



THE ANTI-DISCRIMINATION, DIVERSITY AND INCLUSION DIMENSIONS OF THE RESPONSE TO COVID-19

Introductory Note prepared by the Secretariat of the Steering Committee on
Anti-discrimination, Diversity and Inclusion (CDADI)

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Threats to non-discrimination, diversity and inclusion

The COVID-19 virus and disease pose a threat to health and life across Europe and the world. States have a duty to ensure public health and safety and are under pressure to take unprecedented and drastic measures, with little time for consultation.

While there can be no question as to the need to act quickly to curb the spread of the virus and save lives, there is growing awareness that certain responses or failure to provide adequate support, or more generally a decline in tolerance in societies under strain, may pose a threat to persons belonging to minorities and marginalised communities and to the fundamental principles of non-discrimination, diversity and inclusion.

These issues fall directly under the mandate of the Council of Europe's **Steering Committee on Anti-discrimination, Diversity and Inclusion (CDADI)** whose main task is to steer the Council of Europe's intergovernmental work to promote equality for all and build more inclusive societies, offering effective protection from discrimination and hate and where diversity is respected.

Until the CDADI can effectively carry out its work under normal conditions, its Secretariat will continue to follow and document developments in the areas within the remit of the Committee in order to support its future work.

The COVID-19 pandemic has tended to exacerbate existing inequalities and the problems faced by disadvantaged groups, such as in access to health care, to welfare services, to education and to employment. Specific **difficulties and problematic practices** so far reported include the following¹:

¹ The list is based on information from sources including Council of Europe field offices and representatives on the ground working with Roma, migrants, persons belonging to national minorities and LGBTI persons, as well as civil society organisations and media reports.



- Heavy-handed and discriminatory action by the police, including flagrant racial profiling, towards Roma in enforcing quarantine and lockdown measures
- Lack of access to information and instructions in languages other than the state language(s)
- Impossibility of maintaining social distancing in refugee camps and Roma settlements
- Impossibility of adhering to healthcare advice due to absence of sanitary facilities
- Interrupted access to hormone therapy or other essential medical treatment for LGBTI people
- Increased risk of gender-based or homo-bi-transphobic abuse in confinement and diminished possibilities to reach support services
- Manifestations of intolerance and hate speech associating specific ethnicities with the virus and its economic impact.

Such situations and risks are not only detrimental to those directly concerned, leading to increased anxiety, exclusion and discrimination, they are harmful to the whole of society and its inclusiveness at a time where unity and solidarity are key. They fuel prejudice and lead to hate speech – often a first step to actual violence. They also prevent communities and individuals from effectively and responsibly cooperating with emergency measures. As a result, there has been an increase in discriminatory and hate-motivated statements on-line, frequently scapegoating a specific community.



Positive responses in member states

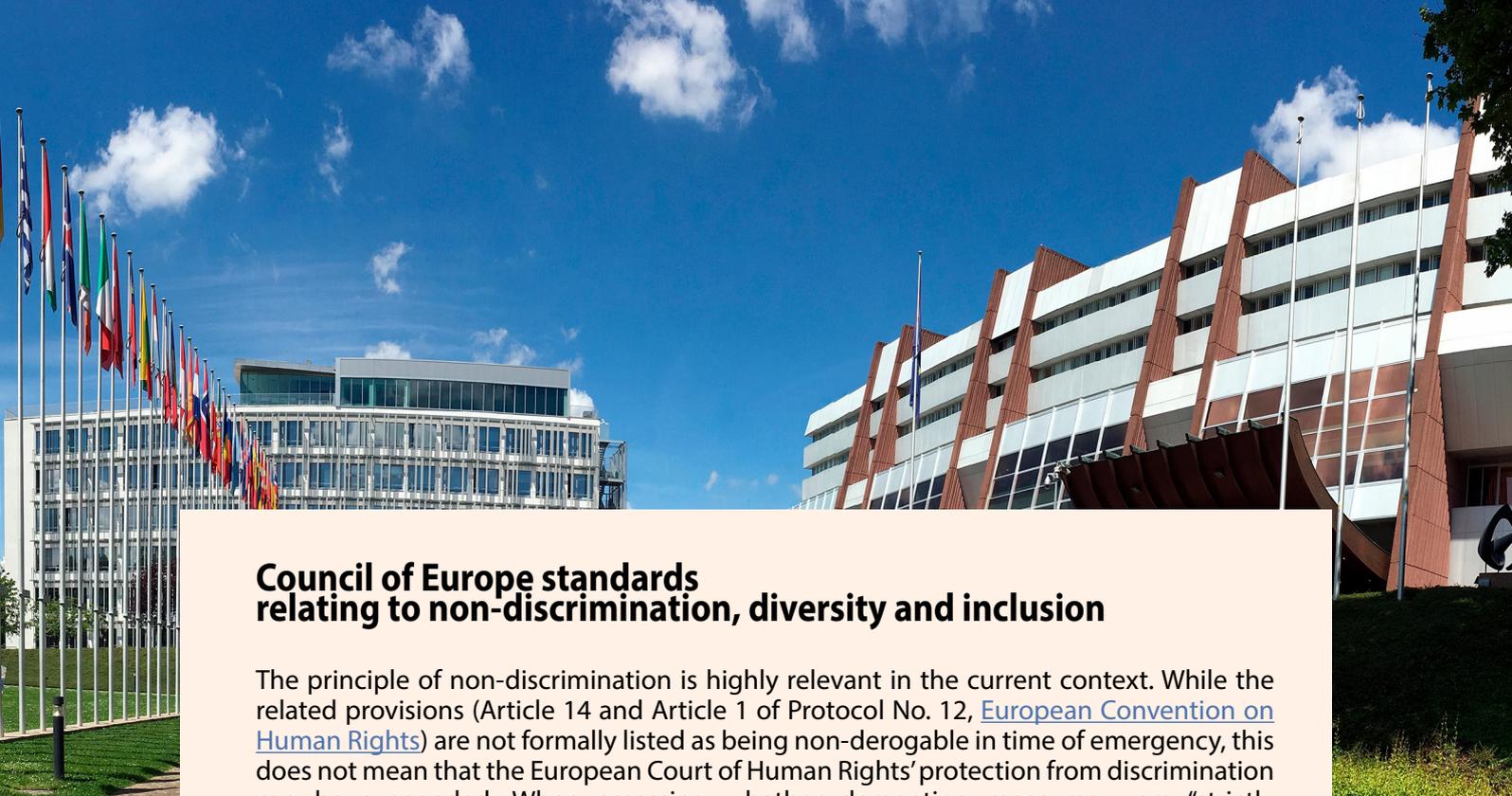
On the other hand, in many member states commendable **good and promising practices** at various levels have emerged, such as the following:

Lublin was the first city in **Poland** to launch procedures allowing foreigners to obtain a social security number in order to purchase medication in pharmacies and use services provided by the state or local authorities.

Switzerland called upon cantons and municipalities to open provisional sites for Travellers in sports centre car parks in order to reduce occupancy levels and increase social distancing, to suspend parking fees to relieve financial pressures, and to improve sanitary installations ensuring running water and liquid soap for frequent hand washing.

Portugal is granting all migrants, including asylum seekers, with pending residence permit applications the same rights as citizens, in order to ensure everybody who needs it has access to social security, unemployment allowances and health care.

In a growing number of member states COVID-19 information has now been translated into and disseminated in all the main minority and migrant languages, including in **Italy, Georgia, Germany and Norway**.



Council of Europe standards relating to non-discrimination, diversity and inclusion

The principle of non-discrimination is highly relevant in the current context. While the related provisions (Article 14 and Article 1 of Protocol No. 12, [European Convention on Human Rights](#)) are not formally listed as being non-derogable in time of emergency, this does not mean that the European Court of Human Rights' protection from discrimination can be suspended. When assessing whether derogating measures were "strictly required" under Article 15 ECHR, the Court examines whether the measures discriminate unjustifiably between different categories of persons. Also, certain forms of discrimination can amount to degrading treatment proscribed by Article 3, a non-derogable provision.

The non-discrimination principle prohibits a difference of treatment for which no objective and reasonable justification exists, but also a failure to treat differently persons whose situations are significantly different. Indeed, the Court has ruled on several occasions that the fact of not taking into account the specific needs of persons belonging to a disadvantaged group resulted in discrimination. The prohibition of discrimination may thus entail obligations to take positive measures to achieve substantive equality. A similar approach is followed under the European [Social Charter](#) (Article E).

For the European Court of Human Rights, the principle of non-discrimination enshrined in Article 14 is of a "fundamental" nature together with the rule of law and the values of tolerance and social peace.

The [Framework Convention for the Protection of National Minorities](#) is designed to protect the rights of persons belonging to national minorities and promote their full and effective equality in all areas of economic, social, political, public and cultural life. The [European Charter for Regional or Minority Languages](#) protects and promotes languages used by traditional minorities, contributing to the building of a Europe based on democracy and cultural diversity. Upholding obligations under these treaties is especially crucial for public trust in times of crisis.

The general policy and country specific recommendations of the [European Commission against Racism and Intolerance](#) (ECRI) are all the more important now at a time of heightened tensions in member states. ECRI's [GPR No. 11](#) on combating racism and racial discrimination in policing, [GPR No. 13](#) on combating anti-Gypsyism and discrimination against Roma, [GPR No. 15](#) on combating hate speech, and [GPR No. 16](#) on safeguarding irregularly present migrants from discrimination are of particular relevance today.

Other Council of Europe tools providing practical guidance on fostering inclusion are its [Strategic Action Plan for Roma and Traveller Inclusion \(2020-2025\)](#) and its [Intercultural Cities programme](#), which helps cities to minimise tension and conflicts associated with ethno-cultural diversity.



Existing Council of Europe recommendations relevant to the current context

Ordinary life has been put on hold in many places and states must rise to the challenge of making sure every member of society is taken care of. **Decisions taken during this period will likely shape the future in our member states for years to come.**

Member states may usefully draw on recommendations made by the Council of Europe, in particular its monitoring bodies, notably the following:

- Monitor the actions of the police to ensure that all control operations are strictly legal and non-discriminatory and do not involve any unjustified or disproportionate use of force or racial profiling (see ECRI's [GPR No. 11](#) on combating racism and racial discrimination in policing).
- Provide urgent support to Roma and Traveller communities and families in need, including increased numbers of stopping sites and improved sanitary infrastructure in particular running water and basic hygiene products such as soap (see [Recommendation Rec\(2006\)10](#) of the Committee of Ministers to member states on better access to health care for Roma and Travellers in Europe; and ECRI's [GPR No. 13](#) on combating anti-Gypsyism and discrimination against Roma).
- Ensure that all information and instructions to the public are available in all the minority languages (see statement by the [Chair of the Committee of Experts of the European Charter for Regional or Minority Languages](#)), as well as the main languages used by migrants in the country.



- Ensure equal access to health services and social security schemes, including for Roma not possessing ID documents and for irregularly present migrants (see [Recommendation Rec\(2006\)10](#) of the Committee of Ministers to member states on better access to health care for Roma and Travellers in Europe; ECRI's [GPR No. 13](#) on combating anti-Gypsyism and discrimination against Roma; and ECRI's [GPR No. 16](#) on safeguarding irregularly present migrants from discrimination).
- Actively support equality and diversity and counter hate speech rhetoric, including on-line (see ECRI's [GPR No. 15](#) on combating hate speech).
- Consider innovative initiatives to provide counselling for vulnerable individuals living in unsupportive or hostile domestic environments, such as LGBTI persons (see Recommendation [CM/Rec\(2010\)5](#) of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity; and ECRI's [GPR No. 15](#) on combating hate speech).
- Support and disseminate information about initiatives of migrant and minority groups and organisations offering financial and human assistance to persons in need in local communities (see Recommendation [CM/Rec\(2015\)1](#) of the Committee of Ministers to member states on intercultural integration).

Further work

The CDADI Secretariat will carry out a more in-depth study of the emerging threats and problems coming within the mandate of the Committee and the risks these pose for inclusion, as well as the good and promising practices at different levels. Contributions will be sought from CDADI members as well as a range of other relevant bodies and networks.

The study will be presented to the CDADI for examination at its first meeting so as to allow the Committee to explore and develop possible guidance tools for member states for best dealing with the current or any future pandemic while respecting the fundamental principles of non-discrimination, diversity and inclusion.