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Presentation

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I. Introduction

First, I would like to thank you for giving ECRI the opportunity to participate in this meeting. As you are aware, ECRI, of which I am a member since 1996 and former Chair, is an independent human-rights monitoring mechanism set up by the Heads of State and Government of the Member States of the Council of Europe at the Vienna Summit on 9 October 1993. It is specialised in the fight against racism, xenophobia, antisemitism and intolerance.

ECRI's action covers all measures aimed at combating violence, discrimination and prejudice faced by persons or groups of persons on grounds of "race", colour, language, nationality, national or ethnic origin and, most importantly for today's meeting, religion (including real or perceived lack of religious belief).

Indeed, ECRI considers that religious intolerance is a form of racism. In this respect its approach differs from that of the European Union, which in the past and in its recent legislative initiative appears to consider that racial and religious discrimination do not always call for the same treatment.

In my short presentation, I will discuss the issues facing ECRI in the field of religious freedom from the point of view of intolerance and discrimination. Although the two aspects are interconnected, one could argue that intolerance is singling out the followers of a religion for attack, physical or verbal, direct or indirect, while discrimination is not according followers of a religion the rights and opportunities granted to others.

II. Intolerance

While monitoring the situation in various Council of Europe Member States, ECRI has taken issue with various forms of intolerance: harassment by the police and local authorities vis-à-vis, among others, "non-traditional" groups; violence against persons and properties perpetrated by non-state actors; and inflammatory speech by extremist politicians and media.

ECRI has also commented on the spreading of stereotypes and prejudice (on, for example, the limited possibilities of some religious groups to integrate); and even the contribution to the negative climate of the exploitation by mainstream politicians of issues such as forced marriages and female genital mutilation. In this connection, it is worth recalling ECRI's 2005 declaration on the use of racist, antisemitic and xenophobic elements in political discourse.

ECRI takes the position that the authorities should not only refrain from interfering; they have positive duties to protect physically members of religious groups; criminalise certain intentional acts; provide in their legislation for the dissolution of certain organisations or for the withdrawal of public financing; enforce the relevant legislation; collect statistics on its application; and educate school children and the general public through awareness-raising activities. For ECRI there is no real dilemma between protecting freedom of speech and the fight against religious intolerance. There are cases where the demands of the latter will take precedence over the former. It should be noted in this respect that the Additional Protocol to the Council of Europe Cybercrime Convention takes to some extent the same position.

To conclude on intolerance, ECRI has issued a General Policy Recommendation on *combating intolerance and discrimination against Muslims* and one on *the fight against antisemitism*. The first, which quite significantly was adopted before 11 September 2001, warns against messages of threat or hostility conveyed by the media; for example when they report on the arrests of Muslims but not on their acquittals. The second stresses the need to promote learning about Jewish history and the Shoah including the developments leading to it. ECRI is acutely aware of the effects of international events in these two contexts. However, it is against seeing antisemitism and Islamophobia as imported conflicts and a problem between groups. For ECRI, these are problems of the society as a whole.

III. Discrimination

I will now turn to religious discrimination, which ECRI has come across in its monitoring work in many forms. The legislation on *registration of religious groups* is, for example, wrongly applied: the authorities either refuse to register some groups or grant them inferior status. In so far as *suitable premises* are concerned, Muslims encounter difficulties in obtaining permission for building mosques; cemeteries are not available for some communities. States also fail to ensure equality when *returning religious property* confiscated during the communist period.

Another issue is *religious instruction*. For ECRI, in public-sector schools it should be optional; whenever it is made compulsory, States should ensure that it reflects the religious diversity of the society pupils live in. ECRI's country-by-country recommendations in this respect inevitably reflect the diversity of the situations in Member States: for example, ECRI has called for the survival of minority schools but also warned against *de facto* religious segregation. Finally, in its General Policy Recommendation on *combating racism and racial discrimination in and through school*

education, ECRI has highlighted the need for an instruction which “complies with the scientific neutrality essential in any educational approach”.

Generally speaking, religious discrimination in all these fields is often associated with the influence of a majority church in state and social affairs.

Discrimination by the police in the field of stops and searches and profiling is also of serious concern to ECRI, which has also adopted General Policy Recommendations on *combating racism while fighting terrorism* and *combating racism and racial discrimination in policing*.

In the private sector, ECRI has had to deal with religious discrimination in employment and housing. This targets, among others, women with headscarves. As for the issue of headscarves in schools, this has been examined by ECRI under the angle of indirect discrimination, when an apparently neutral factor unduly disadvantages persons belonging, inter alia, to a religion. ECRI has asked the States concerned to monitor the situation and highlighted the need for dialogue with representatives of the Muslim communities in this connection.

IV. Conclusion

This brings me naturally to the conclusion of my presentation. Dialogue between the authorities and the representatives of religious groups but also between the different groups is essential in a multicultural society; also essential is the monitoring of the situation by the authorities, through a process of data collection that respects the principles of data protection and self-identification. However, multiculturalism should not be seen as an end in itself. What ECRI strives for is integrated societies. For us, successful integration is a two-way process, a process of mutual recognition, which has nothing to do with assimilation. An “integrated society” in ECRI’s conception is equally inclusive of majority and minority groups.

This is the main message I wanted to convey today and I look forward to our discussions on this issue.