

Preventing and combating racism and intolerance within law enforcement agencies

Factsheet



6 September 2023

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**Secretariat of ECRI
European Commission
against Racism and Intolerance**

Council of Europe

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The present factsheet has been prepared by the Secretariat of ECRI. It aims to present ECRI's key recommendations on preventing and combating racist and LGBTI-phobic abuse by law enforcement officials¹, as reflected in particular in ECRI's country reports adopted and made public in the context of the fourth, fifth and sixth monitoring cycles during the period ranging from 2008 to 2023.

¹ For the purpose of this factsheet, the terms "law enforcement officials" and "law enforcement agencies" refer to various categories of professionals and civilian public services entrusted with police powers (e.g. federal or national police, *gendarmerie*, local police, border police or border guard service). They may also include *mutatis mutandis* internal security services. References to "police" also cover these categories of services and professionals.

Introduction

ECRI has always stressed the vital role of law enforcement agencies in preventing and combating racism and intolerance. The trust in these agencies by all members of society enhances safety for all. However, ECRI has also recognised that instances of racist and LGBTI-phobic abuse on the part of law enforcement officials tarnished the profession of and jeopardised the work of those who comply with police ethics and the law. ECRI has therefore called on governments to take action to prevent and combat racism and intolerance within law enforcement agencies.

To that end, ECRI adopted its **General Policy Recommendation No. 11 on combating racism and racial discrimination in policing**.² Following its adoption in 2007, ECRI decided to look into the conduct of law enforcement officials as one of the subject matters examined closely in the context of its fourth monitoring cycle and, where appropriate, its fifth and sixth monitoring cycles.

ECRI also raised its concern over racism within law enforcement agencies in an exceptional **statement on racist police abuse, including racial profiling, and systemic racism** in 2020 as well as in annual reports in which it noted that the repeated occurrence of racist acts or remarks by law enforcement officials may be indicative of more general problems.³

The present factsheet is meant to be a tool supplementing ECRI's General Policy Recommendation No. 11 and other relevant texts of a general nature adopted by ECRI. It should also be seen as work in progress and not considered as exhaustive. New issues may emerge in the coming years, notably from new technology and other developments, which will require new responses. Furthermore, ECRI's recommendations should not be taken in isolation from relevant Council of Europe and other international standards,⁴ including the case law of the European Court of Human Rights interpreting the European Convention on Human Rights.⁵

2 CRI(2007)39.

3 **Annual Report on ECRI's activities covering the period from 1 January to 31 December 2021**, §§ 11-16, see also **Annual Report on ECRI's activities covering the period from 1 January to 31 December 2022**, § 26, and **Annual Report on ECRI's activities covering the period from 1 January to 31 December 2020**, §§ 22-26.

4 See, for instance, **Recommendation Rec(2001)10** of the Committee of Ministers to member States on the European Code of Police Ethics, **Resolution 2364 (2021)** of the Parliamentary Assembly of the Council of Europe entitled "Ethnic profiling in Europe: a matter of great concern", **standards and tools** of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in particular **Developments concerning CPT standards in respect of police custody**, CPT/Inf(2002)15-part, **Preventing police torture and other forms of ill-treatment – reflections on good practices and emerging approaches**, CPT/Inf(2019)9-part, CPT **report** on visit to Hungary 2018 [CPT/Inf (2020) 8] §§ 21-23; CPT **report** on visit to Romania 2022 [CPT/Inf (2022) 06] §§ 12-29, as well as human rights comment by the Council of Europe Commissioner for Human Rights entitled "**Ethnic profiling: a persisting practice in Europe**" (2019), and **general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials** adopted by the United Nations Committee on the Elimination of Racial Discrimination (CERD).

5 See, for example, *Lingurar v. Romania*, no. 48474/14, 16 April 2019; *Basu v. Germany*, no. 215/19, 18 October 2022; *Muhammad v. Spain*, no. 34085/17, 18 October 2022.

It should also be borne in mind that the precise nature and legal contexts and policy areas in which ECRI's recommendations have been made may vary significantly, depending on circumstances in the countries in question and the groups of concern to ECRI involved.⁶

As regards specific measures aimed at addressing police abuse against Roma, reference is also made to the **factsheet** on preventing and combating antigypsyism and discrimination against Roma and Travellers.

⁶ In its work ECRI has dealt with the situation of numerous groups which are particularly vulnerable to acts of racism and intolerance. Identification of such groups depends on national circumstances and may include for example: migrants, refugees and asylum seekers, nationals with a migration background, Roma and Travellers, members of Black communities, Muslims, Jews and LGBTI persons, as well as other groups in vulnerable situations.

Ensuring diversity within law enforcement agencies

1. The authorities should actively seek to recruit law enforcement officials with a minority or migration background⁷ so that diversity within law enforcement agencies better reflects the diversity of the general population.⁸
2. Steps aimed at diversifying law enforcement staff should involve the adoption of strong recruitment, retention and promotion policies (including equal opportunities for career development).⁹

Enhancing training and developing awareness-raising

3. The authorities should introduce, within law enforcement agencies, a policy of zero tolerance towards racism and LGBTI-phobia, which should shine through in the basic and further training of law enforcement officials.¹⁰
4. The authorities should ensure that all law enforcement officials follow human rights training and awareness-raising courses regarding the need to combat racism and intolerance in policing. The structures should be set up to enable exchanges of good practices between the various law enforcement agencies at different levels (for instance, federal, regional and municipal).¹¹
5. Police training should aim at combating prejudices and negative stereotypes against members of groups of concern to ECRI.¹²

Maintaining a communication with the media that is respectful of diversity

6. When communicating with the media and the public at large, law enforcement officials should always be careful to do so in a way that does not perpetuate hostility or prejudice towards groups of concern to ECRI.¹³ The authorities should in particular ensure that law enforcement officials only disclose information about the “race”¹⁴, national or ethnic origin, skin colour, language, religion, citizenship, sexual orientation or gender identity of the alleged perpetrator of an offence when that disclosure is strictly necessary and serves a legitimate purpose.¹⁵

7 ECRI sixth-cycle **report** on the Czech Republic, § 38.

8 ECRI fifth-cycle **report** on Finland, § 63; ECRI fifth-cycle **report** on Ireland, § 54 (*in order of publication, from the most recent to oldest*).

9 ECRI **Annual Report on ECRI's activities covering the period from 1 January to 31 December 2021**, § 16 and **Annual Report on ECRI's activities covering the period from 1 January to 31 December 2022**, § 26.

10 ECRI fifth-cycle **report** on Portugal, § 67.

11 ECRI fourth-cycle **report** on Switzerland, § 185.

12 ECRI fourth-cycle **report** on Hungary, § 176.

13 **Statement of the European Commission against Racism and Intolerance (ECRI) on racist police abuse, including racial profiling, and systemic racism**, adopted by ECRI at its 82nd plenary meeting (30 June – 2 July 2020).

14 See, in this connection, the **Opinion on the concept of “racialisation”** adopted by ECRI at its 87th plenary meeting on 8 December 2021.

15 ECRI fifth-cycle **report** on Luxembourg, § 45; ECRI fifth-cycle **report** on Austria, § 52.

Building trust with groups in vulnerable situations

7. The authorities should establish a framework for dialogue and co-operation between law enforcement officials and members of groups of concern to ECRI.¹⁶ This may take the form of consultation meetings between law enforcement officials, representatives of groups in vulnerable situations and civil society organisations¹⁷ or regular round tables with civil society and bodies specialising in combating racism and LGBTI-phobia.¹⁸
8. The authorities should introduce an effective system of recording identity checks by law enforcement officials, as part of a policy aimed at strengthening mutual trust between them and the public and their co-operation in combating discrimination.¹⁹

Preventing and combating racial profiling practices

9. Racial profiling by law enforcement officials should be defined and prohibited by law, in accordance with ECRI's General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.²⁰
10. The legislation in question should guarantee that police action, in particular the use of stop-and-account/stop-and-search powers as well as surveillance or investigation powers, be based on the existence of a reasonable suspicion that is founded on objective criteria.²¹ The authorities should define and describe in detail the conditions under which such measures are permitted.²² Law enforcement officials should also adopt a respectful tone and behaviour towards all persons stopped.²³
11. Where appropriate, the authorities should commission and participate in a study on racial (and other discriminatory) profiling practices with the aim of developing and implementing measures that eliminate any such existing practices.²⁴
12. The authorities should organise initial and ongoing training for law enforcement officials on racial (and other discriminatory) profiling and on the use of the reasonable suspicion standard.²⁵ They should also carry out an impact assessment to evaluate such trainings and, if necessary, adjust them.²⁶ Adequate training should be provided in particular to border police officers to enable them to carry out their duties without resorting to racial profiling practices.²⁷

16 ECRI sixth-cycle **report** on Slovakia, § 62; ECRI sixth-cycle **report** on Austria, § 60; ECRI sixth-cycle **report** on Switzerland, § 61.

17 ECRI sixth-cycle **report** on Albania, § 29.

18 ECRI fifth-cycle **report** on Luxembourg, § 37; ECRI fifth-cycle **report** on Türkiye, § 42 (*please note that, since 2022, the official name of this country in English is Türkiye*).

19 ECRI sixth-cycle **report** on France, § 113.

20 ECRI fifth-cycle **report** on Romania, § 60; ECRI fifth-cycle **report** on Ireland, § 54; ECRI fifth-cycle **report** on the Republic of Moldova, § 61; ECRI fifth-cycle **report** on Cyprus, § 48. See also the CERD **general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials**.

21 ECRI fifth-cycle **report** on the Netherlands, § 103; ECRI fifth-cycle **report** on Switzerland, § 72. See also regarding profiling on the basis of gender identity: ECRI fifth-cycle **report** on Greece, §145.

22 ECRI fifth-cycle **report** on Switzerland, § 72; see also ECRI fifth-cycle **report** on Greece, § 97.

23 ECRI fifth-cycle **report** on Greece, § 97.

24 ECRI sixth-cycle **report** on Germany, § 109; ECRI fifth-cycle **report** on the Netherlands, § 103.

25 ECRI sixth-cycle **report** on Austria, § 101; ECRI fifth-cycle **report** on the Netherlands, § 103; ECRI fifth-cycle **report** on Croatia, § 58.

26 ECRI fifth-cycle **report** on the Republic of Moldova, § 70; ECRI fifth-cycle **report** on Croatia, § 58.

27 ECRI fifth-cycle **report** on North Macedonia, § 84 (*please note that, since 2019, the official name of this country is North Macedonia*).

Preventing the use of unlawful, unnecessary or disproportionate force

13. The authorities should take the necessary steps to prevent any use of unlawful, unnecessary or disproportionate force during police operations impacting members of groups of concern to ECRI.²⁸

Ensuring accountability

14. The authorities should condemn publicly and unequivocally any manifestation of racist or intolerant behaviour on the part of law enforcement officials.²⁹
15. The authorities should develop effective reporting procedures within law enforcement agencies, including through the adoption of protective measures for “whistle blowers”.³⁰
16. The authorities should generalise the wearing of body-worn video cameras by law enforcement officials during interventions.³¹
17. The authorities should provide strong support for victims and witnesses of misconduct by law enforcement officials.³²
18. A body that is independent of law enforcement agencies and the prosecution service should be entrusted with the investigation of cases involving allegations of racial and LGBTI-phobic discrimination, as well as racist and LGBTI-phobic misconduct and use of force by law enforcement officials.³³ Such a body should be allocated adequate resources.³⁴
19. The authorities should take decisive action to ensure effective investigations into allegations of misconduct by law enforcement officials, be it motivated by racism or LGBTI-phobia, followed by, where warranted, effective and proportionate sanctions or criminal charges against perpetrators.³⁵ All allegations of abuse should be dealt with as rapidly and thoroughly as possible, and perpetrators appropriately sanctioned.³⁶
20. The authorities should make public statistical data on disciplinary and judicial investigations concerning abuse by law enforcement officials.³⁷

28 ECRI sixth-cycle **report** on Albania, § 58.

29 ECRI fourth-cycle **report** on Italy, § 182; ECRI fourth-cycle **report** on Austria, § 141; ECRI fourth-cycle **report** on the Czech Republic, § 167.

30 **Statement of the European Commission against Racism and Intolerance (ECRI) on racist police abuse, including racial profiling, and systemic racism**, adopted by ECRI at its 82nd plenary meeting (30 June – 2 July 2020).

31 ECRI sixth-cycle **report** on Slovakia, § 109.

32 **Statement of the European Commission against Racism and Intolerance (ECRI) on racist police abuse, including racial profiling, and systemic racism**, adopted by ECRI at its 82nd plenary meeting (30 June – 2 July 2020).

33 ECRI sixth-cycle **report** on Switzerland, § 112; ECRI fifth-cycle **report** on Finland, § 63; ECRI fifth-cycle **report** on Romania, § 60; ECRI fifth-cycle **report** on Ukraine, § 102; ECRI fifth-cycle **report** on Lithuania, § 59; ECRI fifth-cycle **report** on Italy, § 64.

34 ECRI sixth-cycle **report** on Slovakia, § 109.

35 ECRI sixth-cycle **report** on Greece, § 112; ECRI fifth-cycle **report** on Slovakia, § 80.

36 ECRI fourth-cycle **report** on Albania, § 139.

37 ECRI fifth-cycle **report** on Türkiye, § 59.

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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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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