

# ECRI annual seminar with Equality Bodies

## Prohibition of discrimination: can intersectionality contribute to effective equality?



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Strasbourg & hybrid format

# Prohibition of discrimination: can intersectionality contribute to effective equality?

## Concept note

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There is a growing recognition that failure to address complex social systems and identities may undermine human rights protection due to all. In three decades, intersectionality has gradually become a tool for understanding the consequences of interaction between two or more forms of discrimination and addressing the manner in which they contribute to create different layers of inequality. It has been increasingly recognised as a cross-cutting principle in policy-making in Europe and beyond.<sup>1</sup> The European Commission against Racism and Intolerance (ECRI) has been using an intersectional approach in its country monitoring work, which highlighted the specific vulnerabilities experienced by, for instance, Roma women, Black men or Muslim women, as well as in its new standards, as was the case in its [General Policy Recommendation No. 5](#) (revised) on preventing and combating anti-Muslim racism and discrimination<sup>2</sup> and [General Policy Recommendation No. 9](#) (revised) on preventing and combating Antisemitism.<sup>3</sup>

Often used interchangeably with multiple discrimination, which is an overarching notion for all instances of discrimination on several grounds, intersectional discrimination<sup>4</sup> is much more challenging due to its synergistic nature. Equal treatment laws often make neither explicit provision for multiple discrimination, nor reference to intersectional forms of discrimination. Furthermore, in the absence of suitable legal protection for victims of discrimination, anti-discrimination laws largely remain ineffective to address this phenomenon.

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1 See, for example, [EU Action Plan against Racism 2020-2025](#) and [EU LGBTIQ Equality Strategy - 2020-2025](#); UN Committee on the Elimination of Racial Discrimination (CERD), [General Recommendation No. 32](#), CERD/C/GC/32, 2009, § 7 and [General Recommendation No. 35](#), CERD/C/GC/35, 2013, § 6.

2 See, in particular, § 12-13 and Recommendation 7.

3 See, in particular, § 13 and Recommendation 5.

4 Intersectional discrimination refers to a situation where several grounds interact with each other at the same time in such a way that they become inseparable and their combination creates a new ground; (§ 1 of the Explanatory Memorandum to ECRI's [General Policy Recommendation No. 14](#) on combating racism and racial discrimination in employment).

A significant number of Equality Bodies have decided to place particular emphasis on intersectionality in their work, primarily through research and, to a lesser extent, in the areas pertaining to litigation and the enforcement of legislation.<sup>5</sup> However, factors such as equality data gaps, underreporting, institutional limitations and lack of expertise hinder work on intersectionality.

This seminar aims at exploring ways and means of taking into account the concept of intersectionality when reviewing legal and policy frameworks.

It will begin by setting the scene with a keynote speech on how laws and practices could be viewed through the lens of intersectionality. It will then look into legislative and other measures against intersectional discrimination and offer an opportunity to discuss the role of Equality Bodies and other stakeholders in this respect. The current status of intersectionality across different jurisdictions, including before international adjudication, such as the European Court of Human Rights, the Court of Justice of the European Union, the United Nations Human Rights Committee, and the United Nations Committee on the Elimination of Racial Discrimination (CERD), will also be examined. The seminar will end with a fireside chat to have an insightful reflection on ways forward.

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<sup>5</sup> European Network of Equality Bodies- Equinet (2016), [Innovating at the Intersections](#). Equality Bodies tackling Intersectional Discrimination.



The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to 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 in Europe.

ECRI was set up by the first Summit of Heads of State and Government of the member states of the Council of Europe in 1993 and became operational in 1994. As ECRI marks almost 30 years of combating racism and intolerance, current trends show that these are still persistent problems in European societies that require renewed efforts to be overcome.

ECRI is composed of 46 members appointed on the basis of their independence, impartiality, moral authority and expertise in dealing with issues of racism, discrimination, xenophobia, antisemitism and intolerance. Each Council of Europe member state appoints one person to serve as a member of ECRI.

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