

25 Years of the European Commission against Racism and Intolerance: Impact in the Field of Equality



Timothy Jacob-Owens

25
1994 - 2019

European Commission
against Racism and Intolerance

ECRI

Commission européenne
contre le racisme et l'intolérance

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1949 . 2019

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Timothy Jacob-Owens

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Introduction

1. At the Vienna summit of October 1993, the heads of state and government of the Council of Europe expressed concern regarding the 'resurgence of racism, xenophobia and antisemitism, the development of a climate of intolerance, the increase in acts of violence [...] and the degrading treatment and discriminatory practices accompanying them'.¹ The member states thus decided to establish the European Commission against Racism and Intolerance (ECRI), an independent body 'entrusted with the task of combating racism, racial discrimination, xenophobia, antisemitism and intolerance in greater Europe'.² Since then, ECRI's work has progressively developed to incorporate a range of issues relating more generally to the promotion of equality, including the rights of LGBT persons and the integration of migrants and refugees. ECRI's first plenary session took place in March 1994. The occasion of ECRI's 25th anniversary in 2019 offers an opportunity to evaluate the progress made in the promotion of equality and the fight against racism and intolerance in Europe, with a particular focus on ECRI's contribution.

2. Over the past 25 years, ECRI has structured its work around three main pillars: country monitoring, standard setting, and relations with civil society and equality bodies. In the course of its five-year monitoring cycles, ECRI examines the situation concerning manifestations of racism and intolerance in each Council of Europe member state and publishes its findings and recommendations in reports drawn up after a contact visit to the country concerned. Part of ECRI's 'added value' lies in this approach to reporting based on country visits. Five monitoring cycles have now been completed; the 6th began in 2019. Drawing on its country monitoring work, ECRI elaborates General Policy Recommendations (GPRs) addressed to the governments of all member states, which provide guidelines for policy-makers in a variety of fields relevant to its mandate. 16 GPRs have been published to date. Finally, ECRI engages in dialogue with governments, equality bodies, and civil society organisations through, inter alia, national roundtables and media work. In this way, ECRI acts as an intermediary between the Council of Europe and its member states.

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1. Council of Europe Summit, Vienna Declaration (9 October 1993), Appendix III: Declaration and Plan of Action on Combating Racism, Xenophobia, Antisemitism and Intolerance.
 2. Council of Europe Committee of Ministers, Resolution Res(2002)8 on the statute of the European Commission against Racism and Intolerance (Adopted by the Committee of Ministers on 13 June 2002 at the 799th meeting of the Ministers' Deputies): Article 1.

3. The present report examines impact in the field of equality and the fight against racism and intolerance from 1994 to 2019, with a particular focus on the work of ECRI. For the purposes of this report, 'impact' is understood as an effect or outcome produced, directly or indirectly, by some form of intervention or activity.³ It must be emphasised from the outset that the promotion of equality and the fight against racism and intolerance in Europe have been a common endeavour pursued by ECRI, the governments of the Council of Europe member states, and many other key national and international actors. The scope for identifying individual impact in this context is therefore limited. The present report simply attempts to highlight a number of important joint achievements and suggest some ways in which ECRI has played a role in these developments.

3. Definition adapted from Office of the United Nations High Commissioner for Human Rights (OHCHR) (2012), *Human Rights Indicators: A Guide to Measurement and Implementation* (New York/Geneva: United Nations) p. 111.

Methodology

4. The present report measures impact using a set of indicators. The development of human rights indicators is a notoriously complex issue. Three categories of indicator have traditionally been used: input, output, and impact indicators.⁴ Input indicators measure the financial, human and other resources available for a given human rights activity.⁵ Output indicators measure the products and services developed as part of such activities.⁶ Finally, impact indicators measure their outcome(s) or effect(s).⁷ Impact can be measured at the individual, institutional, and/or societal levels. For practical reasons, when conducting a human rights impact assessment, it is advisable to develop a small set of meaningful indicators, for which data can realistically be collected.⁸ These indicators must be linked to the main tasks and goals of the human rights activity in question.

5. A set of input and output indicators measuring ECRI's activity is used in the Council of Europe annual budget procedure.⁹ In order to further refine this picture, the present report draws on a set of impact indicators. There is currently no ready-to-use impact assessment template for monitoring bodies like ECRI. Impact indicators in the field of equality and non-discrimination have been developed by OHCHR and Equinet, but these are primarily intended to measure the performance of member states and national equality bodies respectively.¹⁰ Nonetheless, both approaches are important sources of inspiration. Further inspiration was taken from a series of comparative case studies on the effectiveness of the OSCE High Commissioner on National Minorities.¹¹

6. The development of a set of impact indicators for ECRI raises a number of methodological challenges, in particular the issue of establishing a causal link between ECRI's actions and change at the national level. This issue results partly from the fact that, as noted above, there are many other actors working in the same field both at the national and international level, such as national equality bodies, the EU, UN, and OSCE. The scope for isolating ECRI's individual impact is therefore limited. Where indicators cannot establish a causal link between ECRI's activities and change at the

4. See Niall Crowley (2013), *Processes and Indicators for Measuring the Impact of Equality Bodies* (Brussels: Equinet) p. 4.

5. OHCHR (2012) p. 110.

6. *Ibid.*

7. *Ibid.* p. 111.

8. See Crowley (2013).

9. Council of Europe (CoE) (2018), *Council of Europe Programme and Budget 2018-2019*, p. 38. The input indicators include the human and financial resources available to ECRI. The output indicators include the number of countries examined, number of General Policy Recommendations drafted, number of roundtables and other events organised, number of specialised bodies participating in the annual seminar, the number of capacity building activities delivered, and the number of legislative changes or policy developments made in consultation with ECRI.

10. UN OHCHR (2012) p. 100 and Crowley (2013).

11. Wolfgang Zellner, Randolph Oberschmidt, Claus Neukirch and Katri Tuulia Kemppainen (eds) (2003), *Comparative Case Studies on the Effectiveness of the OSCE High Commissioner on National Minorities* (Hamburg: Centre for OSCE Research).

national level, they may nonetheless be useful for clarifying the progress made as a result of the joint efforts of all actors involved.

7. In addition, while its ultimate goal is to improve the lives of victims of racism and intolerance, ECRI's working methods (see § 2) are such that its impact on these individuals is through intermediaries, such as the governments of member states, national equality bodies, and civil society organisations.¹² The present report therefore focuses primarily on measuring ECRI's direct impact at the institutional level, rather than its indirect impact on individuals.

8. In light of these considerations, the following impact indicators were selected: implementation of recommendations; legislative changes at national level; establishment of national equality bodies; citations in international human rights case law; citations in scholarly literature and by international actors; and media coverage.

9. Data collection for these indicators drew primarily on desk-based research using ECRI's own reports and documents, as well as online databases to access national and international case law and legislation. In addition, a stakeholder consultation including the permanent representations (i.e. embassies) to the Council of Europe, national liaison officers, national equality bodies, and civil society organisations was conducted.¹³ The research on media coverage also included an interview with a representative of the Council of Europe's Directorate of Communications.

12. See CoE Directorate of Internal Oversight (2012), Final Report: Evaluation of the European Commission against Racism and Intolerance – ECRI, Evaluation(2012)5, p. 18.

13. The stakeholder consultation took the form of an online survey sent to all 47 permanent representations and national liaison officers, equality bodies in 46 member states, and a selection of international and national civil society organisations. Responses were received from 9 permanent representations, 7 national liaison officers, 27 equality bodies, and 15 civil society organisations.

Data Analysis

Implementation of Recommendations

10. The implementation of recommendations is perhaps the clearest indicator of ECRI's impact at the national level. At the same time, it must be noted that implementation is subject to a wide range of factors, many of which lie outside ECRI's control. These include, inter alia, the priorities of the governments of member states, political and economic developments, and the level of civil society engagement at the national level. If it were to rely too heavily on implementation of recommendations as a measure of success, ECRI might be tempted to select 'easier' recommendations. On the basis that a full survey of all recommendations made in all of ECRI's reports would have been too resource intensive, data collection on implementation of recommendations focused on the interim follow-up (IFU) procedure. Under this procedure, ECRI selects two or three 'priority' recommendations for each member state and, in dialogue with the government of the state concerned, reviews their implementation after a period of no more than two years.¹⁴

11. ECRI has so far reviewed a total of 184 IFU recommendations in the 4th and 5th monitoring cycles.¹⁵ 140 (76%) of these have been either fully or partially implemented. A greater proportion of the 4th cycle IFU recommendations have been implemented so far (see figure 1). This is likely due, at least in part, to the fact that there has been more time for implementation to take place. In addition, while the 4th cycle IFU recommendations tended to focus on legislation, the 5th cycle IFU recommendations generally addressed policy and legal practice and might thus arguably be seen to be more challenging to implement.¹⁶

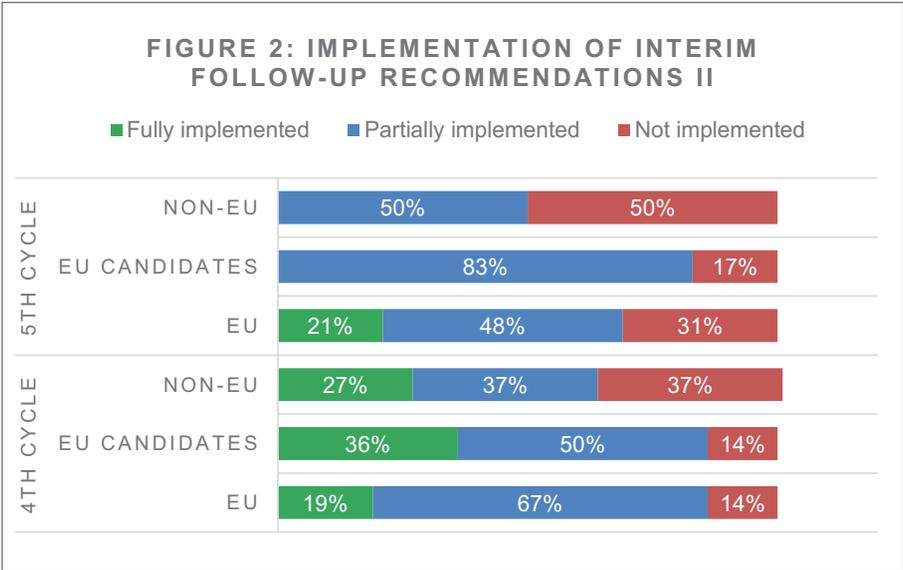
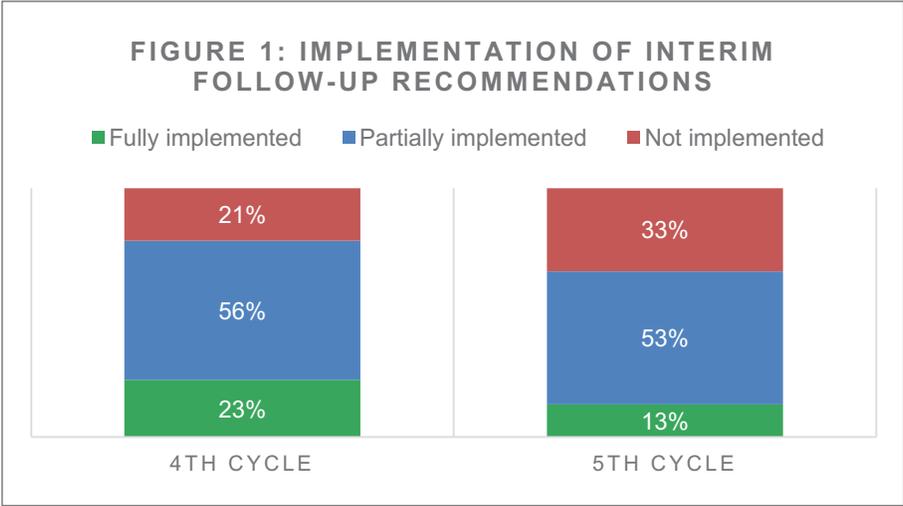
12. Implementation of IFU recommendations has varied between EU member states, EU candidate states,¹⁷ and non-EU states (see figure 2). In the 4th monitoring cycle, 86% of ECRI's IFU recommendations were partially or fully implemented by both EU member states and EU candidate states, while the equivalent figure for non-EU states was 64%. In the 5th monitoring cycle, the proportion of fully implemented recommendations increased slightly among EU member states, while the proportion of non-implemented recommendations increased across all three categories.

14. See CoE Committee of Ministers (2007), European Commission against Racism and Intolerance (ECRI) – Abridged report of the 41st meeting (Strasbourg, 12-15 December 2006), CM/Del/Dec(2007)986/4.1.

15. The interim follow-up procedure was introduced for the first time in the 4th monitoring cycle. Hence data are only available for the 4th and 5th cycles.

16. It should also be noted that not all data for the 5th cycle are available yet.

17. Albania, Montenegro, North Macedonia, Serbia, and Turkey.



13. 94% of respondents to the stakeholder consultation considered that the IFU procedure had had an impact in their country, with 53% stating that this impact had been considerable. Fully implemented IFU recommendations include the adoption in 2013 of a new Migration Code in Azerbaijan, which provides for administrative and judicial remedies.¹⁸ Following ECRI’s recommendation to introduce training on racist and homo-/transphobic hate crime for law enforcement officials, the Hellenic Police, National Security School, and National School of Judges in Greece began to include courses on racism and hate crime in their curricula.¹⁹ In line with another of

18. ECRI (2014), Conclusions on the Implementation of the Recommendations in Respect of Azerbaijan Subject to Interim Follow-up, CRI(2014)20 p. 6.

19. ECRI (2018), Conclusions on the Implementation of the Recommendations in Respect of Greece Subject to Interim Follow-up, CRI(2018)4 pp. 5-6.

ECRI's IFU recommendations, legal changes were made to allow children, pregnant women, and persons with acute medical conditions residing in Sweden without the necessary permits to access free healthcare.²⁰ Finally, ECRI recently considered that France had fully implemented its IFU recommendation to revise school curricula and teacher training programmes to better incorporate issues relating to religion and immigration.²¹

14. Changes made in the context of partially implemented IFU recommendations include the establishment of new transit sites and funding to improve facilities for Travellers in Belgium.²² In partial fulfilment of another of ECRI's IFU recommendations, the Federal Anti-Discrimination Agency in Germany ran a general anti-discrimination awareness-raising campaign highlighting the importance of equality and diversity in schools and other public places.²³ Finally, in line with part of one of ECRI's IFU recommendations, a system for recording statistics on racially motivated criminal offences was introduced in Moldova.²⁴

15. Significant developments in line with ECRI's recommendations have also occurred outside the IFU procedure. For instance, in the 4th monitoring cycle ECRI recommended that the Russian authorities finalise their national Roma Action Plan and was subsequently pleased to note that the plan had been adopted.²⁵ In its 2014 report on Germany, ECRI welcomed the adoption of action plans to combat homo- and transphobia in several *Länder* and recommended that the others follow suit.²⁶ 15 out of the 16 *Länder* have now adopted action plans in this field. In line with ECRI's recommendations, the Turkish authorities enacted the country's first ever anti-discrimination legislation and established a national equality body in 2016.²⁷ Finally, in its fifth report on the UK, ECRI expressed concerns regarding the impact of recently introduced fees on the number of discrimination cases brought before employment tribunals.²⁸ The UK Supreme Court subsequently ruled that the fees were unlawful and they were then abolished with immediate effect.²⁹

Legislative changes

16. 52% of respondents to the stakeholder consultation mentioned changes in national legislation as one of the most important achievements in the promotion of

20. ECRI (2015), Conclusions on the Implementation of the Recommendations in Respect of Sweden Subject to Interim Follow-up, CRI(2015)24 p. 5.

21. ECRI (2019), Conclusions on the Implementation of the Recommendations in Respect of France Subject to Interim Follow-up, CRI(2019)3 p. 5.

22. ECRI (2012), Conclusions on the Implementation of the Recommendations in Respect of Belgium Subject to Interim Follow-up, CRI(2012)26 pp. 6-7.

23. ECRI (2012), Conclusions on the Implementation of the Recommendations in Respect of Germany Subject to Interim Follow-up, CRI(2012)28 p. 5.

24. ECRI (2016), Conclusions on the Implementation of the Recommendations in Respect of the Republic Moldova Subject to Interim Follow-up, CRI(2016)23 p. 5.

25. ECRI (2013), Report on the Russian Federation (Fourth Monitoring Cycle), CRI(2013)40 § 127; ECRI (2019), Report on the Russian Federation (Fifth Monitoring Cycle), CRI(2019)2 § 71.

26. ECRI (2014), Report on Germany (Fifth Monitoring Cycle), CRI(2014)2 § 109-110.

27. ECRI (2016), Report on Turkey (Fifth Monitoring Cycle), CRI(2016)37 § 13.

28. ECRI (2016), Report on the United Kingdom (Fifth Monitoring Cycle), CRI(2016)38 § 122-123.

29. *R (UNISON) v Lord Chancellor* [2017] UKSC 51.

FIGURE 3: LEGISLATIVE CHANGES (1996-2018)

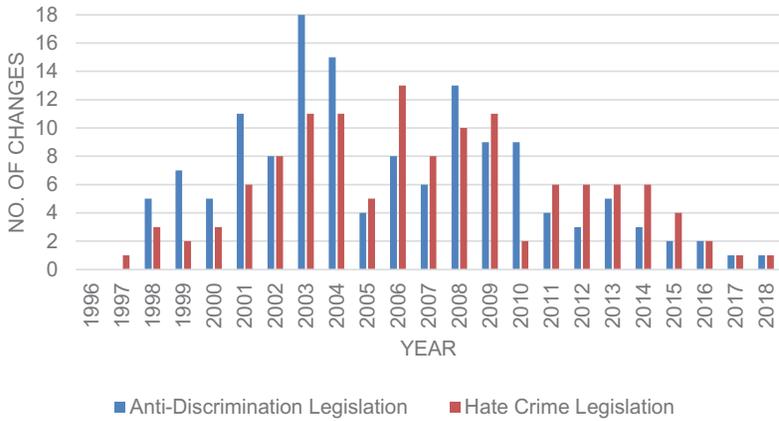


FIGURE 4: LEGISLATIVE CHANGES (1996-2018): ANTI-DISCRIMINATION LEGISLATION I

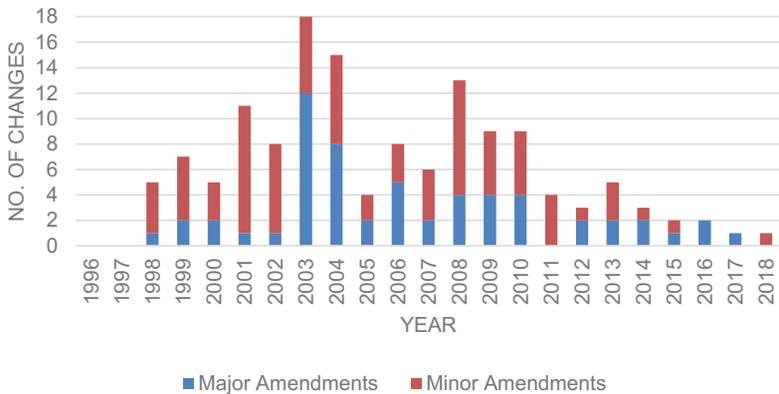
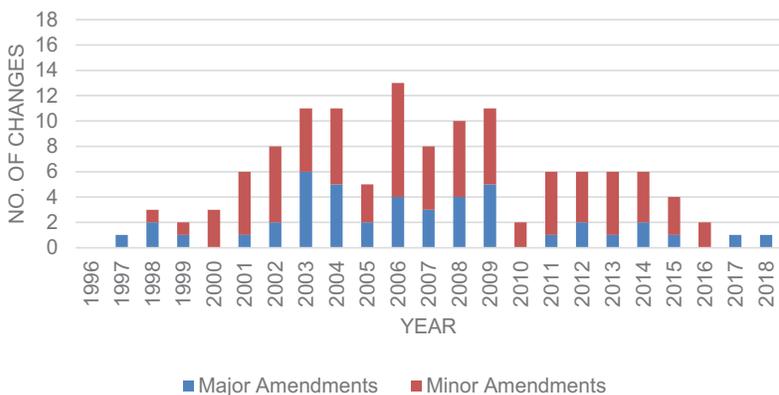


FIGURE 5: LEGISLATIVE CHANGES (1996-2018): HATE CRIME LEGISLATION I



equality and the fight against racism and intolerance over the past 25 years. Legislative change at the national level is also an important indicator of institutional progress closely related to ECRI's mandate and working methods. Data were collected on the two main fields of law covered by ECRI's GPR No. 7 on national legislation to combat racism and racial discrimination, namely anti-discrimination and hate crime. Anti-discrimination legislation provides protection and avenues for redress for victims of discrimination in key areas such as employment, education, and housing. Hate crime legislation serves to ensure justice for victims of racist and homo-/transphobic offences, such as acts of violence or public incitement to hatred.

17. A survey of all of ECRI's country reports to date identified a total of 265 legislative changes at national level, 139 in the field of anti-discrimination and 126 in the field of hate crime legislation.³⁰ The chronological distribution of the changes in these two legislative fields bear quite striking similarities, with a notable peak in both fields in the early 2000s (see figure 3). In the field of anti-discrimination, legislative changes were made in 43 out of the 47 member states. Of these, 37 made at least one major amendment, while six made at least one minor amendment.³¹ Overall, 58 major amendments and 81 minor amendments were implemented (see figure 4). In the field of hate crime legislation, changes were made in 41 of the 47 member states. Of these, 32 made at least one major amendment, while nine made at least one minor amendment.³² Overall, 45 major amendments and 81 minor amendments were implemented (see figure 5).

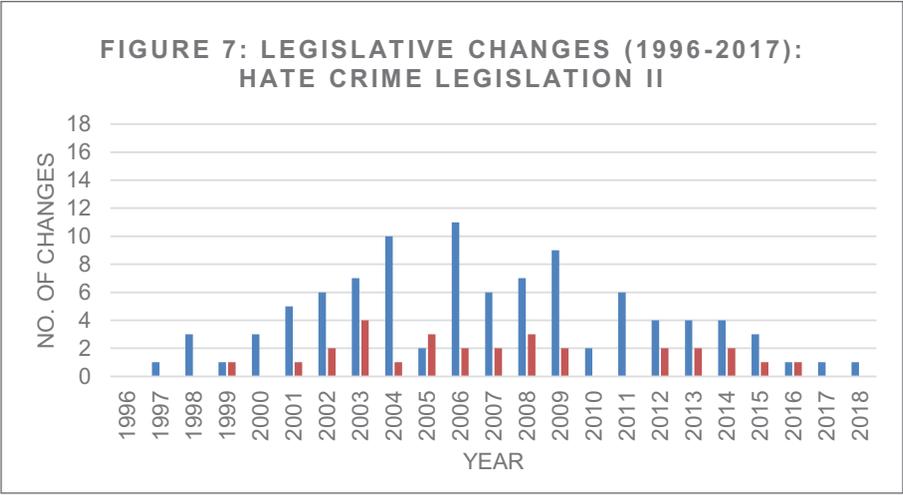
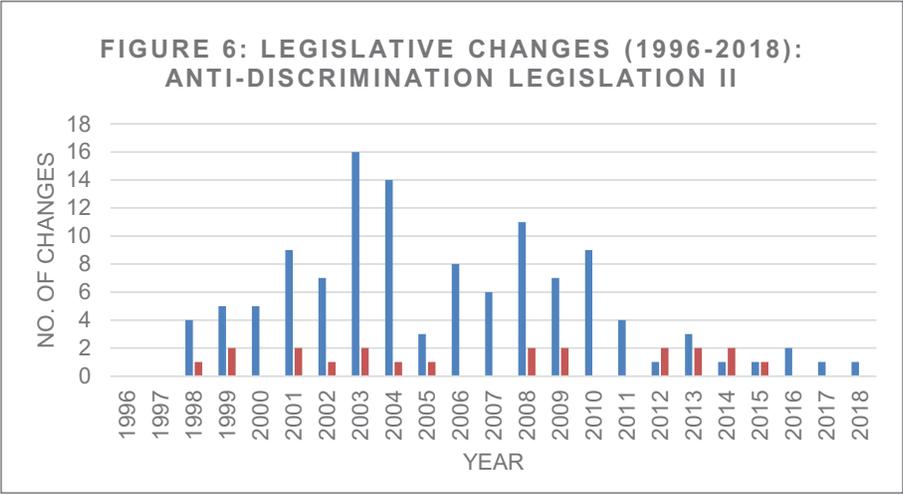
18. 96% of respondents to the stakeholder consultation considered that ECRI's reports, GPRs and other activities had led to or influenced national legislative change, with 48% stating that these had contributed 'considerably' or 'to a large extent'. In some instances, governments have expressly stated that ECRI's recommendations have been taken into account in legislative reforms.³³ In other cases, national and regional authorities have also actively sought ECRI's advice when drafting new legislation. States which have consulted ECRI in this manner include Albania, Andorra, Georgia, Germany, Malta, Morocco, and Ukraine. More generally, ECRI may be considered to have contributed to a broader move to strengthen anti-discrimination and hate crime legislation across Europe through its GPR No. 7 on national legislation to combat racism and racial discrimination (published in 2002), as well as recommendations in this area made to all member states since its 1st monitoring cycle.

30. Legislative changes have only been counted in a given country after the adoption of ECRI's first report on the country in question. Given that not all of ECRI's 5th cycle reports have yet been published, the data for at least 2015-2018 are likely to be incomplete.

31. For the purposes of this study, a «major amendment» is defined as the introduction of new comprehensive anti-discrimination legislation or substantial revision (4+ provisions) of existing legislation. A «minor amendment» is defined as the introduction or revision of between 1 and 3 relevant provisions.

32. For the purposes of this study, a «major amendment» is defined as the introduction or revision of substantial parts (4+ provisions) of the relevant criminal law. Given its substantive and symbolic importance, the introduction of racist motivation as an aggravating circumstance (ECRI GPR No. 7 § 21) is taken to be a «major amendment» in its own right. A «minor amendment» is defined as the introduction or revision of between 1 and 3 relevant provisions.

33. See, for example, ECRI (2008), Third Report on San Marino, CRI(2008)24 § 19 and ECRI (2011), Report on Monaco (Fourth Monitoring Cycle), CRI(2011)3 § 41.



19. In the field of anti-discrimination law, other key developments at the supranational level include the introduction of the EU Racial Equality Directive (2000/43/EC) and Employment Equality Directive (2000/78/EC) in 2000. As figure 6 shows, the majority of amendments to anti-discrimination legislation were made by EU member states in the early 2000s. Subsequent changes may also have occurred in the context of the EU accession process. In the field of hate crime legislation, other key developments at the supranational level include the widely ratified 2003 Additional Protocol to the Council of Europe Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems and the 2008 EU Council Framework Decision (2008/913/JHA) on combating racism and xenophobia by means of criminal law. As in the field of anti-discrimination, a majority of the changes to hate crime legislation were made by EU member states (see figure 7), though most of these were introduced before the 2008 Framework Decision.

National Equality Bodies

20. The establishment of national equality bodies is a further key indicator of institutional progress closely related to ECRI's mandate. While their precise structure and mandate varies between states, national equality bodies are generally independent organisations tasked with promoting equality and combating racism and intolerance. Their activities often include assisting victims of discrimination, conducting and publishing research, running awareness-raising campaigns, and recommending changes to domestic law and policy. Notable recent actions taken by national equality bodies include the investigation opened in May 2019 by the UK Equality and Human Rights Commission into allegations of antisemitism in the British Labour Party.³⁴ In 2018, the French Défenseur des Droits handled 5,631 complaints of discrimination in areas including employment, education, public services, and housing, 32% of which concerned grounds relevant to ECRI's mandate, namely racial or ethnic origin, nationality, religion, sexual orientation, and gender identity.³⁵ In 2014, Romania's National Council for Combating Discrimination fined the country's president for anti-Gypsist hate speech.³⁶

21. At least one equality body has been established in 46 out of the 47 Council of Europe member states. Some member states have created several equality bodies, not only at national level but also at regional and/or local level. As figure 8 shows, the establishment of equality bodies across the member states has largely been a phenomenon of the last 25 to 30 years, with a particular peak in the early 2000s.³⁷

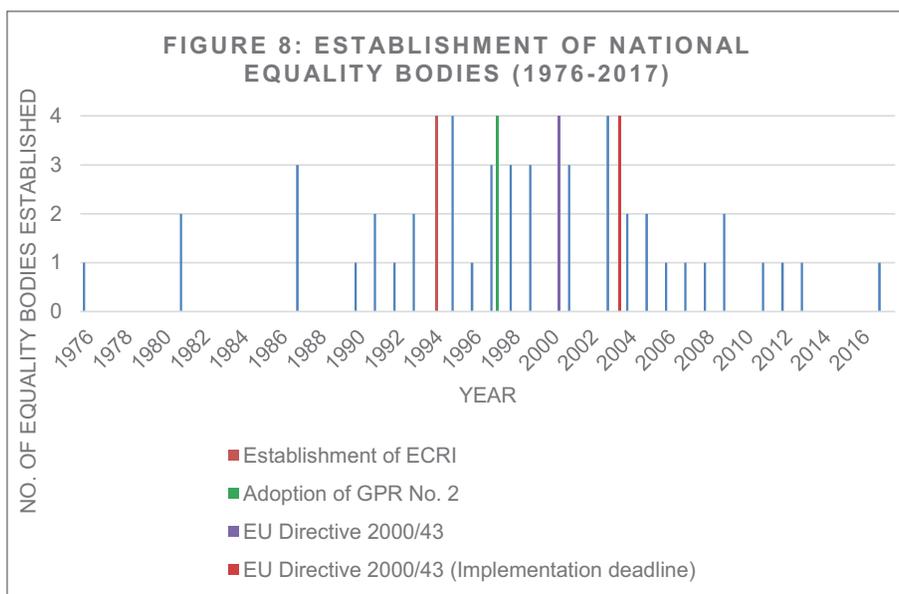
22. 88% of respondents to the stakeholder consultation considered that ECRI's reports, GPRs and other activities had led to or influenced the establishment or strengthening of national equality bodies, with 62% stating that these had contributed 'considerably' or 'to a large extent'. A number of equality bodies also expressly stated that they rely on ECRI's reports and GPRs in their work at the national level. In some cases, ECRI has been actively consulted on legislation establishing national equality bodies, including by Andorra, Georgia, Malta, and Ukraine. More generally, ECRI may be considered to have contributed to a broader move to establish and strengthen national equality bodies across Europe through its GPR No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level (published in 1997), as well as recommendations in this area made to all member states since its 1st monitoring cycle.

34. Equality and Human Rights Commission (2019), 'Investigation Opened into The Labour Party Following Complaints About Antisemitism' (Press release, 28 May 2019), available at: <https://www.equalityhumanrights.com/en/our-work/news/investigation-opened-labour-party-following-complaints-about-antisemitism>

35. Défenseur des droits (2018), Rapport annuel d'activité (Paris: Défenseur des droits) p. 43.

36. European Network Against Racism (2014), 'Romanian President Sentenced: Hate Speech IS a Crime!' (Press release, 14 February 2014), available at: <https://www.enar-eu.org/Romanian-President-sentenced-Hate-speech-IS-a-crime>.

37. Figure 8 only records the first time a national equality body relevant to ECRI's mandate was established in each Member State or where the mandate of an existing national body was expanded to include racial equality for the first time. Where a new equality body has been established, the year given corresponds to the year of the relevant enabling legislation. Where the mandate of a previously existent body has been expanded to include racial equality, the year given is the year the mandate was legally changed.



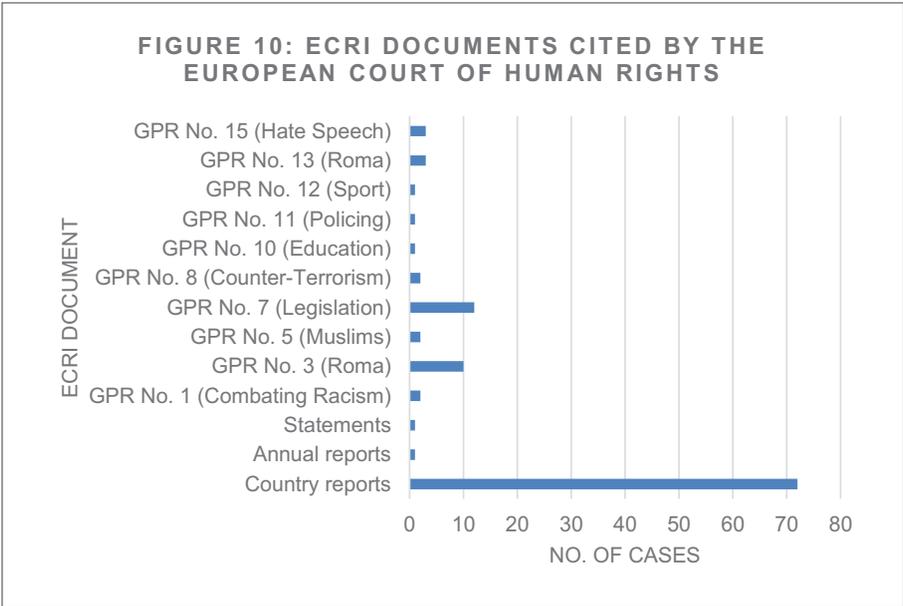
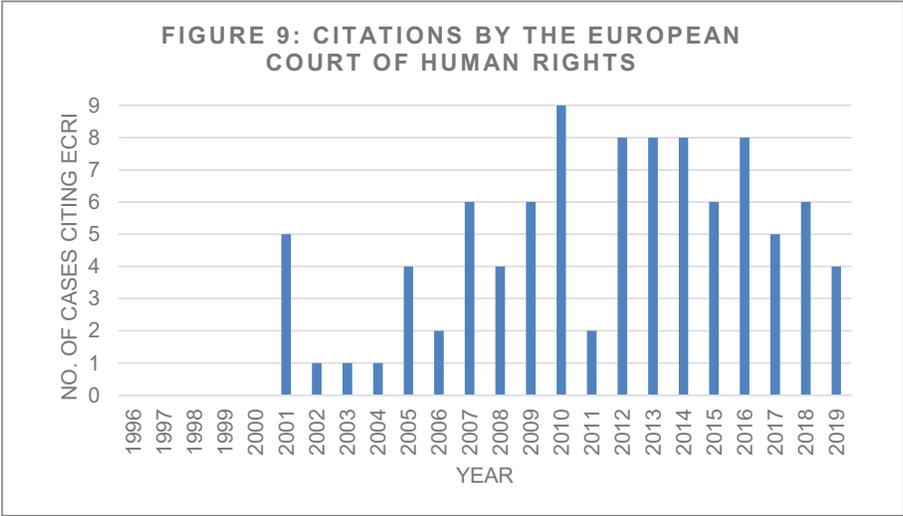
23. Another important stimulus in the context of EU member states was the Racial Equality Directive (2000/43/EC), which created a binding legal obligation upon EU member states to establish equality bodies in the field of racial equality. As figure 8 shows, 7 equality bodies were established between the introduction of this directive in 2000 and the implementation deadline in 2003. The subsequent establishment of equality bodies in other states may also have occurred in the context of the EU accession process.

Case Law

24. The citation of ECRI’s GPRs and reports in international human rights case law is an indicator of ECRI’s value both for victims seeking redress for human rights violations and for adjudicatory bodies handling cases in relevant fields. 59% of respondents to the stakeholder consultation considered that ECRI’s reports, GPRs and other activities had led to or influenced strategic litigation. In order to explore ECRI’s role in international human rights litigation, data on citations of ECRI’s publications were gathered from the jurisprudence of the European Court of Human Rights (ECtHR), the European Social Committee, and the quasi-judicial bodies established under the UN human rights treaties.

25. ECRI has been cited in a total of 94 cases before the ECtHR.³⁸ These cases concern a wide range of issues, including the right to life, prohibition of torture, the right to respect for private and family life, freedom of expression, prohibition of discrimination, and the right to education. In 72 (77%) of the 94 cases, one or more violations

38. Based on a search of the HUDOC-ECHR database available at: www.hudoc.echr.coe.int, last accessed 6 June 2019.



were found. ECRI has most frequently been cited by the Court itself (74 cases) but has also been cited by individual applicants (6 cases) and respondent governments (5 cases), as well as in 25 separate opinions. ECRI’s country reports and GPRs have also been cited in third-party interventions before the ECtHR.³⁹ The Court began to cite ECRI in 2001, since when it has been cited between 1 and 9 times per year (see figure 9). As figure 10 shows, the most widely cited of ECRI’s outputs are its country monitoring reports (in 72 cases), followed by its GPR No. 7 on national legislation (12 cases) and GPR No. 3 on Roma (10 cases).

39. See e.g. *Lingurar v Romania* Application no. 48474/14 (ECtHR, 16 April 2019) § 63.

26. Notable examples of ECRI's involvement in successful litigation before the ECtHR include the landmark *D.H. and others v. the Czech Republic* grand chamber judgement concerning discrimination against Roma children in schools, in which ECRI's country monitoring reports and GPRs No. 3 and 7 were relied on by both the applicants and in the Court's reasoning.⁴⁰ The Court not only awarded financial compensation to the individual victims, but also called on the respondent state to adopt measures to address the broader structural discrimination faced by Roma children in the education system. Other examples include the case of *Nachova and others v. Bulgaria*, in which the Court found that the respondent state's failure to properly investigate the possible racist motives for the shooting of two Roma men by members of the military police violated the European Convention on Human Rights. In reaching this conclusion, the Court drew on ECRI's country monitoring reports, which provided evidence of racially motivated police violence, particularly against Roma, in many member states.⁴¹

27. ECRI has also been cited in eight collective complaints before the European Social Committee.⁴² In all eight cases, ECRI's reports were cited by the Committee itself and in one of these cases ECRI was also cited by the complainant organisation. At the UN level, ECRI's reports have been cited by individual complainants in four cases before the Human Rights Committee (HRC), four cases before the Committee on the Elimination of Racial Discrimination (CERD) and one case before the Committee against Torture (CAT). In another case, the CAT itself cited one of ECRI's reports.⁴³

Other Citations

28. 97% of respondents to the stakeholder consultation considered ECRI to be an authoritative voice in the fight against racism and intolerance. The extent to which ECRI is considered an authoritative voice can also be measured through citations in academic literature and by relevant international actors. ECRI has been cited in approximately 3,500 English-language academic publications and approximately 300 French-language academic publications indexed by Google Scholar.⁴⁴ ECRI's reports and GPRs have been cited in 143 reports and statements of the Council of Europe Commissioner for Human Rights and 142 Conclusions of the European Social Committee.⁴⁵ ECRI's reports have also been frequently cited by the Advisory Committee on the Framework Convention for the Protection of National Minorities

40. *D.H. and others v the Czech Republic* Application no. 57325/00 (ECtHR, 13 November 2007), §§ 42, 47, 59-65, 131, 134, 184, 192, 200 and 205.

41. *Nachova and others v Bulgaria* Application nos. 43577/98 and 43579/98 (ECtHR, 6 July 2005) §§ 55-58.

42. Based on a search of the HUDOC-ESC database available at: www.hudoc.esc.cot.int, last accessed 6 June 2019.

43. Based on a search of the OHCHR jurisprudence database available at: www.juris.ohchr.org, last accessed 6 June 2019.

44. Based on a search of «European Commission against Racism and Intolerance» on www.scholar.google.com and «Commission européenne contre le racisme et l'intolérance» on www.scholar.google.fr, both accessed 6 June 2019.

45. Based on searches in the document database of the Council of Europe Commissioner for Human Rights available at: www.search.coe.int/commissioner and the HUDOC-ESC database available at: www.hudoc.esc.cot.int, both accessed 6 June 2019.

and the Committee of Experts on the European Charter for Regional or Minority Languages. ECRI's work has been referenced in 64 articles published by Equinet and 42 publications of the European Union Fundamental Rights Agency.⁴⁶ At the UN level, ECRI's reports have been cited within the Universal Periodic Review procedure and in the reports and concluding observations of the Independent Expert on Minority Issues, CERD, CAT, and the Committee on the Rights of the Child.⁴⁷

Media Coverage

29. Media coverage of ECRI's activities may be understood as a form of impact in terms of 'visibility'. Alongside the 3 main pillars of its work (see § 2), ECRI has invested resources in media work in order to improve its impact through this channel. In a 2012 internal evaluation of ECRI's work, media attention was identified by survey respondents as the joint most important factor supporting the implementation of recommendations.⁴⁸ In the context of the present report, 61% of respondents to the stakeholder consultation considered that ECRI is only slightly visible in public debates and media coverage in their country. 20% stated that ECRI is not visible at all, while the same proportion stated that ECRI is visible to a considerable or large extent.

30. Nonetheless, the data on ECRI's press coverage indicate a broadly positive trend: the number of press articles citing ECRI has increased from 133 in 2003 to 381 in 2018, peaking at 500 in 2017 (see figure 11).⁴⁹ According to an interview conducted with a representative of the Council of Europe's Directorate of Communications (DC), media coverage of ECRI's activities has been a 'success story' in the Council of Europe context.⁵⁰

31. As figure 12 shows, there is considerable variation in the level of media attention generated by ECRI's different outputs and activities.⁵¹ Country monitoring reports have the greatest media impact, with an average of 29 media outputs generated per report. These are followed by the annual reports (22 media outputs) and GPRs (16 media outputs). This pattern was confirmed by the DC representative.

32. There is also wide variation in the level of media coverage generated by individual country monitoring reports. For instance, ECRI's 5th report on Malta generated just 4 media outputs, while the 5th report on the UK generated 111. According to the DC representative, country reports are primarily of interest to media actors in the country concerned, as well as in neighbouring countries. The level of media coverage generated by a given country report is therefore partly dependent on the relative size and location of the country concerned. The DC representative stated that other

46. Based on searches on the Equinet website available at: www.equineteurope.org and on the EU FRA website available at: www.fra.europa.eu, both accessed 6 June 2019.

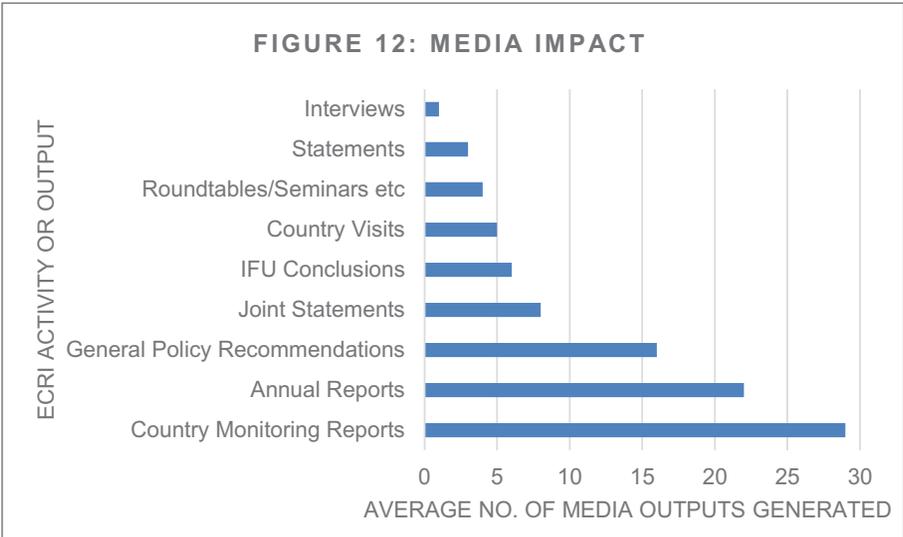
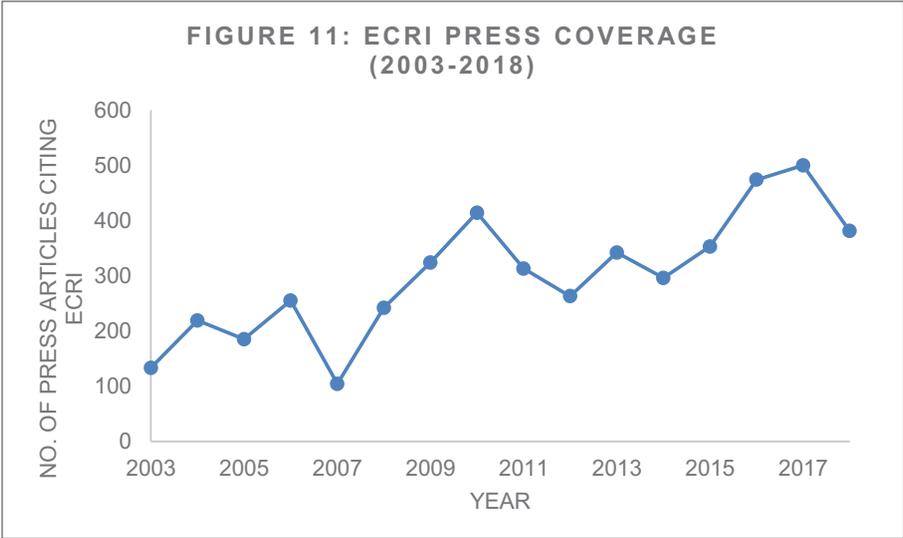
47. Based on a search of the UN Universal Human Rights Index database available at: www.uhri.ohchr.org, last accessed 6 June 2019.

48. CoE Directorate of Internal Oversight (2012), Final Report: Evaluation of the European Commission against Racism and Intolerance – ECRI, Evaluation(2012)5, p. 18.

49. The data for 2009 are partly based on estimated figures.

50. Interview with Council of Europe Directorate of Communications representative, conducted 14 January 2019.

51. The data in figure 12 are taken from the years 2016 to 2018.



key factors include a connection between ECRI’s findings and a salient political issue in the country concerned, ideally highlighted in the headline of the relevant Council of Europe press release, as well as receiving coverage from one or more high-profile international press agencies or other media actors.

33. These observations are borne out in the media coverage data. Exceptionally high levels of media coverage were generated by ECRI’s most recent reports on France (69 media outputs), Serbia (82 media outputs), and the UK (111 media outputs). These reports received coverage in 19, 16 and 18 different countries respectively, both within and outside the Council of Europe member states. All three reports were cited by major national media outlets, as well as by prominent foreign and international media actors such as Aljazeera, ANSA, Anadolu Agency, the BBC, France

24, and Die Zeit. In all three cases, the majority of the press coverage focused on a single highly salient political issue addressed in each report and highlighted in the headline of the corresponding press releases. 90% of the articles citing ECRI's report on France focused on the reported increase and trivialisation of racism in France. 83% of the articles citing the report on Serbia focused on ECRI's recommendation that the Serbian authorities publicly acknowledge that the Srebrenica massacres constituted genocide. Finally, 77% of the articles citing the UK report focused on ECRI's finding of increasing hate speech and racist violence in the UK, in particular in the aftermath of the so-called 'Brexit' vote.

Conclusions

34. The concerns expressed at the 1993 Vienna Summit regarding the 'resurgence of racism, xenophobia and antisemitism, the development of a climate of intolerance, the increase in acts of violence [...] and the degrading treatment and discriminatory practices accompanying them' (see § 1) still resonate to this day. However, while the fight against racism and intolerance in Europe continues, this report demonstrates that it would nonetheless be a mistake to suppose that no progress has been made in the past 25 years, thanks in part to the work of ECRI.

35. 89% of respondents to the stakeholder consultation considered ECRI's contribution to the fight against racism and intolerance to be 'important' or 'very important'. As the foregoing analysis shows, numerous changes in line with ECRI's recommendations have been made in a wide range of fields across Europe (see §§ 10-15). Supported and encouraged by ECRI, among others, the vast majority of European states have introduced and strengthened domestic anti-discrimination and hate crime legislation (see §§ 16-19) and established national equality bodies (see §§ 20-23). ECRI has also played a role in successful international human rights litigation, most notably in the context of the European Court of Human Rights (see §§ 24-27). The widespread citation of ECRI within academic publications and by relevant international actors, combined with the results of the stakeholder consultation, show that ECRI has come to be considered an authoritative voice in the field of equality (see § 28). Finally, ECRI's visibility within national and international media has also improved in recent years (see §§ 29-33).

ECRI is a human rights monitoring body of the Council of Europe, composed of independent experts, which specialises in the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance; it prepares reports and issues recommendations to member states.

www.coe.int

The Council of Europe is the continent’s leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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