



Strasbourg, 26 November 2015

CDDH-DC(2015)R6

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**DRAFTING GROUP ON HUMAN RIGHTS IN CULTURALLY DIVERSE SOCIETIES
(CDDH-DC)**

Report

6th meeting
23-25 November 2015

Item 1: Opening of the meeting and adoption of the draft agenda

1. The CDDH Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC) held its sixth and final meeting in Strasbourg from 23 to 25 November 2015. The Chairperson Ms Krista OINONEN (Finland) opened the meeting by expressing her sadness at the recent tragic events in Europe and other parts of the world which highlighted the importance of the work of the Drafting Group. She welcomed the participants noting that a new observer representing Morocco had joined the Group. The list of participants is contained in Appendix I. The agenda as adopted appears in Appendix II.

Item 2: Finalisation of draft guidelines of the Committee of Ministers to member States on the promotion and protection of human rights in culturally diverse societies

2. The Group examined, paragraph by paragraph, the consolidated final version of the draft guidelines taking into account the comments received from the CDDH representatives and other Council of Europe bodies. It made a number of changes to the text thereby finalising the draft guidelines (see Appendix III). The Chairperson explained that she would present the outcome of the Group's work first to the CDDH Bureau at its meeting on 26-27 November and subsequently to the CDDH at its meeting from 7 to 11 December 2015.

3. During the meeting one expert expressed regret that the finalised draft guidelines did not provide sufficient practical responses to the very serious political and social changes presently facing Europe. She proposed either to prolong the mandate of the Drafting Group in order for it to hold further in-depth discussions or to continue a broad discussion at the CDDH level. The Group understood the expert's concern. It was ready, even at this late stage, to consider any concrete drafting proposals in this respect. It invited the expert to present such drafting proposals.

Item 3: Finalisation of the draft explanatory memorandum to the guidelines of the Committee of Ministers to member States on the promotion and protection of human rights in culturally diverse societies

4. The Group discussed the draft explanatory memorandum to the guidelines and agreed on the procedure for its adoption. It asked the Secretariat, under the supervision of the Chairperson, to finalise the text of the draft explanatory memorandum in light of the comments received and the changes made to final text of the draft guidelines.

Item 4: Adoption of the meeting report

5. With the completion of its work on drafting guidelines and having given instructions to the Secretariat for finalising the draft explanatory memorandum, the Group considered that it had fulfilled its mandate. It expressed its appreciation for the constructive approach shown by members throughout its work and thanked the Chairperson and the Secretariat of the Drafting Group for the way in which they had conducted the meetings.

Item 5: Other business

6. The Group was informed that the publication of the compilation of Council of Europe standards relating to the principles of freedom of thought, conscience and religion and links to other human rights would be made available to the CDDH at its meeting in December. The members of the Drafting Group would receive copies as well.

APPENDIX I**LIST OF PARTICIPANTS****BELGIUM / BELGIQUE**

Nina GALLE, Attaché, FOD Justitie Directoraat-generaal Wetgeving, Fundamentele Rechten en Vrijheden

CROATIA / CROATIE

Romana KUZMANIĆ OLUIĆ, Counsellor, Ministry of Foreign and European Affairs

CZECH REPUBLIC / REPUBLIQUE TCHÈQUE

Martin BOUČEK, Human Rights and Transition Policy Department, Ministry of Foreign Affairs

FINLAND / FINLANDE

Krista OINONEN (Chair/Présidente), Legal Counsellor, Deputy Director, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs

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RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Maria ORESHINA, Second Secretary, Department for humanitarian cooperation and human rights, Ministry of Foreign Affairs

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SPAIN / ESPAGNE

Oscar SÁENZ DE SANTA MARÍA GÓMEZ-MAMPASO, Head Senior State Attorney at the Ministry of Education

SWITZERLAND / SUISSE

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PARTICIPANTS

MAROC

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OBSERVERS/OBSERVATEURS

Conference of european Churches (CEC) / Conférence des églises européennes (KEK)

Maria POMAZKOVA , LL.M., Legal Consultant on Human Rights issues

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SECRETARIAT

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INTERPRETERS / INTERPRÈTES

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Luke TILDEN
Grégoire DEVICTOR
Derrick WORSDALE (25/11)

APPENDIX II

AGENDA

Item 1: Opening of the meeting and adoption of the agenda

Item 2: Finalisation of draft guidelines of the Committee of Ministers to member States on the promotion and protection of human rights in culturally diverse societies

Item 3: Finalisation of the draft explanatory memorandum to the guidelines of the Committee of Ministers to member States on the promotion and protection of human rights in culturally diverse societies

Item 4: Adoption of the meeting report

Item 5: Other business

APPENDIX III

DRAFT GUIDELINES AS ADOPTED DURING THIS MEETING

Preamble

- i. The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,
- ii. Considering that the aim of the Council of Europe is to achieve a greater unity between its member states, *inter alia*, by promoting common standards and developing actions in the field of human rights;
- iii. Recalling the member states' obligation to secure to everyone within their jurisdiction the rights and freedoms defined in the European Convention on Human Rights (1950) and its protocols, and their obligations arising from the European Social Charter (opened for signature in 1961 and revised in 1996), as well as from other European and international human rights instruments, as far as they have ratified them;
- iv. Taking into account the relevant recommendations, resolutions and other documents of European and international organisations;
- v. Reaffirming the principle of equal dignity of all human beings from which derives the principle of full and equal enjoyment of human rights and fundamental freedoms by all members of society;
- vi. Reaffirming that all human rights and fundamental freedoms are universal, indivisible, and interdependent and interrelated, and their full enjoyment, without discrimination on any ground, by all members of society needs to be promoted, protected and respected;
- vii. Recalling that pluralism, which is one of the foundations of our democratic societies, is built upon the respect of human rights and on the genuine recognition of, and respect for, diversity and the dynamics of cultural traditions, ethnic and cultural identities, religious and other beliefs, artistic, and socio-economic ideas, works and concepts;
- viii. Conscious of the increasing cultural diversity in European societies and underlining that diversity is a source of enrichment which calls for mutual understanding and respect for each other;
- ix. Underlining that managing cultural diversity in full respect for the principles of democracy, human rights and the rule of law is a common challenge for all societies throughout Europe and beyond, and that integration strategies should take appropriate account of diversity;
- x. Underlining that living in a democratic society entails responsibilities and duties with regard to other persons and groups;
- xi. Being convinced that the satisfaction of basic human needs is a requirement intrinsic to the dignity of every human being and constitutes the condition to the full and equal enjoyment of human rights and fundamental freedoms;
- xii. Stressing that social cohesion and inclusion help ensuring the welfare of all members of the society, minimising disparities and avoiding polarisation;

- xiii. Being aware that education, including human rights education, plays an essential role in preventing the rise of violence, extremism, racism, xenophobia, stigmatization and all other forms of discrimination and intolerance;
- xiv. Noting with regret that lack of understanding and exclusion, xenophobic attitudes and hate speech, and even extremism and violence continue to take place between individuals or groups forming culturally diverse societies in Europe and beyond;
- xv. Being convinced that full and equal enjoyment of human rights and fundamental freedoms by all members of democratic and culturally diverse societies directly contributes to peace and stability and prevents intolerance potentially leading to violence and conflicts;
- xvi. adopts the following guidelines which provide practical advice on how to address the above challenges and ensure better protection of human rights and fundamental freedoms in the context of culturally diverse societies based on respect for the inherent and equal dignity of every human being;
- xvii. invites member states to:
- take appropriate account of the principles set out in these guidelines when reviewing relevant legislation and practice,
 - ensure the dissemination of the guidelines and the explanatory memorandum among all relevant authorities, at the national, regional and local level, as well as to civil society;
- xviii. agrees to examine, within the Committee of Ministers, follow-up given by member states to the present guidelines five years after their adoption.

I. General principles

Obligation to respect human rights

1. Member states are under obligation to secure everyone within their jurisdiction the effective enjoyment of all human rights and fundamental freedoms enshrined in the European Convention on Human Rights and in other binding human rights treaties.

Human rights as a common basis

2. Member states should ensure that respect and protection of human rights is an essential requirement for policies and action of public authorities.

Positive obligations

3. Member states should bear in mind that effective compliance with their obligations requires not only refraining from arbitrary interferences with the exercise by individuals of their human rights and fundamental freedoms but may also require some positive measures of protection by public authorities to secure effective enjoyment of these rights and freedoms.

4. Member states should also bear in mind that their positive obligations may involve the protection of individuals against the acts or omissions of one another. To this end, member states, as the ultimate guarantors of human rights and the principle of pluralism, should promote equal opportunities and good relations between individuals and different groups based on mutual respect of human rights and fundamental freedoms.

Limitations

5. In accordance with the European Convention on Human Rights member states must ensure that any restrictions on the exercise of certain human rights and fundamental freedoms are prescribed

by law, are necessary in a democratic society and pursue a legitimate aim as set out in the Convention. Member states should strive at limiting restrictions to situations where the interest in question is pressing and cannot be accomplished in some less burdensome manner. Moreover, there should be a reasonable relationship of proportionality between the aims sought and the means applied.

Balancing of rights

6. Member states should strive to find a fair balance between conflicting interests resulting from the exercise of various competing human rights and fundamental freedoms.

Margin of appreciation

7. Member states enjoy a margin of appreciation in how they apply and implement the Convention depending on the circumstances of the case and the rights and freedoms engaged. In order to determine the scope of the margin of appreciation, member states should take into account what may be at stake including the need to maintain true pluralism, which is inherent in the concept of a democratic society.

[Move to part on freedom of religion and belief: In view of the diversity of approaches in Europe in the sphere of cultural and historical development and with respect to the significance of religion in society member states are afforded a margin of appreciation in determining the steps to be taken to ensure compliance with the Convention in this sphere. A reference to a tradition cannot however relieve them of their obligation to respect the rights and freedoms enshrined in the Convention.]

Living together

8. Member states should strive to ensure conditions that enable individuals and groups to live together in their diversity and allow the expression of pluralism, tolerance and broadmindedness that are hallmarks of a democratic society. This protection of "living together" can be linked to the legitimate aim of protecting the rights and freedoms of others. In this respect, although sometimes it is necessary that individual interests are subordinated to those of a group, democracy does not simply mean that the views of a majority shall always prevail: a balance must be achieved which ensures the fair treatment of people from minorities and avoids any abuse of a dominant position. Pluralism and democracy must also be based on dialogue and a spirit of compromise necessarily entailing various concessions on the part of individuals or groups which are justified in order to maintain and promote the ideals and values of a democratic society.

II. Fundamental freedoms

9. Member states should ensure that freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, which are among the foundations of democratic societies and instrumental for the pluralism which characterises them, are adequately and effectively guaranteed in their legal systems to all persons within their jurisdiction without discrimination on any ground, and that these national provisions are properly enforced.

A. Freedom of thought, conscience and religion

10. Member states should ensure respect of freedom of thought, conscience and religion, which encompasses two components:

- the freedom of thought, conscience and religion as a matter of individual conscience (internal freedom), including the freedom to hold or not to hold or change one's religion or belief. This

freedom in its internal dimension is an absolute right and may not be limited under any circumstances.

- the freedom to manifest one's religion or belief (external freedom), which is exercisable in community with others, in public and within the circle of those whose faith one shares, but can also be asserted alone and in private. It includes the right to manifest one's religion or belief in worship, teaching, practice and observance. This freedom to manifest one's religion or belief may be subject to certain limitations, but only to those which, are prescribed by law, constitute necessary measures, in a democratic society, in the interest of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. These limitations must be in accordance with international standards and must be strictly interpreted.

11. La liberté de manifester ses convictions religieuses comprend également le droit de l'individu de ne pas être obligé de manifester sa confession ou ses convictions religieuses et de ne pas être obligé d'agir en sorte qu'on puisse déduire qu'il a – ou n'a pas – de telles convictions, d'autant plus si cela est dans le but d'exercer certaines fonctions.

The freedom to manifest religious beliefs also includes the right of individuals not to be obliged to manifest his or her religion or religious beliefs and not to be forced to act so that one can presume that he or she has - or does not have - such beliefs, especially if this is for the purpose of exercising certain functions.

Duty of neutrality and impartiality

12. The member states' role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs is conducive to public order, religious harmony and tolerance in a democratic society.

The member states' duty of neutrality and impartiality is incompatible with any power on their part to assess the legitimacy of religious beliefs or the ways in which those beliefs are expressed.

Member states should promote mutual tolerance between opposing groups and refrain from taking sides in religious disputes.

Member states should ensure that their neutrality and impartiality remains inclusive and diversity-friendly.

Legal status and autonomy of religious communities

13. Member states are reminded of their obligation to ensure that all religious communities which respect shared fundamental values are able to benefit from appropriate legal status and autonomy guaranteeing the exercise of freedom of religion.

14. Member states should ensure that religious communities and their members are able, in compliance with the national law:

a. to practice their faith publicly and freely, in places of worship designed for that purpose by themselves or in other places accessible to the general public, in accordance with their own rites and customs.

b. to make their opinion publicly known without being subjected to censorship and also exercise the right to freedom of expression, freedom of peaceful assembly and the freedom to use media.

Reasonable accommodation

15. When exercising their margin of appreciation member states are invited to seek “reasonable accommodation”, where appropriate, with a view to guaranteeing equality that is effective, and not merely formal, in the right to freedom of thought, conscience and religion.

Education of children

16. Member states should respect the right of parents to ensure their children education and teaching in conformity with their religious and philosophical convictions. They are afforded a margin of appreciation whether to provide religious instruction in public schools and, if so, what particular system of instruction should be adopted, however it should respect the freedom of thought, conscience and religion of others.

<i>B. Freedom of expression</i>

17. Member states should ensure respect of freedom of expression, which equally constitutes one of the essential foundations of a democratic and pluralist society and one of the basic conditions for its progress and for the development of every human being. This right includes freedom to hold opinions and receive and impart information and ideas without interference by public authority and regardless of frontiers. It is essential for the fulfilment and enjoyment of a wide range of other human rights, including the right to take part in cultural life, the right to vote and all other political rights related to participation in public affairs.

18. Member states should ensure that freedom of expression is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that may criticise, offend, shock or disturb the state or individuals or groups within the society.

19. The exercise of the rights of freedom of expression carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by national law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the rights or the reputations of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. Opinion makers and opinion leaders should be aware of the responsibilities which are inherent to free speech in culturally diverse societies.

20. Member states should remember that “hate speech”, will not be protected under the European Convention on Human Rights.

<i>C. Freedom of peaceful assembly and association</i>
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21. Member states should ensure respect of freedom of peaceful assembly and association which is crucial to the functioning of a pluralist and democratic society and instrumental for individuals and groups to collectively address and resolve challenges and issues that are important to society and for the enjoyment of all human rights.

22. Member states should encourage the participation of individuals and groups in the democratic process through the creation of a favourable environment conducive to the work of associations and political parties in which individuals and groups may interact freely with each other and pursue common objectives collectively.

23. Member states should avoid unduly interfering with this freedom, and also secure its effective enjoyment in the sphere of relations between individuals. Member states should protect the peaceful exercise of freedom of assembly, including through measures to ensure that counter-demonstrations do not affect the right to demonstrate.

[Move the following para. to chapter IV on inclusion and participation:

Rights concerning identity

.. Member states should recognise the particular needs of persons belonging to minorities so as to preserve cultural diversity that is of value to the whole society.

... Member states are encouraged to promote the conditions necessary for persons belonging to national minorities maintain and develop their culture, and preserve the essential elements of their identity.

.. Member states should fully respect the principle of the individual's voluntary self-identification of belonging to a specific group in society.

III. Equality and non-discrimination

Prohibition of discrimination in the enjoyment of human rights

24. Member states should ensure that the enjoyment of human rights and fundamental freedoms is secured without discrimination on any ground.

National legislation

25. Member states should respect the fundamental principle according to which all persons are equal before the law and are entitled to equal protection of the law without discrimination on any ground. Member states should ensure that their national legislation recognises and provides full and effective guarantees of the principle of equality and the prohibition of discrimination to all members of society.

Promotion of the principle of equality

26. Member states should ensure the promotion of the principle of equality and the right of individuals to be free from all forms of discrimination on any ground.

Positive action

27. Member states should bear in mind that the right not to be discriminated against is violated when persons in relevantly similar situations are treated differently without an objective and reasonable justification but also if without such justification persons whose situations are significantly different are not treated differently. Member states should take all appropriate measures, including some positive action, to ensure full respect of the prohibition of discrimination.

Multiple discrimination

30. Member states should recognise that individuals may require effective measures to address the problem of multiple discrimination, particularly against women and the most vulnerable groups of the population.

Equality between women and men

31. Member states should ensure equality between women and men in culturally diverse societies and the systematic integration of this dimension in the framework of securing human rights and fundamental freedoms.

Elimination of discrimination in all its forms in all areas of life

32. Member states should take all necessary measures to eliminate in law and practice discrimination on any grounds in all areas of life such as employment, education, healthcare, culture, housing, access to public goods and services, access to justice, decision making both in the public and private sectors.

Law enforcement measures

33. Member states should ensure that law enforcement measures do not result in the violation of human rights and ostracising and discriminating against particular individuals or groups in society.

IV. Countering hatred and violence*Countering stereotypes*

35. Member states should promote mutual respect and diversity and counter negative stereotypes, prejudices and any form of intolerance.

Combating racism and xenophobia

36. Member states must ensure that all available means are used to combat racism, which is a particular affront to human dignity, thereby reinforcing democracy's vision of a society in which diversity is not perceived as a threat but as a source of enrichment.

37. Member states should ensure special vigilance and a vigorous reaction to any act of racial and xenophobic nature, including those committed through computer systems.

Move to chapter on equality and discrimination or to [memo](#):

... Les Etats membres doivent s'assurer que dans la société démocratique actuelle basée sur les principes du pluralisme et du respect pour les différentes cultures, aucune différence de traitement fondée exclusivement ou dans une mesure déterminante sur l'origine ethnique d'une personne ne saurait être objectivement justifiée.

Member states must ensure that in the current democratic society based on the principles of pluralism and respect for different cultures, any difference in treatment based solely or to a decisive extent on the ethnic origin of a person cannot be objectively justified.

38. Member states should – in accordance with their national law – provide for the possibility of dissolution of organisations that incite racial hatred.

They should take appropriate action against other organisations that promote hatred, intolerance and xenophobia, as well as provide measures to suppress public financing of such organisations. Efforts should be taken to ensure these provisions are effectively enforced.

38bis. Member states are encouraged to address the problem of racism and violence in sports.

Combating hate crime and hate speech

39. Member states should ensure that various forms of hate crimes, including acts of violence, and hate speech, including public incitement to hatred and violence, are punishable under their national law.

39bis. Member states should take measures to prevent and combat cases of hate crimes and hate speech, in particular by carrying out effective investigations in order to avoid impunity.

Protection of the right to life and prohibition of torture and other forms of ill-treatment

41. Member states are required to take reasonable and effective measures and policies designed to ensure that individuals within their jurisdiction, including members of vulnerable or minority groups, are not subjected to attacks violating their right to life protected under Article 2 or to ill-treatment contrary to Article 3 of the European Convention on Human-Rights irrespectively of whether such acts are committed by public officials or private individuals.

42. Member states should combat all acts of violence and ill-treatment targeting members of vulnerable and minority groups and bring perpetrators to justice. They should ensure that their national authorities conduct prompt and effective investigations into such incidents, meeting the requirements of the fundamental rights enshrined in Articles 2 and 3 of the Convention, even in the absence of an express complaint if there are sufficiently clear indications that an attack violating the right to life or ill-treatment might have occurred.

43. Member states should consistently combat any form of physical, sexual, psychological and economic violence particularly directed against women and girls (including stalking, sexual violence, forced and child marriage, female genital mutilation, forced abortion and forced sterilisation, sexual harassment, crimes committed in the name of so-called “honour, aiding or abetting and attempt to commit any of these offences”), as well as violence against persons on the basis of their sexual orientation or gender identity including situations when violence is perpetrated under the pretext of a cultural and religious prescription or practice. They should strive to adopt adequate legislation and introduce initiatives to prevent such violence, protect the victims and prosecute the perpetrators.

44. When investigating and prosecuting violent criminal offenses member states have an utmost duty to take all appropriate legislative, administrative and other measures to unmask any racially, xenophobic or religiously motivated attack violating the right to life or ill-treatment and to establish whether or not hatred or prejudice might have played a role in the events, even when the attack or ill-treatment is inflicted by private individuals.

International protection

45. Member states should bear in mind that respect of the right to life and prohibition of torture may also encompass protection against expulsion if there are substantial grounds to believe that a person if deported would face a real risk of being subjected to treatment contrary to Articles 2 and 3 of the European Convention on Human Rights in view of persecutions based on race, religion, nationality, membership of a particular social group and political opinions.

46. In order to adopt appropriate measures to counter hatred and violence and prevent persecutions member states should cooperate among themselves and within the framework of international organisations and initiatives.

Training for the judiciary and other authorities

46bis Member states are encouraged to ensure that members of the judiciary, prosecution service, law enforcement agencies and other relevant services have access to training regarding the national and international standards related to the effective fight against hatred and violence.

V. Participation, social inclusion and dialogue

Participation in the democratic process

47. Member states should adopt specific strategies and targeted policies to ensure that everyone has adequate opportunities to effectively participate in public affairs and democratic decision-making, which is an essential condition for social cohesion.

Participation in the legislative process

48. Member states are encouraged, as far as possible, to enable all relevant segments of society, including non-governmental organisations, to participate in the legislative process so as to ensure inclusivity and the genuine recognition of the diversity within the societies.

Representation in public administration and decision-making bodies

49. Member states should strive for adequate representation of diversity in their societies in all structures of decision-making bodies and public administration including the judiciary, law-enforcement agencies and executive bodies.

Participation and inclusion in social, economic and cultural life

50. Member states should strive for effective participation on an equal footing by all members of society, including persons belonging to vulnerable and minority groups in social, economic and cultural life, which is a fundamental right in itself but also an essential precondition for equal opportunities in practice.

51. Member states should formulate and implement policies in relevant areas, such as education and training, culture, employment, access to healthcare, housing, public goods and services, in order to support effective participation in these fields on an equal footing and inclusion for all members of society, which is essential for successful integration.

Inclusion by reasonable accommodation policies

52. Member states are encouraged to consider different forms of diversity that may require policies of reasonable accommodation.

Inclusion in the workplace

53. Member states are encouraged to provide diversity training and advisory services concerning tolerance and non-discrimination in the workplace. This should include advice as regards policies of reasonable accommodation of religious and cultural diversity in the workplace.

Participation and inclusion of youth

54. Member states should adopt policies or actions designed to promote youth participation in society, including the participation of young people belonging vulnerable and minority groups. They should ensure a democratic and cultural environment of respect for young people and take into account their diverse needs, circumstances and aspirations. They should also encourage and support initiatives of young people which promote mutual respect, dialogue and inclusion as well as responsibility for others in culturally diverse societies.

Participation and inclusion of foreign residents

55. Member states should promote equal opportunities for foreign residents, e.g. through the provision of adequate information about their civic rights and duties. Member states are encouraged to consider providing foreigners who are lawfully resident on their territory, the right to vote and stand for election at the local level provided they fulfil the requirements set out in their national law

Promotion of intercultural dialogue

56. Member states should encourage and support intercultural dialogue, including its religious dimension, to promote a spirit of inclusion and create an open and respectful exchange of views between – individuals, groups and associations with different cultural or religious backgrounds on the basis of mutual respect and understanding. To this end, they should also treat religious organisations communities or communities representing different cultural backgrounds as partners in the development of inclusive and mutually supportive societies, while respecting the duty of neutrality and impartiality.

VI. Safeguards and remedies*Access to rights*

57. Member states should implement concrete measures, including at the regional and local level, and raise awareness thereof, to enable everyone the full and equal enjoyment and exercise of their rights in culturally diverse societies without discrimination on any ground.

Access to justice

58. Member states should ensure access to justice and effective remedies before national authorities in cases where human rights are violated. In order to ensure that this access to justice and remedies is provided on equal footing in culturally diverse societies member states are encouraged to establish appropriate legal aid schemes.

59. Member states are encouraged to establish accessible procedures and promote alternative dispute resolution processes such as mediation, conciliation and arbitration in the context of culturally diverse societies.

Sharing of the burden of proof

60. Member states should consider to provide in civil and administrative law that, if persons who consider themselves a victim of a discriminatory act, establish before a court or any other competent authority facts from which it may be presumed that there has been discrimination, it shall be for the respondent to prove that there has been no discrimination.

Access to information and consultation

61. Member states should explore ways of ensuring that everyone has access without discrimination to sufficient information provided in timely manner about his or her rights.

VII. Other relevant actors*The role of National Human Rights Institutions*

62. Member states should consider establishing, if they have not yet done so, an effective, pluralist and independent National Human Rights Institution. They should also ensure the existence of appropriate conditions for the fulfilment of their human rights mission, including sufficient funding. They should consider establishing, where appropriate, branches of such institutions at the regional or local level to facilitate easy access for those whose rights have been violated. They should encourage National Human Rights Institutions to pay appropriate attention to supporting the respect of human rights in the context of culturally diverse societies.

The role of civil society

63. Member states should take concrete action towards creating a conducive environment for civil society, including human rights defenders, and make consultation and collaboration with civil society a common practice when drafting policies and action plans at the national, regional and local levels with a view to protecting and promoting and protecting human rights in culturally diverse societies.

The role of the media and information society

63. Member states are reminded that the media and information society should play an active role in promoting mutual understanding, respect and cultural diversity and in countering negative stereotypes, prejudices and any form of intolerance.

Responsibility of opinion leaders

64. Opinion leaders, in particular political leaders and religious leaders, should speak and act resolutely in such a way as to foster a climate of mutual understanding, respect and diversity based on a universally recognised human rights.

VIII. Other measures*National strategies*

65. Member states should consider adopting a strategic approach towards the human rights challenges of culturally diverse societies.

Indicators

66. Member states should consider monitoring the impact of the actions taken, for instance by developing, where appropriate, human rights indicators to measure their impact in the context of culturally diverse societies. Adequate systems should be established for monitoring the provision of health care, education or social services and social aid, whether provided by private or public actors, using a rights-based approach.

Action plans

67. Member states should consider encouraging regional and local authorities to adopt a strategic approach towards the human rights challenges of culturally diverse societies by integrating the relevant issues into the related national action plans.

Human rights education and training

16. Member states should guarantee the fundamental right of children to education in accordance with the Convention, and the relevant case-law and should provide it in an objective, critical and pluralistic manner.

68. Member states should adopt practical measures to promote education as a key to combating intolerance breaking down stereotypes, developing intercultural dialogue, including its religious dimension, building trust and mutual respect and promoting sincere support for the shared values of living together.

68bis. To this end, member states should consider adopting education policies that include the principles and values of education for democratic citizenship and human rights education. Such education policies should also be formulated as part of integration policies and cover formal, non-formal and informal education. This should include the teaching of diversity and promote the attitudes of social inclusion, mutual understanding and responsibility towards others. member states should also review curricula and teaching materials as well as ensure participatory learning methods and inclusive environment at educational institutions.

Human rights awareness-raising

69. Member states should assess and address the needs of public officials and other professionals to ensure that they have a thorough and up-to-date knowledge of the human rights standards and instruments including relevant national law and practice and appropriate advice on how to take into account cultural diversity when interacting with individuals and groups in their field of competence.

70. Member states should also examine the need of awareness-raising activities directed to the general public.