



# Combating racism and racial discrimination in employment

## ECRI General Policy Recommendation No. 14: Key Topics

Despite the existence of anti-discrimination legal frameworks in many Council of Europe member states, labour market discrimination is a major and widespread phenomenon. Those most vulnerable to employment discrimination in Europe are migrants from non-EU member states (including undocumented migrants, refugees and asylum seekers), Roma, Muslims, people of African descent and Black Europeans, and women with a minority or migrant background.

Discrimination occurs both at the recruitment stage and in the workplace. It stifles opportunities, wastes the human talent needed for economic progress, and accentuates social tensions and inequalities. Eliminating racial discrimination in employment would create diverse workforces offering employers the unlimited pool of talent required for any successful business.

” Legislation should provide protection against **multiple discrimination**. “Multiple discrimination” refers to discrimination suffered on two or more grounds at the same time: for example, on the grounds of religion and gender as experienced by a Muslim woman.

### KEY MESSAGE

Governments must develop, implement and fund national strategies and public policies to eliminate racial discrimination and harassment in employment and improve the equal participation of those most exposed to discrimination in employment. These strategies must ensure:

- ▶ Accessible legal remedies, available in practice;
- ▶ Effective, proportionate and dissuasive sanctions for unlawful discrimination;
- ▶ Adoption and implementation of good anti-discrimination practice and equality and diversity standards across all areas of employment to bring institutional employment discrimination to an end.

### SELECTED RECOMMENDATIONS

Governments must:

#### 1. Implement a legal duty on employers to promote equality and non-discrimination and require them to

- ▶ ensure the workplace is free from harassment;
- ▶ review their employment policies & practice to eliminate discrimination and promote equality of opportunity.

#### 2. Improve knowledge of employment equality rights

- ▶ provide training for employers and employees, the judiciary and government officials in anti-discrimination law and practice;
- ▶ support civil society organisations working to eliminate discrimination and promote equality.



### 3. Take steps to facilitate access to justice

- ▶ guarantee free legal aid (in accordance with national eligibility criteria) to those who do not have the means to bring discrimination complaints to the relevant tribunal;
- ▶ establish alternative dispute resolution procedures to resolve complaints.

### 4. Eliminate barriers to employment

- ▶ require public authorities to monitor and report on their workforce composition and gather and analyse disaggregated employment equality data;
- ▶ allow temporary special measures to equip persons and groups who are particularly experiencing racism and discrimination to compete for jobs on an equal footing with others;
- ▶ provide clear guidance for employers on their scope for taking positive action in employment;
- ▶ provide language training specifically designed to assist non-mother tongue speakers to access employment.

### 5. Encourage good practice

- ▶ promote codes of conduct and equality plans to support employers create diverse working environments;
- ▶ encourage good employment practice through, for example, official recognition awards, funding for training programmes, tax reductions for employers with a multicultural workforce or for those undertaking positive measures.



### ECRI –USEFUL LINKS

ECRI General Policy Recommendation No.14: Combating racism and racial discrimination in employment

<http://hudoc.ecri.coe.int/eng?i=REC-14-2012-048-FRE>

EU barometer: Discrimination in the EU 2015

<http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2077>

Fundamental Rights Report

<http://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2017#equality>

### FACTS AND FINDINGS

ECRI recommends that employers use fair and objective recruitment procedures. “In particular, [ECRI] encourages employers to ensure that their recruitment and selection criteria focus on the experience, qualifications and competencies required for each post. A competency is an ability, skill, knowledge or attribute that is needed for successful performance in a job and is often defined in terms of behaviours, e.g. communication skills. The aim is to ensure that the employer uses justified criteria objectively to select employees which are based on the applicant’s ability to effectively perform the tasks required” Explanatory Memorandum to paragraph 4 of ECRI General Policy Recommendation No. 14.

ECRI recommends employers are held “responsible for ensuring that the workplace is free from racial harassment. Harassment is a major form of discrimination and it is difficult to prove. Racial harassment occurs when unwanted conduct related to the protected grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.” National law should ensure that all employees are “protected from unlawful harassment, whether at the hands of the employer, his or her employees, agents, or the public who are customers, service users or clients”. Explanatory Memorandum to paragraph 1 (Harassment) to ECRI General Policy Recommendation No. 14.

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