

COMBATING RACISM AND RACIAL DISCRIMINATION AGAINST PEOPLE OF AFRICAN DESCENT IN EUROPE

Round-table with human rights defenders

organised by the Office of the Council of Europe Commissioner for Human Rights

Online event, 24 November 2020

REPORT

TABLE OF CONTENTS

1	STRUCTURAL AND INSTITUTIONAL RACISM AND RACIAL DISCRIMINATION AFFECTING PEOPLE OF AFRICAN DESCENT.....	4
1.1	Overview of major trends highlighted in recent reports.....	4
1.2	Concerns raised by the participants.....	5
1.3	Proposals identified during the discussions regarding responses to Afrophobia.....	7
2	THE SITUATION OF HUMAN RIGHTS DEFENDERS WORKING ON COMBATING AFROPHOBIA	8
2.1	Challenges affecting human rights defenders in general.....	8
2.2	Specific challenges affecting human rights defenders working on combating Afrophobia.....	8
2.3	Proposals identified during the discussions regarding the protection of human rights defenders and the promotion of their work.....	9
3	CONCLUSIONS AND RECOMMENDATIONS	10
3.1	Combating Afrophobia in the Council of Europe area.....	10
3.2	Providing protection and support to human rights defenders working on combating Afrophobia	

INTRODUCTION

1. On 24 November 2020, the Council of Europe Commissioner for Human Rights, Dunja Mijatović (the Commissioner), organised an online round-table meeting with human rights defenders working on combating racism and racial discrimination against people of African descent in Europe. The event gathered human rights defenders from several Council of Europe member states, members of the Commissioner's Office and other Council of Europe representatives.
2. Combating racism in all its forms and manifestations is an issue of particular importance to Commissioner Mijatović. Since the beginning of her mandate, the Commissioner has covered in her work a series of related topics including ethnic profiling, police violence targeting minorities, and discrimination and violence against migrants and refugees. The Commissioner highlighted, *inter alia*, the need to prevent and mitigate discrimination risks related to the use of artificial intelligence (AI), paying particular care to those at higher risk of being severely affected, including "racial",¹ ethnic and religious groups,² and to put an end to ethnic profiling and to impunity for police abuse.³
3. The Commissioner also actively supports the work of human rights defenders and promotes the development of an enabling environment for their activities.⁴ She regularly raises issues related to their safety and restrictive environment and provides advice and recommendations to member states with a view to assisting them in fulfilling their commitments regarding human rights defenders. She also intervenes as a third party before the European Court of Human Rights ("the ECtHR") in cases concerning human rights defenders. The Commissioner and her Office are in close contact with civil society activists and groups and have organised regular consultations with them on specific thematic areas, including their own safety and the promotion of their activities.
4. The discussions at the above-mentioned round-table focused on two topics: (1) Structural and institutional racism and racial discrimination against people of African descent and (2) Challenges faced by human rights defenders working on combating Afrophobia. They were aimed at helping the Commissioner to further develop her work related to combating Afrophobia in the Council of Europe area and to support human rights defenders working in this field.
5. The present report summarises the main concerns and proposed responses identified during the round-table in relation to these topics. It concludes with a set of recommendations by the Commissioner, which build on international human rights standards and guidelines. The Commissioner wishes to express her sincere gratitude to the participants for their valuable contributions to the debate and to this report.

¹ The terms "race" and "racial" are used to indicate grounds of discrimination and hate crime respectively, as referenced in international law and national legislations. The use of these terms does not imply endorsement of any theories based on the existence of different human "races".

² Commissioner's Recommendation: "[Unboxing Artificial Intelligence: 10 steps to protect Human Rights](#)", 14 May 2019.

³ See the Commissioner's Human Rights Comment, "[Ethnic Profiling: a persisting practice in Europe](#)", 9 May 2019 and her opinion article "[Ethnic profiling is illegal](#)", *OpenDemocracy*, 29 June 2020.

⁴ For more information, visit the Commissioner's [webpage](#) dedicated to human rights defenders.

1 STRUCTURAL AND INSTITUTIONAL RACISM AND RACIAL DISCRIMINATION AFFECTING PEOPLE OF AFRICAN DESCENT

1.1 OVERVIEW OF MAJOR TRENDS HIGHLIGHTED IN RECENT REPORTS

6. As a starting point, participants stressed that there are a number of major patterns of structural and institutional racism and racial discrimination that hamper the enjoyment of human rights by people of African descent across Europe. Reports issued by international bodies, national authorities, national human rights structures and NGOs evoke, *inter alia*, the following issues:
- **Racial stereotyping.** Negative racial stereotyping lies at the core of the discrimination perpetrated against people of African descent. The UN Working Group of Experts on People of African Descent (WGEPAD) noted that the ongoing prevalence of racial stereotypes in everyday life, including in advertisements, the media, social media, in criminal justice systems and in the political arena has a major role in perpetuating racially based decision-making, racial disparities and racial injustice.⁵
 - **Racist violence.** The report “[Being Black in the EU](#)” (2018) published by EU Fundamental Rights Agency (FRA) on the basis of the Second European Union Minorities and Discrimination Survey ([EU-MIDIS II](#), 2015-2016) showed that on average, 5% of the respondents have experienced racist violence, including by police agents, in the five years preceding the survey. Reporting rates were low, a large percentage of victims quoting in this respect their lack of trust in a positive outcome. Reports issued by the European Commission against Racism and Intolerance (ECRI)⁶ and the OSCE/ODIHR [hate crime data](#) show that many European states fail to adequately record racist hate crimes and to provide victims with the support needed to secure their rights, including the right to an effective remedy.
 - **Racial profiling in policing and criminal justice.** The EU-Midis II survey indicated a rate of 14% of stop and search incidents of people with ethnic minority and immigrant backgrounds. However, most European countries do not collect or publish statistics on such operations. Where data are available, they show a high disparity between the stop and search rates of people of African descent, in particular of young males, compared to those of people belonging to the majority population.⁷ FRA also [found](#) that facial recognition systems do not function well with respect to people belonging to minorities, who are, therefore, exposed to a higher likelihood of being wrongly matched as offenders (false positives) and of being stopped more frequently because of the colour of their skin. In criminal justice, persons of African descent may also be more likely to receive harsher sentences than those belonging to other groups.⁸
 - **Social and economic inequalities.** People of African descent continue to experience worse economic, social and health outcomes than other groups. Reports published by international bodies and NGOs⁹ document a wide range of discriminatory practices which affect the daily lives of people of African descent, including the segregation of schools and sports arenas, lack of access to adequate housing and health care services, and exclusion from high-skilled positions and public service jobs. For example, ECRI’s [2018 annual report](#) highlights that in many countries people of African descent are disproportionately employed in low-skilled positions, even when they have obtained higher educational qualifications, including university degrees.
 - **Forms of intersectional discrimination.** The European Parliament’s [Resolution on fundamental rights of people of African descent in Europe](#) (2019) notes that the racism and discrimination experienced by people of African descent often intersects with other forms of discrimination, including on the basis of sex, social origin, language, religion, belief, political opinion, property, disability, age or sexual orientation. The ECRI

⁵ WGEPAD, Report presented at the seventy-fourth session of the General Assembly, [A/74/274](#), 2 August 2019.

⁶ The ECRI country reports are available at: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/country-monitoring>.

⁷ France, Défenseur des droits, “Enquête sur l’accès aux droits, Volume 1 – Relations police/population : le cas des contrôles d’identité”, 2017; United Kingdom, [official data](#) on stop and search rates (periodically updated).

⁸ For example, in the United Kingdom, the [Lammy Report](#) (2017) found that minority ethnic individuals were more likely to receive prison sentences than defendants from the majority population.

⁹ See European Network against Racism (ENAR), “Afrophobia in Europe: ENAR Shadow Report 2014-2015” (2015) and other resources, available at: <https://www.enar-eu.org/ENAR-resources>.

annual reports for 2018 and [2019](#) also note that Muslims of African descent are often victims of intersectional discrimination in which Islamophobia is added to racism based on skin colour.

1.2 CONCERNS RAISED BY THE PARTICIPANTS

7. In addition to the above-mentioned trends, human rights defenders brought attention to the following concerns relating to Afrophobia in Europe:
 - **Lack of acknowledgment of Afrophobia, its dimensions and its historical correlations**
8. Lack of acknowledgment in political and public debate. There is insufficient public debate on Afrophobia in Europe. Cases and patterns of human rights violations affecting people of African descent are not given adequate consideration, even when they are reliably attested. Issues raised by human rights defenders with respect to racism and racial discrimination against people of African descent are often deflected or ignored. In general, there is little recognition of the vulnerability of people of African descent and often violations of their human rights are not publicly condemned.
9. Limited research and equality data. Authorities often deny the existence or dimension of racism, but this is also due to the absence of research and statistical data. Whereas there are an estimated 15 million people of African descent living in the European Union alone, data collection within its member states is not systematic and often omits descendants of migrants beyond a certain generation.¹⁰ There is also no comprehensive research carried out at national levels on racism and racial discrimination against people of African descent. In several countries the prohibition on collecting ethnic or racial data makes it difficult to prove and assess Afrophobia and its consequences.
10. Insufficient efforts to address the legacy of colonialism and the slave trade. Afrophobia correlates to historically repressive structures of colonialism and the transatlantic slave trade. This was also emphasised by the Commissioner's Office and the European Parliament.¹¹ However, there is a lack of political will at the level of member states to address their colonial past and participation in the slave trade. Initiatives in this area have been taken recently in some member states, but these are limited in scope. Issues such as reparations, including by way of public apologies, and the restitution of African cultural assets need more substantial consideration and action.
11. Lack of educational and awareness-raising efforts. There is no adequate teaching of colonial history in schools. Many young people remain unaware of the colonial past and slave trade and of the correlations between them and current phenomena, such as some aspects of migration. Moreover, racial stereotypes continue to be reproduced in the education system, including through history books. There is also very little awareness-raising taking place outside schools. National initiatives in this respect have been launched in some countries, but in most situations awareness-raising activities are only carried out at local levels (a good practice is the creation of "knowledge centres" by municipalities, in co-operation with civil society representatives of African descent).
 - **Lack of policies and measures addressing structural and institutional racism, as well as intersectional discrimination**
12. A fragmented approach to racism. The authorities' approach to racism is narrow, which leads to piecemeal responses usually addressing only the individual or sometimes structural level, while institutional racism is generally ignored. Moreover, the lack of an intersectional perspective means that proposed solutions are often ineffective and may even help perpetuate existing patterns of racism and discrimination.
13. Lack of targeted policies and mechanisms. The [International Decade for People of African Descent 2015-2024](#) (IDPAD) which provides, under the theme "Recognition, Justice and Development", the operational framework to encourage states to eradicate engrained social injustices and to combat racism and racial discrimination against people of African descent, has been underused.¹² More than halfway through the IDPAD, only a few

¹⁰ ENAR, "Afrophobia in Europe: ENAR Shadow Report 2014-2015" (2015), *supra*, pp. 10-11; EU-MIDIS II (2017), Main results, available at: <http://fra.europa.eu/en/publication/2017/eumidis-ii-main-results>.

¹¹ See Human Rights Comment by Nils Muižnieks, Council of Europe Commissioner for Human Rights: "[Afrophobia: Europe should confront this legacy of colonialism and the slave trade](#)", 25 July 2017, and the European Parliament resolution of 26 March 2019 on fundamental rights of people of African descent in Europe.

¹² See also ECRI, Annual report for 2019, p.11.

European states have taken initiatives to implement its [Programme of Activities](#),¹³ and initiatives taken in this context have had minimal tangible results. There is also no focus at national levels on people of African descent as regards the implementation of the [2030 Agenda for Sustainable Development](#) and its [Sustainable Development Goals](#) (SDGs). Moreover, Afrophobia is neglected and generally not, or only cursorily addressed in national human rights action plans or sectoral strategies.

14. Institutional violence and impunity of perpetrators. Police brutality against people of African descent has been evidenced across member states. Migrants and asylum-seekers of African descent, along with others, are often subjected to violence at their arrival, during administrative detention and during deportation. The authorities generally deny these incidents, as well as the very existence of Afrophobia in law enforcement. A significant problem is posed by the lack of independent police complaints mechanisms. Victims are reluctant to report incidents to investigators within the police, often for fear of reprisals against them or their families. Investigations usually end without a favourable result for the victim and police violence is not condemned by the authorities and politicians.
15. Poor protection against hate speech and hate crime. There is a normalisation of hate speech against people of African descent in the media. Politicians of African descent are targeted by far-right groups but also in the mainstream media and on social media platforms. Perpetrators are often given space to express themselves in the media without the same being available to victims. Reporting rates are low, often due to fear and because of the climate of impunity surrounding racist incidents. The authorities' response to these incidents, that are sometimes fatal, is usually a negation of racial motives, which is however not supported by an effective investigation into the existence of such motives.
16. Discrimination in employment. People of African descent are often underpaid and are among those with the highest levels of unemployment. They are also under-represented in the media, in the judiciary and in civil service. The most exposed to discrimination are those who have informal jobs in sectors such as restaurants, construction work and household employment. However, people of African descent are generally reluctant to report discrimination, as they frequently view labour complaints boards as being biased in favour of employers belonging to the majority population.
17. Racial bias against children and parents of African descent. Racism and racial discrimination are a lifelong challenge affecting people of African descent from their earliest age. Children of African descent are often victims of bullying and racism in schools. In the event of separation or divorce of the parents, support and/or custody is denied to persons of African descent and is usually granted to the parent belonging to the majority population. In numerous cases, women of African descent choose to remain in situations of domestic violence as they fear that bringing proceedings against the perpetrator will result in losing custody rights in respect of their children. There is also concern that children of African descent are taken into state care at disproportionate rates. Forcible removals of children from their parents of African descent also occur in the context of the deportation of the parents following the rejection of their asylum claims.
 - **Racial profiling and the use of AI systems**
18. Data collected in some member states show that young men of African descent, in particular, are disproportionately targeted in stop and search operations and are overrepresented at all stages of the criminal justice system. However, racial profiling also has effects on other areas such as the pre-screening of migrants, employment, and integration. Technology is not used neutrally. Biased algorithms categorise people in different groups that are by default marginalised. Those groups will tend to be under-protected and overpoliced but also less integrated, less included. However, not enough data is available on the impact of the use of AI on the enjoyment of economic and social rights. Nevertheless, persons of African descent informally employed in the sectors mentioned above are particularly exposed to discrimination in the enjoyment of these rights.
 - **The situation since the onset of the COVID-19 pandemic**
19. The pandemic has revealed and amplified long-engrained structural inequalities. It also showed the pre-existing weaknesses in the capacity of institutions to protect at-risk groups. Women of African descent and migrant

¹³ See the Midterm report of the UN High Commissioner for Human Rights on her activities in follow-up to the implementation of the programme of activities within the framework of the International Decade for People of African Descent, [A/HRC/45/47](#), 17 September 2020, and the sources quoted therein.

women working in household employment found themselves in a particularly vulnerable situation. In some cases, people of African descent were refused access to health care or were treated with delay and have been accused of propagating the virus by not observing hygiene rules. Furthermore, there has been an increase in police brutality against people of African descent in the context of the enforcement of lockdown measures, including in specific neighbourhoods and in reception centres for asylum-seekers.

- **Intersectionality**

20. **Counterterrorism:** Human rights defenders expressed concern that states' approaches to counterterrorism make people of African descent, and among them, Muslims of African descent, more easily targeted for and exposed to surveillance, arrest, ill-treatment, and deportation.
21. **Women of African descent** routinely face situations in which biases regarding gender, skin colour, religion and migration status, *inter alia*, combine to create particularly harmful forms of discrimination. These affect their employment and economic opportunities, their interaction with law enforcement authorities, and their access to justice as victims of crime, among others.¹⁴

1.3 PROPOSALS IDENTIFIED DURING THE DISCUSSIONS REGARDING RESPONSES TO AFROPHOBIA

22. There is a need to acknowledge Afrophobia and bring it into national and European debates and to give it adequate space and visibility. Training on racism and racial discrimination should be put in place for politicians and decision-makers to increase their awareness of the issues at stake and their ability to address them.
23. National authorities need to fundamentally reconsider the way in which they view people of African descent and the racism and discrimination affecting them. To be effective, measures in this area need to reflect the interplay between the historical and structural aspects of Afrophobia, adequately cover intersectionality, and span individual, structural and institutional levels.
24. States must show more resolve in addressing the legacy of the colonial past and slavery. Further efforts are necessary at national levels to come to terms with past massive human rights violations which still scar the lives of people of African descent living in Europe. It is essential to ensure that initiatives to establish the truth and provide reparations are taken with the involvement of, and in partnership with communities of people of African descent.
25. School curricula should include teaching on the history of people of African descent in Europe, colonialism and the slave trade and university programmes in African studies should be given increased prominence. In addition, local "knowledge centres" providing awareness-raising activities geared towards schools, business and labour market organisations, public services, and the wider public could be set up. Such initiatives should be devised and implemented in a sustainable way. Human rights defenders' expertise should be used in this context. Successful initiatives could be promoted and shared through the [Intercultural Cities Programme](#) of the Council of Europe.
26. Collection of adequately disaggregated equality data is crucial for fighting invisibility¹⁵ and for devising effective responses to Afrophobia in all sectors. Countries that for historical reasons are reluctant to collect ethnic/racial quantitative data should make efforts to overcome this barrier and find innovative approaches for data collection and analysis, in line with European data protection safeguards.
27. Further research is necessary at national levels to understand structural barriers, including in education, healthcare, employment, access to justice and digital rights, among others. Specific funds should be set up for research on racism and racial discrimination, as well as for training provided in this respect to decision-makers and professional categories including social assistants, healthcare workers, educators, prosecutors, and judges.
28. Positive action should be taken to close gaps in the enjoyment by people of African descent of socio-economic rights, particularly as regards access to education, employment, housing and healthcare.

¹⁴ See United Nations, Office of the High Commissioner for Human Rights, "[Women and girls of African descent: Human rights achievements and challenges](#)" (2018).

¹⁵ See ENAR, "Invisible Visible Minority: Confronting Afrophobia and Advancing Equality for People of African Descent and Black Europeans in Europe" (2004), available at: <https://www.enar-eu.org/ENAR-resources>.

29. There is a need for more mainstreamed action to ensure racial equality and for policies and measures addressing the intersectional aspects of discrimination. Afrophobia should be included in national human rights action plans and sectoral strategies such as those concerning education and healthcare. Action plans should set out specific objectives and steps for the implementation of the relevant international legal and operational frameworks, including the IDPAD. Sufficient resources should be allocated, and adequate implementation guidelines should be developed for this purpose.
30. The implementation of the existing legal and policy frameworks should be closely monitored. Duty bearers should be held accountable for failures to fulfil obligations under the relevant frameworks.
31. There is a stringent need for genuine commitment to combat impunity of law enforcement agents engaged in excessive use of force. The setting up of independent police complaints mechanisms is crucial in this respect. The authorities should ensure that law enforcement agents receive adequate and systematic human rights training, including with regard to Afrophobia.
32. People of African descent should be better protected against hate speech and hate crime. The developing of platforms allowing the anonymous reporting of such incidents could be a way to increase reporting and protect those who report against reprisals.
33. European states should consider setting up regional programmes to combat Afrophobia, supported by a permanent secretariat. Council of Europe and European Union programmes, policy frameworks and bodies promoting the human rights of Roma and Travellers¹⁶ could be used as a model in this respect.

2 THE SITUATION OF HUMAN RIGHTS DEFENDERS WORKING ON COMBATING AFROPHOBIA

2.1 CHALLENGES AFFECTING HUMAN RIGHTS DEFENDERS IN GENERAL

34. The situation and work of human rights defenders are negatively affected by various trends in Europe. Obstacles may take the form of: legal and administrative restrictions impeding the registration of human rights organisations and their access to funding; burdensome financial and reporting requirements; judicial harassment; smear campaigns, threats and intimidation; abusive control and surveillance; confiscation and destruction of working materials; unlawful arrest or detention; ill-treatment; enforced disappearance and death. The absence of effective investigations into violations committed by state and non-state actors against human rights defenders targeted because of their human rights work remains a major problem in many places in Europe.
35. On 13-14 December 2018, the Commissioner organised in Helsinki a round-table meeting with human rights defenders entitled "Human Rights Defenders in the Council of Europe Area: Current Challenges and Possible Solutions". In the [report](#) issued following the event, the Commissioner recommended that member states should ensure: (1) the safety and liberty of human rights defenders; (2) a conducive political, legal and public environment for human rights defenders; (3) freedom of association, expression and peaceful assembly of civil society organisations as well as their right to participate effectively in decision-making processes and public affairs, and (4) that human rights are fully respected in the context of technological changes.

2.2 SPECIFIC CHALLENGES AFFECTING HUMAN RIGHTS DEFENDERS WORKING ON COMBATING AFROPHOBIA

36. Participants noted that human rights defenders of African descent and NGOs working on combating Afrophobia face challenges which reflect the existing structural and institutional racism and racial discrimination manifested against people of African descent. These include, in particular:
 - **Threats to the lives and safety of human rights defenders.** Human rights defenders working on combating Afrophobia are often assaulted by or receive death threats from members of the public. Those who work for poorly funded NGOs are at increased risk, as those NGOs cannot keep offices and are often forced to

¹⁶ See, for example, the Council of Europe webpage for the [Ad hoc Committee of Experts on Roma and Traveller Issues \(CAHROM\)](#), and the European Commission's webpage on [Roma equality, inclusion and participation in the EU](#).

register headquarters at the residence of one of their members. This means that the place of residence of human rights defenders becomes known to the public, including to potential attackers. While the “Black Lives Matter” movement has given an impetus to the activity of these NGOs, the increased danger associated with their work generally acts as a barrier to professionalisation and leads to a high overturn of staff.

- **Cyber harassment and attacks in the media and on social media.** Human rights defenders are subjected to harassment, stigmatisation and censorship in mainstream media and on social media. They are also targeted by campaigns mounted by extremist right-wing groups, whose members often include law enforcement agents. Hate speech is particularly widespread on social media platforms, which often fail to prevent or remove illegal content. Incidents reported to the authorities are frequently received with hostility and are sometimes followed by threats of reprisals.
- **Other forms of pressure, including surveillance and censorship.** Pressure is also exercised by pro-colonialist groups which are opposed to the work of human rights defenders of African descent. Another difficulty is related to surveillance, including by the secret services. Participants also reported about attempts to censor presentations made by human rights defenders before national authorities. Moreover, NGOs which raise questions deemed sensitive are also threatened with the withdrawal of funds allocated from public sources. On some occasions, NGOs that faced such losses of funds have decided to cease their activities.
- **Stigmatisation and marginalisation.** Human rights defenders of African descent are often discredited and disregarded, including by other civil society activists. In many cases, their professionalism is questioned, and they are not granted meaningful participation in consultation and decision-making processes. Calls to participate in consultations are often merely formal and their knowledge and experience are not sufficiently taken into consideration.
- **Lack of funding and untransparent allocation of funding.** NGOs working on combating Afrophobia lack dedicated funds allowing them to cover operational costs on a stable basis. Moreover, public funds are currently channeled towards “mainstream” NGOs run by persons belonging to the majority population, most of which do not employ persons of African descent. Many of these NGOs are involved in decision-making regarding the allocation of funds but also benefit from these funds, to the exclusion of NGOs run by persons of African descent. However, untransparent allocation processes make this discrimination difficult to prove.
- **Risks related to exercising the right to freedom of assembly.** Human rights activists of African descent are regularly sanctioned for occupying the public space (for example, in conducting demonstrations). Automated devices and tools profile both with respect of location and skin colour. The risk factor for human rights defenders of African descent located in places of demonstrations is elevated. Usually this results in being classified in databases in respect of which, as a rule, access to information is not granted. Moreover, there is no adequate protection provided by the police to human rights defenders during demonstrations, although they are often attacked by right-wing extremist groups. Generally, such attackers are not prosecuted.

2.3 PROPOSALS IDENTIFIED DURING THE DISCUSSIONS REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS AND THE PROMOTION OF THEIR WORK

37. There should be more opportunities for civil society organisations and activists working on combating Afrophobia in Europe to interconnect. The establishment of an international forum where consultations could be held with NGOs and human rights defenders working in this field would be of great benefit. Such a forum would provide a voice to these NGOs and human rights defenders at regional level and would represent a much-needed platform for promoting accountability and the implementation of states’ obligations to fight racism affecting people of African descent. A specific fund should be created for this forum.
38. There is a vital need to put in place, at national levels, rapid response mechanisms able to effectively protect human rights defenders against attacks, threats and harassment. Rules concerning the registration of NGOs should be amended to ensure a better protection of their members against exposure to such threats.

39. National authorities should take a strong stance against hate speech and ensure that sanctions are consistently applied in cases of hate speech committed online. Further work is needed to clarify the role and responsibilities of social media platforms in the prevention of online hate speech.
40. More long-term, multi-year funding is required to effect sustainable change. National regulations concerning the allocation of funds should be amended, where necessary, to ensure non-discriminatory and transparent allocation procedures. Independent allocation of core funding and positive measures in the allocation of public funds are needed to ensure that organisations of people of African descent can be the drivers for change. In this context, allocations designed to support the well-being, including the mental health care, of human rights defenders are particularly important to prevent and manage stress-induced consequences of work-related pressures.

3 CONCLUSIONS AND RECOMMENDATIONS

3.1 COMBATING AFROPHOBIA IN THE COUNCIL OF EUROPE AREA

41. There are a wealth of international standards and guidelines underlying states' obligations to combat racism and racial discrimination, paying particular attention to persons of African descent.
 - **At global level** – The core obligations laid down in the 1965 International Convention on the Elimination of All forms of Racial Discrimination (ICERD), based on the principle of equal rights and dignity proclaimed in the Universal Declaration of Human Rights, are at the heart of an evolving international framework in this field. The [Durban Declaration and Programme of Action](#) (DDPA) adopted at the 2001 World Conference Against Racism, among other documents, reaffirm the non-derogability of the prohibition of racial discrimination and reiterate the responsibilities of states as primary duty-bearers in combating racism and racial discrimination, including with respect to people of African descent.¹⁷ Furthermore, the Programme of Activities for the implementation of the International Decade for People of African descent calls on states to adopt measures according to the DDPA and the ICERD. In addition, the “leave no one behind” approach of the 2030 Agenda for Sustainable Development and the SDGs require states to reduce inequalities in all areas and to “reach the furthest behind first”.¹⁸
 - **At European level** – Relevant standards and guidelines include the European Convention on Human Rights and its Protocol no. 12, the [Additional Protocol to the Council of Europe Convention on Cybercrime](#), the [European Social Charter](#) (revised), the ECRI [General Policy Recommendations](#) (GPRs), the EU [Racial Equality Directive](#) and the [Council Framework Decision 2008/913/JHA](#) on combating certain forms of expression of racism and xenophobia by means of law.
42. However, as evoked in the previous sections of this report, people of African descent continue to be affected by particularly grave forms of racism. Moreover, far from living free from discrimination, they are left behind in all areas of social and economic life. The following recommendations outline some of the actions that, in the Commissioner's view, member states should take with a view to reversing this situation:
 - Place combating racism and racial discrimination high on their policy agendas; include measures to combat Afrophobia in national human rights action plans and sectoral human rights strategies; acknowledge and address any structural, institutional and intersectional dimensions of Afrophobia.
 - Show a clear commitment to addressing the legacy of colonialism and the slave trade and enhance efforts to overcome political and other resistance to the acknowledgment of responsibility for these violations;¹⁹

¹⁷ See also UN General Assembly, A global call for concrete action for the elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action, [A/RES/75/237](#), adopted on 31 December 2020.

¹⁸ See WGEPAD, Operational Guidelines on the inclusion of People of African Descent in the 2030 agenda, 9 December 2020, available at: <https://ohchr.org/EN/Issues/Racism/WGAfricanDescent/Pages/WGEPADIndex.aspx>.

¹⁹ See Tendayi Achime, UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and racial intolerance, Report on the human rights obligations of Member States in relation to reparations for racial discrimination rooted in slavery and colonialism, [A/74/321](#), 21 August 2019.

continue efforts to continue to establish the truth and take genuine steps to provide reparations in an appropriate form, established in consultation with civil society representatives of African descent.

- Adequately reflect in school curricula historical slavery and the colonial past, as well as their present-day ramifications; ensure that schools carry out human rights education programmes and that these programmes incorporate the fight against racism and discrimination, as well as respect for diversity;²⁰ pay particular attention to countering harmful stereotypes; carry out, at national and local levels, additional awareness-raising programmes aimed at the public at large.
- Take the necessary legislative and practical measures allowing the collection of disaggregated equality data, with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a group.²¹
- Act resolutely against all forms of incitement to hatred against people of African descent and enhance efforts to tackle online hate speech; take measures to improve hate crime legislation, ensuring in particular that racist motivation constitutes an aggravating circumstance for all offences;²² in line with the ECtHR's case-law, when investigating violent incidents triggered by suspected racist attitudes, to take all reasonable action to ascertain whether there were racist motives and to establish whether these played a role in the events.²³
- Ensure that victims are provided with adequate support to secure their rights, including access to free legal aid, where appropriate; reinforce training programmes for law enforcement agents, prosecutors and judges, as well as other judicial professionals, in order to enhance their capacity to deal with racist hate crimes and support victims.
- Stamp out racial profiling and impunity for racist hate crimes committed by law enforcement agents; establish, where not yet available, independent complaints mechanisms which should be capable of gathering the evidence to determine whether the behaviour complained of was unlawful and to identify and punish those responsible, in accordance with the [Guidelines of the Committee of Ministers on eradicating impunity for serious human rights violations](#) (2011).
- Strengthen measures to combat discrimination in access to education, employment, housing and health care; where necessary, counteract in particular the limited opportunities in education and employment for people of African descent, make full use of the possibilities for positive action measures offered by the applicable international standards²⁴ and the ECtHR's case law;²⁵ ensure that a gender perspective is applied in devising and implementing such measures.²⁶
- Ensure that children of African descent, including migrant and refugee children, are treated equally with all other children, in full respect of their rights and best interests.
- Refrain from using AI systems that discriminate or lead to discriminatory outcomes and, within their jurisdiction, protect individuals from the consequences of the use of such systems by third parties.²⁷
- Ensure that national human rights structures have the necessary resources and capacities to carry out work on issues related to Afrophobia, including with the involvement of relevant civil society representatives.

²⁰ See the ECRI GPR no. 10 on Combating racism and racial discrimination in and through school education, [CRI\(2007\)6](#), 15 December 2006, and Recommendation no. 10 - [Key Topics](#).

²¹ See "Compilation of ECRI's General Policy Recommendations", [CRI\(2018\)16](#), 2018, pp. 126, 174, 187, and 192.

²² See the ECRI GPR no. 7 on National legislation to combat racism and racial discrimination, [CRI\(2003\)8 REV.](#), adopted on 13 December 2002 and amended on 7 December 2007.

²³ ECtHR, *Abdu v. Bulgaria*, no. 26827/08, 11 November 2014, § 44; *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, 6 July 2005, § 160; *Škorjanec v. Croatia*, no. 25536/14, 28 March 2017, § 53

²⁴ See ICERD, Article 2, paragraph 2 and the EU Race Equality Directive, Article 5.

²⁵ ECtHR, *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06, 22 December 2009, § 44; *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, 13 November 2007, § 175.

²⁶ See UN Committee on the Elimination of Racial Discrimination, General recommendation No. 34 on Racial discrimination against people of African descent, [CERD/C/GC/34](#), 3 October 2011.

²⁷ See the Commissioner's Recommendation "Unboxing Artificial Intelligence: 10 steps to protect Human Rights" (fn. 2 above), p. 11.

Equality bodies have a specific role to play in this respect.²⁸ Carefully consider and implement the recommendations of national human rights structures concerning measures to be taken to combat racism and racial discrimination against people of African descent.

- Consider setting up mechanisms and frameworks at regional level dedicated to the protection of the human rights of people of African descent; draw inspiration in this respect from the Council of Europe and European Union programmes and bodies for the promotion and protection of the rights of Roma and Travellers and of other minority groups.

3.2 Providing protection and support to human rights defenders working on combating Afrophobia

43. Member states must meet their obligations to protect human rights defenders and ensure an enabling environment for their work, free from intimidation and pressure. These obligations are recalled in the UN Declaration on human rights defenders (1998) and the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities (2008). Regarding human rights defenders working on combating Afrophobia, the Commissioner considers that member states should, in particular:

- Fulfil in good faith the obligation to protect human rights defenders who are in danger, including by establishing rapid-response mechanisms or protection programmes for human rights defenders.
- Adopt a policy of zero tolerance of threats, physical attacks, and harassment against human rights defenders. This includes providing support to those targeted by hate speech and sanctioning the detrimental treatment or harassment of human rights defenders in relation to their complaints or reporting on the use of hate speech;²⁹ as well as conducting effective and prompt investigations into such incidents and prosecuting and punishing those responsible, irrespective of their status.
- Refrain from using stigmatising rhetoric that delegitimises human rights defenders and their work.
- Pay special attention to the impact of the use of AI systems on the freedoms of assembly and association; strictly regulate the use of facial recognition technology, including through legislation setting out clear limitations for its use, and public transparency.³⁰
- Ensure the non-discriminatory and transparent allocation of funds, covering also the resources needed to safeguard the well-being of human rights defenders, including their mental health care.
- Facilitate human rights defenders' meaningful participation in consultation and decision-making processes. Effective procedures and practices should be established in this respect.
- Ensure that national human rights structures have the necessary mandate, resources and capacity to sustain co-operation with NGOs and human rights defenders, build bridges between them and the authorities and help ensure that they are given a voice in national policy making. Furthermore, ensure that national human rights structures, when they have such a mandate, have the capacity to support and protect human rights defenders facing threats because of their work for combating racism and racial discrimination, including against people of African descent.
- Consider favourably the possibility of setting up a regional forum of civil society representatives of people of African descent.

²⁸ See the ECRI GPR no. 2: Equality bodies to combat racism and intolerance at national level, [CRI\(2018\)06](#), adopted on 13 June 1997 and revised on 7 December 2017.

²⁹ See the ECRI GPR no. 15 on Combating hate speech, [CRI\(2016\)15](#), adopted on 8 December 2015.

³⁰ See the Commissioner's Recommendation "Unboxing Artificial Intelligence: 10 steps to protect Human Rights", p. 13.