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**Seminar with national specialised bodies
to combat racism and racial discrimination
on the relationship between integration
and the fight against racism and racial discrimination**

Strasbourg, 28 – 29 February 2008

REPORT

Strasbourg, 7 March 2008

Introduction

National specialised bodies to combat racism and racial discrimination (national specialised bodies) are strategic partners of ECRI in the fight against racism and intolerance and ECRI therefore organises regular seminars with them. ECRI's fourth seminar with national specialised bodies was held on 28-29 February 2008 in Strasbourg and dealt with the relationship between integration and the fight against racism and racial discrimination.

Over the past years - due to the increasing diversity of our societies - the issue of integration has moved up the policy agenda in many Council of Europe member States and a variety of legal and policy measures which have a direct impact on the lives of some of the most vulnerable members of society have been adopted in this field.

The stated underlying objective for action in this field is the promotion of social cohesion in societies, which are perceived as being increasingly fragmented. In principle, this action should lead to better relations between people of different backgrounds and a decrease in racism and racial discrimination in our societies. However, as documented in ECRI's recent country monitoring reports, this does not always seem to be the case. In particular, public debate on integration seems to have shifted from a largely technical debate, in which different areas of disadvantage were examined and addressed, to a more general debate on the cultures and values of different groups and, ultimately, on the inherent worth and mutual compatibility of such cultures and values.

In some countries, the tone of public debate on integration has a negative influence on planned and existing integration policies, thereby thwarting their potential positive contribution to combating racism and racial discrimination. National specialised bodies, as the principal actors in the fight against racism and racial discrimination in Council of Europe member States, therefore have to be vigilant and carefully monitor public debate and the adoption and implementation of integration measures.

The aim of this seminar was therefore to make national specialised bodies aware of the opportunities and risks presented by current integration policies and how they can actively influence these policies to ensure that non-discrimination is at the heart of them.

The seminar brought together representatives of specialised bodies to combat racism and racial discrimination and representatives of general human rights institutions (Ombudsmen, Human Rights Commissioners, etc.). In addition, a selected number of specialised NGOs and experts in the field of integration and non-discrimination participated in this seminar.

The event took place over one and a half days. The first part of the seminar was devoted to the main concepts and challenges related to integration and the existing legal and political framework in this field. The second part of the seminar concentrated on integration in specific policy areas, and how these could be promoted and/or implemented by national specialised bodies.

The different themes were introduced by experts on the relevant subjects and representatives of national specialised bodies with recognised experience in the areas in question. The programme is reproduced in Appendix I. The list of participants appears in Appendix II.

SUMMARY AND CONCLUSIONS OF THE RAPPORTEUR

The Rapporteur of the seminar divided the summary and the conclusions of the seminar into three parts:

Part I: Concepts, terminology and other questions and general problems surrounding the issues of integration and non-discrimination that have been raised during the discussions.

Part II: Examples of integration measures in different fields that have been described during the seminar. This part includes examples of both positive integration measures and measures whose incompatibility with anti-discrimination legislation has been established or put forward.

Part III: Overview of the suggestions and remarks made concerning the role of national specialised bodies on the subject matter of the seminar.

I. Concepts, terminology and other questions and general problems surrounding integration and non-discrimination that have been raised during the discussions.

Integration was unanimously interpreted by the participants of the seminar as a two-way process, involving both majority (or “people with power”) and minority segments of society.

“Integration versus assimilation” was discussed only briefly at the beginning of the seminar. The discussion here was not so much about differences between these two concepts, which are only too well known to the specialised audience, but about the need to be aware of the fact that willingly or unwillingly, policies of assimilation are increasingly presented as integration policies in public debate, and to maintain vigilance in this area.

The fact that integration is a two-way process means that integration measures must be targeted at both majority and minority segments of society, as the examples examined during the seminar (some of which are listed in Part II of this Summary) indicate. But it also means that when anti-discrimination policies and legislation are not effectively applied, or when there is little knowledge or appreciation of different cultural backgrounds, this can be perceived as an integration deficit within society, and more specifically on the part of its majority population.

This consideration runs somewhat counter to a current trend whereby minority groups are made to bear the brunt of responsibility for integration.

In fact, in the words of a number of speakers, integration is progressively shifting from something that we want to achieve for all members of society (“the promotion of well-being for all citizens and of their self-sufficiency concerning housing, job, education, social networks and participation in society”) to a path that the authorities expect to be followed only by some members of society (“injunction from on high”, as it was called).

This understanding of integration is being accompanied by a strong drive towards ensuring that this path is actually walked and that it is walked at the speed indicated. This is also where we touch on the question of sanctions, which has led the seminar to ask itself the question whether we are moving (or have already moved) from a “right to integration” to an “obligation to integrate” for individual members of minority groups. The response by the seminar to this question seems to have been essentially in the affirmative. A strong message coming out of the seminar - especially following Ian Niessen’s interventions based on the results of the Migrant Integration Policy Index (MIPEX) research - was that we should be worried about the fact that rights are becoming increasingly conditional, for instance, on successfully passing tests (“weakening of the right to have rights”). An erosion, or a risk of erosion, of standards in this respect can already be noted. In this context, international standards acquire even more importance.

A number of participants expressed the wish to avoid entering into what was termed a “theological debate on integration”. However, the seminar did address some questions of principle concerning the definition and scope of integration.

According to Patrick Weil, when examining the mechanisms leading to integration, a distinction must be made between actions that are specific to the State (for instance as concerns access to citizenship, residence, or language learning) and other general mechanisms, for which the link with State action is less obvious. His conclusion on the case of France is that this country has been relatively successful in achieving what he termed “cultural integration”, because the fundamental French notion of “equality for all” appears to be very quickly absorbed and accepted by high numbers of individuals and is at the root of the creation of positive links between individuals. To some extent, Patrick Weil appeared to suggest that some of the objectives of the United Kingdom’s Community Cohesion agenda (such as those relating to bringing about a shared future vision and sense of belonging or the existence of strong and positive relationships between people from different communities) can be reached through those general mechanisms that result in France in cultural integration. However, the French model appears to have been less successful in securing socio-economic integration.

This is particularly important for the conclusions Patrick Weil reaches on the future directions that the French government should take on integration policy. Efforts should not be directed to tackling minority groups’ adherence to certain values, but rather socio-economic discrimination in vital areas such as employment, housing and policing.

This, however, is not that simple as it requires courage and political will. In this respect, it was noted that following the urban riots in France and Denmark, there had been no overall enquiries into their root causes, along the lines of those that took place in the United States and the United Kingdom and which led to the public recognition of institutional racism and discrimination and commitment to tackling it.

Another point related to the concept of integration concerned the question of whether it is appropriate to speak about “integration” when dealing with the situation of citizens or long-established persons (who - following the North American example - should be called 2nd and 3rd generation *Europeans*, rather than 2nd and 3rd generation *immigrants*). The alternative would be to refer to “inclusion” when we speak about these persons and use “integration” when we address the situation of newcomers. However, the actual need for doing so admittedly depends on the concept of integration used. ECRI, for instance, has been trying to use to the extent possible the idea of an “integrated society” (where the well being of everyone is sought) as opposed to integration *of* a group *into* society. It is therefore not surprising that in some of its reports, ECRI has advocated in favour of extending integration plans to include citizens in situations of disadvantage.

While there was no uniform thinking about the need to limit integration policies to newcomers among the participants, there was consensus that newcomers cannot be excluded from anti-discrimination policies and the scope of anti-discrimination legislation. This prompted a number of interesting interventions, notably on anti-discrimination legislation.

In this connection, another clear message coming out of the seminar was that national anti-discrimination legislation should: (i) include nationality (in the sense of citizenship) among the prohibited grounds of discrimination; and (ii) apply to certain functions and areas that are not presently covered in the vast majority of cases, including entry-exit, residence and policing (for countries that are members of the EU, this includes third country nationals’ access to the labour market). In this respect, it should be recalled that in 2002, ECRI already recommended in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination that member States should do precisely that.

The participants also discussed whether it was preferable to define anti-discrimination provisions and institutional frameworks based on specific grounds, or based on a transversal approach. There was support for anti-discrimination provisions covering multiple grounds (with emphasis on the interaction between different grounds). A word of caution was issued against ground-specific legislation when it is not possible to count and measure its effects.

This debate was continued when the participants of the seminar examined the question of how to measure integration policies. Essentially, there have been two suggestions:

1) Taking a number of policy areas (e.g.: access to the labour market; residence rights; family reunification; access to nationality; political participation; anti-discrimination; civic education) as a reference and developing measurable indicators for each policy area (e.g. approach taken by the MIPEX).

2) Approach based on outcomes, i.e. on the actual results that integration policies want to achieve, which should then be measured. This approach was notably supported by Marc Verlot, who informed the seminar about the ongoing discussions in the UK around the increasing need to generate ethnic data (not only data based on perceptions) in community cohesion matters (“who plays football with whom”).

One of the problems highlighted with the outcome-based approach is that the causal link between policy implementation and outcomes is easily lost. In other words, unless outcomes relate to a specific group of persons in a specific context, it will be difficult to link the attainment of an outcome to the implementation of specific policy measures. In the view of some participants, another problem is that behind the new focus on outcomes might lie an assumption that more “traditional” integration models have failed.

The issue of how integration should be measured did not only bring about the question of benchmarking, it also called for a brief discussion on ethnic data collection. While the debate in Europe continues - ECRI has recently contributed to this with a study on what national and international standards allow member States of the Council of Europe to do in terms of ethnic data collection¹ - it was stressed that even in countries (like France), where the legal framework is currently interpreted as permitting only the collection of data broken down by place of birth (not racial or ethnic origin and religion), there is a great amount of useful data that could be generated, but which is not.

I would like to conclude Part I of this Summary by returning to a remark that was made at the very beginning of the seminar, when Isil Gachet explained the angle ECRI took in organising this event.

Because of the mandate of ECRI (combating racism and racial discrimination) and that of the national specialised bodies, the idea was to focus not only on integration policies as such, but more specifically on the links between integration policies and combating racism and racial discrimination.

During the debates at least two such links were clearly established:

- 1) Public debate on integration may stigmatise communities
- 2) Integration measures may be in breach of non-discrimination principles

The second aspect will be addressed in Part II of this Summary. However, concerning the first point, the seminar stressed that the debate around integration has increasingly been used as a vehicle by which prejudice, hostility and in the worst cases, racism have been promoted.

¹ “Ethnic” statistics and data protection in the Council of Europe countries - Study Report by Patrick Simon, Institut National d’Etudes Démographiques, Strasbourg, 2007.

There has been a shift of political and media debate around integration and other issues relevant to ethnic minority groups from a largely technical debate (in which different areas of disadvantage were examined and addressed) to a more general debate on the cultures and values of different groups and, ultimately, on the inherent worth and mutual compatibility of such cultures and values. In this context, cultures tend to be strongly stereotyped and values automatically and arbitrarily assigned to one group or another.

In this connection, the seminar indicated that while a debate on values can probably not be avoided anymore (at least, it is certainly high on the agenda) one has to be extremely careful that it is not carried out in a way that increases stigmatisation and prejudice towards minority groups and ultimately leads to polarisation and division between communities, through sweeping generalisations.

It was stated that the argument that certain “cultures” are inherently incapable of integrating European values (embedded notably in the European Convention on Human Rights, ECHR) could be countered by pointing out, for instance, that: 1) human rights are universal and apply to all (after all, the ECHR is the translation of these universal principles in the European context); but also that 2) often the most effective initiatives against “incompatible cultural practices” within certain communities come from groups and individuals from the communities themselves.

However, as Helle Stenum pointed out, until politicians become willing to risk trading political profit in racist and xenophobic propaganda with the defence of democratic, pluralistic societies, we can probably not expect genuine integration.

II. Examples of integration measures in different fields that have been described during the seminar.

A considerable number of positive examples of integration measures have been given during the seminar. It is interesting to note that among the examples chosen by the speakers and those mentioned from the floor, a considerable number tend to address the integration deficit among the general population, possibly reflecting the fact that, at least between these walls, there is still a vision that non-discrimination and equality policies lie very much at the heart of integration. The examples given have essentially concerned employment, education and participation in public life.

Employment

The Irish Integrated Workplace Initiative clearly combines measures aimed at filling the integration deficits existing within both majority (a, b) and minority (c) labour market actors:

a) Action to support all employees to develop the skills, knowledge and awareness to perform and engage effectively in culturally diverse workplaces. This includes, for instance: equality and diversity training for all employees; the development and implementation of equality policies that set out the organisational commitment to equality and the standards it seeks to achieve; and the development and implementation of policies and procedures in relation to harassment.

b) Action to develop workplace policies (i.e. procedures and practices that take account of cultural and linguistic diversity, promote equality in practice and create a welcoming environment for members of minority groups). This includes, for example: flexible working arrangements to enable minority employees to respect their cultural imperatives; a review of workplace policies and procedures to ensure they take account of cultural and linguistic diversity; and the development of an equality action plan setting out steps to be taken to achieve full equality in practice for minority employees.

The lines of action described under a and b clearly underline the need for institutional change if integration is to become a reality.

c) Action to support minority employees (in particular migrant employees) in adapting to the workplace and engaging effectively with the local community. This type of action can include induction training, mentoring support, briefing material on employment rights, social events and initiatives to address language barriers.

Apart from the Integrated Workplace Initiative, measures mentioned include:

- Situation tests (which can be used: by employers themselves as a quality-check or as a self-monitoring tool for integration; by NGOs, specialised bodies and others for research purposes ; and ultimately in judicial proceedings)
- Public Procurement (i.e. the establishment and enforcement of an obligation for public institutions to buy goods and services from companies complying with equality and non-discrimination standards)
- Label (i.e. a sort of formal recognition of the implementation of equality and non-discrimination policies and practices by a company).

Education

- Provision of allowances to schools that engage in measures aimed at de-segregating Roma children;
- Research measures that highlight discrimination – such as research aimed at comparing attainment levels of segregated Roma children with those of other Roma children;
- Review of procedures for enrolment in schools, so as to minimise the risk of racial discrimination – such as the obligation to provide an explanation for a refusal (*Décret Inscription* in Belgium)
- Teacher training on diversity and non-discrimination
- Recruitment of (Roma) teaching assistants;
- Scholarships for disadvantaged minorities;
- Reorientation classes, for instance for refugee children, providing for the evaluation of competencies when these cannot be formally proven, and for the necessary skills to integrate mainstream classes;
- Promoting kindergarten attendance among minorities;

Participation in public life

Integration measures in the field of participation in public life have essentially concerned access to nationality.

It was noted that, once again, measures that are being taken in different countries concerning access to nationality reflect the different approaches currently taken to integration issues. Thus, an approach emphasising the responsibilities of the non-citizen transpires clearly in the UK, where in plans announced recently, applicants for naturalisation must demonstrate readiness to integrate. On the other hand, in Portugal, the transfer of competence for naturalisation issues from the Interior Ministry to the Ministry of Justice seems to put the emphasis on the responsibilities of the authorities.

Examples of integration measures whose incompatibility with anti-discrimination legislation has been established or put forward

The participants of the seminar also examined a number of integration measures from the angle of their compatibility with non-discrimination standards.

Thus, for instance, in December 2007, the French HALDE found that the suspension of family benefits for non-compliance with the reception and integration contract that foreigners now need to sign constituted discrimination on the basis of national origin. In Belgium, the assignment of social housing in Flanders has been made conditional upon the undertaking to follow a Dutch language course for those who do not master this language.

The seminar also examined integration and citizenship tests more generally as well as the enforcement of language obligations, essentially using the experience of the Netherlands (where integration tests have been introduced for certain candidates to immigration but also for non-citizens who have resided in the Netherlands for a long time) and Latvia.

A preliminary question was whether it made sense at all to define tests that give access to a country on the basis of the applicants' knowledge of its language and culture as "integration tests". In the view of a number of participants these tests did not say much about real integration, or possibilities thereof, but rather were tests aimed at selecting people.

With regard in particular to pre-entry tests, which only nationals of certain countries need to take in order to gain access, the seminar seemed to conclude that the risk of discrimination was bound to be very high. The reason given for selecting citizens of these countries for testing obligations is the level of economic, social and political development of the country in question. However, it seemed difficult to establish a clear link between this reason and the integration potential of the individual applicant for immigration. The need for anti-discrimination legislation to apply to immigration matters was made all the more apparent by these discussions.

More generally, a number of possible criteria were mentioned to assess whether tests which attempt to measure integration, including language or history and culture tests, in order to open access to rights such as residence, citizenship, etc., may be discriminatory. These criteria are:

- the seriousness of the sanctions (e.g. expulsion; temporary residence instead of permanent residence; refusal of citizenship; withdrawal of benefits; administrative fine, etc.) The more a sanction is serious, the more a State must be able to justify the reasons for imposing it.

- whether the measure examined renders the obtaining of the right in question overly difficult. When gathering data to assess this, it is not enough to look at the success rate of these tests. The comparative application rate (before and after the measure was introduced) must also be examined. It was noted that this provides a broader picture of the impact of the measure, one that reflects difficulties not only linked to applicants' skills, but also, for instance, to the costs involved. In general, the seminar stressed the need for more research on impact assessment.

- whether the State is providing adequate assistance to applicants in order to pass these tests. The more "serious" the consequences of not passing are, the more a State should be seen as under an obligation to provide assistance to applicants.

- whether there are exceptions for people in vulnerable situations and for those who show a will to integrate but are unable to pass the tests.

The value of Protocol No. 12 to the ECHR (which prohibits discrimination on an open-ended list of grounds, including nationality, and in respect of all rights set forth by law) was stressed in order to test whether these or other integration measures are in breach of the principle of non-discrimination.

From a more general perspective, there was agreement that the public debate accompanying the adoption or the enforcement of integration tests has been, as a rule, counterproductive to integration.

By way of a conclusion, it can be said that the seminar has expressed a critical view on compulsory integration measures (i.e. integration measures accompanied by sanctions for non compliance). Irrespective of whether or not they may be considered effective (and scepticism was also expressed on the possibilities of measuring this at all, as mentioned earlier), these measures appear problematic because: (i) by making access to rights conditional to new sets of criteria, they inevitably raise serious issues of racial discrimination; and (ii) because of the stigmatising effect that the adoption and the enforcement of these measures have on minority groups.

III. Overview of the suggestions and remarks that have been made during the seminar concerning the role of national specialised bodies in the field of integration.

National specialised bodies should use all their powers to ensure that measures taken to promote integration are actually conducive to an integrated society and do not result in racial discrimination. Accordingly, they should use :

- their legal representation powers to challenge racial discrimination, which lies at the heart of integration failures
- a wide range of sanctions to address instances of discrimination. These should include sanctions geared towards effecting long-lasting and structural change in organisations and institutions
- their research and development functions to the fullest to highlight, for instance, the need for institutional change for successful integration or to promote diversity as a business case. These functions should also be used to monitor possible discrimination resulting from measures adopted to promote integration, such as “integration tests” and other compulsory measures.
- their communication functions, for instance, to highlight and challenge any stereotyping and stigmatisation resulting from the integration debate.

National specialised bodies should advocate extending the scope of antidiscrimination legislation to cover discrimination on the basis of nationality (i.e. citizenship of a country) and in immigration-related areas.

National specialised bodies should work towards the incorporation of non-discrimination and other measures aimed at tackling the integration deficit within society, and especially its majority population, into formal integration strategies.

Finally, national specialised bodies should advocate specific integration measures, including for instance testing, public procurement, label, and mainstreaming multiculturalism through initiatives similar to those developed in Ireland as part of the Anti-Racist Workplace Week.

APPENDIX I

Seminar with national specialised bodies to combat racism and racial discrimination

The relationship between integration and the fight against racism and racial discrimination

Strasbourg, 28 – 29 February 2008

PROGRAMME

Moderator: Ms Winnie SORGDRAGER member of ECRI

SESSION 1:	Setting the scene
9:00	Welcome by Professor Eva SMITH - ASMUSSEN, Chair of ECRI
9:05 – 9:25	Integration – concepts and main challenges with regard to the fight against racism and racial discrimination, by Ms Isil GACHET, Executive Secretary to ECRI
9:25 – 10:15	Discussion

10:15 – 10:30 Coffee Break

Moderator: Mr Niall CROWLEY, Chief Executive Officer of the Equality Authority (Ireland)

SESSION 2:	Integration: General trends in practice in Europe
10:30 – 10:45	The practical framework for integration in Europe <ul style="list-style-type: none">• Presentation by Mr Jan NIESSEN, Director of the Migration Policy Group (MPG)
10:45 – 11:30	The practical framework for integration in a selected number of countries <ul style="list-style-type: none">• <u>France</u>: Professor Patrick WEIL, historian and political scientist, research director at the <i>Centre national de la recherche scientifique (CNRS)</i>• <u>Denmark</u>: Ms Helle STENUM, migration researcher, Academy for Migration Studies, Aalborg University• <u>Romania</u>: Mr Adrian BUNOAICA, Chief of Staff, National Council for Combating Discrimination
11:30 – 13:00	Discussion

13:00 – 14:00 Lunch Break

Moderator: Mr Claude-Valentin MARIE, Vice-President of the *Haute autorité de lutte contre les discriminations et pour l'égalité* (France)

SESSION 3:	Integration and non-discrimination in specific policy areas – Part I
14:00 – 14:30	<u>Employment</u> : <ul style="list-style-type: none">• Integration and non-discrimination in employment – state of play: Mr Patrick TARAN, Senior Migration Specialist, International Labour Organisation (ILO)• Good practice: the anti-racist workplace week: Mr Niall CROWLEY, Chief Executive Officer of the Equality Authority (Ireland)
14:30 – 15:30	Discussion

Moderator: Mr Michael HEAD, member of ECRI

SESSION 4: Integration and non-discrimination in specific policy areas- Part II	
15:45 – 16:15	<u>Education:</u> <ul style="list-style-type: none">• Integration and non-discrimination in education – state of play: Ms Vera EGENBERGER, Director of the European Roma Rights Centre (ERRC)• Good practice: Promoting diversity and combating segregation at school, Mr Michel VANDERKAM, <i>Centre pour l'égalité des chances et la lutte contre le racisme</i> (Belgium)
16:15 – 16:45	Discussion
16:45 – 17:15	<u>Participation in public life:</u> <ul style="list-style-type: none">• Community cohesion: a tool or a goal? Assessing ideas, policies and outcomes after 2001, Mr Marc VERLOT, Director of Foresight and Head of Policy, Equality and Human Rights Commission (UK)• Good practice: practical initiatives for the integration of immigrants and ethnic minorities at the local level, Mr Luis PASCOAL, Chief of Staff, Office of the High Commissioner for Immigration and Intercultural Dialogue (Portugal)
17:15 – 17:45	Discussion
17.45 – 18:30	Reception

Moderator: Professor Gün KUT, member of ECRI

SESSION 5: Integration and naturalisation tests and non-discrimination in access to rights	
9:30 – 10:00	Integration and naturalisation tests and non-discrimination in access to rights <ul style="list-style-type: none">• The Dutch experience: Ms Joëlle De POORTE, Institute for Multicultural Development – FORUM• The Latvian experience: Ms Ilze BRANDS-KEHRIS, Director of the Latvian Centre for Human Rights and Ethnic Studies
10:00 – 11:15	Discussion
11:15 – 11:45	Coffee Break

Moderator: Mr Michael HEAD, member of ECRI

CLOSING SESSION	
11:45 – 12:00	Presentation of the main findings of the Seminar by Mr Giancarlo CARDINALE, Rapporteur
12:00 – 12:30	Discussion
12:30	Closing of the Seminar

APPENDIX II

Seminar with national specialised bodies to combat racism and racial discrimination on the relationship between integration and the fight against racism and racial discrimination

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