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## Third report on Sweden

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## **Foreword**

*The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.*

*One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.*

*The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4-5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.*

*The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.*

*The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.*

*ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.*

***The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 17 December 2004 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.***

### ***Executive summary***

Since the publication of ECRI's second report on Sweden, progress has been made in a number of areas. Civil law provisions against discrimination have been extended to a number of important fields of life. There has been an increasing focus in public debate on the different forms of racial discrimination, as reflected in the setting up of two governmental enquiries on structural discrimination and in increased funding of institutions and organisations working against racism and racial discrimination. Work to promote democracy, human rights and respect of difference has been intensified, notably through the Living History Forum. The Swedish authorities have taken additional measures, including legal and financial measures, to combat trafficking in human beings. A system to monitor progress towards the achievement of integration objectives has been put in place.

However, a number of recommendations made in ECRI's second report have not been implemented or have only been partially implemented. In spite of an increased focus on racial discrimination, this phenomenon still affects the daily life of some members of ethnic minorities in Sweden. While discrimination in employment is of particular concern, discrimination is also widespread in housing, access to public places and other areas. The situation of *de facto* segregation in residential areas and schools still runs counter to efforts to promote an integrated society. The active presence of racist organisations in Sweden and their activities, including the widespread dissemination of racist propaganda notably through the Internet, are still of concern to ECRI. The responsibility of these organisations for part of the racist violence and harassment that Swedish society still experiences is stressed.

In this report, ECRI recommends that the Swedish authorities take further action in a number of areas. It recommends that they ratify Protocol No. 12 to the European Convention on Human Rights, which lays down a general prohibition of discrimination. ECRI also recommends that the Swedish authorities fine-tune existing criminal and civil law provisions to ensure that they constitute effective tools against racist expression, racist organisations, racially motivated crime and racial discrimination. The Swedish authorities should also take further steps to improve the implementation of these provisions, including in respect of members of racist organisations. ECRI recommends that the Swedish authorities increasingly put the fight against discrimination at the heart of their integration strategies and consequently focus on measures aimed at the majority population. In this context, ECRI recommends that discrimination in employment be given priority attention. ECRI recommends that the Swedish authorities continue and expand their work to ensure that their monitoring systems enable them to monitor progress in the achievement of integration objectives.

## I. FOLLOW-UP TO ECRI'S SECOND REPORT ON SWEDEN

### International legal instruments

1. In its second report, ECRI recommended that the Swedish authorities ratify Protocol No. 12 to the European Convention on Human Rights (ECHR) and the International Labour Office (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. ECRI notes that Sweden has not yet signed Protocol No. 12 to the ECHR. The Swedish authorities have stated that they do not intend to ratify this instrument before it has entered into force and its scope has been clarified through the case law of the European Court of Human Rights. ECRI also notes that Sweden has not yet ratified the ILO Convention No. 169. However, the Swedish authorities intend to ratify this convention as soon as possible, once the current work on land rights related to reindeer breeding and fishing and hunting rights is completed<sup>1</sup>.
2. ECRI notes that in January 2003 Sweden signed the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. The Swedish authorities have reported that work is underway with a view to ratifying this instrument. ECRI also notes that Sweden has not yet signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Swedish authorities report that the question of signature and ratification of this instrument is currently under review.

### ***Recommendations:***

3. ECRI recommends that the Swedish authorities sign and ratify Protocol No. 12 to the ECHR. It also recommends that they ratify the ILO Convention No. 169 and the Additional Protocol to the Convention on Cybercrime as soon as possible, and that they sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

### Constitutional provisions and other basic provisions

4. In its second report, ECRI recommended that more specific provisions be introduced in the Instrument of Government against discrimination on the grounds of "race", colour, language, religion, nationality, or national or ethnic origin. Since ECRI's second report, Article 2 of Chapter 1 of the Instrument of Government has been amended. It now stipulates that public institutions shall combat discrimination on grounds of, *inter alia*, colour, national or ethnic origin and linguistic or religious affiliation. Although these provisions are not legally enforceable, the Swedish authorities have stressed that they contain fundamental policy aims and are subject to political control.
5. Article 15 of Chapter 2 of the Instrument of Government states that no act of law or other provision may imply the unfavourable treatment of a Swedish citizen on grounds of race, colour or ethnic origin. Article 22, para 1(7) of Chapter 2 extends this right to non-citizens. Noting that laws or regulations may only be set aside as a violation of a fundamental constitutional right if the

<sup>1</sup> See below, Vulnerable groups - Sami communities

violation is manifest (*uppenbart*), in its second report ECRI recommended that Sweden consider whether the constitutional protection offered against possible discriminatory laws or regulations was sufficient in practice. ECRI understands that a committee of inquiry is presently carrying out a review of the entire Instrument of Government, and that the committee will address this question as part of the review. ECRI also notes that Article 15 of Chapter 2 does not provide for an exception expressly enabling the adoption of positive measures to promote equality of persons irrespective of race, colour, language, religion, nationality and national or ethnic origin, although such an exception exists for measures to promote gender equality<sup>2</sup>.

6. Articles 1-21 of Chapter 2 of the Instrument of Government protect the fundamental rights of Swedish citizens. Article 22 extends some of these rights to non-citizens. Other rights are also extended to non-citizens “unless it follows otherwise from special provisions of law”<sup>3</sup>. ECRI notes that the ECHR forms part of Sweden’s domestic legal order and that all its provisions are therefore directly applicable in Sweden. In addition, Article 23 of the Instrument of Government provides that no act of law or other provision which breaches Sweden’s undertakings with regard to the ECHR may be adopted. ECRI notes, however, that the Instrument of Government provides wider scope for restricting certain fundamental rights in respect of non-citizens than Swedish citizens. It has been reported to ECRI that this situation facilitates the adoption of measures that may discriminate against non-citizens<sup>4</sup>.

### ***Recommendations:***

7. ECRI recommends that the Swedish authorities ensure that the Instrument of Government provides individuals with adequate protection against discrimination on grounds such as “race”, colour, language, religion, nationality and national or ethnic origin. In this respect, ECRI draws the attention of the Swedish authorities to its General Policy Recommendation No. 7<sup>5</sup>. In particular, ECRI stresses that, according to this General Policy Recommendation, the constitution “should enshrine the principle of equal treatment, the commitment of the State to promote equality as well as the right of individuals to be free from discrimination on grounds such as race, colour, language, religion, nationality and national or ethnic origin”, and “may provide that exceptions to the principle of equal treatment may be established by law, provided that they do not constitute discrimination”.

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<sup>2</sup> Article 16 of Chapter 2 of the Instrument of Government establishes that “[n]o act of law or other provision may imply the unfavourable treatment of a citizen on grounds of gender, unless the provision forms part of efforts to promote equality between men and women [...]”.

<sup>3</sup> These rights include freedom of expression, freedom of information, freedom of assembly, freedom to demonstrate, freedom of association, freedom of worship, protection against body searches, house searches and other invasions of privacy and against violations of confidential communications.

<sup>4</sup> See below Reception and status of non-citizens – Special Control of Aliens Act.

<sup>5</sup> CRI (2003) 8: ECRI General Policy Recommendation N°7: National legislation to combat racism and racial discrimination.

- ***Fundamental Law on Freedom of Expression and Freedom of the Press Act***

8. Sweden has two constitutional laws regulating the exercise of freedom of expression in the media: the Fundamental Law on Freedom of Expression, which applies to media such as radio, television and recordings of sounds, pictures and text, and the Freedom of the Press Act, which applies to printed material. Both laws contain provisions prohibiting hate speech which are equivalent to those contained in the criminal offence of racial agitation<sup>6</sup>. However, if committed through a means of communication falling under the scope of the constitutional laws, such offences are not prosecuted by the Prosecutor General but by the Chancellor of Justice, according to a specific procedure. ECRI notes that prosecutions of hate speech under the Fundamental Law on Freedom of Expression and the Freedom of the Press Act are very rare. It is reported for instance that between 1997 and 2001, of the approximately 600 cases of hate speech submitted to the Chancellor of Justice, only 9 (or 1.5%) were tried in court<sup>7</sup>. Non-governmental organisations have expressed concern that, as a result of the restrictive approach to prosecutions under the Fundamental Law on Freedom of Expression and the Freedom of the Press Act, explicitly racist material is legally disseminated in Sweden through means of communication covered by these laws. In its second report ECRI noted that, in order to improve this situation, the Swedish authorities planned to adopt amendments extending the time within which offences committed through certain means of communication must be prosecuted. These means of communication, widely used by the White Power movement<sup>8</sup>, are technical recordings, such as music CDs, which do not carry the date of publication. ECRI is pleased to note that these amendments have been in force since 1 January 2003. However, although the Swedish authorities report that there are more investigations at present than before the adoption of the amendments, it does not appear that the latter have so far led to an increase in the number of cases of hate speech tried in court.

***Recommendations:***

9. ECRI recommends that the Swedish authorities ensure that hate speech disseminated through means of communication covered by the Fundamental Law on Freedom of Expression and the Freedom of the Press Act is effectively countered. In this respect, ECRI draws the attention of the Swedish authorities to its General Policy Recommendation No. 7, where it recommends that the constitution “should provide that the exercise of freedom of expression [...] may be restricted with a view to combating racism”.

<sup>6</sup> See below, Criminal law provisions.

<sup>7</sup> This compares with approximately 1800 cases of hate speech submitted to the Prosecutor General and 373 cases (or 20,7%) tried in court under the criminal offence of racial agitation.

<sup>8</sup> See below, Racial violence and harassment.

- ***Laws on national minorities and the use of minority languages***

10. In its second report, ECRI recommended that the Swedish authorities pay attention to the practical implementation of the right of members of national minorities to receive mother tongue education. Since ECRI's second report, the Swedish authorities have taken a number of initiatives in this field. These have included measures to raise the awareness of municipalities (the agencies primarily responsible for the practical implementation of the right to mother tongue education) of their obligations in this field. ECRI also notes that the National Agency for Education has been given specific responsibility to monitor the implementation of the right of members of national minorities to mother tongue education and that the National Agency for School Improvement is currently working to produce teaching materials in certain national minority languages. In spite of these initiatives, ECRI notes that, in practice, national minority children do not always have access to mother tongue education and that there are differences in this respect between municipalities.
11. National school curricula provide that schools are responsible for ensuring that pupils have knowledge about the culture, language, religion and history of national minorities. It has been reported to ECRI, however, that teaching materials often do not provide this information and, more generally, that knowledge of these subjects is often not imparted in practice.

***Recommendations:***

12. ECRI encourages the Swedish authorities to continue and intensify their efforts to guarantee the practical enjoyment by members of national minorities of their right to mother tongue education throughout the country. ECRI recommends that the Swedish authorities ensure that all schools educate their pupils about the culture, language, religion and history of national minorities.

- ***Law on citizenship***

13. In its second report, ECRI recommended that the Swedish authorities disseminate information about the facilitated conditions for naturalisation introduced by the Citizenship Act in 2001<sup>9</sup>. The Swedish authorities report that they have carried out an extensive information campaign on these new conditions. They report that by the end of 2003, the possibility of holding dual citizenship had resulted in more than 10 000 new applications for citizenship. ECRI notes, however, that by the same date, less than 2 000 children in possession of the necessary residency requirements had notified their intention to acquire Swedish citizenship.

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<sup>9</sup> The Citizenship Act introduced the possibility of dual citizenship and facilitated the acquisition of citizenship for children by establishing that they may acquire citizenship through notification after five years of residence in Sweden.

### **Recommendations:**

14. ECRI encourages the Swedish authorities to continue their efforts to inform non-citizens about the requirements for gaining Swedish citizenship and to investigate the reasons why few children who fulfill the residency requirements take up Swedish citizenship.

### **Criminal law provisions**

15. As mentioned above, the Swedish Criminal Code contains provisions prohibiting racial agitation<sup>10</sup>. Although a number of convictions are secured every year under these provisions, non-governmental organisations report that these do not reflect the number and gravity of the offences committed. In its second report, ECRI noted that penalties for the most serious cases of racial agitation, such as extensive dissemination of racist propaganda by an organisation, were to be increased. ECRI is pleased to note that the increased penalties (of between six months to four years imprisonment) have entered into force on 1 January 2003. It has been reported to ECRI, however, that these new provisions have not yet been applied.
16. The Criminal Code also contains a provision prohibiting racial discrimination in the running of one's business or in granting access to public assemblies or gatherings (Chapter 16, Section 9). In its second report, ECRI had expressed concern at the fact that, in spite of widespread reports of discrimination in access to restaurants and discrimination by shops, housing, property and transport companies, only a limited number of discrimination cases were reported by alleged victims and only one or two cases led to convictions every year. ECRI notes that the situation has not changed in this respect since its second report. Members of ethnic minorities are still reported to face discrimination by private businesses. However, in 2003, out of 161 cases examined by the Public Prosecutor only one resulted in charges. In 2004, out of 221 cases examined by the Public Prosecutor, seven cases resulted in charges. ECRI notes, however, that since its last report, more comprehensive civil law provisions against discrimination which may improve the situation in this respect have been adopted<sup>11</sup>.
17. Chapter 29 Section 2(7) of the Criminal Code provides that racist motivation constitutes an aggravating circumstance in sentencing. In its second report, ECRI recommended that the Swedish authorities ensure that the courts use this provision to the fullest. Although ECRI has been informed that judges use this provision in practice, and that, when they do so, they are under an obligation to state it in the sentence, it is not clear to ECRI the extent to which these provisions have been used since ECRI's second report.

<sup>10</sup> Chapter 16, Section 8 of the Criminal Code stipulates that « [a] person who, in a disseminated statement or communication, threatens or expresses contempt for a national, ethnic or other such group of persons with allusion to race, colour, national or ethnic origin, religious belief or sexual orientation shall be sentenced for agitation against a national or ethnic group to imprisonment for at most two years, or, if the crime is petty, to a fine». See above Constitutional provisions and other basic provisions - Fundamental Law on Freedom of Expression and Freedom of the Press Act.

<sup>11</sup> See below, Civil and administrative law provisions.

18. ECRI notes that in November 2002, the Office of the Prosecutor General issued new guidelines in order to improve the response to hate crimes, including racial agitation, racial discrimination and racially aggravated offences, *inter alia* through enhanced co-operation with the police. There are reports, however, indicating that adherence to these guidelines varies considerably according to municipalities.

**Recommendations:**

19. ECRI recommends that the Swedish authorities ensure that the provisions against racial agitation, racial discrimination and racially aggravated offences are thoroughly applied. It recommends that the Swedish authorities ensure that the police, the Prosecution Service and judges throughout the country are made well aware of the need to counter all these offences seriously and that all those working within the criminal justice system are properly trained to this end.
20. As already noted by ECRI in its second report, there are no legal provisions in Sweden prohibiting the establishment of a racist organisation or participation in such an organisation. The Swedish authorities have stressed that the existing legal provisions against racial agitation, racial discrimination and racially aggravated offences (combined with the general criminal law provisions which penalise preparation, participation, conspiracy or complicity in crimes) ensure that racist organisations cannot act without breaking the law. However, as mentioned above, ECRI notes that there are difficulties in the implementation of these provisions.

**Recommendations:**

21. ECRI recommends that the Swedish authorities introduce legislation which provides for the possibility of dissolution of organisations that promote racism and penalises: the creation or the leadership of a group which promotes racism; support for such a group, and participation in its activities. ECRI draws the attention of the Swedish authorities to its General Policy Recommendation No. 7, which contains further guidance in this respect.

**Civil and administrative law provisions**

22. In its second report, ECRI noted that the civil law provisions against racial discrimination in force at the time only covered working life<sup>12</sup> and higher education<sup>13</sup> and recommended that these provisions be extended to other fields of life. ECRI notes that in 2003, new legislation to transpose the European Council Directives 43/2000 and 78/2000<sup>14</sup> was introduced in Sweden. This legislation, which has been in force since 1 July 2003, consists of a new piece

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<sup>12</sup> Act Concerning Measures to Counteract Ethnic Discrimination in Working Life.

<sup>13</sup> Act on Equal Treatment of Students in Higher Education.

<sup>14</sup> Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation

of legislation, the Prohibition of Discrimination Act, and of amendments to existing legislation on working life and higher education. Although the Prohibition of Discrimination Act extends protection against discrimination to a number of areas<sup>15</sup>, ECRI notes that it still does not cover education other than higher education. The Swedish authorities have informed ECRI, however, that they intend to extend the Act to cover all levels of education in 2005.

23. In its second report, ECRI noted that a Parliamentary Committee had been established to examine the entire field of antidiscrimination legislation. The Committee, which is scheduled to report on 1 July 2005, is considering, among other issues, the desirability of a consolidated act providing protection against discrimination on different grounds and across most fields of life, and the question of allowing the adoption of positive measures to promote equality of persons irrespective of racial and ethnic origin in working life.
24. ECRI notes that complaints of discrimination filed with the Ombudsman against Ethnic Discrimination (DO)<sup>16</sup> relating to discrimination in working life have continued to rise since ECRI's second report. An increase of 14% in comparison with 2002 and of 27% in comparison with 2001 has been registered. However, these figures are still thought to represent only a fraction of the actual number of cases of discrimination in employment. In this respect, ECRI notes that one of the priorities of the DO is to reach out to those communities who are thought to be more vulnerable to racial discrimination. Most cases filed with the DO have resulted in out-of-court settlements, although a few cases have been brought before the Labour Courts. ECRI notes, however, that the Labour Courts have dismissed all claims, except for one in 2002. There still appear to be barriers to an effective implementation of antidiscrimination legislation in working life. It has been reported to ECRI, for instance, that complainants miss the prescription periods within which cases can be brought before the Labour Courts, that the powers of the DO to carry out investigations are limited, and that the level of damages awarded is low. Non-governmental organisations have also reported to ECRI that the effectiveness of this legislation is negatively affected by the central role given to the Trade Unions in its implementation<sup>17</sup>. ECRI also notes that the antidiscrimination legislation in the field of higher education continues to be very rarely used, despite initiatives to raise the awareness of students and universities of its existence and requirements.

### **Recommendations:**

25. ECRI encourages the Swedish authorities in their efforts to ensure that civil law provisions in force provide adequate protection against discrimination on grounds such as "race", colour, language, religion, nationality and national and ethnic origin. It recommends that, as part of these efforts, they take into account ECRI's General Policy Recommendation No.7, which contains detailed

<sup>15</sup> The Prohibition of Discrimination Act (2003:307) provides protection against discrimination on grounds of ethnic origin, religion or belief, sexual orientation and disability in the following areas: labour market programmes and employment offices, starting or running a business, occupational activity, membership of, participation in and benefits from organisations of workers or employers or professional organisations, goods and services, including housing, social insurance and other benefits systems, health-care or other medical services, the social services and unemployment or insurance benefits.

<sup>16</sup> See below, Specialised bodies and other institutions.

<sup>17</sup> See below, Discrimination in employment.

guidance in this respect. In accordance with this General Policy Recommendation, ECRI recommends in particular that the Swedish authorities: extend antidiscrimination legislation to all levels of education; provide in law the possibility to adopt positive measures to promote equality of persons irrespective, *inter alia*, of racial and ethnic origin in all fields of life; place public authorities under a statutory duty to promote equality and prevent discrimination in carrying out their functions, and provide for effective, proportionate and dissuasive sanctions for cases of discrimination.

26. ECRI recommends that the Swedish authorities closely monitor the implementation of the antidiscrimination legislation and take all the necessary measures, including changes to legislation, in order to improve such implementation.

### **Administration of justice**

27. In its second report, ECRI recommended that the Swedish authorities monitor the situation as concerns racism and racial discrimination in the criminal justice system. ECRI is pleased to note that in May 2003 the Swedish authorities instructed the different criminal justice agencies to develop strategies against racism and racial discrimination. It has been reported to ECRI, however, that these strategies have often tended to focus extensively on work already underway against perpetrators of racist activities rather than investigating and addressing discrimination, including possible structural discrimination, within the agencies themselves. The Swedish authorities have highlighted, however, that these strategies include a broad range of measures aimed at combating discrimination within the agencies, such as education and awareness-raising initiatives and attitude surveys amongst employees.
28. ECRI notes that, as part of the work currently underway on structural discrimination, research is being carried out within the Stockholm University on the reasons behind the disproportionate impact of criminal justice functions on persons of immigrant background, in areas such as convictions for crimes or remand in juvenile custody.

### ***Recommendations:***

29. ECRI encourages the Swedish authorities to intensify their efforts to disclose and address patterns of discrimination in the criminal justice system. To this end, it recommends that they support research in these areas and that they monitor the implementation of strategies of the criminal justice agencies against racism and racial discrimination.

## Specialised bodies and other institutions

### - *The Ombudsman against Ethnic Discrimination (DO)*

30. ECRI notes that, in accordance with a recommendation it made in its second report, the competence of the DO has been extended to the fields of discrimination covered by the Prohibition of Discrimination Act<sup>18</sup>. ECRI also welcomes that there has been a three-fold increase in the budget of the DO from 2003 to 2005. ECRI notes, however, that there are still areas of work covered by the DO's mandate that it has not been able to tackle extensively.
31. ECRI notes that the Parliamentary Committee which is currently reviewing the entire field of antidiscrimination legislation<sup>19</sup> is also considering the possibility of merging the Ombudsmen who presently oversee the implementation of different antidiscrimination laws, including the DO, into one single institution as well as the status and functions of this institution. In this connection, ECRI stresses that in its General Policy Recommendation No. 2<sup>20</sup>, it has made recommendations concerning the need to ensure the independence and accountability of institutions such as the one envisaged and ways to guarantee them. ECRI also stresses that, in its General Policy Recommendation No. 7, it recommends that the competence of national specialised bodies to combat racism and racial discrimination include: assistance to victims; investigation powers; the right to initiate and participate in court proceedings; monitoring legislation and advice to legislative and executive authorities; awareness-raising of issues of racism and racial discrimination among society, and promotion of policies and practices to ensure equal treatment.

### **Recommendations:**

32. ECRI recommends that the Swedish authorities continue to ensure that the DO is given all the necessary resources to carry out all the work covered by its mandate effectively.
33. ECRI recommends that, in the framework of the current review of the mechanisms to ensure oversight of antidiscrimination legislation, the Swedish authorities take into account ECRI's General Policy Recommendations No. 2 and No. 7, notably as concerns the areas highlighted above.

### - *The Swedish Integration Board*

34. ECRI notes that, since its second report, the Swedish Integration Board, which is the central administrative authority for integration issues with overall responsibility for ensuring that integration policy goals permeate different sectors of society, has been reorganised and that its research and development functions have been strengthened. Since ECRI's second report, the Board has increasingly focused on discrimination as part of its work on integration. This is also reflected in the funding and support given by the Board to the Centre

<sup>18</sup> See Civil and administrative law provisions.

<sup>19</sup> See Civil and administrative law provisions

<sup>20</sup> CRI (97) 36: ECRI General Policy Recommendation n° 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

against Racism and to local antidiscrimination bureaus<sup>21</sup>. ECRI welcomes the increased attention paid by the Board to issues of discrimination, although it has been highlighted that this results in the need for the areas of work of the Board and the DO to be more clearly defined.

- ***The Council for Ethnic Equality and Integration***

35. The Council for Ethnic Equality and Integration, which comprises representatives of the government, organisations catering for the interests of immigrants, other non-governmental organisations, religious communities and labour market partners, is a consultative body for the government on integration issues. Many have questioned the effectiveness of this body so far and ECRI notes that consideration is being given to re-organising its membership.

- ***Local antidiscrimination bureaus***

36. There are at present 13 local antidiscrimination bureaus in Sweden. These bureaus, established at the initiative of local non-governmental organisations, provide advice and assistance to victims of discrimination. ECRI is pleased to note that, since its second report, the funds provided by the Swedish authorities to these bureaus have increased. ECRI also notes that the DO provides training to these bureaus in order to improve their knowledge of antidiscrimination legislation.

- ***Centre against Racism***

37. ECRI notes that the Centre against Racism was established in 2003 and inaugurated in March 2004. The Centre, which is a largely State-funded independent umbrella organisation with a base of over one hundred non-governmental organisations working in the field of racial discrimination, has as its main tasks to gather, develop and disseminate knowledge of racism and discrimination and to contribute to shaping public opinion on these issues.

***Recommendations:***

38. ECRI recommends that the Swedish authorities ensure that the areas of work carried out by different institutions at central level on issues of discrimination are clearly defined so as to maximise their effectiveness.
39. ECRI recommends that the Swedish authorities ensure that the Council for Ethnic Equality and Integration gives persons of immigrant origin an opportunity to provide a meaningful input to governmental policies on integration.

**Education and awareness-raising**

40. As mentioned below<sup>22</sup>, since ECRI's second report, more attention has been paid in Sweden to understanding and disseminating knowledge about different forms of racial discrimination. ECRI notes that the Swedish authorities have provided the DO and other Ombudsmen with funds to carry out an awareness

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<sup>21</sup> See below.

<sup>22</sup> Integration policies and the fight against racial discrimination

raising campaign on the new antidiscrimination legislation. ECRI also notes that the 2002-2004 National Human Rights Action Plan, which addressed racism, xenophobia and racial discrimination as one of its priority issues, is currently being evaluated and that a new Human Rights Action Plan is being drawn up.

41. In its second report, ECRI noted that racist ideologies were being spread among school children, notably through propaganda disseminated by members of extremist movements<sup>23</sup>, and recommended that the Swedish authorities produce and disseminate material concerning racism and racial discrimination and providing information about the history and cultures of the various minority groups living in Sweden. ECRI welcomes the fact that, since its second report, the Living History Forum has been established as a permanent agency with the task of promoting work with democracy, tolerance and human rights, with the Holocaust as a starting point. The work of the Forum must reach children and young people and also adults who work with children and young people. ECRI notes, however, that education in human rights is not compulsory in schools in Sweden, although the Swedish authorities report that such education exists in a number of schools.
42. ECRI notes that the Living History Forum and the National Council for Crime Prevention have released in October 2004 the results of an extensive survey carried out throughout Sweden among school children of 14-18 years of age, which examines their attitudes towards, *inter alia*, racism, antisemitism and islamophobia and their vulnerability to and participation in these phenomena. ECRI notes that the results of the survey indicate that the vast majority of youths professes a positive attitude towards different minority groups and that 1.7% of the pupils, almost exclusively children born in Sweden, were found to be highly intolerant. The study also indicates that 14% of the children had been insulted in relation with their ethnic origin over the course of the previous twelve months and that this percentage includes 40% of children born abroad from parents born abroad and 9% of children with a completely Swedish background. According to the study, approximately 7% of the children reported having come into contact with material produced by racist extremist organisations.

### **Recommendations:**

43. ECRI encourages the Swedish authorities to pursue and intensify their efforts to raise the awareness of the general public and target groups of the issues pertaining to racial discrimination, including awareness of the legal framework in force against discrimination. ECRI recommends that racism and racial discrimination feature prominently in the Human Rights Action Plan which is currently being drawn up.
44. ECRI recommends that the Swedish authorities pursue their efforts to counter all forms of racism among school children. In this respect, it recommends that they introduce human rights education as a compulsory subject in all schools in Sweden. ECRI also recommends that the results of the survey on racism, antisemitism and islamophobia among school children are used to elaborate targeted policy responses by the different central and local agencies responsible for tackling these issues in their respective areas of competence.

<sup>23</sup> Racial violence and harassment

## Reception and status of non-citizens

45. In its second report, ECRI recommended that the Swedish authorities ensure that the apparent trend towards a tightening-up of asylum policies does not lead to a weakening of the rights of asylum seekers to obtain a full and fair consideration of their claims. The Swedish authorities have stressed that asylum policies have not been tightened up. As an illustration of this, they have underlined that they are drafting a proposal to grant full refugee status to persons who have a well-founded fear of persecution on grounds of gender and sexual orientation, instead of subsidiary protection, as is the case at present. The Swedish authorities also stress, however, that they have to face up to the challenges posed by new phenomena, such as increasingly important numbers of asylum seekers who come to Sweden without documents (currently around 90%), changes in the asylum seekers' countries of origins or the problem of trafficking. They also stressed that the number of persons seeking asylum every year in Sweden has steadily increased, although a small decrease has been registered for the first time in 2003/2004. However, non-governmental organisations claim that, since ECRI's second report, there has been a trend towards making asylum policies and practices more restrictive in Sweden.
46. In its second report, ECRI noted that regular administrative courts were going to take over responsibility for examining asylum appeals. Such appeals were at the time dealt with by an administrative body, the Aliens Appeals Board. ECRI notes that this reform has not yet taken place. However, the Swedish authorities have reported to ECRI that they plan to submit draft legislation in this respect in spring 2005. The Swedish authorities have explained that this process will also require a review of the asylum legislation. As part of this review, the Swedish authorities intend to change the rules that currently allow an asylum seeker who has received a final negative decision to submit new applications if new untried circumstances arise in the case. In this connection, the Swedish authorities have underlined the need to ensure that asylum seekers do not spend too much time in Sweden before being expelled and are not given false expectations. ECRI notes, however, that a significant number of asylum seekers receive positive decisions at this stage.

### **Recommendations:**

47. ECRI recommends that the Swedish authorities carry out the planned reform to give responsibility to examine asylum appeals to the administrative courts. In this respect, it recommends that the authorities ensure that the expertise currently existing within the Aliens Appeals Board is transferred, as necessary, to those working in the administrative courts. ECRI recommends that the possibility of having a claim re-examined in the light of evolving circumstances be maintained.
48. In its second report, ECRI recommended that the Swedish authorities review policies and practices concerning the enforcement of expulsion orders, particularly in view of the need to ensure that the principle of *non refoulement* is respected. Non-governmental organisations have registered a less rigorous attitude by the Swedish authorities with regard to adherence to this principle and the obligations arising from Article 3 of the ECHR, which entails the

absolute prohibition to return a person to a country where he or she may be subjected to torture or inhuman or degrading treatment, particularly since 11 September 2001. One particular case, which has received much national and international attention, concerned the expulsion in December 2001 of two Egyptian asylum seekers on suspicion of involvement in terrorist activities and of posing a threat to national security. More generally, it has been noted that the Special Control of Aliens Act<sup>24</sup> gives the Swedish government significant powers regarding the expulsion of suspicious individuals. The conformity of the return of Roma individuals to Serbia and Montenegro with the principle of *non-refoulement* has also been questioned in some cases. In its second report, ECRI noted that some persons had been expelled to countries unknown to them because of difficulties in establishing their nationality. ECRI notes that, following a proposal in this sense by a commission of inquiry of the government set up to examine legislation and practice on enforcement of expulsion orders, the Aliens Act provides, since July 2004, that removals can only take place to a country indicated in the removal order. As concerns the use of excessive force during expulsions, another issue addressed by ECRI in its second report, ECRI notes that the same commission of inquiry has highlighted the need for more detailed guidelines to be given to escorting personnel on enforcement-related journeys.

49. ECRI notes that, in the accelerated procedure, asylum seekers may be rejected and deported on the grounds of a manifestly unfounded claim or of the “safe third country” concept. Asylum applicants may appeal against the decision to reject their claim. However, such an appeal does not have a suspensive effect on the expulsion order.

### **Recommendations:**

50. ECRI recommends that the Swedish authorities ensure that no one is forcibly returned to his or her country of origin in contravention of the principle of *non-refoulement* and Article 3 of the ECHR. To this end, ECRI recommends in particular that the Swedish authorities review the provisions currently regulating the accelerated asylum procedure, particularly as regards the possibility of filing appeals with suspensive effect on expulsion orders. ECRI also recommends that the Swedish authorities ensure that officials responsible for carrying out expulsions are thoroughly trained and receive detailed guidance about their obligations and the methods they can use.
51. Asylum seekers may be detained in Sweden if their identity is not known, or prior to expulsion if they are considered by the authorities to be at risk of absconding. However, it has been reported to ECRI that in practice, detention is sometimes used as a way to deter persons from applying for asylum. Decisions to detain are subject to review. However, ECRI notes that there is no maximum time limit for detention, except for children. The number of administrative detention places and the number of persons detained has increased since ECRI's second report. The Swedish authorities report that this situation reflects an increase in the total number of asylum applications, and the increasing proportion of asylum seekers who come to Sweden without documents. While ECRI notes that the availability of administrative detention places is

<sup>24</sup> See below Reception and status of non-citizens – Special Control of Aliens Act

instrumental in avoiding asylum seekers being detained alongside criminals, it also notes that there are allegations that in practice, asylum seekers are sometimes detained in criminal detention facilities.

***Recommendations:***

52. ECRI recommends that the Swedish authorities ensure that asylum seekers are only detained when it is absolutely necessary and that alternative means of supervision be used instead, whenever possible. ECRI recommends that the Swedish authorities ensure that asylum seekers are not detained in criminal detention facilities.
53. ECRI welcomes the fact that children who seek asylum are entitled to school education, including in their mother tongue. ECRI notes, however, that these children's education is reportedly not funded in proportion to the levels of need and that as a result, the practical enjoyment of these rights is sometimes limited. ECRI also notes that children without legal status do not have access to education in practice. ECRI has received reports indicating that, due in particular to the long waiting periods for the determination of their claims, the mental well-being of an increasing number of children of asylum seeking families has been so severely strained that they have had to be hospitalised. ECRI notes that the Swedish authorities have appointed a national co-ordinator to investigate this issue. Noting reports of disappearances of children seeking protection or asylum from the centres where they were accommodated, in its second report ECRI recommended that the Swedish authorities address the situation of these children as a matter of priority. At present, the competence of the legal custodians that are assigned to these children is mainly limited to the economic affairs of the child. However, ECRI notes that the Swedish authorities intend to submit legislation to Parliament extending the competence of legal custodians of unaccompanied children to all matters concerning them, including their accommodation. It has also been suggested by many that reception and care of these children, which are presently managed by the Migration Board, should be the responsibility of the social welfare authorities of the municipalities concerned.

***Recommendations:***

54. ECRI recommends that the Swedish authorities continue and intensify their efforts to ensure that asylum seekers' right to education is respected in practice. ECRI encourages the Swedish authorities to ensure that children without legal status are not deprived of the right to education.
55. ECRI recommends that the Swedish authorities extend the competences of legal custodians of unaccompanied children in order to take better care of the children's needs and, in particular, avoid disappearances.
56. In its second report, ECRI noted that asylum seekers who do not participate in organised activities and instruction in the Swedish language might have their support allowance reduced. Since then, a reduction in the daily allowance in respect of those asylum seekers who do not co-operate in establishing their

identity has also been made possible. ECRI also notes that the Swedish authorities are currently considering whether to grant only temporary permits, with no family reunification rights attached, to all categories of asylum applicants allowed to stay in Sweden, if they cannot prove their identity in an acceptable manner. ECRI further notes that penalties have been introduced on carriers transporting passengers who do not possess valid documents and/or permits required to enter Sweden.

57. Municipalities may refuse to host reception centres for asylum seekers. There are reports indicating that municipalities, especially in the South of Sweden, are increasingly reluctant to receive and accommodate asylum seekers. It has been reported that this attitude is linked to the fact that municipalities consider that they do not get adequate financial compensation from the State for services provided to asylum seekers, but also to a perception that the vast majority of asylum seekers do not have genuine protection needs.
58. Around 20% of those whose claims for asylum or other protection needs were examined in 2002 and 2003 have received positive consideration. However, ECRI notes that only 1,1% in 2002 and 2,3% in 2003 were granted full refugee status. In September 2004, the Swedish Government appointed a special investigator to examine this question in more depth.

#### ***Recommendations:***

59. ECRI recommends that the Swedish authorities ensure that asylum seekers in need are not left destitute. ECRI further recommends that the Swedish authorities do their utmost to avoid that any legislation on carriers that may be adopted result in an increased likelihood that an asylum seeker is refused admission to safety or is hampered in the exercise of his or her right to seek protection. ECRI recommends that the Swedish authorities take steps to ensure that asylum seekers are better welcomed in the municipalities.
60. ECRI recommends that the Swedish authorities ensure that full refugee status is granted to those persons who are entitled to it.

#### **- *Special Control of Aliens Act***

61. As noted above, the Special Control of Aliens Act allows the Swedish government to expel a non-citizen, including a non-citizen legally residing in Sweden, for national security reasons or if there are reasons to suspect that the person in question will commit or participate in crimes involving violence or coercion for political purposes. These provisions do not allow the person in question access to information on which the expulsion decision is made, nor for any possibility to appeal against such a decision. It has been highlighted that these provisions risk violating Articles 3, 6 and 13 of the ECHR. The Swedish authorities report that these provisions have been very rarely used and that they have not been used in 2003.
62. In its second report, ECRI noted that under the Special Control of Aliens Act, the police can in certain cases use secret wiretapping and secret wire-surveillance to monitor non-citizens. ECRI noted that in order not to be discriminatory, legislation applying exclusively to non-citizens should have an

objective and reasonable justification. It therefore recommended that the necessity for and practical application of this law should be kept under careful review by the Swedish authorities. ECRI is not aware of any developments in this field.

### ***Recommendations:***

63. ECRI recommends that the Swedish authorities ensure that proceedings leading to expulsions are surrounded by appropriate safeguards, including a right to appeal before a judicial instance. It recommends that the Swedish authorities introduce the necessary legal and policy changes in order to ensure that Articles 3 and 13 of the ECHR are respected with regard to persons considered to raise concerns of national security.
64. ECRI draws the attention of the Swedish authorities to its General Policy Recommendation No. 8<sup>25</sup>, which recommends to member States of the Council of Europe that they “review legislation and regulations adopted in connection with the fight against terrorism to ensure that these do not discriminate directly or indirectly against persons or groups of persons, notably on grounds of “race”, colour, language, religion, nationality or national or ethnic origin”, and that they “abrogate any such discriminatory legislation”.
65. ECRI recommends that the Swedish authorities ensure that any legislation applying exclusively to non-citizens has an objective and reasonable justification. In this respect, ECRI recommends that the Swedish authorities keep under review the provisions of the Special Control of Aliens Act, to ensure that they do not discriminate against non-citizens.

## **Access to public services**

### **- Education**

66. As already noted in ECRI’s second report, Sweden’s educational system is highly decentralised. School governance is a municipal responsibility and individual schools are responsible for the achievement of objectives set at the national and local levels. It has been highlighted that this decentralisation is reflected in very differing patterns of compliance with national standards by schools and municipalities, including in the areas covered by ECRI’s mandate. For instance, while a number of schools are reported to carry out extensive initiatives to promote equality of students irrespective of racial or ethnic origin, other schools, including schools where extremist groups are actively trying to recruit new members or sympathisers, are reported to lag behind. ECRI notes that in 2003, the Swedish authorities introduced a programme requiring all schools and municipalities to report on the quality of education provided in their establishments and that quality indicators are being established for pre-school, school and adult education. ECRI notes that it is proposed that these indicators refer to aspects such as democratic values, gender equality and offensive treatment and bullying.

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<sup>25</sup> CRI (2004) 26: ECRI General Policy Recommendation N°8 on combating racism while fighting terrorism

67. In its second report, ECRI noted that the situation of *de facto* residential segregation had led to situations where virtually all pupils in schools in some areas were of immigrant origin, spoke Swedish as an additional language, and had little contact with children from the majority group. ECRI notes that the Swedish authorities have taken measures to improve the achievement of students attending schools in segregated areas.
68. In its second report, ECRI recommended that the Swedish authorities address the issue of racial harassment and bullying in schools. ECRI notes that the recently published survey on school children's attitudes towards, *inter alia*, racism, antisemitism and islamophobia<sup>26</sup> indicate that racist insults and harassment are quite widespread phenomena. ECRI notes that the Swedish National Agency for School Improvement has produced and disseminated good practices against bullying and offensive treatment in schools and that the Swedish National Agency for Education has drawn up national guidelines on these issues. ECRI also understands that a proposal aimed at holding schools financially responsible for not taking steps to counter racial harassment and other offensive treatment is currently being examined.

### **Recommendations:**

69. ECRI recommends that the Swedish authorities continue and intensify their efforts to address the problems faced by children of immigrant origin in the enjoyment of their right to education on a basis of equality with other children. ECRI recommends that the Swedish authorities ensure that national education standards in the fields covered by ECRI's mandate are thoroughly implemented in schools throughout Sweden. In this respect, ECRI encourages the Swedish authorities to set specific targets and indicators to measure progress towards the achievement of equality of students irrespective of racial or ethnic origin.
70. ECRI encourages the Swedish authorities in their efforts to improve the achievement of students attending schools in segregated areas. It recommends, however, that more consideration be given to measures to de-segregate schools, including measures aimed at de-segregating residential areas.
71. ECRI recommends that the Swedish authorities continue and intensify their efforts to address racist bullying and offensive treatment in schools.

### **- Housing**

72. In its second report, ECRI noted that certain residential areas in Sweden were inhabited almost exclusively by persons of immigrant origin. ECRI notes that *de facto* residential segregation continues to be an area of concern to organisations active in the fight against racism and intolerance in Sweden. ECRI notes that the Swedish authorities have implemented policies to end social and ethnic segregation in metropolitan areas and promote equal living conditions for people living in cities for over six years now, mainly through Local Development Agreements<sup>27</sup>. These agreements are reported to have yielded

<sup>26</sup> See above Education and awareness raising

<sup>27</sup> Local Development Agreements are agreements signed by the State and specific municipalities and adopted by the government. These agreements regulate the task of the state and the municipality, lay

significantly positive results in terms of improved living conditions and strengthened cohesion of residents of segregated areas. However, it has been noted that their impact on the structures and mechanisms that create and maintain residential segregation has been minimal. Some researchers have questioned whether cross-sector development programmes aimed at development for specific geographical districts and for the residents of these districts as individuals can have an impact on those structures and mechanisms at all and support has been expressed by some for a more global, country-wide approach to countering residential segregation. In this connection, it has also been noted that the very notion of segregated residential areas should be reconsidered in the light of the fact that, while many areas mainly which are inhabited by persons of immigrant origin are in fact very diverse, in that they bring together persons of different cultures and origins, many of the areas predominantly inhabited by the majority population lack this diversity. ECRI notes that the Swedish National Board of Housing, Building and Planning has been given the assignment for 2005 to use the experience gained through the Local Development Agreements to develop instruments within the system of physical planning to combat residential segregation.

#### **Recommendations:**

73. ECRI encourages the Swedish authorities in their efforts to address *de facto* residential segregation. In this respect, ECRI recommends that, along with measures to improve the living conditions of persons living in areas predominantly inhabited by persons of immigrant origin, the Swedish authorities consider measures to actually de-segregate these areas.

#### **- Access to public places**

74. As mentioned above<sup>28</sup>, members of ethnic minority groups, and notably Black Africans, are reported to continue to face discrimination in access to public places such as bars and restaurants. In its second report, ECRI recommended that the Swedish authorities make use of the provisions regarding the issuing and withdrawal of licenses to serve alcohol to counter acts of discrimination. ECRI notes that, since its second report, the National Institute of Public Health has taken measures to raise the awareness of licensees of the possibility of having their license withdrawn if they are found to be in breach of the criminal law provisions prohibiting discrimination<sup>29</sup>. This sanction can also be applied in respect of licensees who are found in breach of civil antidiscrimination provisions.

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down objectives and evaluation procedures and indicate how the agreed measures shall be financed. The agreements are coupled with appendices containing local action plans formulated by residents and community groups.

<sup>28</sup> Criminal law provisions

<sup>29</sup> See above, Criminal law provisions

### **Recommendations:**

75. ECRI recommends that the Swedish authorities address the problem of racial discrimination in access to public places such as bars and restaurants. To this end, it recommends that full use be made of the existing criminal and civil antidiscrimination provisions. It also recommends that the Swedish authorities make full use of the provisions regulating the issuing and withdrawal of licenses to serve alcohol in order to combat discrimination. ECRI furthermore recommends that the Swedish authorities intensify their efforts to raise the awareness of those working in the entertainment industry of the need to combat racism and racial discrimination.

### **- Other areas**

76. ECRI notes that children of immigrant background are reported to be considerably more likely than other children (over twice as likely if they are under twelve years of age and over three times as likely if they are between thirteen and eighteen years of age) to be assigned to residential care.

### **Recommendations:**

77. ECRI recommends that the Swedish authorities research and address the disproportionate representation of children of immigrant background among children assigned to residential care.

## **Vulnerable groups**

### **- Roma communities**

78. Roma communities in Sweden are reported to continue to suffer disadvantage and discrimination in the closely intertwined fields already highlighted in ECRI's second report. This part of the Swedish population reportedly continues to experience blatant discrimination in housing and harassment by neighbours, discrimination in access to public places such as restaurants and shops, and discrimination by potential employers. Low school attendance and high drop-out rates from schools as well as limited enjoyment by Roma in practice of their right to education in their mother tongue are further areas of concern that have been highlighted. ECRI further notes that society in general, but also the authorities, are reported to have limited knowledge of Roma people, their situation and the reasons for this situation. On the other hand, a long history of discrimination has contributed to making many Roma distrustful of the authorities. In its second report, ECRI recommended that the Swedish authorities further develop strategies to improve the situation of the Roma communities in Sweden. ECRI notes that since then, the DO has carried out a project on Roma that has resulted in concrete proposals for action being made to the Swedish authorities. As a result of this process, ECRI is pleased to note, *inter alia*, that the DO will be provided with targeted funds to continue its work on Roma. This work will not only focus on individual cases of discrimination, but also on structural discrimination. ECRI also understands that the National

Agency for School Improvement will be focussing specifically on advancing the position of Roma and other national minorities in education and that the Children's Ombudsman will assess the situation of Roma children in Sweden in the light of the standards contained in the Convention on the Rights of the Child. The Swedish authorities have also reported that they plan to carry out an awareness raising campaign for the general public on the situation of young Roma persons in Sweden.

### ***Recommendations:***

79. ECRI recommends that the Swedish authorities pursue and intensify steps to improve the situation of Roma in Sweden and combat and prevent racism and racial discrimination against this part of the Swedish population. ECRI draws once more the attention of the Swedish authorities to its General Policy Recommendation No. 3<sup>30</sup>, which proposes a range of legislative and policy measures which governments can take to this end. ECRI emphasises in particular its recommendation to "develop institutional arrangements to promote an active role and participation of Roma/Gypsy communities in the decision-making process, through national, regional and local consultative mechanisms, with priority placed on the idea of partnership on an equal footing".

### ***- Muslim communities***

80. In its second report, ECRI recommended that the Swedish authorities keep the situation as concerns Islamophobia under review. ECRI notes that official hate crime figures do not currently distinguish between Islamophobic hate crimes and other types of hate crimes. However, it has been reported to ECRI that, following the rise in Islamophobia in Sweden subsequent to the events of 11 September 2001, this phenomenon has not significantly decreased. Since ECRI's second report, the Swedish authorities have intensified their efforts to help young people, and particularly girls, who are at risk of honour-related violence. While ECRI welcomes the fact that efforts are made to help those persons who are at risk of this type of violence, it notes that there are consistent reports indicating that the manner in which these issues have featured in public debate and in the media have further contributed to a climate where Muslims are the targets of generalisations and stereotypes.

### ***Recommendations:***

81. ECRI recommends that the Swedish authorities take steps to effectively combat and prevent racism and discrimination towards Muslims. In this respect, it draws the attention of the Swedish authorities to its General Policy Recommendation No. 5, which proposes a range of legislative and policy measures governments can take to this end. ECRI also recommends that the Swedish authorities do their utmost to avoid that any measures taken to help persons at risk of honour-related violence result in generalisations and stereotypes concerning the members of the Muslim communities.

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<sup>30</sup> CRI (98) 29: ECRI General Policy Recommendation n° 3: Combating racism and intolerance against Roma/Gypsies, European Commission against Racism and Intolerance

- ***Jewish communities***

82. In its second report, ECRI recommended that the Swedish authorities further develop initiatives to combat antisemitism, including initiatives to raise awareness of Nazi crimes and the Holocaust. ECRI notes that since its second report, work in these areas has continued, especially through the Living History Forum<sup>31</sup>. However, the extent to which individual schools and municipalities carry out work against antisemitism is reported to vary considerably. There are also civil society organisations carrying out work in schools with pupils and teachers to equip them to combat and react to manifestations of antisemitism. Official statistics indicate that antisemitic hate crimes rose slightly in 2002 and decreased slightly in 2003. However, antisemitic propaganda, especially disseminated through the Internet is reported to have increased considerably and not to have been countered effectively by the Swedish authorities. There are also reports indicating that the political leadership has been less ready and vocal in identifying and condemning antisemitism than other forms of racism.

***Recommendations:***

83. ECRI recommends that the Swedish authorities continue and intensify their efforts to counter all manifestations of antisemitism, including through initiatives in the field of education. ECRI recommends that the Swedish authorities take steps to counter antisemitic propaganda disseminated through the Internet. More generally, ECRI draws the attention of the authorities to its General Policy Recommendation No. 9, which proposes a range of measures they can take to combat antisemitism.

- ***Sami communities***

84. In its second report, ECRI recommended that the Swedish authorities strengthen their efforts to resolve the conflicts opposing the Sami population, which is entitled to use land in connection with reindeer breeding in traditional areas, and landowners. ECRI notes that a Boundary Commission appointed in January 2002 to define the boundaries for Sami reindeer breeding rights will submit its findings in December 2004. It also notes that a Commission for Hunting and Fishing was appointed in April 2003 to clarify the scope of the Sami hunting and fishing rights and how these resources should be administered. The findings of this commission are expected in December 2005. The Swedish authorities report that they intend to submit a bill on the ratification of the ILO Convention No. 169 to Parliament once the findings of these commissions have been analysed. It has been noted that there is a need to further enhance the influence of the Sami in decisions concerning the use of natural resources, including forestry, tourism, and mining, which affect their traditional means of subsistence. Work is reportedly underway to improve involvement of the Sami in these decisions, including through the transfer of certain administrative responsibilities from the County Administrative Boards and the Board of Agriculture to the Sami Parliament.

<sup>31</sup> See Education and awareness raising

85. In its second report, ECRI recommended that knowledge among the majority population of Sweden about the Sami communities should be improved. ECRI notes that the awareness raising campaign initiated in 2000 to this end is running for its last year and that, in 2004, it focused on pupils up to 16 years of age in schools throughout Sweden. There is general agreement that this campaign was useful. The Swedish authorities point out that a survey presented in 2004 registered overall positive attitudes towards the Sami people, although it also highlighted the need for further knowledge of Sami people among the general public. In this connection, ECRI understands that the Swedish authorities will launch a national plan of action about Sami and Sami culture and that the Sami Parliament is in the process of establishing a National Information Centre for Sami Issues.
86. Noting that outside the four most Northern municipalities of Sweden, provision of mother tongue education was not always available to Sami school children, in its second report, ECRI recommended that the Swedish authorities monitor and review the provision of mother tongue education for Sami children. Reports indicate that there is still a serious shortage of teachers who can provide such teaching. The Swedish authorities report that they have funded a University programme to remedy this situation.

#### ***Recommendations:***

87. ECRI recommends that the Swedish authorities continue to work to solve the issues around Sami's land rights and that they enhance the participation and influence of the Sami in decision-making in matters concerning them generally, and particularly on land use in their traditional areas. ECRI recommends that the Swedish authorities continue work to improve the knowledge of the general public of the Sami people and their culture. It recommends that they intensify work to ensure that Sami children enjoy in practice their right to mother tongue education, particularly through teacher training.

#### ***- Immigrant women***

88. In its second report, ECRI noted that women who came to Sweden to marry Swedish citizens and were later subjected to violence and abuse by their partners were particularly vulnerable due to the fact that they were only entitled to apply for a permanent residence permit once they had lived as an established couple for two years. ECRI notes that this two-year requirement can now be waived. The Swedish authorities report that 99% of the women in violent or abusive relationships who have applied for a permit to stay in Sweden in 2003 have obtained a positive reply.

#### ***- Victims of trafficking***

89. In its second report, ECRI mentioned the continuing problem of trafficking in women for prostitution purposes. The National Criminal Investigation Department (NCID) estimates that between 400-600 women, mostly from Eastern Europe, are victims of such trafficking in Sweden each year. Legislation passed in 2002 prohibits trafficking for purposes of sexual exploitation. In July 2004, this legislation was extended to cover trafficking for forced labour, including trafficking in human beings within national borders, and removal of

organs. Traffickers are prosecuted on the basis of this legislation as well as the laws against procurement. In addition, since 1 January 1999 Sweden has legislation prohibiting the purchase of sexual services. The NCID has concluded that there is ample evidence that this law functions as a barrier against trafficking in human beings. ECRI notes that the authorities have earmarked funds for the police to combat trafficking and that investigations have reportedly been increasingly successful. It also notes that national action plans for combating trafficking for prostitution and forced labour purposes will be submitted to Parliament in 2005 and 2006. Since 1 October 2004 victims of trafficking who agree to co-operate with the authorities in criminal proceedings against those responsible, have been able to apply for a temporary residence permit. It has been noted, however, that the granting of longer term or permanent residence permits would provide more predictable perspectives and security for these victims of trafficking. It has also been reported to ECRI that the material assistance and support provided to victims of trafficking, especially as concerns shelter and rehabilitation, do not yet meet the levels of need. The Swedish authorities have reported, however, that the national action plan for combating prostitution and trafficking in human beings for purposes of sexual exploitation, especially of women and children, will have as one of its main areas of focus measures to protect and assist victims of prostitution and trafficking in human beings.

### **Recommendations:**

90. ECRI encourages the Swedish authorities in their efforts to combat trafficking in human beings. It recommends that the Swedish authorities ensure that residence permits are granted to victims of trafficking irrespective of their willingness to co-operate with the authorities. It also encourages the Swedish authorities to consider improving the access of victims of trafficking who agree to co-operate with the authorities to longer term residence permits. In addition, ECRI encourages the Swedish authorities to provide further material assistance and support to victims of trafficking, especially as concerns shelter and rehabilitation.

### **Conduct of law enforcement officials**

91. In its second report, ECRI recommended that data concerning the incidence of police misconduct towards members of ethnic minority groups be collected. As mentioned below, data on ethnic origin are not collected in Sweden in any area of policy<sup>32</sup>. The Swedish authorities have reported that no statistics are collected at present on the number of allegations of racist crimes committed by police officers, although they plan to begin gathering statistics, *inter alia*, on these allegations in 2005<sup>33</sup>. However, the Swedish authorities report that, from consultation of the annual reports of the Police Board<sup>34</sup>, it results that between 1994 and 2003, two police officers have been prosecuted for expressing themselves in an insulting and condescending manner towards persons of non-

<sup>32</sup> See Monitoring the situation in the country.

<sup>33</sup> From consultation of the annual reports from 1994 to 2003 of the Police Board, however, when a law enforcement official is prosecuted the court can ask for the opinion of the Police Board

<sup>34</sup> When a police officer is prosecuted, the court can ask the Police Board for its opinion on whether or not the police officer in question will retain his or her post should he or she be found guilty.

Swedish ethnic origin. As concerns statistics on allegations of racist or racially discriminatory conduct of the police dealt with through the disciplinary mechanisms internal to the police, the Swedish authorities report that no such allegations have been dealt with by the Police Board in the years 2001-2003.

92. In its second report, ECRI recommended that the Swedish authorities consider the establishment of an independent body entrusted with the investigation of alleged police misconduct, including acts of racism or racial discrimination. ECRI notes that in April 2003, a Parliamentary Committee considering this issue, concluded that there was no need for such an independent body. However, ECRI understands that the Swedish authorities are considering whether this question should be further examined.
93. The number of serving police officers with an immigrant background is not known. However, the Swedish authorities report that around 15% of applicants for the police academy and of new recruits to the academy are persons of immigrant background.
94. In its second report, ECRI recommended that attention be paid to the problem of misconduct of public order guards and watchmen employed by private security companies towards members of ethnic minority groups<sup>35</sup>. ECRI notes that the legal provisions regulating these professions have been the object of a review in 2003. ECRI notes that none of the proposals coming out of this review refers to racist or racially discriminatory behaviour. However, ECRI notes that it is proposed that public order guards benefit from continuous training and that any report of misconduct of these guards be dealt with as a report of misconduct of a police officer.

#### **Recommendations:**

95. ECRI recommends that the Swedish authorities establish an independent body entrusted with carrying out investigations of alleged police misconduct, including acts of racism or racial discrimination.
96. ECRI recommends that the Swedish authorities intensify their efforts to ensure that the police reflect through its officers the diversity of Swedish society.
97. ECRI recommends that further attention be paid to the problem of misconduct of public order guards and watchmen employed by private security companies towards members of ethnic minority groups.

#### **Monitoring the situation**

98. In its second report, ECRI noted that gaps existed in Sweden in the information available on the situation of various minority groups in areas such as education, employment, health and housing and suggested that the Swedish authorities consider how these gaps could be filled. ECRI notes that in Sweden data are collected, *inter alia*, on the nationality and place of birth of Swedish residents. Although this data can in certain cases shed some light on the situation of

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<sup>35</sup> Although they are not police officers, public order guards are appointed and trained by the police to carry out public order functions and are sometimes employed by security companies. Watchmen are recruited by private security companies to perform guard duties.

members of ethnic minority groups indirectly, data on national and ethnic origin are not collected. ECRI notes that there is a cautious attitude towards collection of such data in Sweden. It notes, however, that there is no outright prohibition to collect data broken down by national and ethnic origin in Swedish legislation, although, understandably, the collection of such data is made conditional on the existence of certain safeguards. ECRI considers that the absence of such data in Sweden limits the general awareness of the need to take positive measures to improve the position of certain disadvantaged groups.

### ***Recommendations:***

99. ECRI recommends to the Swedish authorities to improve their monitoring systems by collecting relevant information broken down according to categories such as religion, language, nationality and national or ethnic origin, and to ensure that this is done in all cases with due respect to the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. These systems should be elaborated in close co-operation with civil society organisations and take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

### **Racial violence and harassment**

100. In its second report, ECRI recommended that the Swedish authorities monitor the situation as regards racial violence and harassment. Official figures indicate that the number of racist, xenophobic and antisemitic crimes reported to the police in Sweden in 2003 was approximately 3600. These crimes include common offences such as murder, manslaughter and assault, but also racial agitation and discrimination. These figures indicate that in the last two years reported xenophobic offences – mainly violent offences, threats and harassment -- have decreased slightly in comparison with previous years. Antisemitic offences, which include a considerable number of offences of racial agitation, have remained fairly constant. As already noted by ECRI in its second report, although the majority of racist, xenophobic and antisemitic crimes are committed at the individual level, a considerable proportion of these crimes have links with the so-called White Power movement, which in Sweden designates right-wing extremists who use or advocate the use of violence for political aims. The proportion of White Power-related crimes, which has been constantly increasing since 1998, was about 40% of the total number of reported racist, xenophobic and antisemitic crimes in 2002 and 2003. Within these, the most common offence was racial agitation, although an increase was notable in all categories of offences, including assaults, except graffiti and discrimination. The Swedish authorities have stressed that, although these figures call for continued attention to countering racial violence and harassment and the White Power movement, they also reflect, at least in part, an increased awareness of the general public of the issues around racism, xenophobia and antisemitism and a better ability of the police to record these crimes.
101. ECRI continues to be concerned, however, at the active presence of the White Power movement in Sweden. In its second report, ECRI recommended that the Swedish authorities take measures to combat this movement and, in particular, to combat the production and distribution of hate music, which represent a considerable source of funds for these organisations. Since ECRI's second

report, however, the production and distribution of hate music and the holding of hate music concerts has reportedly continued to flourish. Non-governmental organisations report that dissemination of racist, xenophobic and antisemitic propaganda on the Internet has also dramatically increased and that none of the offences committed through the Internet are prosecuted. ECRI notes that initiatives aimed at supporting youths who wish to leave White Power organisations have continued. The Swedish authorities also report that they are considering taking a firmer approach as concerns the granting of authorisations for demonstrations and gatherings.

102. In its second report, ECRI noted that parties which had resorted to explicitly racist and xenophobic propaganda had obtained local government seats. These parties are reported to have close links with the White Power movement, which manifest themselves not only at the ideological level, but also through the participation of members of these parties in violent White Power activities. In this respect, ECRI notes with concern that, at the last municipal elections, the Swedish Democrats experienced an almost four-fold increase in the electoral support obtained in 1998 and now hold a number of seats in municipal councils.

### ***Recommendations:***

103. ECRI recommends that the Swedish authorities ensure a firm response to racial violence and harassment. ECRI reiterates in this connection the recommendations made with regard to the implementation of the existing criminal law provisions against racial agitation and racially aggravated offences. ECRI recommends in particular that the Swedish authorities ensure that racial agitation committed through the Internet is prosecuted and punished.
104. ECRI recommends that the Swedish authorities intensify their efforts to counter the White Power movement. It reiterates in this connection the recommendations made with regard to the need to prohibit racist organisations and the participation in their activities. ECRI recommends that particular efforts be devoted to countering the production and dissemination of hate music.
105. ECRI recommends that the Swedish authorities take measures to tackle the exploitation of racism and xenophobia in politics. In this respect, ECRI recommends, in accordance with its General Policy Recommendation No. 7, that the Swedish authorities consider enacting legislation to withdraw public financing from organisations that promote racism, xenophobia and antisemitism.

## **II. SPECIFIC ISSUES**

### **Integration policies and the fight against racial discrimination**

106. In its second report, ECRI considered that there was a need for Sweden to define its vision of an integrated society more clearly. ECRI also identified a need for Swedish society as a whole to better understand the various forms of racial discrimination operating within it, including indirect discrimination and structural or institutional discrimination, and to fully acknowledge the role that discrimination plays in preventing an integrated society. ECRI is pleased to note that, since its second report, discrimination has increasingly been in focus in Sweden and that integration policies have started to better reflect the

connection between integration, or lack thereof, and discrimination. ECRI notes for instance, that the Swedish authorities have set up two inquiries on discrimination at structural or institutional level<sup>36</sup>, the first with the task of analysing existing research on structural discrimination on grounds of ethnic origin and religion, and the second with the task of generating further knowledge by identifying structural discrimination in concrete areas of Swedish society. As mentioned above, the authorities have also targeted funding to awareness raising campaigns on discrimination and have provided additional resources to organisations active in the field of combating racial discrimination<sup>37</sup>. More generally, it has been reported to ECRI that, as a result of this shift in focus, discrimination is increasingly discussed in public debate and in the media. At the same time, civil society organisations have expressed concern at the risk that this increased attention to discrimination may only influence the general aims of integration policies and not impact on the actual measures to be taken to implement such policies. They have stressed that while measures targeting members of minority groups, as necessary, to equip them with the instruments to fully participate in society remain important, the enhanced focus on discrimination should be reflected in a proportionate strengthening of concrete measures aimed at the majority population.

### ***Recommendations:***

107. ECRI encourages the Swedish authorities to continue their work to generate and spread knowledge and awareness of discrimination. It recommends that the authorities provide sustained commitment to placing the fight against discrimination at the heart of efforts to promote an integrated society. In this respect, ECRI strongly recommends that the Swedish authorities ensure that the enhanced focus on discrimination is reflected in an integration policy that contains concrete measures to counter it. Such measures should include meaningful measures addressed to the majority population.
  
108. In its second report, ECRI also recommended that integration policies set clear objectives and that mechanisms be put in place to measure progress towards their achievement. ECRI notes that in 2003, the Swedish authorities established an inter-Ministerial group to elaborate tools to measure progress in the implementation of integration policies and report on such progress. ECRI notes that the Working group has broken down the general objectives of the integration policies into concrete objectives in priority areas, selected indicators to measure progress towards achievement of these objectives and identified sources of data for each indicator. Discrimination is one of the areas for which concrete objectives and indicators have been identified. ECRI notes that the sources of data which will be used to monitor progress in this area include surveys on the experience of discrimination, but also situation tests, a procedure that, in its second report, ECRI recommended be introduced in Sweden. ECRI notes that there is wide support within civil society for the use of situation tests to check the performance of institutions, including public authorities, in the field of non-discrimination. There is also support for situation

<sup>36</sup> Inquiry into structural discrimination (Dir. 2003:118) and Inquiry into Power, Integration and structural discrimination (Dir. 2004:54).

<sup>37</sup> See above, Education and awareness raising

tests to be used as a research tool, and as admissible evidence in court cases of discrimination.

109. Other areas for which objectives and indicators have been established include employment, an area that ECRI considers to be of priority importance<sup>38</sup>, and ethnic diversity in the public sector. In this respect, ECRI notes that although a number of central and local administrations have adopted diversity plans, many authorities have not adopted or implemented such plans. Even when implemented, these plans are in many cases reported not to have been effective. It has been suggested that a more determined drive from the central authorities to have diversity plans adopted and implemented throughout Sweden would be beneficial.

### ***Recommendations:***

110. ECRI encourages the Swedish authorities in their efforts to measure the impact of integration policies. In this respect, it recommends that the Swedish authorities continue and expand their use of situation tests. ECRI also reiterates in this context its recommendation on the need to collect accurate data broken down by religion, language, nationality and national or ethnic origin. ECRI recommends that the Swedish authorities ensure that relevant civil society actors, including members of minority groups, are closely involved in monitoring the implementation of integration policies.
111. ECRI recommends that the Swedish authorities intensify their efforts to have diversity plans adopted and implemented in public administrations throughout Sweden. In this respect, it reiterates its recommendation on the need to place public authorities under a statutory duty to promote equality and prevent discrimination in carrying out their functions. ECRI also recommends that the Swedish authorities consider mechanisms for linking budgetary appropriations of public authorities to the achievement of concrete equality outcomes.

### **Discrimination in employment**

112. Persons of immigrant background continue to be seriously over-represented among the unemployed population of Sweden. In its second report, ECRI noted the risk of the emergence of a society divided along largely overlapping social and ethnic lines. It appears to ECRI that this risk has not diminished. Many persons of immigrant background have expressed significant levels of frustration and discouragement linked to the difficulties in accessing the labour market and have conveyed their fear that, if not addressed with determination, this situation will be reproduced in the younger generations. ECRI considers that the employment situation of persons of immigrant background in Sweden must be addressed as a matter of priority.
113. ECRI notes that, since its second report, the Swedish authorities have continued work already underway to improve the access of persons of immigrant background to the labour market. The general approach followed in this respect is to ensure that these persons benefit from general labour market initiatives designed for persons in need of support on equal levels with other

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<sup>38</sup> See below, Discrimination in employment

parts of Swedish society. However, initiatives targeting more specifically persons of immigrant background have also been undertaken, such as workplace induction courses for immigrants with no experience of the Swedish labour market, supplementary training courses for unemployed persons with university degrees gained abroad or the establishment within the employment offices of special teams to assist immigrants. Other measures have also been taken to improve the chances of persons of immigrant background to find employment. For instance, special attention is reportedly paid to ensuring that the knowledge and competence of persons of immigrant background is recognised through existing validation mechanisms, an area addressed in ECRI's second report. Swedish language courses for immigrants have reportedly been diversified to better reflect the participants' different levels of education. However, although the situation appears to vary widely according to municipalities, there are still reports that, in practice, these courses often group together participants with very different levels of education, and do not provide the skills required to access the labour market. The research work currently undertaken on structural discrimination will hopefully also generate more knowledge and propose measures to address the lack of access of persons of immigrant background to informal networks which often lead to employment possibilities, another area highlighted by ECRI in its second report.

114. Most of these measures aim at equipping persons of immigrant background with necessary skills to enter the labour market. In its second report, however, ECRI noted that the role of discrimination in effectively keeping persons of immigrant origin away from the labour market was still largely underestimated. In spite of encouraging developments towards better awareness of discrimination across a number of fields in Sweden, which are highlighted in other parts of this report, ECRI considers that the incidence of employment discrimination is still underestimated. For instance, there are consistent reports indicating that, even when educated in Sweden and possessing adequate Swedish language skills persons of immigrant background often find it impossible to find a job corresponding to their qualifications. There are also reports indicating that persons with foreign sounding names generally are not even called for job interviews. As mentioned above, although the complaints of discrimination in working life filed with the DO have continued to increase, they are still thought to represent only a fraction of the actual number of cases of employment discrimination<sup>39</sup>.
115. ECRI considers that, in order to step up progress in improving the position of persons of immigrant background on the labour market, a strong focus on discrimination is required. Such an approach should be coupled with efforts to secure employment for increasing numbers of persons of immigrant background through positive measures and adequately implemented measures to ensure that employers take up ethnic diversity and non-discrimination issues in their daily practice. ECRI notes that there is already work underway in all these fields. For instance, the Parliamentary Committee which was established to examine the entire field of antidiscrimination legislation<sup>40</sup> is examining the issue of positive labour market measures to promote equality of persons irrespective of racial and ethnic origin. ECRI also notes that the Act on Measures to Combat Ethnic Discrimination in the workplace already requires employers to carry out activities to promote ethnic diversity and combat

<sup>39</sup> See above, Civil and administrative law provisions

<sup>40</sup> See above, Civil and administrative law provisions.

discrimination. However, ECRI notes that the DO, which is responsible for monitoring the implementation of these obligations, has so far found it difficult to do so. In this connection, ECRI notes reports that most employers, including many trade unions, do not have or do not implement action plans for ethnic diversity and against discrimination. ECRI is pleased to note the progress made towards the use of non-discrimination clauses in public procurement. It notes, in particular, that funds have been made available to the National Board for Public Procurement in order to spread awareness about the incorporation of anti-discrimination clauses into procurement agreements. The Swedish authorities report that they are aware of the need to monitor progress achieved through the measures undertaken to improve the position of persons of immigrant background on the labour market. To this end, they have included employment among those areas of integration policies for which they have set objectives, indicators and sources of data<sup>41</sup>.

116. The fundamental role played by trade unions in Sweden in the elaboration of labour market policies has been repeatedly highlighted. It has been reported to ECRI, however, that trade unions are not always sensitive to problems of racial discrimination and to the need to promote equal opportunities irrespective of racial or ethnic origin and an ethnic diversity in the workplace. In this respect, it has been pointed out that the fact that a considerable proportion of persons of immigrant background are unemployed and therefore not affiliated with any trade union negatively affects the chances of these issues being given the importance they deserve by trade unions.

#### ***Recommendations:***

117. ECRI strongly recommends that the Swedish authorities devote priority attention to improving the position of persons of immigrant background in the labour market. To this end, it recommends that strong focus be put on discrimination and that continued attention be paid to initiatives to better equip, where necessary, these persons with the necessary skills to access the Swedish labour market.
118. ECRI reiterates its recommendation that legislation allow for positive measures and recommends that the Swedish authorities consider taking such measures in the employment field. ECRI also recommends that the Swedish authorities take measures to ensure that employers and trade unions take an active role in the promotion of ethnic diversity and in combating discrimination in their daily practice. In this respect, ECRI recommends that the Swedish authorities ensure resources and co-ordination to monitor the implementation of the duty of employers to adopt and implement ethnic diversity plans. It also recommends the incorporation of anti-discrimination clauses into public procurement agreements.

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<sup>41</sup> Integration policies and the fight against racial discrimination

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