No. 7: National legislation to combat racism and racial discrimination (2002), CRI(2003)8.
 General Policy Recommendation No. 8: Combating racism while fighting terrorism (2004), CRI(2004)26.
 General Policy Recommendation No. 9: The fight against antisemitism (2004).

Annex 4

OSCE Commitments and Decisions Relevant to Racism and Intolerance

Concluding Document of the Vienna Follow-up Meeting 1986-1989
 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990)
 Charter of Paris for a New Europe (1990)
 Helsinki Document: The Challenges of Change (1992)
 Budapest Document: Towards a Genuine Partnership in a New Era (1994)
 Lisbon Summit Document (1996)
 Istanbul Summit Document (1999)
 Charter for European Security (1999) (adopted by the Istanbul Summit)

Document of the meeting of the Council of Ministers, Stockholm 1992.
 Document of the meeting of the Council of Ministers, Rome 1993.
 Document of the Ministerial Council, Bucharest 2001: Decision No. 5, and the Plan of Action for Combating Terrorism, annexed to the document.
 Document of the Ministerial Council, Porto 2002: Decision No. 6 on Tolerance and Non-discrimination.
 Document of the Ministerial Council, Maastricht 2003: Decision No. 4/03 on Tolerance and Non-discrimination.
 OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area.
 OSCE Action Plan to Combat Trafficking in Human Beings.

Document of the Permanent Council: Decision No. 607 on Combating Anti-Semitism.
 Document of the Permanent Council: Decision No. 621 on Tolerance and the Fight against Racism, Xenophobia and Discrimination.
 Declaration of the Berlin Conference on Anti-Semitism

**Decision No. 4/03 on Tolerance and Non-Discrimination by the 2003
 Maastricht Ministerial Council (MC.DEC/4/03)**

The Ministerial Council,

Recognizing that respect for human rights and fundamental freedoms, democracy and the rule of law are at the core of the OSCE's comprehensive concept of security,

Recalling its commitments in the field of the human dimension, enshrined in the Helsinki Final Act, the Charter of Paris for a New Europe, the Charter for European Security (Istanbul Summit, 1999) and all other relevant OSCE documents and decisions,

Recalling Decision No. 6 on Tolerance and Non-discrimination, adopted at the Tenth Meeting of the Ministerial Council in Porto on 7 December 2002,

Reaffirming its commitment to promote tolerance and combat discrimination, and its concern about all manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism in all participating States, as well as discrimination based, *inter alia*, on race, color, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status,

Urging the relevant authorities in all participating States to continue to condemn publicly, at the appropriate level and in the appropriate manner, violent acts motivated by discrimination and intolerance,

Affirming its commitment to increase its efforts for the promotion of tolerance and non-discrimination in all fields,

Welcoming the work done by the OSCE during 2003,

1. Commits itself to promote the implementation of the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area;

2. Decides to enhance the efforts being made to increase women's participation and the role of women in furthering democratization and economic development, and to consider integrating the provisions of the OSCE Action Plan on Gender Issues where applic-

able into national policies. Further decides to enhance its efforts to achieve gender balance at all levels within the OSCE, taking full account also in this respect of the principle of recruiting staff from all participating States on a fair basis. Reiterates that the OSCE encourages female candidates to apply for OSCE positions;

3. Decides to follow up the work started at the OSCE Conference on Anti-Semitism, held in Vienna on 19 and 20 June 2003 and welcomes the offer by Germany to host a second OSCE conference on this subject in Berlin on 28 and 29 April 2004;

4. Decides to follow up the work started at the OSCE Conference on Racism, Xenophobia and Discrimination, held in Vienna on 4 and 5 September 2003 and welcomes the offer by Belgium to host a second OSCE conference on this subject in Brussels in autumn 2004;

5. Tasks the Permanent Council to further discuss, in addition to the two above-mentioned conferences, ways and means of increasing the efforts of the OSCE and the participating States for the promotion of tolerance and non-discrimination in all fields;

6. Encourages all participating States to collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism, as discussed and recommended in the above-mentioned conferences. Recognizing the importance of legislation to combat hate crimes, participating States will inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination, and, where appropriate, seek the ODIHR's assistance in the drafting and review of such legislation;

7. Tasks the ODIHR, in full co-operation, *inter alia*, with the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI) and the European Monitoring Center on Racism and Xenophobia (EUMC), as well as relevant NGOs, with serving as a collection point for information and statistics collected by participating States, and with reporting regularly on these issues, including in the format of the Human Dimension Implementation Meeting, as a basis for deciding on priorities for future work. The ODIHR will, *inter alia*, promote best practices and disseminate lessons learned in the fight against intolerance and discrimination;

8. Recognizes the need to combat hate crimes, which can be fuelled by racist, xenophobic, and anti-Semitic propaganda on the internet. We welcome the offer by France to host in Paris in 2004 a forward-looking event, fully respecting the rights to freedom of information and expression, on the relationship between propaganda on the internet and hate crimes;

9. Affirms the importance of freedom of thought, conscience, religion or belief, and condemns all discrimination and violence, including against any religious group or individual believer. Commits to ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, where necessary through transparent and non-discriminatory laws, regulations, practices and policies. Encourages the participating States to seek the assistance of the ODIHR and its Panel of Experts on Freedom of Religion or Belief. Emphasizes the importance of a continued and strengthened interfaith and intercultural dialogue to promote greater tolerance, respect and mutual understanding;

10. Ensures the advancement of the implementation of the OSCE commitments on national minorities, and recognizes the importance of the recommendations of the High Commissioner on National Minorities on education, public participation, and language, including on its use in broadcast media, and the relevant recommendations of the Representative on Freedom of the Media in this regard;

11. Undertakes to combat discrimination against migrant workers. Further undertakes to facilitate the integration of migrant workers into the societies in which they are legally residing. Calls on the ODIHR to reinforce its activities in this respect;

12. Undertakes, in this context, to combat, subject to national legislation and international commitments, discrimination, where existing, against asylum seekers and refugees, and calls on the ODIHR to reinforce its activities in this respect;

13. Takes into account the UN Guiding Principles on Internal Displacement as a useful framework for the work of the OSCE and the endeavors of participating States in dealing with internal displacement;

14. Decides that the OSCE in addressing the issues contained in this document will increase its efforts towards the younger generation in order to build up their understanding of the need for tolerance. Human rights education merits particular attention;

15. Decides to intensify the co-operation of the OSCE with relevant international organizations such as the United Nations, the Council of Europe and the European Union, as well as with civil society and relevant non-governmental organizations to promote tolerance and non-discrimination;

16. Tasks the Permanent Council, the ODIHR, the HCNM and the RFoM, in close co-operation with the Chairmanship-in-Office, with ensuring an effective follow-up to the relevant provisions of the present decision, and requests the Permanent Council to address the operational and funding modalities for the implementation of this decision.

Decision No. 607 on Combating Anti-Semitism by the OSCE Permanent Council
(PC.DEC/607, 22 April 2004)

The Permanent Council,

Taking into account the forthcoming OSCE Conference on Anti-Semitism in Berlin on 28 and 29 April 2004,

Reaffirming the participating States' existing commitments related to combating anti-Semitism, and

In order to reinforce our common efforts to combat anti-Semitism across the OSCE region,

Decides,

1. The participating States commit to:

- Strive to ensure that their legal systems foster a safe environment free from anti-Semitic harassment, violence or discrimination in all fields of life;
- Promote, as appropriate, educational programmes for combating anti-Semitism;
- Promote remembrance of and, as appropriate, education about the tragedy of the Holocaust, and the importance of respect for all ethnic and religious groups;
- Combat hate crimes, which can be fuelled by racist, xenophobic and anti-Semitic propaganda in the media and on the Internet;
- Encourage and support international organization and NGO efforts in these areas;
- Collect and maintain reliable information and statistics about anti-Semitic crimes, and other hate crimes, committed within their territory, report such information periodically to the OSCE Office for Democratic Institutions and Human Rights (ODIHR), and make this information available to the public;
- Endeavour to provide the ODIHR with the appropriate resources to accomplish the tasks agreed upon in the Maastricht Ministerial Decision on Tolerance and Non-Discrimination;
- Work with the OSCE Parliamentary Assembly to determine appropriate ways to review periodically the problem of anti-Semitism;
- Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;

2. To task the ODIHR to:
 - Follow closely, in full co-operation with other OSCE institutions as well as the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, anti-Semitic incidents in the OSCE area making use of all reliable information available;
 - Report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public. These reports should also be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance;
 - Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to anti-Semitism and, if requested, offer advice to participating States in their efforts to fight anti-Semitism;
3. To ask the Chairman-in-Office to bring this decision to the attention of the participants of the upcoming Conference in Berlin and to incorporate it into his declaration concluding the Conference;
4. To forward this decision to the Ministerial Council for endorsement at its Twelfth Meeting.

Decision No. 621 on Tolerance and the Fight against Racism, Xenophobia and Discrimination by the OSCE Permanent Council (PC.DEC/621, 29 July 2004)

The Permanent Council,

Taking into account the forthcoming OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination in Brussels on 13 and 14 September 2004,

Recalling the Maastricht Ministerial Council Decision on Tolerance and Non-Discrimination (MC.DEC/4/03), the OSCE Conference on anti-Semitism in Berlin on 28 and 29 April 2004 as well as the OSCE Meeting on the Relationship between Racism, Xenophobic and anti-Semitic Propaganda on the Internet and Hate Crimes in Paris on 16 and 17 June 2004 and their results,

Reaffirming the participating States' existing commitments related to the promotion of tolerance and non-discrimination, and

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

1. The participating States commit to:

- Consider enacting or strengthening, where appropriate, legislation that prohibits discrimination based on, or incitement to hate crimes motivated by, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
- Promote and enhance, as appropriate, educational programmes for fostering tolerance and combating racism, xenophobia and discrimination;
- Promote and facilitate open and transparent interfaith and intercultural dialogue and partnerships towards tolerance, respect and mutual understanding and ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, including through transparent and non-discriminatory laws, regulations, practices and policies;
- Take steps to combat acts of discrimination and violence against Muslims in the OSCE area;
- Take steps, in conformity with their domestic law and international obligations, against discrimination, intolerance and xenophobia against migrants and migrant workers;
- Consider undertaking activities to raise public awareness of the enriching contribution of migrants and migrant workers to society;
- Combat hate crimes, which can be fuelled by racist, xenophobic and anti-Semitic propaganda in the media and on the Internet, and appropriately denounce such crimes publicly when they occur;
- Consider establishing training programs for law enforcement and judicial officials on legislation and enforcement of legislation relating to hate crimes;
- Encourage the promotion of tolerance, dialogue, respect and mutual understanding through the Media, including the Internet;
- Encourage and support international organization and NGO efforts in these areas;
- Collect and maintain reliable information and statistics about hate crimes motivated by racism, xenophobia and related discrimination and intolerance, committed within their territory, report such information periodically to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and make this information available to the public;
- Examine the possibility of establishing within countries appropriate bodies to promote tolerance and to combat racism, xenophobia, discrimination or intolerance, including against Muslims, and anti-Semitism;

- Endeavour to provide the ODIHR with the appropriate resources to accomplish the tasks agreed upon in the Maastricht Ministerial Decision on Tolerance and Non-Discrimination;
 - Work with the OSCE Parliamentary Assembly to determine appropriate ways to review periodically the problems of racism, xenophobia and discrimination;
 - Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;
2. To task the ODIHR to:
- Follow closely, in full co-operation with other OSCE institutions as well as the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the United Nations Office of the High Commissioner for Human Rights (UNHCHR), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, incidents motivated by racism, xenophobia, or intolerance, including against Muslims, and anti-Semitism in the OSCE area making use of all reliable information available;
 - Report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public. These reports should also be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance;
 - Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to racism, xenophobia and discrimination and, if requested, offer advice to participating States in their efforts to fight racism, xenophobia and discrimination;
 - Support the ability of civil society and the development of partnerships to address racism, xenophobia, discrimination or intolerance, including against Muslims, and anti-Semitism;
3. To ask the Chairman-in-Office to bring this decision to the attention of the participants of the upcoming Conference in Brussels and to incorporate it into his declaration concluding the Conference;
4. To forward this decision to the Ministerial Council for endorsement at its Twelfth Meeting.

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