

ECRI

European Commission against Racism and Intolerance
Commission européenne contre le racisme et l'intolérance

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European Commission against Racism and Intolerance

ANNUAL REPORT
ON ECRI'S ACTIVITIES COVERING
THE PERIOD FROM 1 JANUARY
TO 31 DECEMBER 1999

Strasbourg, 27 April 2000



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PREFACE

The European Commission against Racism and Intolerance (ECRI) was set up by the first Summit of Heads of State and Government of the member States of the Council of Europe, held in Vienna in October 1993.

ECRI's task is to combat racism, xenophobia, antisemitism and intolerance at the level of greater Europe and in the perspective of protection of human rights.

Its terms of reference, as determined by the Heads of State and Government, is to review member States' legislation, policies and other measures to combat racism, xenophobia, antisemitism and intolerance, and their effectiveness; to propose further action at local, national and European level; to formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

ECRI's members are designated by their governments on the basis of their in-depth knowledge of the field of combating intolerance. They should have high moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance. They are nominated in their personal capacity and act as independent members.

ECRI's programme of activities comprises three aspects: country-by-country approach, work on general themes, activities in relations with civil society.

ECRI's strategy for constantly enhancing its activities is to take a step-by-step approach, building on the work it has already accomplished by evaluating, consolidating and extending it. Over the next few years, ECRI will develop its country-by-country approach by devising methods for following up the conclusions of its reports; these methods will be based on the innovative aspects incorporated into the second stage of its country-by-country approach. At the same time, it will continue work on general themes, identifying major issues of particular importance in efforts to counter racism and intolerance across national borders and drawing up general policy recommendations and guidelines. It will increasingly attempt to convey its anti-racism message to civil society and will make particular efforts to strengthen its ties with non-governmental organisations, both within member States and at international level, with a view to actively involving them in relevant aspects of its work programme and seeking their opinion on the results of ECRI's work.

MAIN TRENDS

1. Most of the concerns expressed in ECRI's last Annual Report as regards the main trends across Europe in the field of racism, xenophobia, antisemitism and intolerance still hold true. The precise characteristics and extent of these trends vary from region to region and from country to country: they are, however, sufficiently widespread to justify special mention.
2. There is persistent racial and ethnic discrimination in such areas as employment, housing and the provision of services, and this is a recurrent feature of ECRI's country-by-country analyses. It is closely linked to a lack of effective anti-discrimination provisions in several member States. Not all States have comprehensive legislation against discrimination; however, even when they do, it is not implemented satisfactorily.
3. ECRI has frequently noted in its country-by-country reports the gap between rhetoric and reality. While it is common for national constitutions and laws to reflect human rights principles of equality and non-discrimination, the application of these principles is often less than thorough. This frequently reflects an inadequately-developed institutional structure, particularly in such areas as the administration of law enforcement institutions (e.g. the judiciary, the police, etc) and the development of effective national human rights institutions. The extent of such weaknesses varies considerably between countries and regions, but they are matters to which ECRI expects to return in its future work.
4. Racism and prejudice are still present in the operation of public institutions, including the judicial system and schools. They are accompanied by an absence of consistent government policies in this area, a lack of energy for tackling these phenomena and a certain failure on the part of governments to give issues of racism and intolerance the necessary priority and adequate resources.
5. There has been a significant increase in complaints concerning racist attitudes and behaviour on the part of law enforcement officers (such as the police and border control personnel).
6. ECRI is still concerned about the extent of incitement to intolerance or racial or ethnic hatred. The new mass communication technologies are increasingly being used for racist purposes by groups and individuals; in particular, the Internet is being used to disseminate racist messages.

7. Roma/Gypsies throughout Europe suffer from prejudice and discrimination in many aspects of social and economic life. This results in damaging social exclusion. They are often also the target of violent manifestations of racism and intolerance.
8. An intensification in the spread of antisemitic ideas is also to be noted. Dissemination of antisemitic material is increasing.
9. Prejudice against Muslim communities (Islamophobia) is a disturbing trend, manifested in violence, harassment, discrimination, general negative attitudes and stereotypes.
10. There is widespread and continued hostility towards immigrants, persons of immigrant origin, non-citizen residents, undocumented immigrants, asylum-seekers and refugees. This hostility is sometimes taken up by sections of the media and leading politicians. It is also reflected in restrictive, potentially discriminatory legislation or in measures which do not always guarantee respect for human rights.
11. The use of racist or xenophobic views in politics has become a serious danger. The resurgence of the far right has been accompanied by an intensification of the spread of antisemitic ideas and has increased hostility towards foreigners. Sometimes, certain democratic political parties, in a calculated attempt to win votes, have no hesitation in adopting xenophobic policies or intolerant views. In so doing, they move further and further away from the concept of a society based on the principles of justice and solidarity.
12. These negative trends should be closely monitored and additional measures should be taken at local, national and European level to counter these manifestations of racism, xenophobia, antisemitism and intolerance.
13. However, the trends are not all negative. ECRI welcomes a number of encouraging signs at international, European and national level. These demonstrate a commitment both of member States and of civil society to combating racism and intolerance.
14. There are good prospects for reinforced protection against discrimination at European level through a Protocol to the European Convention on Human Rights containing a general anti-discrimination clause. An ECRI proposal should be credited for the initiation of work in this area in 1996. A draft Protocol No. 12 has now been drawn up. This development must be welcomed; the swift finalisation and adoption of the Protocol would be an excellent practical example of Europe's commitment to combating discrimination.

15. ECRI considers that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in 2001, is a timely event. It is pleased that the European preparations for the World Conference have begun as early as possible. The European Conference is to be held in Strasbourg from 11 to 13 October 2000 in order to prepare Europe's specific contribution to the World Conference. It will ensure that action against racism is placed high on the European political agenda. The interest and enthusiasm which the European Conference has aroused in governmental and non-governmental circles is a positive sign.
16. At national level, most member States have introduced new legislative provisions against racism and discrimination. It is noticeable that greater efforts are being made to ensure more effective implementation of legislative and policy measures. Some countries are beginning to give serious consideration to setting up specialised bodies at national level for this purpose. In addition, various good practices to this effect have been successfully adopted by certain member States and may serve as examples for others. ECRI plays an active role in collecting and disseminating such examples.
17. Another positive development is that in a number of countries, there appears to be an increasing acknowledgement of the problems of racism, xenophobia, antisemitism and intolerance. There is also a trend towards public debate and examination of these issues. Beyond initiatives such as awareness campaigns, civil society as a whole appears keen to react and to define exactly what is unacceptable. In particular, the Internet offers unprecedented possibilities for combating racism, disseminating information on anti-discrimination legislation, raising awareness and increasing knowledge of rights. Of course, there is still a good deal of indifference in our societies, but it should be acknowledged that the existence of racism and intolerance – even in the functioning of public institutions – is no longer a taboo subject or one of minor importance. Racism, xenophobia, antisemitism and intolerance and the need to counter these phenomena are beginning to be seen as issues that are crucial to the survival of democracy in European societies.

ECRI'S ACTIVITIES IN 1999

I. COUNTRY-BY-COUNTRY APPROACH

1. The first aspect of ECRI's activities concerns its country-by-country approach. This is a method whereby ECRI closely examines the situation in each of the member States of the Council of Europe and draws up, following this analysis, suggestions and proposals as to how the problems of racism and intolerance identified in each country might be dealt with. The aim of this exercise is to formulate helpful and well-founded proposals which may assist governments in taking concrete and precise steps to counter racism and intolerance.
2. ECRI's reports are first transmitted in the form of draft texts to the member States concerned for a process of confidential dialogue with the national authorities of these countries. The content of the report is reviewed in the light of this dialogue. The report is then adopted in its final form and transmitted by ECRI to the government of the member state concerned, through the intermediary of the Committee of Ministers. The report is made public two months after the transmission, unless the government in question expressly opposes its publication.
3. At the end of 1998, ECRI finished the first round of its country-by-country reports for all the Council of Europe's member States at the time. By late 1999, all these reports had been made public. The reports currently available were published on the following dates:
 - Volume I, 15 September 1997: Belgium, Czech Republic, Finland, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta, Poland
 - Volume II, 21 March 1998: Germany, Liechtenstein, Norway, San Marino, Slovenia, Switzerland
 - Volume III, 15 June 1998: Bulgaria, France, Italy, Netherlands, Portugal, Slovakia
 - Volume IV, 26 January 1999: Denmark, Estonia, Russian Federation, Spain, United Kingdom

- Volume V, 13 March 1999: Austria, Latvia, Romania, Ukraine
 - Volume VI, 24 May 1999: Andorra, Sweden, "the Former Yugoslav Republic of Macedonia"
 - Volume VII, 9 November 1999: Albania, Croatia, Cyprus, Moldova, Turkey
4. In January 1999, ECRI started the second stage of its country-by-country activities. This will take place over four years and will again cover all Council of Europe member States, with the aim of producing some ten individual country reports annually.
 5. The second-stage reports combine the monitoring of proposals set out in the first reports, the updating of the reports' general content and an in-depth analysis of issues of particular concern in the various countries.
 6. On the basis of an assessment of ECRI's methods for producing its first round of reports and the results of the first stage of the procedure, new working methods have been introduced for the second stage.
 7. An important aspect of these new methods is that a contact visit to the country concerned is arranged before the second report is drawn up. The aim of the contact visits is to obtain as detailed and complete a picture as possible of the situation regarding racism and intolerance in the countries being examined. The visits provide an opportunity for the rapporteurs and co-rapporteurs to meet officials from the various ministries and national public authorities dealing with issues within ECRI's remit. They also allow the rapporteurs and co-rapporteurs to meet representatives of NGOs working in the field, as well as some of ECRI's other partners and anyone else concerned with matters within ECRI's remit.
 8. In 1999, the second stage of ECRI's country-by-country approach covered the following countries: Belgium, Bulgaria, the Czech Republic, France, Greece, Hungary, Norway, Poland, Slovakia and Switzerland.
 9. It is envisaged that ECRI's first five country-by-country reports for this second stage (Belgium, Bulgaria, Czech Republic, Hungary and Switzerland) will be published in mid-March 2000 and the next five (France, Greece, Norway, Poland and Slovakia) in mid-June 2000.

10. In December 1999, ECRI expressed its satisfaction at its country-by-country activities over the past year. Work had been carried out on schedule and, as planned, second-stage reports for ten countries had been finalised.
11. The new working methods for the second stage have many positive aspects enabling the approach to become more effective. Besides the efforts made to diversify the documentation sources used, the organisation of contact visits to the country concerned has undeniably helped to improve the quality of the reports.
12. The publication of ECRI's country-by-country reports is a stage in the development of an ongoing, active dialogue between ECRI and the authorities of member States with a view to identifying solutions to the problems of racism and intolerance with which the latter are confronted. The input of non-governmental organisations and other bodies or individuals active in this field is a welcome part of this process, and should ensure that ECRI's contribution is as constructive and useful as possible.
13. ECRI attaches considerable importance to this dialogue with government authorities and non-governmental bodies as a means of following up the suggestions made in its country-by-country reports. Adequate dissemination of the results of its work in the member States is part of its strategy in this connection.
14. All country-by-country reports for the first stage have been translated into the main national languages of the country in question. Each time a report has been published, a press release has been issued and copies of the report sent to a targeted mailing list comprising bodies and individuals involved in tackling racism and intolerance in the countries concerned.
15. In December 1999, ECRI decided to adopt an even more systematic approach than before for distributing its second-stage country-by-country reports. Reports will be translated into the main national language of the country in question; specialised bodies and national NGOs will be encouraged to organise an event in the country concerned when the report is published, as a means of raising awareness of its content; the report will be distributed to national parliaments and to the different political groups represented in the Parliamentary Assembly; a "dissemination plan" will be drawn up to ensure that the report is circulated as widely as possible among relevant bodies (governmental and non-governmental) at national level.

16. According to the provisional timetable, the countries which will be covered by the second stage of ECRI's country-by-country approach in 2000 are: Albania, Austria, Croatia, Cyprus, Denmark, Germany, the Netherlands, Russia, "the former Yugoslav Republic of Macedonia", Turkey and the United Kingdom.

II. WORK ON GENERAL THEMES

17. The second aspect of ECRI's programme includes work on general themes and activities specifically based on these themes, with a view to making a real contribution to the setting up and strengthening of those institutions which underpin the functioning of civil society.

General policy recommendations

18. With regard to the formulation of policy recommendations and guidelines on general themes of particular importance to combating racism and intolerance, ECRI has to date adopted four general policy recommendations to governments of member States.
19. General policy recommendation no. 1 lays down a number of guidelines concerning legal and political aspects of combating racism and intolerance. General policy recommendation no. 2 concerns the setting up or strengthening of specialised bodies to combat racism and intolerance at national level. General policy recommendation no. 3 focuses on combating racism and intolerance against Roma/Gypsies; general policy recommendation no. 4 deals with national surveys on the experience and perception of discrimination and racism from the point of view of potential victims.
20. In 1999, ECRI published a compilation of its four general policy recommendations, which has been translated into 29 languages.
21. The main priority in 1999 was to distribute these texts as widely as possible among relevant bodies at international, European, national and local level. ECRI hopes that in future, it will be in a position to arrange practical activities, where possible, for the implementation of its general recommendations. Holding regional meetings to encourage and assist the setting up of specialised bodies to combat racism and intolerance in different member States is one of ECRI's future priorities.

22. During 1999, a fifth general policy recommendation was drawn up, on combating intolerance and discrimination against Muslims. It is anticipated that ECRI will finalise and adopt the text of the recommendation in March 2000.

Collection and dissemination of examples of "good practices"

23. In 1999, ECRI produced two collections in its series of examples of "good practices". The first focuses on specialised bodies at national level to combat racism and intolerance. The second deals with examples of "good practices" to combat racism and intolerance in the media. This will be published in 2000.

Problem of the dissemination of racist messages on the Internet

24. In 1999, ECRI commissioned the Swiss Institute of Comparative Law to carry out a study of existing national legislation aimed at establishing the criminal responsibility of parties on the Internet as regards racist offences, and pertinent case-law. The study will be finalised during the first half of 2000, and it is anticipated that in June 2000, ECRI will adopt general conclusions on the basis of the study's findings for transmission to the European Conference against Racism, which will be held in Strasbourg from 11 to 13 October 2000.
25. ECRI has also set up an "Internet" working group which closely monitors developments in the above-mentioned study, as well as carrying out other activities relating to the Internet, such as drawing up an exhaustive list of anti-racist websites, examining practices in member States as regards non-legislative means of countering racism on the Internet, and keeping track of the development the Council of Europe's "Combating racism and intolerance" website (www.ecri.coe.int).

Follow-up to work on the broadening of the non-discrimination clause (Article 14) of the European Convention on Human Rights

26. Since drawing up a detailed report on the strengthening of the non-discrimination clause (Article 14) of the European Convention on Human Rights, ECRI has been closely following, and has attached considerable importance to, the action taken by the relevant bodies of the Council of Europe on ECRI's proposal to strengthen Article 14 of the Convention.

27. In June 1999, the Steering Committee for Human Rights (CDDH) transmitted to ECRI, for opinion, the text of a draft Protocol No. 12 to the European Convention on Human Rights and a draft explanatory report.
28. ECRI is extremely pleased that a text has now been drafted. On a number of occasions in the past, it has stressed the importance it places on the rapid and satisfactory conclusion of the work being carried out by the Council of Europe bodies entrusted with the drafting of the protocol, and expressed its hope that the Protocol might be finished and adopted as soon as possible.
29. The opinion adopted by ECRI on the draft Protocol No. 12 and forwarded to the CDDH on 28 October 1999 is appended to this report.

Relations with the other bodies of the Council of Europe

30. ECRI is kept regularly informed of the work of other Council of Europe bodies dealing with issues of racism and intolerance. Its Secretariat regularly provides information on ECRI's work to these bodies, particularly to the European Committee on Migration (CDMG).
31. ECRI is represented by one of its members in the Group of Specialists on Roma/Gypsies (MG-S-ROM). An ECRI member has also participated in the work of the Committee of Experts for the Development of Human Rights (DH-DEV) and in the Steering Committee for Human Rights (CDDH) on the preparation of a Draft Protocol N° 12.
32. The Parliamentary Assembly is represented on ECRI and actively contributes to its work (see Appendix I). The Chair and Second Vice-Chair of ECRI attended a hearing on 21 September 1999 with the Committee on Legal Questions and Human Rights. They were also invited in December 1999 by the Committee on Political Affairs to participate in the latter's discussions on the preparation of its report on "the threat posed to democracy by extremist parties and movements in Europe". This report led to the adoption on 24 January 2000 of Parliamentary Assembly Recommendation 1438 (2000).

Exceptional situations

33. ECRI's June 1999 plenary session was the first it had held since the tragic events related to the crisis in Kosovo. ECRI was unanimous in considering that it should not remain silent on this subject, and adopted a Declaration, which is reproduced in Appendix V to this Annual Report.

III. RELATIONS WITH CIVIL SOCIETY

34. A successful strategy against racism and intolerance depends to a large extent on an awareness of the threat posed by racism and related intolerance and the filtering-down of the anti-racist message throughout civil society in general. ECRI attaches increasing importance to this third aspect of its programme of activities.

Communication and co-operation with NGOs

35. In 1999, priority was given to improving the dissemination of the results of ECRI's activities, in particular its country-by-country reports, general policy recommendations and collections of examples of good practices. Considerable efforts were made to translate these documents into member States' main national languages. When distributing its documents, ECRI uses a targeted mailing list, containing over thousand addressees throughout Europe: intergovernmental organisations, national and local authorities, national specialised bodies, national institutions for the protection and promotion of human rights, ombudsmen, universities and research institutions and contacts in the legal field. The largest category is that of non-governmental organisations at international or, in most cases, national or local level.
36. An important instrument in ECRI's communication strategy is its "Combating racism and intolerance" website (www.ecri.coe.int). This bilingual (English/French) anti-racist site contains over 4 000 pages and is aimed at a wide-ranging audience: organisations and individuals involved in combating racism and intolerance, researchers, students, journalists, young people, etc.
37. In 1999, consideration was given to the possibility of improving the website, in terms of both presentation and content; technical modifications have been planned in this connection. These will be completed during the first quarter of 2000 and it is anticipated that the "new" site will be operational by mid-March 2000.

38. Specific co-operation between ECRI and NGOs in 1999 focused above all on developing relations and exchanging information during the contact visits prior to the drawing up of the second-stage country-by-country reports. The ECRI Secretariat's involvement in the European preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance also provided an opportunity for increased co-operation with NGOs working to combat racism and intolerance.

European contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

39. Confirming a proposal made by the Commission on Human Rights, the United Nations General Assembly, at its 52nd session, decided to convene a World Conference against racism, racial discrimination, xenophobia and related intolerance. The World Conference will be held in South Africa in 2001.
40. With this in mind, it was decided, at the suggestion of the then Presidency of the European Union (Luxembourg, December 1997), that the Council of Europe should be entrusted with the preparation, at European level, of the World Conference against Racism. In particular, this would involve holding a European Conference against Racism.
41. The European Conference against Racism will be held in Strasbourg from 11 to 13 October 2000. It is being prepared by government experts within a technical working group. ECRI was represented at the technical working group's various meetings in 1999, providing an input through its experience and knowledge of the issues being dealt with at the European Conference. Moreover, the Chair and other members of ECRI will be involved in the European Conference in holding offices as chair, vice-chair, discussants and rapporteurs.
42. Four main themes will be discussed in working groups at the European Conference: legal protection against racism and related discrimination at sub-national, national, regional and international level; policies and practices to combat racism and related discrimination at sub-national and national level; education and awareness-raising to combat racism, related discrimination and extremism at local, national, regional and international level; and information, communication and the media. ECRI has prepared "position papers" on each of these themes to provide substance for the working group discussions at the Conference.

Co-operation with the European Monitoring Centre on Racism and Xenophobia

43. On 10 February 1999, the European Community and the Council of Europe signed an agreement to establish close co-operation between the European Monitoring Centre on Racism and Xenophobia and ECRI. The Bureaux of the two bodies met in Paris on 3 June 1999 to examine ways of implementing the agreement and developing practical co-operation in specific areas.
44. Various proposals for practical co-operation were made at the joint meeting. On being informed about the proposals, ECRI instructed its Bureau and Secretariat to implement them and to press on with co-operation with the Monitoring Centre in the various fields identified at the joint meeting of the two Bureaux.
45. The first joint ECRI/Monitoring Centre national Round Table was held in the United Kingdom on 26 October 1999, providing a concrete example of co-operation between the two bodies. Discussions at the Round Table were organised into three workshops, dealing respectively with national and European anti-discrimination legislation, institutional racism and religion and racism.
46. This first experience was followed by two other joint ECRI/Monitoring Centre national Round Tables, held in Ireland on 18 November 1999 and in Greece on 20 November 1999.
47. It should also be pointed out that a joint project between the Monitoring Centre and the Migration Policy Group on legislation and policies has led to co-operation with ECRI, particularly with regard to the documentation which ECRI is able to supply on existing legislation against racism and intolerance in European Union member States. ECRI's Secretariat was invited by the Migration Policy Group to the meeting in Vienna on 30 September and 1 October 1999 with the fifteen national rapporteurs taking part in the study, and provided them with relevant information about ECRI's working methods.

APPENDIX I

***MEMBERSHIP OF
THE EUROPEAN COMMISSION
AGAINST RACISM AND INTOLERANCE***

(31 December 1999)

Albanie / Albania

Professeur Arben PUTO, Président, Comité Albanais d'Helsinki

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Belgique / Belgium

Monsieur Johan LEMAN, Directeur du Centre pour l'Égalité des Chances et
la Lutte contre le Racisme

Monsieur François SANT'ANGELO*, Collaborateur au Centre pour l'Égalité
des Chances et la Lutte contre le Racisme

Bulgarie / Bulgaria

Monsieur Luben KOULICHEV, Assemblée Nationale de la République de
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Mr Mart NUTT, Member of Parliament

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Mr Pericles PANGALOS*, Vice-Président de la Commission Nationale pour les Droits de l'Homme

Hongrie / Hungary

Mr Jenő KALTENBACH, Parliamentary Commissioner for National, Ethnic and Minority Rights, Parliamentary Commissioners' Office

Islande / Iceland

Reverend Baldur KRISTJÁNSSON

Irlande / Ireland

Mr Seamus CULLIMORE

Italie / Italy

Monsieur Claudio MORENO, Président du Comité national italien pour les Droits de l'Homme, Ministero degli Affari Esteri – Direzione Generale degli Affari Politici

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Monsieur José Luis LOPES HENARES, Sénateur

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Commission des questions politiques/Committee on Political Affairs

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Congrès des pouvoirs locaux et régionaux d'Europe / Congress of Local and Regional Authorities of Europe

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Mr Michael HEAD
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Mrs Alenka PUHAR Bureau
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Mr Fernando FERREIRA
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APPENDIX II

**SECRETARIAT OF
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AGAINST RACISM AND INTOLERANCE**

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APPENDIX III

MEETINGS HELD BY EGRI IN 1999

Plenary sessions

- 3-5 February 1999
- 15-18 June 1999
- 7-10 December 1999

Bureau meetings

- 15 January 1999
- 2 February 1999
- 2 June 1999
- 14 June 1999
- 10 November 1999
- 6 December 1999

Meetings of CBC Working Groups

- CBC 1 : 9 July 1999
- CBC 2 : 28 June 1999
- CBC 3 : 1 February 1999
- CBC 4 : 20 May 1999
- CBC 5 : 18 January 1999
- CBC 6 : 5 February 1999
- CBC 7 : 2 February 1999
- CBC 8 : 22 January 1999
- CBC 9 : 12 July 1999
- CBC 10 : 19 July 1999

Meetings of the Working Group of CBC Rapporteurs

- 21 May 1999
- 9 November 1999

Meetings of the Working Group on Internet

- 21 January 1999
- 5 November 1999

Meetings of the Working Group on combating intolerance and discriminations against Muslims

- 28 May 1999
- 4 November 1999

Contact Visits

Belgium :	24-26 March 1999
Czech Republic :	6-9 April 1999
Hungary :	13-16 April 1999
Bulgaria :	20-23 April 1999
Switzerland :	5 May 1999
Norway :	24-27 August 1999
Slovakia :	29 August - 1st September 1999
Poland :	7-10 September 1999
France :	11-14 October 1999
Greece :	18-21 October 1999

APPENDIX IV

**Opinion of the European Commission against Racism
and Intolerance (ECRI) on the text of Draft Protocol No. 12
to the European Convention on Human Rights**

1. ECRI warmly welcomes that the CDDH has now formulated the draft text of Protocol N° 12 and thanks the CDDH for having referred the text to ECRI for opinion.
2. ECRI recalls that, in the light of its proposal, the Committee of Ministers decided in April 1996 to instruct the CDDH to examine the possibility of a legal instrument against racism and intolerance. Since then, ECRI has been directly involved in the drafting of this text through its representatives who participated in the work of both the Committee of Experts for the Development of Human Rights (DH-DEV) and the Steering Committee for Human Rights (CDDH). It has also been kept constantly informed of the progress of the drafting work during its plenary sessions.
3. At its recent plenary sessions, ECRI stressed on a number of occasions how much importance it attaches to the earliest possible completion and adoption of Protocol No. 12. It was indeed with a sense of urgency that the Heads of State and Government who signed the Vienna Declaration launched, in October 1993, a pressing appeal for action against all forms of racism and themselves undertook to combat all ideologies, policies and practices constituting incitement to racial hatred, violence and discrimination. It was also with a sense of urgency that ECRI transmitted to the Committee of Ministers, in September 1995, its reasoned report on the reinforcement of the non-discrimination clause (Article 14) of the European Convention on Human Rights, which was partly the starting point for the work that culminated in the text of draft Protocol No. 12.
4. With regard to the wording of the draft Protocol, in particular Article 1, as pointed out above ECRI has had considerable opportunity to express and defend its views on the subject in the course of the drafting process. For that reason it will here confine itself to making some brief additional comments.
5. As to the substance of Article 1, ECRI wishes to express its satisfaction at the approach followed, that of opting for a general non-discrimination clause.

6. It is true that in its reasoned report ECRI only proposed a restricted non-discrimination clause, retaining among the grounds for discrimination mentioned in Article 14 those which lie at the core of racism and intolerance. In doing so, it was nonetheless careful to point out that its proposal was based on its own terms of reference, which covered matters relating to racism, xenophobia, antisemitism and the intolerance associated with these phenomena. In this connection, ECRI also stipulated that, in considering its approach to the strengthening of the non-discrimination clause of the Convention, it had started from the idea that the best way of solving the problems would be a general provision ensuring equality before the law and giving comprehensive protection against discrimination.
7. Apart from commenting on the substantive provisions of the draft Protocol, ECRI also wishes to make a number of additional remarks of a general nature. First, in reiterating how much importance it attaches to the earliest possible finalisation and adoption of Protocol No. 12, it also wishes to draw attention to the fact that current circumstances are particularly conducive to the prompt conclusion which it earnestly desires.
8. A number of events and projects now taking place or in preparation together form a background which might be regarded as a jigsaw that will finally be put together in the year 2000. Draft Protocol No. 12 can be considered a key part of this:
9. Firstly, there is the work being done by the European Union on the possible provisions of future directives based on Article 13 of the Treaty of Amsterdam. In this respect, ECRI notes that it is highly constructive that the two entirely complementary exercises of finalising the text of future Protocol No. 12 and the texts of the above-mentioned future Community directives will be carried out in parallel and will have a mutually enhancing effect over the coming year. It wishes to point out that the future Protocol No. 12 will provide for the basic principle of non-discrimination, setting this out as an individual justiciable right which States Parties to the Protocol will be required to secure to everyone within their jurisdiction. As for the future Community directives, they will contain provisions which will need to be transposed into domestic law. It might be said that the future directives will, in a way, be a more detailed legislative elaboration of the fundamental principle of non-discrimination, as guaranteed in Protocol No. 12.

10. Secondly, work is underway in Europe in preparation for the World Conference against racism, racial discrimination, xenophobia and related intolerance, which will take place in 2001. The European contribution to the World Conference will be prepared at a European Conference to be organised by the Council of Europe in October 2000. This will be a key event in the fight against racism and intolerance for the European political agenda, and the European conference (entitled "All different, all equal: from principle to practice") is already arousing much interest and enthusiasm in both governmental and non-governmental circles. The finalisation and adoption of Protocol No. 12 before the World Conference, as part of the European preparations, would be a good demonstration of Europe's genuine commitment to combating discrimination. On the other hand, a failure in this respect might very well have serious repercussions on the European preparations for the World Conference, in particular regarding the credibility of Europe's commitment to this issue.

11. Lastly, apart from the work and events mentioned above, the fiftieth anniversary of the adoption of the European Convention on Human Rights will also be celebrated in the year 2000. Yet the Convention is lagging behind other instruments in matters of non-discrimination, and it is this shortcoming which draft Protocol No. 12 seeks to remedy. ECRI also points out that the equality of all human beings in dignity and rights was given express recognition in the Universal Declaration of Human Rights, on which the Convention is broadly based. At the time of its adoption in 1950, the Convention aimed to "take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration." More than ever before, ECRI is convinced that the time has now come to strengthen the principle of non-discrimination within the European system.

APPENDIX V

**Declaration on events related to the crisis in Kosovo
adopted by ECRI at its 19th plenary meeting
(15-18 June 1999)**

ECRI's 19th plenary meeting is taking place at a time when current events in Europe provide a tragic illustration of the consequences that a rise in racism and intolerance may have for all the populations of a region, regardless of their national or ethnic origin or religious beliefs.

ECRI is unanimous in expressing its profound distress at the recent dramatic events related to the Kosovo crisis.

ECRI deplores the fact that hundreds of thousands of Kosovars have been forced to leave their homes. It firmly condemns any form of ethnic cleansing and expects that those responsible will be brought before the International Criminal Tribunal for the former Yugoslavia in The Hague. ECRI also urges all countries and relevant international organisations to assist in the return of refugees to their homes, the reconstruction of the countries most affected by the crisis and the re-establishment of democratic security in the region.

ECRI wishes to contribute, within its own field of competence, to the wider efforts being carried out by the Council of Europe in the region, especially in the context of the latter's participation in the Stability Programme for South-East Europe. ECRI has instructed its Bureau to prepare concrete proposals in this respect, such as adjusting the timetable for ECRI's country-by-country work; taking into account, in ECRI's reports on the countries concerned, the specific needs, within ECRI's sphere of competence, arising from the crisis situation with which the region is faced ; the strengthening of national specialised bodies to combat racism and intolerance, etc.

ECRI expresses its readiness to take part in any appropriate activities for which its contribution is requested, with the aim of re-establishing a climate of confidence and promoting the belief that "living together, in a multicultural and multiethnic society, is both possible and enriching".

APPENDIX VI

LIST OF PUBLICATIONS

- * ECRI's guiding principles and future role
- * Leaflet Combating racism and intolerance - European Commission against Racism and Intolerance
- * ECRI and its programme of activities
- * Bulletin n° 1: Combating racism and intolerance
- * Bulletin n° 2: Combating racism and intolerance
- * Bulletin n° 3: Combating racism and intolerance
- * Legal measures to combat racism and intolerance in the member States of the Council of Europe
- * Combating racism and intolerance: A basket of good practices
- * Good practices: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level
- * Compilation of ECRI's general policy recommendations
- * ECRI general policy recommendation n° 1: Combating racism, xenophobia, antisemitism and intolerance
- * ECRI general policy recommendation n° 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level

* ECRI general policy recommendation n° 3: Combating racism and intolerance against Roma/Gypsies

* ECRI general policy recommendation n° 4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims

* ECRI's country-by-country approach:

First round:

- Volume I
- Volume II
- Volume III
- Volume IV
- Volume V
- Volume VI
- Volume VII

Second round:

- Belgium
- Bulgaria
- Czech Republic
- Hungary
- Switzerland

* Activities of the Council of Europe with relevance to combating racism and intolerance

* Recommendations adopted by the Parliamentary Assembly of the Council of Europe in the field of combating Racism and Intolerance

* Recommendations adopted by the Committee of Ministers of the Council of Europe in the field of combating Racism and Intolerance

* Texts of international instruments relevant to the work of ECRI