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## **The theme of migration and asylum in the election campaign and the consequences on the welcoming and rights of migrants**

### **Report<sup>1</sup>**

Committee on Migration, Refugees and Displaced Persons

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### *Summary*

The theme of migration and asylum has come to the fore in recent years as one of the key issues shaping public debate in numerous election campaigns. Its often partial and partisan treatment by the media and political parties paves the way for hate speech as the political offer has shrunk across the party spectrum, frequently undermining the rights of the individuals concerned and those who defend them.

Yet there is no evidence that this trend is indicative of public support for restrictive policies on migration and asylum. This phenomenon intensifies and is accompanied by an escalation of racist and xenophobic statements that are damaging not only to migrants' rights but also to social cohesion and democratic security in Europe.

While criticism or opposition to migration and asylum policies can be expressed in a democracy, hate speech and discriminatory measures cannot constitute a political programme complying with the Council of Europe's principles and standards.

This report proposes to capitalise on and to strengthen the instruments and programmes introduced by the Council of Europe and its partners over many years to support the staging of a responsible, democratic debate on what has become a major political theme.

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1. Reference to committee: [Doc. 15415](#), Reference 4622 of 24 January 2022.



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## A. Draft resolution<sup>2</sup>

1. The Reykjavík Declaration adopted at the Fourth Summit of Heads of State and Government of the Council of Europe reiterated the Organisation's principles in the face of the numerous challenges to human rights, the rule of law and peace in Europe, including democratic backsliding, violations of freedom of expression and the proliferation of hate speech. The Parliamentary Assembly considers that the treatment of the theme of migration and asylum lies at the intersection of those many challenges.
2. Considering that elections are milestone events that shape democracy, the Assembly is concerned at the intensification of a partial and biased treatment of the issue of migration and asylum in election campaigns which legitimise political proposals aimed at blocking access to rights of migrants, refugees and asylum seekers, in contravention of the Council of Europe's standards.
3. The Assembly acknowledges the importance of ensuring that pluralist and even diverging opinions on the theme of migration and asylum may be expressed during election campaigns. It firmly underlines however that hate speech and discriminatory measures cannot be part of a political programme which meets the Council of Europe's principles and standards and calls on governments of member States as well as key actors in the shaping and dissemination of electoral propaganda to implement [Recommendation CM/Rec\(2022\)16](#) of the Committee of Ministers on combating hate speech. The Assembly stresses that strong leadership is urgently needed to put an end to the instrumentalisation of the theme of migration and asylum for electoral gains, and to allow for this topic to be addressed in a balanced fashion, taking into account all the challenges at stake.
4. The Assembly recalls that the theme of migration and asylum cannot be limited to security matters and urgently calls politicians and the media to weigh up the consequences that such restricted views may bring to social cohesion and public order. It expresses its profound concern at the escalation of verbal and physical attacks on people of foreign origin or perceived as such, in particular on racialised persons and members of religious minorities, which is resulting from that process. In particular, the Assembly reiterates the concerns expressed in its [Resolution 2457\(2022\)](#) "Raising awareness of and countering Islamophobia, or anti-Muslim racism, in Europe".
5. The Assembly emphasises that the normalisation of such viewpoints is accompanied by a rise in intolerance towards individuals (rights defenders, elected representatives, journalists) and institutions (universities, media outlets) favourable to the reception and the inclusion of migrants, refugees and asylum seekers. It calls for manifestations of such intolerance to be sanctioned, in particular when taking the form of restrictions to fundamental freedoms, including freedom of assembly and association, of expression, and of the press, or of attacks against the physical or moral integrity of individuals.
6. Recalling [Recommendation Rec\(97\)20](#) of the Committee of Ministers to member States on "hate speech" according to which hate speech and intolerance "undermine democratic security, cultural cohesion and pluralism", the Assembly:
  - 6.1. reiterates the importance for all member States to ratify Protocol No. 12 to the European Convention on Human Rights (ETS No. 177);
  - 6.2. commends the work of the European Commission against Racism and Intolerance (ECRI) and calls on member States to harmonise their legal frameworks in accordance with ECRI's [General Policy Recommendation No.15 on Combating Hate Speech](#).
7. Recalling recommendations to public officials, elected bodies and political parties in [Recommendation CM/Rec\(2022\)16](#), and recalling [Resolution 1546 \(2007\)](#) "The code of good practice for political parties", [Resolution 1889 \(2012\)](#) "The portrayal of migrants and refugees during election campaigns" and [Resolution 2275 \(2019\)](#) "The role and responsibilities of political leaders in combating hate speech and intolerance", the Assembly:
  - 7.1. considers that migrants, refugees and asylum seekers are an integral part of European societies and calls on political parties and on the media to reflect this reality in a constructive manner. It reiterates its support to under-represented groups, especially migrants, in the electoral process, as candidates and voters;
  - 7.2. stresses, as emphasised by the Committee of Ministers in [Recommendation CM/Rec\(2022\)10](#) on multilevel policies and governance for intercultural integration, the need for a "strategic and coherent approach across all levels of government to ensure policy effectiveness and sustainability in the field of

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2. Draft resolution adopted by the committee on 21 September 2023.

migrant integration and inclusion and (...) to foster a common pluralistic sense of belonging through valuing diversity and building social trust, community cohesion and meaningful interaction between people across their different socio-cultural backgrounds”;

7.3. recalls the obligation and moral responsibility incumbent upon politicians not to use hate speech or stigmatising language, and to immediately and unambiguously condemn their use by others; reiterates its call on political parties to adopt self-regulation instruments which prohibit and sanction the use of hate speech by their members;

7.4. recalls that the rule of law, democracy and human rights are the core principles of European constitutional heritage and calls on European political parties to comply with the Code of Good Practice in the field of Political Parties (CDL-AD(2009)021) which states that “[p]olitical parties should not act against the values of the ECHR and the principle of equality”;

7.5. invites European political parties to endorse the [Charter of European political parties for a non-racist and inclusive society](#) in its revised version adopted in 2022;

7.6. in line with [Recommendation 799 \(1977\)](#) “Political rights and position of aliens”, noting that this right is already acquired for European citizens within the European Union, recommends that the restrictions authorised by Article 16 of the European Convention on Human Rights (ETS No. 5) regarding political activities of foreigners be lifted. In particular, and in line with the [Guidelines on political party regulation of the European Commission for Democracy through Law \(Venice Commission\)](#) and the [Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe \(OSCE/ODIHR\)](#), the Assembly encourages that party membership be opened to migrants legally residing in Europe so that they may participate in the selection of party representatives and stand as candidates in local elections;

7.7. recalls the importance of the [Convention on the Participation of Foreigners in Public Life at Local Level \(ETS No. 144\)](#) adopted in 1992, which is applicable to people legally residing on European territory, and which asserts that “the residence of foreigners on the national territory is now a permanent feature of European societies”, and invites member States which are not party to the text to sign it without further delay;

7.8. commends the adoption by the Congress of Local and Regional Authorities of the Council of Europe of [Resolution 431\(2018\)](#) and of [Recommendation 419\(2018\)](#) “Voting rights at local level as an element of successful long-term integration of migrants and IDPs in Europe’s municipalities and regions”, commends the work of the Committee of Experts on intercultural integration of migrants which assists the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI), and calls for reinforced co-operation between the Assembly, the CDADI and the Congress on such matters.

8. In line with the commitments taken by the Committee of Ministers in [Recommendation CM/Rec\(2022\)16](#), the Assembly commits to playing a full role in promoting the Council of Europe’s instruments and standards and:

8.1. strongly encourages the Council for Democratic Elections and the Venice Commission to develop a code of conduct for electoral candidates and/or for the media to combat narratives which run counter to the European Court of Human Rights case law on freedom of expression and the prohibition of hate speech. Such initiative would provide a response to the recurring problems during electoral processes underlined in the Report on electoral law and electoral administration in Europe (CDL-AD(2020)023), in particular the issue of negative campaign and hate speech, and debated during electoral campaigns during the 17th European Conference on Electoral Management Bodies;

8.2. asks the No Hate Parliamentary Alliance to consider examining the question of the treatment of migration and asylum during election campaigns, within its activities;

8.3. undertakes to promote, throughout its different activities and among the European political formations concerned, ECRI’s General Policy Recommendations, in particular [General Policy Recommendation N°15 on Combating Hate Speech](#) and [General Policy Recommendation N°16 on safeguarding irregularly present migrants from discrimination](#) as well as the revised Charter of European political parties for a non-racist and inclusive society;

8.4. calls for regular consultations, on a formal footing, between the Congress of Local and Regional Authorities, the CDADI, ECRI and the International Non-Governmental Organisations (INGO) Conference with a view to looking at how migration and asylum questions are treated in election campaigns, in the wider context of the integration of migrants, refugees and asylum seekers, and to aligning standards and initiatives in this area through the promotion of training tools designed for

electoral management bodies and focusing on the Council of Europe's standards on the fight against hate speech. The Assembly stresses the importance of involving the Special Representative of the Secretary General on Migration and Refugees in such a process, particularly in the context of her fact-finding missions and of the implementation of the Council of Europe [Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe \(2021-2025\)](#), in particular its pillar dedicated to fostering democratic participation and enhancing inclusion (human rights and democracy).

9. The Assembly reiterates the recommendation made in [Resolution 2504 \(2023\)](#) "Health and social protection of undocumented workers or those in an irregular situation" that the restriction of the personal scope of application of the European Social Charter (ETS No. 35) be removed.
10. The Assembly recommends that the parliaments of member States:
  - 10.1. reflect on concerns and consider recommendations issued in [Resolution 2317\(2020\)](#) "Threats to media freedom and journalists' security in Europe" and in [Resolution 1889\(2012\)](#) above-mentioned;
  - 10.2. recognise, in a self-regulation instrument, the seriousness of hate speech, including covert hate speech, and provide for effective mechanisms for reporting and taking action against such statements. The Assembly recommends that national human rights institutions be involved in this process;
  - 10.3. work towards adopting a definition of hate speech to be enshrined into civil or criminal law or amending such definition, and facilitate the examination of legal action against it in line with ECRI's General Policy Recommendation No.15. The Assembly recommends that national human rights institutions be also involved in this process;
  - 10.4. work towards the amendment of electoral legislation in force so that electoral management bodies or any other competent entity be recognised as monitoring bodies empowered to seize the competent authority in case of hate speech by a candidate during an electoral campaign. The Assembly recommends also to work towards the development of administrative mechanisms to tackle the use of such narratives and to sanction them according to an equal, fair and swift procedure;
  - 10.5. support the independence and financial capability of authorities regulating public media;
  - 10.6. request information reports from the competent parliamentary committees on the participation of migrants, refugees and asylum seekers in local public life;
  - 10.7. take into account, prior to and following the adoption of policy reforms on migration and asylum, the analyses and feedback on good practices from civil society organisations, academics, and official human rights bodies competent at national and European levels.
11. In line with [Recommendation CM/Rec\(2022\)16](#), the Assembly recommends that press groups and media outlets:
  - 11.1. join and support self-regulation bodies, including private media and online media;
  - 11.2. make it easier for migrants, refugees and asylum seekers to express their views in contents relating to them;
  - 11.3. always clearly contextualise commentaries on the theme of migration and asylum and systematically rectify incorrect reporting;
  - 11.4. exercise a "media conscience clause", declining to relay statements or contents that are anti-democratic or against freedoms.
12. Regarding civil society organisations and associations, the Assembly:
  - 12.1. commends the commitment of the INGO Conference of the Council of Europe to a holistic approach on migration as stated in [Recommendation CONF/AG\(2023\)REC2](#) "For a Global Approach of the Rights of Refugees and Migrants and the Role of Civil Society", and encourages the Conference to promote the registration of migrant-led initiatives, including those founded by refugees and asylum seekers, and to facilitate their representation in the Conference;
  - 12.2. recommends that civil society organisations, including those founded by migrants, refugees and asylum seekers, actively communicate with political parties and with the media so as to share views and, where appropriate, recommendations on policies ahead of and during electoral campaigns;
  - 12.3. encourages research institutes to pursue the wide dissemination of their work on migration and asylum and encourages them to engage politicians by inviting them to public debates on the theme of migration and asylum.

13. In light of the various issues raised in this resolution, the Assembly favours the development of a parliamentary co-operation project which will engage national parliaments on the role of political parties as guarantors of democratic security in Europe, in formulating a pluralistic political offer on the theme of migration and asylum in full respect of the norms and values of the Council of Europe.

14. The Assembly calls for reinforced pan-European co-operation against hate speech and discrimination covering *inter alia* the treatment of migration and asylum during election campaigns. Such co-operation could involve the Organisation's competent entities and its partners such as the Fundamental Rights Agency of the European Union (FRA), the European Network of National Human Rights Institutions (ENNHRI), the European Network of Equality Bodies (EQUINET) and the OSCE/ODIHR.

## B. Explanatory memorandum by Mr Pierre-Alain Fridez, rapporteur

### 1. Introduction

1. More than ten years ago, [Resolution 1889 \(2012\)](#) “The portrayal of migrants and refugees during election campaigns” pointed out that “some candidates and political parties habitually present migrants and refugees as a threat to and a burden on society, which increases negative reactions among the public to immigration and immigrants. (...) These factors have thus become electoral issues for certain political parties. This works to not only increase manifestations of xenophobia but also facilitate the rise of xenophobic populist parties, which are increasingly feeding into a trend of more radical government anti-immigration policy.”

2. Following the escalation of this phenomenon, a motion for a resolution was submitted to the Parliamentary Assembly in December 2021 and referred to the Committee for report in January 2022. In line with the above-mentioned resolution, it stated that “democratic processes are affected by the migration issue, which is becoming a divisive social issue and widely used as an electoral argument. (...) The impact of this phenomenon can also be observed in the aftermath of election campaigns, in the administrative management of asylum and the reception of migrants, and in the perception of a ‘crisis’ that would have no end but would rather get worse.”

3. In June 2022, in [Resolution 2502 \(2023\)](#) “Integration of migrants and refugees: benefits for all parties involved”, the Assembly expressed its concern at “the fact that migration into Europe in the last decade triggered numerous negative reactions, fuelled by a public discourse that induces fear and resentment towards people arriving from other countries.”

4. This report raises the question of where to impose limits on freedom of expression where it is used to promote hate speech and incitement to discrimination. The conditions of democratic debate in full conformity with the European Convention on Human Rights (ETS No. 5) are also at stake because this topic also touches on the manner in which electoral processes deal with issues relating to communities often excluded from those very processes but whose access to rights is heavily dependent on the outcome of elections.

5. This report aims to understand how symptomatic the coverage of such issue during election campaigns may be of the democratic debate on this very matter. It also aims to highlight the risks that instrumentalising such themes may entail for migrants, refugees and asylum seekers in accessing their rights, as well as for democratic space more generally.

6. It was to that end that I paid a fact-finding visit to Sweden from 24 to 26 May 2023. I am most grateful to the Secretariat of the Swedish parliamentary delegation to the Council of Europe and to the parliamentarians and officials who gave me their time in Stockholm to help me understand the radical shift on migration and asylum laid down in the Tidö agreement. My visit to Bortkyrka, a municipality boasting 167 nationalities, and which is part of the Council of Europe’s intercultural cities programme, provided an opportunity to put this information into perspective and witness at first hand the commitment of municipal and voluntary-sector stakeholders on the ground.

7. This report follows on from numerous Council of Europe initiatives aimed at promoting the applicable standards and tools for implementing them, notably Recommendation [CM/Rec \(2022\)12](#) on electoral communication and media coverage of election campaigns and Recommendation [CM/Rec \(2022\)16](#) on combating hate speech which were recently adopted by the Committee of Ministers.

8. Hearings held with the representatives of the European Commission against Racism and Intolerance (ECRI), the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI) set up by the Committee of Ministers, the European Commission for Democracy through Law (Venice Commission), the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR), as well as the Finnish Ombudswoman, her Croatian counterpart and the Belgian Council of Journalistic Ethics (CDJ) and the editorial unit of the InfoMigrants online media outlet<sup>3</sup> gave me a comprehensive view of the numerous tools available within the Organisation and outside it. I am extremely grateful to them for sharing their time and expertise. While the tools for action exist, I can only stress the importance of strong political leadership for their widest possible promotion and implementation.

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3. Online media outlet founded jointly by France Médias Monde, Deutsche Welle and the Italian agency ANSA. [www.infomigrants.net/fr/](http://www.infomigrants.net/fr/).

9. It is vital that we remain vigilant given the growing standardisation of statements that germinate if not bring to fruition practices or even laws which violate fundamental rights and which sow doubt over policy choices that actually underpin our European democracies.

10. At a time when the Council of Europe's founding values have been reaffirmed at the Fourth Summit of Heads of State and Government in Reykjavik in May 2023 and ahead of elections coming around in Europe, I would like to emphasise the great relevance of this report which raises the question no more, no less as to what conditions are needed for constructive, peaceful debate, which is crucial for fostering and safeguarding democracy, the rule of law as well as for ensuring respect for human rights.

## 2. Sources influencing the public debate during electoral campaigns

### 2.1. Media

11. The role of media and social networks is particularly marked where the topics of migration and asylum are concerned, although this is not the only area where a polarisation or even clash of opinions is emerging (the debates and political decisions taken during the Covid-19 pandemic or on environmental issues are examples).

12. The media of today operate within parameters geared to the immediacy of information and contents dedicated to an audience or readership that do not need much convincing and with little in the way of contradiction and pluralism in the opinions expressed. They also face major challenges in holding on to the human and financial resources required to produce, fully independently, high-quality content backed up by reporting and analysis.

13. As the editor-in-chief of the InfoMigrants news site pointed out, "media which specialise in migration issues, covering them in detail and exclusively, are few and far between. [During election campaigns], candidates' proposed immigration policies are reported on alongside their economic policies and their statements on societal issues, and the coverage is therefore more general in nature."<sup>4</sup>

14. The role of media outlets during election campaigns is twofold: on the one hand, they relay information and produce content; on the other, they provide a platform for political parties and candidates to express their views. The editorial independence of journalists is also a vital requisite for the proper functioning of democratic debate.

15. Beyond the editorial line followed by each media outlet, there are safeguards entailing varying degrees of constraint in the member States to ensure that the content produced is based on true, supported facts. Among other things, those safeguards are geared to encouraging the fair reporting of statements made by the political forces contesting an election.<sup>5</sup>

16. The regulatory authorities are responsible for ensuring that those mechanisms function correctly and, accordingly, it is vital that they can be completely independent and impartial in the performance of their duties, as pointed out by the Committee of Ministers in its [Recommendation CM \(2022\)11](#) on principles for media and communication governance.

17. While in the past the subject was usually dealt with in terms of a left-wing/right-wing divide, trends in Europe over the last few years indicate that political offerings have shifted towards the centre-right and the right of the spectrum, including those of parties considered to be centre-left.<sup>6</sup> The media reflect that trend.

18. On the basis of equal speaking time allocated to political parties, and because the approaches favoured by the latter chiefly relate to issues of insecurity, economic cost and fear of a breakdown in social cohesion, the messages relayed in the media during election campaigns fuel tension or even antipathy on the part of voters when the issue of migration and asylum is broached.<sup>7</sup>

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4. Amara Makhoul, editor-in-chief of InfoMigrants, hearing held by the Committee on Migration, Refugees and Displaced Persons, 15 March 2023.

5. Observatoire européen de l'audiovisuel (2017), "[La couverture médiatique des élections: le cadre légal en Europe](#)" [French only].

6. "[Immigration, integration and the politics of fear](#)", Institute of Race Relations, 11 August 2015.

7. Georgiou & Zaborowski (2017), "[Council of Europe Report: Media coverage of the "refugee crisis": A cross-European perspective](#)" – DG1(2017)03.



19. The line taken by a team of reporters and the experts asked to comment on this issue thus play a major role in how an audience forms an opinion on that information. The topics of migration and asylum are no exception in this respect.<sup>8</sup> Numerous studies confirm such a bias in reporting on those topics usually through mostly negative lenses, and often turning a blind eye to the human aspects (not many articles give a voice to migrants).<sup>9</sup> Inversely, studies demonstrating the benefits of migration for the economy get little coverage.

## 2.2. Political parties

20. More than the hardening of the discourse on these topics, which is not really new,<sup>10</sup> what is striking is how central it has become in public policy issues, as demonstrated by the emergence of political parties focused on criticising migration and asylum policies (Alternative für Deutschland in Germany, UKIP in the United Kingdom, ZP in Türkiye, Reconquête in France).

21. It seems unthinkable that mainstream political parties do not come up with proposals on such matters, more often than not in response to concerns (related to the economy, security or interculturality) rather than aiming to put forward policy alternatives seen as too politically risky since they would not chime with what the feelings of the majority of the electorate are thought to be. ECRI's [General Policy Recommendation No. 15](#) on "Combating hate speech" hinges in part on the fact that "the use of hate speech has not been limited to ones that are extremist and outside the mainstream. (...) Such discourse has been exacerbated by some high-level politicians not being inhibited from using hate speech in their pronouncements."

22. The "obsession with migration" is increasingly shaping governing party pacts such as the Tidö agreement<sup>11</sup> of October 2022 between the Sweden Democrats (the second most powerful political movement in parliament) and the governing coalition of the Moderate Party, Christian Democrats and Liberals, or the deal struck in Finland between the Finns Party (also the second most powerful political movement in parliament since the last parliamentary elections) and the government led by the National Coalition, the Christian Democrats and the Swedish People's Party in April 2023.<sup>12</sup>

23. The major crises and high insecurity suffered by certain countries provide fertile ground for exploiting migratory movements at election time, causing major risks to the rights and lives of men, women and children in border areas, as is currently the case between Poland and Belarus.

24. The 2023 annual report of the French National Commission on Human Rights emphasised concerns over "an electoral year marked by rhetoric that was quick to label foreigners, immigrants or their descendants as the root of all evil."<sup>13</sup>

25. Studies testifying to the positive impact of migration on the economy receive little coverage. Certain public policy topics, even structural ones such as health or justice, have been ignored in some elections and almost completely overshadowed by asylum and immigration policy issues (Brexit in 2016; Danish parliamentary elections in 2019; French presidential election in 2022).

26. We seldom see manifestos that look at the issue of migration in terms of demographics (despite the ageing of the population being a very real problem), from an economic viewpoint (benefits of migration as well as the issues of exploitation of many migrants in the workplace) or from an intercultural perspective. The problem of political offers on migration and asylum is not only that the information they convey may be incorrect but also that counterarguments or at least qualifying statements are rarely heard.

27. This fixation does not necessarily reflect the expectations of the entire electorate. In France, while the issue of immigration was not one of the major concerns identified by the polling analysts, it was at the heart of campaigning in 2022, although the main candidate who focused on it most heavily received only a small

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8. Conzo et al., "Negative media portrayals of immigrants increase ingroup favoritism and hostile physiological and emotional reactions". *Scientific Reports* 11, 16407 (2021).

9. "Médias Migrations: La Fabrique de l'opinion", Sciences Po CERI, Institut Convergences Migrations et association Désinfox-Migrations. [French only]

Eberl, Meltzer et al. "The European media discourse on immigration and its effects: a literature review", *Annals of the International Communication Association*, 42:3, 207-223 (2018).

10. Mr Joseph Licari, the then Vice-Chair of the Ministers' Deputies, was already stressing this in 2002 in his [address to the Ministers responsible for Migration Affairs](#).

11. "Swedish parliament approves far-right-backed government amid Liberal discontent", *Euractiv*, 18 October 2022.

12. "Coalition entre les partis de centre droit et d'extrême droite au gouvernement finlandais", *Radio Télévision Suisse*, 15 June 2023. [French only]

13. French National Commission on Human Rights (CNCDH), "Lancement du rapport 2022 sur la lutte contre le racisme, l'antisémitisme & la xénophobie", 17 July 2023. [French only]

number of votes. In Denmark, the adoption of restrictive immigration laws and policies since 2015 does not appear to correspond to any particular expectations on the part of the Danish population. Voters favouring a proactive reception and integration policy cannot currently find any party on the political spectrum that represents their position and are left without a political relay for their opinions on this issue.<sup>14</sup>

28. François Héran, an emeritus researcher at the Collège de France, talks of people being in “denial of the true facts of immigration” in a “paradoxical process whereby immigration is blown out of all proportion in order to then conclude all the more forcefully that it needs to be “drastically reduced” (...) if not “completely choked off”.<sup>15</sup> He also points out that “the protagonists of public debate substantially overestimate the capability of those wielding political power to alter the general trends in immigration”, notwithstanding a dozen or so laws passed on the issue over the last twenty years, across the political spectrum.

29. The statistical warfare often masks a lack of proper methodology (conflating the number of irregular entries into the territory and the number of interceptions at borders or ignoring net migration by disregarding the number of people leaving the territory), compounding blind spots in public debate that are nevertheless crucial if migration and asylum policies are to be assessed and the electorate is to form an opinion. This criticism applies equally to the European Union which seems not to fully take into account the findings of the research it funds when shaping its decisions.<sup>16</sup>

30. Ultimately, there are few examples in Europe where the theme of migration and asylum has been treated with positivity and optimism, or differently than usual (New Labour campaign in 2008, campaign for regularisation in Spain run by the Socialist Party (PSE) in 2006, or the pledge of a right to vote for foreign nationals in local elections by the Socialist Party candidate in France in 2012).

31. At the end of the Covid-19 crisis, the political management of the pandemic highlighted the precarious situation of migrant workers, prompting political initiatives to regularise the status of individuals in irregular situations so that they can have access to rights, particularly in the area of health care (Italy, Portugal). It also shed light on the role of foreign nationals in key sectors of the economy (agriculture, health care, vaccine research), all of which went totally unmentioned in post-pandemic election campaigns.

32. Similarly, little or nothing has been heard in the election campaigns of numerous elected representatives particularly at local and regional levels on the subject of their commitment to the reception and integration of migrants, despite them being voted in by an electorate clearly in favour of this. Yet there are many such initiatives and they are proving their worth. Also noteworthy is the dense local and regional network of community initiatives throughout Europe (such as the French association of host towns and regions – Association des Villes et Territoires Accueillants<sup>17</sup>) including with the Council of Europe’s support (Intercultural cities programme,<sup>18</sup> commitment shown within the Congress of Local and Regional Authorities to the issue of integration of migrants<sup>19</sup>).

33. Election campaigns take form within broader socio-economic and geopolitical contexts and the theme of migration and asylum can be used as a vehicle for other issues that actually have little or no connection with this theme. In fact, the rhetoric and political proposals that follow this pattern rarely tackle the problems they are supposed to resolve, one regrettable example being Brexit which does not appear to have resolved the problem of unemployment for the British people.

34. My visit to Sweden confirmed the risk of the presence of migrants being exploited to explain away the difficulties faced by that country. It would be naive to think that the Swedish model of integration, so often held up as an example, is without its limits.<sup>20</sup> During my visit, I was surprised by claims that people from migrant communities, with whom Swedes whose parents or grandparents migrated to Sweden are frequently confused, form a parallel society, having no real prospect of integration and, what is more, being particularly well versed in crime. Political representatives advised caution when hearing of my plan to visit a suburb, hinting at rampant criminality, which was not at all borne out by my experience on the spot; indeed, it was quite the opposite.

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14. ODI (2022) “Public narratives and attitudes towards refugees and other migrants: Denmark country profile”.

15. Héran (2023), *Immigration: le grand déni*, Ed. Seuil.

16. Cantat & Kalir, “Fund but disregard: the EU’s relationship to academic research on mobility”, *Crisis Magazine*, 9 May 2020.

17. ANVITA – Association Nationale des Villes et Territoires Accueillants.

18. Council of Europe, “Intercultural Cities” Programme.

19. Congress of Local and Regional Authorities, “Migrants and integration”.

20. Banaś, “Swedish Migrant Integration Policy after 2015. A Revised Approach in the Shadow of the Migration Crisis”, *Fuori Luogo Rivista di Sociologia del Territorio, Turismo, Tecnologia*, 9 – 1/2021. Pages 69-85.

35. Beyond people's impressions, there is nothing to support the direct link between diversity of origins, the presence of migrants and the crime rate that is widely reported in the media. Other than the academics I spoke to, none of my talking partners brought up factors that have actually played a key role in the difficulties which the famed Swedish model appears to be running into in 2023: a system of redistribution that is running out of steam as evidenced by an unprecedented gap between the wealthiest and the poorest households;<sup>21</sup> a pattern of over thirty years of privatisation of a number of state services,<sup>22</sup> which, as a sociological and economic fact that can be observed in a great many countries of immigration, have all marginalised those who are economically, socially and educationally disadvantaged, in some cases for two if not three generations.<sup>23</sup>

### 3. Consequences detrimental to rights and social cohesion

#### 3.1. Restricted access to rights

36. The negative portrayal of the presence and arrival of migrants in election campaigns has direct consequences for access to rights for those persons and their families: increases in the level of minimum wage required to apply for a student visa (in the United Kingdom for example)<sup>24</sup> or modification of family reunion criteria, which results in access being barred to certain legal channels of mobility (in Belgium for example);<sup>25</sup> tightening of requirements for accessing health care for foreign nationals suffering from chronic illnesses;<sup>26</sup> deportation of families with children born or schooled on the host country's territory (proposal in the Tidö agreement in Sweden).

37. In Denmark, ECRI<sup>27</sup> highlighted the direct impact of certain political leaders referring to Roma migrants in derogatory terms in the 2017 local election campaign. Under legislation passed in 2018 following the debate prompted by such comments the police are now allowed to prohibit individuals who "might inconvenience the neighbourhood" from entering a municipality and in Copenhagen it is the Immigration unit of the police services which is tasked with enforcing the law. ECRI recommended that the Danish authorities comply with General Policy Recommendation No. 11, which states that any primary or secondary legislation which is meant to especially target foreign members of a particular ethnic group should be withdrawn or amended.

38. Procedural guarantees and conditions for taking in asylum seekers can also be watered down on the basis of the electoral pledges of the parties voted in (the Tidö agreement in Sweden provides for restrictions on the right to family reunion and on access to an interpreter or a legal representative for refugees).<sup>28</sup> In the United Kingdom, the Conservative party's longstanding pledge to reform asylum and immigration law has resulted in a whole host of hindrances to asylum in the Illegal Migration Act.<sup>29</sup> The same is to be witnessed in Italy where the government appointed in September 2022 adopted a decree (called the Cutro Drecee) which severely restricts the rights of asylum seekers as stressed by the UN Committee on the Elimination of Racial Discrimination which expressed its concerns in its opinion submitted during its 110<sup>th</sup> session in August 2023.

39. As François Héran points out, "every clause of a law, every paragraph of a decree or circular that is likely to raise the means threshold, add a test, change a criterion, alter waiting times and so on, can affect the daily lives of the families concerned, their physical and mental health and the fate of their children. Integration (...) is compromised by a succession of legislative or administrative measures dictated by systematic suspicion or the supposed fears of voters."<sup>30</sup>

21. "Oxfam: Economic inequality in Sweden has increased 'significantly'", *The Local*, 11 October 2022.

22. Burström, "Sweden: recent changes in welfare state arrangements", *International Journal of Health Services*, vol. 45, no. 1, 2015, pp. 87–104.

23. "Segregation behind gang-related shootings, bombings in Sweden", *Anadolu Agensi*, 30 January 2023.

24. British Government, "Changes to student visa route will reduce net migration", 23 May 2023.

25. "Chez nous, l'avenir du regroupement familial en danger? Cela en prend le chemin", *Le Post*, 23 March 2023. [French only]

26. Comité pour la santé des exilés (Comede) (2023), *Rapport d'activité et d'observation 2022*. Défenseur des Droits, "Le Défenseur des droits s'inquiète de l'accès aux soins des étrangers malades", 22 May 2019. [French only]

27. ECRI (2022), *ECRI report on Denmark*.

28. Civil Rights Defenders (2022), "Our review of the Tidö Agreement (Tidöavtalet)".

29. UNHCR, "UK Illegal Migration Bill: UN Refugee Agency and UN Human Rights Office warn of profound impact on human rights and international refugee protection system", 18 July 2023.

30. Héran, op.cit.

### 3.2. Trivialisation of positions advocating unequal rights

40. “Anti-migrant” one-upmanship is particularly noticeable during campaigns to elect party leaders, which sometimes take place during a legislature and therefore have a discursive impact on political life beyond the party itself. To take the French example, the campaign run by various Les Républicains (LR) political party candidates in November 2022 coincided with a parliamentary debate on a new immigration and asylum bill put forward by the government. One of the campaign proposals of the ultimately victorious LR party leader candidate was to end the right to education for children whose parents are illegally resident in France. Similar proposals can be found in Sweden, where the Minister for Immigration announced her wish that social services and teachers report people in irregular situations, including the parents of pupils.<sup>31</sup>

41. The fact that a number of such proposals prove to be unrealistic or are subjected to checks on conformity or even rejected by court decision in the implementation stage is immaterial: the impact is real in terms of how, in the discourse and the collective imagination, people have become subliminally accustomed to the idea of treatment that is not so much differentiated as discriminatory as regards access to fundamental rights on the basis of administrative status, including for children.

42. There is an important nuance here: differences in treatment between nationals and foreigners, or perhaps Europeans and non-Europeans, might be allowed by the texts but there are a number of principles that protect the rights of all regardless of their administrative status in the areas of social protection, child welfare<sup>32</sup>, health<sup>33</sup> and access to emergency accommodation.<sup>34</sup> These aspects are reiterated in ECRI General Policy Recommendation No. 16.

### 3.3. Intersectionality of attacks on individuals deemed undesirable

43. The trivialisation of alienating statements which make migrants scapegoats for the problems of society or hammer home that it is impossible to take them in fuels resentment towards foreign nationals. This process also affects people from immigrant families or people whose cultural practices are seen as different from the dominant culture of the host country. There is a sub-text that these people, with their diversity, are undesirable in society. In Germany, ECRI observed in 2019 that “the constant Islamo- and xenophobic discourse from the extreme right also has an impact on the mainstream political discourse.”<sup>35</sup>

44. Members of the Botkyrka youth council I spoke to during my visit to Sweden voiced a desire to leave Sweden, their birth country, where they feared discrimination on grounds of their origin or that of their parents. The local section of the Anti-discrimination Department also revealed the feelings of fear and insecurity expressed by all the diaspora associations in the municipality, never seen previously in the last thirty years. In November 2022, the Expert Mechanism to Advance Racial Justice and Equality in the context of Law Enforcement pointed to the prevalence of systemic racism in Sweden.<sup>36</sup>

45. At the end of 2021, it was the Cypriot Commissioner for children’s rights who raised the alarm over statements by the government spokesperson to the effect that the substantial presence of children from migrant backgrounds was a problem. The Commissioner pointed out that statements like this, whether intentional or not, exacerbated insecurity, xenophobia and intolerance in the country.<sup>37</sup>

46. That same year, the annual report of the Spanish Ministry for Equality noted that the fuelling of xenophobic attitudes towards people from North Africa, South America and sub-Saharan Africa in the media and by political parties gaining momentum in parliament such as the Vox party was resulting in concrete discrimination against those individuals in access to education and housing.<sup>38</sup>

47. In addition to this muted form of violence there have been increases in racist attacks during and after some electoral campaigns where far-right parties saw their popularity grow during general and parliamentary elections (Great Britain<sup>39</sup>, Republic of Cyprus<sup>40</sup>).

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31. “La Suède lance la chasse aux sans-papiers”, *Le Monde*, 7 December 2022. [French only]

32. European Committee of Social Rights, No. 47/2008, 28 February 2010.

33. Committee of Ministers, Recommendation CM/Rec(2011)13 on mobility, migration and access to health care.

34. European Committee of Social Rights, No. 86/2012, 25 October 2017.

35. ECRI (2020), “ECRI report on Germany”.

36. UN, “Sweden: Step up efforts to fight systemic racism, urge UN experts”, 4 November 2022.

37. “Επίτροπος Παιδιού: “Καταπέλτης” κατά Πελεκάνου για παιδιά με μεταναστευτική βιογραφία”, *Dialogos*, 11 November 2021. [Greek only].

38. “Discrimination worsens in Spain, far-right and fake news largely to blame”, *Reuters*, 25 January 2021.

39. “Brexit and hate crime: why was the rise more pronounced in areas that voted Remain?”, LSE Blog on British Politics and Policy, by Albornow, Bradley and Sonderegger, 12 January 2021.

### 3.4. Consequences for those considered as “voicing support for migrants”

48. The consequence of vehement election campaigning on the theme of asylum may also take the form of restricted space for civil society and even the criminalisation of organisations and individuals promoting the reception and the rights of migrants, including asylum seekers and refugees. Investigations by journalists in 14 European countries<sup>41</sup> pointed to a soaring trend in hindrances to freedom of association of this kind since 2018, so much so that the European Parliament adopted a [resolution laying down guidelines for Member States to prevent humanitarian assistance from being criminalised](#).

49. The Fundamental Rights Agency of the European Union (FRA) has been listing and raising concerns over legal action taken against NGOs involved in search and rescue at sea since 2015.<sup>42</sup> This intimidation and harassment is carried out on the back of laws that have been passed following campaign pledges to cut immigration in countries including Spain, Croatia, Switzerland and Greece.<sup>43</sup>

50. Journalists covering the theme of migration and asylum are also targeted by such restrictions, as the Assembly stressed in its [Resolution 2317 \(2020\)](#) on “Threats to media freedom and journalists’ security in Europe”. The Commissioner for Human Rights of the Council of Europe spoke out on the situation in Greece in a [statement](#) in January 2023.

51. From the standpoint of the law, no irregular entry to a country’s territory may be deemed illegal for as long as the migrant’s individual situation has not been examined (on grounds of compliance with asylum law), and humanitarian aid may not constitute an offence. However, the legal means deployed to penalise actions seen as questionable by States are sufficiently forceful to hamper the legitimate exercise of rights (freedom of association, right to request asylum) or even deter people from availing themselves of those rights for fear of reprisals. These measures can endanger the lives of people who need assistance, a point emphasised by the Special Rapporteur on the situation of human rights defenders in February 2023.<sup>44</sup>

52. In 2018, the Venice Commission and the ODIHR issued a joint [opinion](#) on the “Stop Soros” legislation in Hungary put before parliament following the April parliamentary elections in the context of migrant arrivals in Europe and “activities of pro-immigration forces threatening national sovereignty”. This bill, subsequently deemed by the Court of Justice of the European Union to be incompatible with European standards,<sup>45</sup> resulted in, among other things, the gradual closure of the programme for the integration of students of refugee backgrounds at the Central European University in Budapest.<sup>46</sup>

## 4. Freedom of expression in election campaigning

### 4.1. Council of Europe norms and standards

53. The Committee of Ministers pointed out, in its aforementioned Recommendation CM/Rec(2022)16, that “freedom of expression is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population”.

54. While freedom of expression is a cardinal value in democracy, it is not absolute, as Article 10(2) of the European Convention on Human Rights makes clear. In 2015, the European Court of Human Rights acknowledged that a form of interference could be justified if “the statements were made against a tense political or social background” and if “the statements, fairly construed and seen in their immediate or wider context, could be seen as a direct or indirect call for violence or as a justification of violence, hatred or intolerance”. The Court also assesses the “capacity – direct or indirect – to lead to harmful consequences”.<sup>47</sup> These points are reiterated in the appendix to Recommendation CM/Rec(2022)16.

40. OHCHR, “[Concluding observations of the Committee on the Elimination of Racial Discrimination](#)”, 12 May 2017.

41. “[Hundreds of Europeans ‘criminalised’ for helping migrants – as far right aims to win big in European elections](#)”, Open Democracy, 18 May 2019.

42. FRA (2018) “[NGO ships involved in search and rescue in the Mediterranean and criminal investigations](#)”.

43. Amnesty International (2020), “[Europe: Punishing compassion: Solidarity on trial in Fortress Europe: Executive summary](#)”.

44. “[Hungary breached obligations to uphold academic freedom, EU top court ruled](#)”, *Euractiv*, 7 October 2020.

45. *Idem*.

46. European Association of Social Anthropologists, “[EASA’s executive committees express concerns over the sudden and unexplained closure of the CEU Refugee Education Initiative – OLIVE](#)”, 10 February 2023.

47. European Court of Human Rights, [Judgment in the case of Perinçek v. Switzerland \(Application no. 27510/08\)](#).

55. The Committee of Ministers agreed on a definition of hate speech in Recommendation [Rec\(97\)20](#). However, that definition is not used everywhere in the different legislations of the member States.

56. According to the Court, those who produce content in the context of an election campaign must be particularly careful in what they say, a fact underlined by the Committee of Ministers, which speaks of a “position of influence” held by public officials, elected bodies and political parties. The Ombudswoman of Croatia referred to ECRI’s General Policy Recommendation No. 15 and to the Committee of Ministers’ Recommendation CM/rec(2022)16 in her last annual report, pointing to the particularly strong influence of statements by public figures on citizens, especially if those statements are made or reported in the media or on the Internet. In this connection, the Ombudswoman advocates the use of a code of conduct aimed at members of the government and certain officials and a code of conduct aimed at members of the Croatian Parliament. She recommends that its application be subject to dedicated monitoring and that Croatian law be amended to incorporate more specifically the related criteria and penalties relating to what constitutes public hate speech, including online. She sees the challenge as being to fully identify the offence in legal and objective terms so that any accusations are duly inventoried and assessed without this being criticised as partisanship.<sup>48</sup>

57. The judgment of the European Court of Human Rights handed down in May 2023,<sup>49</sup> finding that a local elected representative standing for parliamentary election in France had not promptly deleted comments inciting hatred and racism posted on his Facebook page by third parties, confirms this position. The fact that it relates to statements made on online media makes this judgment all the more significant.

58. There have been moves in the last ten years or so on the part of regulatory authorities, content programmers and managers as well as those who manage online platforms to establish frameworks for regulating these forums of expression, with a number of projects focusing on how the algorithms operate and could be used to identify and even block online hate content. The Council of Europe is heavily involved in determining the role and responsibilities of these “internet intermediaries”, as demonstrated by paragraphs 30 to 37 devoted to the issue in Recommendation CM/Rec(2022)16.

59. Regulating freedom of expression is obviously not without risks. We have already mentioned the abusive nature of certain laws aimed at penalising opposition views on the pretext of preserving public order and homeland security.

60. It is also difficult at times to prove that a statement constitutes hate speech. Some civil society organisations talk about “subtle hate speech”,<sup>50</sup> in other words public statements disproportionately linking migrants with societal issues. This trivialises generalisations which pave the way for prejudice and xenophobic views.

61. Another limiting factor is some people’s rejection of the importance of regulating freedom of expression, on the pretext of equal treatment of all society’s component parts. As the Committee of Ministers pointed out in Recommendation (2022)16: “hate speech negatively affects individuals, groups and societies in a variety of ways and with different degrees of severity, including by instilling fear in and causing humiliation to those it targets and by having a chilling effect on participation in public debate, which is detrimental to democracy.”

62. During my visit to Sweden, it appeared that, for my different interlocutors who represented most of the political parties, the importance of freedom of expression meant that it was justifiable for someone to burn a copy of the Koran or the Torah, without the slightest comeback. It was likewise clear that, were someone to burn a copy of the Bible, that would be equally acceptable and, while such an act of intolerance might be a sign of stupidity, they should not be stopped. Education for tolerance, the possibility of taking someone to court or possibly a tit-for-tat approach were seen as responses that would be acceptable in terms of upholding freedom of expression. This view was reiterated by the Swedish Government in an official *communiqué* regarding its understanding on this point with the Danish government.<sup>51</sup> This, in my view, fails to recognise the structures of domination that prevail, even involuntarily, to the benefit of certain majority population groups, for whom access to services or to a complaints mechanism, or for whom the feeling of belonging to society come more easily than for minority communities that are in the minority and often receive minor consideration.

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48. Website of the Ombudswoman of the Republic of Croatia, [Sloboda izražavanja – Pučka pravobraniteljica](#) [Croatian only].

49. European Court of Human Rights, [Grand Chamber Judgment in the case of Sanchez v. France](#) (Application no. 45581/15).

50. Stop Funding Hate & Ethical Consumer (2022), “[Addressing subtle forms of hate in UK media coverage of migration.](#)”

51. [Statement by Prime Minister Ulf Kristersson](#), 30 July 2023.

63. Some election campaign material cites European law to lend legitimacy to proposals geared to treating people differently. While some of the rights set out in the European Convention on Human Rights are absolute and tolerate no exceptions, that is not the case for the right to private and family life (Article 8 of the Convention). Nor is it the case for the economic and social rights set out in the revised European Social Charter (ETS No. 163) which, at present, apply only to migrants holding the nationality of one of the States Parties to the Charter, and it is only those migrants who may avail themselves of Article 19 (on non-discrimination), signed up to by the 29 member States having adopted that article in whole or in part. Migrants from outside Europe cannot benefit from this differentiated treatment although the Committee monitoring compliance with the Charter has pointed out that certain rights must be guaranteed for all regardless of their status.

64. It is these aspects, though, that are constantly hammered home by certain political leaders and programmes while denying accusations of xenophobia. The Finnish Government's programme reads as follows: "To promote integration, the Government will differentiate the social security system and social benefits of immigrants and permanent residents of Finland from each other, taking into account the constitutional requirements."<sup>52</sup>

65. The fact that such differentiated treatment is technically legal does not mean that it is not open to political debate: this report has already mentioned the very real consequences these proposals can have, once acted upon.

## 5. Election campaigns: a snapshot of society

### 5.1. "Resist, React, Reshape": the method advocated by OSCE/ODIHR

66. Many research studies show that trying to counter hate speech or even reverse the political views held by voters during a campaign is often a waste of time: opinions tend to become increasingly polarised as polling day draws closer. Voters who are undecided seem to have a conservative reflex that makes them more likely to favour more restrictive attitudes towards one particular theme, that of migration and asylum, presented chiefly as a challenge, problem or even threat.

67. In 2021, the ODIHR published a guide encouraging constructive, human rights-centred discourse on the theme of migration.<sup>53</sup> Using numerous concrete examples already introduced in countries in the OSCE region, this international organisation proposed a method built around three 'Rs': resisting pressure to compete with non-constructive political narratives that involve stereotypes and hate speech; reacting to instances of xenophobic and racist language, condemning them as unacceptable and challenging inappropriate or unfounded information; reshaping political discourse on the theme of migration or creating the conditions needed to shape positive narratives.

68. This method is applicable during elections as Ms Meaghan Fitzgerald explained to the committee members at a hearing,<sup>54</sup> pointing out that OSCE/ODIHR election observation missions had noticed the increasing use of insulting and intolerant statements in recent years.

69. Hate speech has been on the rise over the past few years, as noted by national and international institutions which have launched a number of initiatives in response, such as the [No Hate Speech Youth Campaign](#) launched by the Council of Europe in 2013.

70. This trend points not so much to support for such views but more to a lack of political alternatives in relation to a phenomenon which is ultimately trivial on a worldwide scale, a matter of perception if not manipulation in many respects without proper management of the phenomenon itself. It is also a sign that people have become used to this reality being portrayed in an extremely negative manner and the commonplace nature of statements that characterise or essentialise "migrants" as having no business coming to Europe, or no legitimacy in staying there in the case of those who have already settled.

71. Many such statements are out of step with the Council of Europe's standards and values and must be tackled. They have become so commonplace as to be a threat to the fundament of universality of rights underpinning the Organisation. It should be pointed out in this connection that the Assembly adopted

52. "A strong and committed Finland – the Government's vision", 20 June 2023.

53. OSCE/BIDDH (2021), "Shaping Balanced Political Discourse and Constructive Narratives on Migration: Guidance and Good Practice from the OSCE Region".

54. Statement by Ms Meaghan Fitzgerald, head of the Election Department, OSCE/ODIHR, at a hearing held by the Committee on Migration, Refugees and Displaced Persons, 15 March 2023.

[Resolution 2011 \(2014\)](#) “Counteraction to manifestations of neo-Nazism and right-wing extremism” calling on national parliaments to “ensure that no public funding is allocated to parties promoting hate speech and hate crime” and “adopt codes of conduct including safeguards against hate speech and hate crime on any grounds.” In 2015, the Committee of Ministers committed to relaying this call.

72. Holding up freedom of expression as justification for statements that attack the dignity of individuals and for proposals that would deny access to rights oversteps, in a great many such cases, the boundaries laid down by the normative framework applicable in Europe. It is a perversion of freedom of expression aimed at pushing measures that are contrary to the spirit if not a violation of what is laid down in the standards which the Council of Europe’s member States have themselves forged and adopted.

73. Legal frameworks outlawing hate speech and also more subtle but no less spiteful comments both online and offline are necessary and that is why ECRI’s General Policy Recommendation No. 15 and also Committee of Ministers Recommendation CM/Rec(2022)16 emphasise these aspects.

74. This was also stressed by the Heads of State and Government at the Fourth Summit, who noted the Council of Europe’s role in combating hate speech and disinformation and undertook, in the Reykjavík principles for democracy, to “ensure full, equal and meaningful participation in political and public life for all, in particular for women and girls, free from violence, fear, harassment, hate speech and hate crime, as well as discrimination based on any ground.”<sup>55</sup>

75. There are numerous initiatives intended to help political parties and also media to define regulatory frameworks objectively governing public statements in line with the applicable norms and standards. UNESCO proposes tools for “collaborative coverage of migration” for example.<sup>56</sup>

76. For political parties, the work of the Committee on Equality and Non-Discrimination resulted in the adoption of the [Resolution 2443 \(2022\)](#) “[The role of political parties in fostering diversity and inclusion: a new charter for a non-racist society](#)”. This charter is open for signature. The Venice Commission is another body whose work is noteworthy regarding election monitoring but also considering its capacity to invite stakeholders to align with a number of guiding principles ([Code of Good Practice in Electoral Matters](#) or [in the Field of Political Parties](#)), including as part of its co-operation with the [OSCE/ODIHR](#).

77. Finally, it is important to mention the work carried out by the European Network of Equality Bodies (EQUINET) which has just published an updated version of its Recommendation on combating discrimination and hate speech during election campaigns.<sup>57</sup>

78. Where the media are concerned, the Committee of Ministers has adopted recommendations on measures concerning media coverage of election campaigns ([Rec\(99\)15](#)) and on the fight against hate speech based on the work conducted by the Committee of Experts on combating hate speech, which tackles the issue from the angle of anti-discrimination and inclusion, as well as from the angle of media and information.

79. Regulation by public regulatory authorities is an important safeguard as long as, obviously, those bodies are fully independent. Austria is an interesting example: the official regulatory body for public media provides a checklist aimed at countering any risk of malice or disinformation when an asylum- or refugee-related topic is reported on, for example.<sup>58</sup>

80. Media self-regulation bodies are also useful devices signed up to voluntarily by media outlets and groups in a virtuous circle of monitoring and legitimate scrutiny by peers in the profession, including private media organisations not subject to public regulation.

81. On this point, I had the opportunity to dialogue with the Belgian Council on Journalistic Ethics (Conseil de Déontologie Journalistique<sup>59</sup> – CDJ) which provides tools and expertise to ensure that a watchful eye is kept on reporting so that the media provide information in a professional manner which is useful to readers, viewers, listeners and, ultimately, voters. As the president of the CDJ pointed out,<sup>60</sup> “the aim is not to prevent

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55. “[Reykjavik Declaration: United around our values](#)”, Reykjavik Summit 16-17 May 2023, Fourth Summit of Heads of State and government of the Council of Europe.

56. UNESCO & Erich Bröst Institute for Journalism (2022), “[Reporting on migrants and refugees: handbook for journalism educators](#)”.

57. Equinet (2019), “[Combating Discrimination and Hate Speech in Election Campaigns](#) ([equineteurope.org](#))”.

58. Ethical Journalism Network, “[Muslims in the Media: Migration – Checklist for reporting on refugees](#).”

59. CDJ, “[La couverture des campagnes électorales dans les médias – recommandation \(2ème version\)](#)”, 2019. [French/German only]

60. Interview with Ms Hannot, president of the CDJ, 23 June 2023.



people from saying things but to put what they say into perspective. A journalist's work carries responsibility: they must be capable of passing on checked and cross-referenced honest information which does not leave out key details and is not stigmatising or discriminatory and does not abusively include personal details." It is the ethical responsibility and also the legal liability of the media that are at stake.

82. Finally, if it is accepted that the regulatory frameworks to which regulatory authorities and self-regulation bodies refer emanate from common frameworks derived from European norms and standards, they should be heavily promoted in the bodies providing basic and further training to professionals in the sphere of politics, including within administrations, and journalists.

83. There is an urgent need to enable citizens to see and hear a concrete political offer or offers that look at the issue of migration and asylum in another way. This is all the more surprising as examples exist. Political parties do not draw enough on them in order to shape their manifestos and electoral pledges.

84. While counter-speech from opponents is not enough, it is necessary: so commonplace are statements stoking suspicion, mistrust or even hatred towards certain groups which, whether people like it or not, are stakeholders in our societies, that a systematic response reiterating the red lines drawn by our societies and adopted as an operating framework is massively important.

85. The efforts that have been made by the Council of Europe to devise tools and norms to allow the expression of peaceful, constructive, and non-discriminatory democratic debate are important.<sup>61</sup> The Intercultural Cities programme and also the work of the Congress of Local and Regional Authorities provide incubators within the Council of Europe to reflect on reception and integration policies. The Congress has been calling for the right of foreign nationals to vote in local elections since 2019.

86. The political participation of migrants in election campaigns is another avenue worth exploring, one example being the notion of urban citizenship<sup>62</sup> driven by the Intercultural cities programme, as is the right to become a member of a political party and elect party representatives.<sup>63</sup>

87. In June 2023, the Assembly recommended in [Resolution 2504\(2023\)](#) "Health and social protection of undocumented workers or those in an irregular situation" that the personal scope of application of the revised Social Charter be extended to cover all persons living within the jurisdiction of a State Party to the Charter.

## 6. Conclusion

88. "Representative and deliberative democracy cannot be reduced to a simple politics of opinion,"<sup>64</sup> and all the more so in view of the *de facto* and *de jure* consequences that political statements can have for migrants and refugees, without the latter, in all their diversity, having a say in the matter.

89. There is nothing to prove that the trends in reporting on this theme are irreversible, or that they are indicative of whole-hearted support from the majority of the population for restrictive migration and asylum policies. Initiatives supporting reception, mostly local, in all the member States and also the decisions taken by various governments to carry out regularisation drives that do not trigger public outrage are tangible demonstrations of this reality.

90. The fact that this concrete, factual information is not passed on during election campaigns points to a utilitarian exploitation of migration with no real vision of or genuine interest in the issue beyond the fear and frustration with which it seems inevitably linked. Yet the U-turns made by the Italian and British governments, now more open to labour immigration than they claimed during parliamentary elections or internal party campaigns, would suggest that the pledges initially made are hardly realistic, in economic terms alone.

91. The good practices and solutions mentioned in this report are geared to ensuring the right conditions for peaceful democratic debate allowing the expression of conflicting political opinions without it degenerating into invective and hate speech. The different bodies of the Council of Europe propose an array of tools to guide political leaders, media, civil society organisations and also citizens in the pursuit of this objective, as set out in this report.

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61. Council of Europe (2018), "Spaces of Inclusion – An explorative study on needs of refugees and migrants in the domain of media communication and on responses by community media".

62. "Urban Citizenship: Making places where everyone can belong – Intercultural Cities programme".

63. Meaghan Fitzgerald, op. cit.

64. Héran, op.cit.

92. While criticism of or opposition to migration and asylum policies can be expressed in a democracy, hate speech and discriminatory measures cannot constitute a political programme complying with the Council of Europe's principles and standards.

93. An increasing number of policy proposals go well beyond the differentiated treatment allowed by the law and are geared to bringing back a principle of inequality between nationals and foreigners, including in access to the most fundamental rights (procedural safeguards, right of asylum, access to emergency health care, right to education). Such views are increasingly popping up in election campaigns, with an attendant surge in hate speech over which the Committee of Ministers itself has voiced concern. This trend is dangerous for people of foreign descent and those perceived as foreigners. It is also symptomatic of an inability to come up with new political ideas on themes that are nevertheless highly topical.

94. Given the patent necessity of finding lasting and democratic responses capable of quelling the rise of hate speech and allowing the competition of political ideas on what is now a major issue, this report suggests possible ways of capitalising on and strengthening the instruments and programmes that support the staging of measured debate on this theme in keeping with the principles of freedom of expression.

95. The importance and the impact of election campaigns confirm that political parties have a role to play in structuring the political offer available in representative democracy. It is high time that politicians focus on the question of migration and asylum as it really is: it is a many-faceted topic and the way in which it is handled impacts the lives of men, women and children. To quote a former French Defender of Rights Jacques Toubon: "Respect for the rights of foreign nationals is a key indicator of the level of protection and effectiveness of rights and freedoms in a country."<sup>65</sup>

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65. Défenseur des Droits, "[Les droits fondamentaux des étrangers en France](#)", May 2016. [French only]