



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.05.1999  
COM(1999) 256 final

COMMUNICATION FROM THE COMMISSION

COUNTERING RACISM, XENOPHOBIA AND ANTI-SEMITISM  
IN THE CANDIDATE COUNTRIES

COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN COUNCIL MEETING IN COLOGNE 3-4 JUNE 1999

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INTRODUCTION

In the conclusions of the European Council Meeting in Vienna on 11 and 12 December 1998, the Commission was invited to *'draft proposals for the Cologne meeting for measures to counter racism in the candidate countries'*. The Council also invited the *'Member States to consider taking similar measures inside the Union'*.

The Amsterdam Treaty which entered into force on 1 May 1999, recalls that the Union *'is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States'*. Indeed, for the first time, action can be taken in the event of serious and persistent breaches of fundamental rights occurring in any Member State. The rejection of racism, xenophobia and anti-Semitism is an integral element of these rights.

As members of the UN and of the Council of Europe, the candidate countries are, in the same way as existing EU Member States, parties to a wide range of international and regional instruments.

The definition provided by the UN is a valid reference point when considering racism in the perspective of the candidate countries. The United Nations was the first international forum to assess and address racial discrimination in a comprehensive manner. The United Nations International Convention on the Elimination of All Forms of Racial Discrimination (1965) defines this as *"any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."* For the candidate countries, the issues of national and ethnic origin are particularly relevant.

At regional level, the Council of Europe is firmly committed to countering racism. It sets a general framework for non-discrimination in the European Convention on Human Rights and pays special attention to national minorities in the Framework Convention on the Protection of National Minorities. Whilst most candidate countries have ratified this instrument, Latvia, Lithuania, Poland, and Turkey have not yet done so.

This Communication aims to give an overview of measures which can contribute to countering racism in the candidate countries.

It does not suggest the creation of specific new initiatives for the candidate countries. Consistently with the strategies to prepare the candidate countries for membership of the Union, it sets out how candidate countries are involved in EU activities and makes some suggestions as to how this could develop in future.

## II. THE ENLARGEMENT CONTEXT

The European Council meeting in Copenhagen in 1993 formulated political criteria to be met by countries applying for membership of the European Union. It stated that '*membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.*' The concepts of respect for and protection of minorities constitutes a key element of combating racism and xenophobia in the candidate countries.

On the basis of these criteria, the Commission assessed the requests for membership of the ten candidate countries of central and eastern Europe in its Opinions presented in the framework of Agenda 2000 in July 1997. The Commission also reviewed progress achieved by the ten candidate countries from Central and eastern Europe, Cyprus and Turkey in its regular reports of November 1998, and in its special report of February 1999 on Malta's request for accession.

The scale of the minorities problem was illustrated in Agenda 2000 in the following terms: '*Minorities account for 44% of the population in Latvia (where 34% are Russian), 38% in Estonia (30% Russian), 20% in Lithuania (9% Russian, 7% Polish), 18% in Slovakia (11% Hungarian, 5% Roma), 14% in Bulgaria (9% Turks, 5% Roma) and 13% in Romania (8% Hungarian, 4% Roma).*' In view of this, the Opinions and regular reports published by the Commission pay special attention to minorities issues.

In the '*Accession Partnerships*<sup>1</sup>' of March 1998 for the ten candidate countries of Central and Eastern Europe, priorities are set for these countries, in the light of the analysis made by the Commission in its Opinions. Priorities related to the fulfilment of the political criteria of membership are identified in most Accession Partnerships. For example, the Accession Partnerships with Bulgaria, the Czech Republic, Hungary and Romania identify the further integration of Roma as a priority; the Latvian and Estonian Accession Partnerships highlight that the integration of non-citizens should be accelerated. In Slovakia, priority is placed on fostering and strengthening the policies and institutions protecting the rights of minorities.

The Commission will make a further review of the progress made by each of the Candidate countries in its *Regular Reports* to be produced in autumn 1999, which will include a full evaluation of preparations to meet the Copenhagen political criteria. The priorities in the Accession Partnerships will be revised accordingly.

Whilst the situation of minorities in the CEEC candidate countries has generally improved in recent years, considerable further efforts still need to be made as far as the Roma minorities are concerned. As regards the Kurdish issue, which is one of the reasons for which Turkey does not meet the Copenhagen political criterion, no notable improvements have been made since the Commission's report. The annex presents in more detail the situation in the candidate countries, in particular on the basis of the Opinions and Regular Reports.

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<sup>1</sup> Council Regulation 622/98 – OJ L 085 of 20/03/98.

This communication does not deal with the problem of dispossession which certain minority groups experienced in some of the candidate countries under the old regimes as this is mainly a matter for the jurisdiction of the candidate countries themselves or the European Court of Human Rights. Discrimination against refugees, who are particularly vulnerable to human rights abuses and often unable to protect their rights, is not covered here either.

### **III ACTIONS TO COMBAT RACISM, XENOPHOBIA AND ANTI-SEMITISM**

#### **EU support in the context of enlargement**

On accession to the Union, new Member States will be bound by the principles of the Treaty, which refer inter alia to respect for human rights and fundamental freedoms. It should also be recalled that respect for human rights as guaranteed by the European Convention for Protection of Human Rights and Fundamental Freedoms is a general principle of Community law.

In the context of enlargement, the candidate countries are expected to address the issues presented in the Commission's Opinions and Regular Reports and to implement the priorities set out in the Accession Partnerships.

Whilst these efforts are primarily the responsibility of the candidate countries themselves, the EU has been providing support to help them adopt the necessary measures. This support is channelled mainly through the Phare programme for the Central and Eastern European countries and the Meda programme for Turkey. Projects under the Phare programme are financed in the framework of individual Phare national programmes for each CEEC, and of multi-country programmes, such as Lien and the Phare Democracy Programme which has now been integrated in the 'European Initiative for Democracy and Human Rights'<sup>2</sup> - which cover all CEECs. Concrete examples of support given under these programmes are provided in the annex.

The candidate countries have adopted government plans or programmes to protect and promote minorities and tackle racism, but need to continue to make further efforts to improve the situation of minorities by implementing the policies adopted, ensuring that appropriate budgetary provisions are made and monitoring enforcement of these not just at national but at regional and local levels.

#### **Tackling these issues with the candidate countries**

Racism is a global problem that has also been addressed actively in the Member States of the EU for a number of years. The experience acquired in tackling racism at EU level can be shared with and extended to the candidate countries.

Also, consistent with the strategies to prepare the candidates for EU membership, efforts should focus on, wherever possible, opening community programmes, agencies and activities to the participation of the candidate countries.

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<sup>2</sup> Chapter B7-70 of the EU budget.

### *The Action Plan against Racism<sup>3</sup>*

The Plan prepares the ground for more ambitious action at European level under the new provisions of the Treaty on non-discrimination, in particular in terms of legislation, the mainstreaming of the fight against racism in Community policies and programmes and the development and the exchange of new approaches. The Commission will publish a report highlighting progress achieved and evaluating the impact of the action plan which sets a medium term framework for the fight against racism at European level before the end of 1999. The report will provide an assessment of the approach to mainstreaming the fight against racism in Community policies, including an overview of the measures taken by the Commission towards the candidate countries in addressing the issue of racism.

### *The European Monitoring Centre on Racism and Xenophobia*

The Monitoring Centre on Racism and Xenophobia set up in Vienna following a Council Regulation in 1997<sup>4</sup> has as a principal objective the study of the breadth, the development, causes and consequences of racism, of xenophobia and of anti-Semitism within the Union.

The Centre will work in close co-operation with organisations in the Member States, international organisations, and in particular with the Council of Europe. To this end, an agreement formalised recently the co-operation between the Monitoring Centre and the European Commission against Racism and Intolerance (ECRI) of the Council of Europe. Given the wider geographical coverage of ECRI, this will enable common activities to be carried out within the EU and in the remaining 25 countries of the Council of Europe, including all the candidate countries. The European Community and the Council of Europe signed this agreement on 10 February 1999.

As a first practical measure to implement the agreement with the Council of Europe, the Monitoring Centre has proposed a joint project on the situation of the Roma people, aiming in particular to identify the best examples in Europe of tolerance and successful co-habitation.

The Commission is required to prepare an evaluation report next year on the activities of the Centre, together with proposals, if appropriate, to modify or extend its tasks<sup>5</sup>. These might include the extension of the co-operation between the Monitoring Centre and the candidate countries. In the meantime, the possibilities for establishing informal co-operation between the Monitoring Centre and the candidate countries could be explored. This could consist of the identification of appropriate bodies in the candidate countries which might co-operate and exchange information with the Monitoring Centre, and the sharing with the candidate countries of expertise and best practice.

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<sup>3</sup> COM (1998) 183 final, of 25 March 1998

<sup>4</sup> Council Regulation EC 1035/97 on the Monitoring Centre on Racism and Xenophobia of 2 June 1997 – OJ 151 of 10 June 1997.

<sup>5</sup> Article 16 of Council Regulation EC 1035/97.

### *The implementation of the non-discrimination provisions of the Amsterdam Treaty*

The Treaty of Amsterdam provides for the first time a legal base for the Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 13 of the EC Treaty).

Since the signature of that Treaty and following wide consultation with all relevant actors, including the Member States, the social partners and the NGO community, on the means to give effect to Article 13, a broad consensus has emerged on the need for legislative measures on both racial discrimination and on the other grounds of discrimination cited in Article 13, together with a programme of practical action to support measures to promote non-discrimination. The legislation would include obligations on Member States to prohibit discrimination on grounds of racial and ethnic origin in a range of social and economic fields, to sanction discriminatory behaviour and to provide effective redress for the victims. Based on this consensus, the Commission intends to come forward soon with proposals to implement Article 13.

Any legislation to combat discrimination will of course form a part of the Community acquis, and as such, the candidate countries will be required to implement equivalent provisions before accession. This will make a substantial contribution to increasing the protection afforded to the victims of discrimination in the candidate countries. To support this development and to reinforce practical action to combat discrimination, any programme of action to support the efforts of Member States in this field should be open to participation by candidate countries.

The Commission has also indicated that it is exploring the possibility of proposing incentive measures to combat social exclusion under Article 137 of the EC Treaty. Such measures could also be opened to participation by candidate countries. Finally, to support the monitoring of developments in the candidate countries, future Eurobarometer surveys in the candidate countries could include questions about attitudes to racism and xenophobia in the same way as surveys within the Union.

### *Education, Vocational Training and Youth programmes as instruments in the fight against racism and xenophobia in candidate countries*

The fight against racism is a horizontal concern common to Education, Vocational training and Youth programmes. These programmes are already open to candidate countries and may provide financial support to a wide range of initiatives tackling racism and xenophobia. The Commission has proposed to step up its initiatives to combat racism, xenophobia and anti-Semitism in its current proposals for new education, youth and training programmes<sup>6</sup>.

### *Social partners and Civil Society*

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<sup>6</sup> Socrates II proposal: OJ C 314 of 13/10/98 – Leonardo II proposal: OJ C 309 of 09/10/98 – Youth programme proposal - OJ C 311 of 10/10/98.

Action to combat racism cannot rely solely on measures taken by Governments. Experience in the EU has shown that the contribution of the social partners and of civil society is essential at all stages of the process. The social partners in the candidate countries also need to be encouraged to take their responsibilities in this regard.

NGOs are principal actors for change in society and the European Commission will continue to support the development of civil society in candidate countries. However, governments should also be encouraged to involve NGOs in all aspects of their work to combat racism.

### **Working with other international organisations to combat racism**

In order to have a real impact on the ground, avoid duplication and ensure consistency, co-operation between the European Commission and the other international organisations involved in the fight against racism should be strengthened - such as the Council of Europe, the UN and the OSCE.

#### *Council of Europe*

The Commission will continue to work on the basis of joint programmes to strengthen the Commission's co-operation with the Council of Europe in the fight against racism. The agreement between the Council of Europe and the European Monitoring Centre on Racism and xenophobia will also contribute to the exchange of information and experience between the two organisations.

#### *Preparations for the World Conference on Racism (2001)*

The preparations at European level, which are co-ordinated by the Council of Europe<sup>7</sup> provide a good opportunity for the EU to work closely with the candidate countries to counter racism. Every effort should also be made to lend support to the NGOs from the CEECs in order to ensure their full participation in the preparatory process.

The Commission will continue to work in close cooperation with the relevant UN bodies on the issue of racism, and more particularly with the Office of the High Commissioner on Human Rights.

#### *OSCE*

The Commission will continue to maintain close working contacts with the OSCE High Commissioner for National Minorities in its work on questions concerning ethnic relations and minorities in the candidate countries.

### **CONCLUSION**

The Commission will continue to support the candidate countries in their efforts to protect and promote minorities and address racism through the Phare and Meda programmes and the European Initiative for Democracy and Human Rights.

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<sup>7</sup> A European Conference should be held in Strasbourg at the end of 2000.

In line with the strategies to prepare the candidate countries for membership, the Commission could propose to open future relevant EU programmes and instruments to the candidate countries. Moreover, the candidate countries will also have to prepare to comply with any new *acquis* in the field of non-discrimination. An extension of the co-operation between the European Monitoring Centre on racism and xenophobia and the candidate countries could be envisaged.

In addition to EU support, the candidate countries must step up their own efforts by ratifying relevant international instruments, and by ensuring implementation of government plans or programmes to protect and promote minorities and tackle racism.

The Commission will continue to strengthen its cooperation with other international organisations, and more particularly the United Nations, the Council of Europe and the OSCE, on the basis of shared values and a common commitment to address the issue of racism. The World Conference on racism will provide a forum for the EU to work in close co-ordination with the candidate countries.

The Commission will make a further review of the progress made by each of the Candidate countries in its *Regular Reports* to be produced in autumn 1999, which will include a full evaluation of preparations to meet the Copenhagen political criteria. The priorities in the Accession Partnerships will be revised accordingly.

The European Council is invited to take note of this communication.



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ANNEX

This annex gives a brief overview of:

- the international legal instruments to fight against racism and xenophobia;
- the situation in the candidate countries;
- EU support to counter racism and xenophobia in the candidate countries.

**I. INTERNATIONAL LEGAL INSTRUMENTS**

*a) United Nations*

Article 2 of the **Universal Declaration of Human Rights** (1948) provides that '*everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*'

Article 4 § 1 of the **International Covenant on Civil and Political Rights** provides that measures taken by the States parties should not '*involve discrimination solely on the ground of race, colour, sex, language, religion or social origin*'. Article 2 §2 of the **International Covenant on Economic, Social and Cultural Rights** (1966) states that the rights enunciated '*will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*'.

The **International Convention on the Elimination of all forms of Racial Discrimination** (1969) contains detailed provisions specifying the meaning of equality before the law and enumerating legal and practical measures necessary to combat racism and related intolerance and promote a positive image of racial, ethnic and cultural diversity. It has been ratified by 150 states, including all the candidate countries with the exception of Turkey.

The principle of non-discrimination is also covered by two General Assembly Declarations on the **Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief** (1981) and on the **Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities** (1992).

*b) Council of Europe*

Article 14 of the **Convention for the Protection of Human Rights and Fundamental Freedoms** ("European Convention of Human Rights" of 1950) which is the most legally binding of international human rights instruments in view of its effective monitoring mechanism, states that: '*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*' Its Protocol 11 that

provides for right of individual petition to the new European Court of Human Rights. All the candidate countries have adhered to the Convention and to the Protocol.

Given that the most exposed group to discrimination on the grounds of race are the national minorities, a number of Council of Europe texts provide them with special protection, and more particularly the **Framework Convention on the Protection of National Minorities** (1995). This Convention states that: *'Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to national minorities and those belonging to the majority'*. With the exception of Turkey, all the candidate countries have signed the Framework Convention. Latvia, Lithuania and Poland have signed the Convention, but not ratified it.

The Council of Europe's **European Commission against Racism and Intolerance (ECRI)** was set up in 1994 following the first summit meeting of heads of State and Government of the member states of the Council of Europe (Vienna, 8-9 October 1993). Its mandate is to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. In commenting in 1998 on the legal situation in the East European Countries, ECRI stressed that there was little legislation specifically designed to combat racism. Because of the existence of many national minorities, the legislature concerned preferred to adopt a different approach, that of laws on minorities. Priority was given to safeguarding their political, cultural and linguistic rights. In its country-by-country spot-check reports, which are to be published on all 41 of the Council's member states, ECRI identifies problems and their causes and offers advice and solutions. The reports play a key role in the ongoing dialogue between the Organisation and its member states on curbing racism, xenophobia, anti-Semitism and intolerance. Follow-up reports are planned over the next four years, with the aim to publish reports on 10 countries a year.

c) *OSCE*

The **Helsinki Final Act** in 1975 associated with the formation of the Organisation for Security and Cooperation in Europe (OSCE), encompasses a wide range of commitments on principles governing relations between participating states, on measures designed to build confidence between them, on respect for human rights and fundamental freedoms.

The Document of the **Copenhagen Meeting of the Conference on the Human Dimensions of the CSCE** (June 1990) states that *'the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground.'*(5.9). Moreover *'participating states clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-Semitism, xenophobia and discrimination against anyone, as well as persecution on religious and ideological grounds. In this context, they also recognise the particular problems of Roma'*

The **Charter of Paris for a New Europe** (November 1990) affirms that *'the ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right freely to express, preserve and develop that identity without any discrimination and in full equality before the law.'*

The **OSCE High Commissioner for National Minorities**, established in 1992, maintains close working contacts with the European Commission in its work on questions concerning ethnic relations and minorities in the candidate countries.

The **Pact on Stability** signed in Paris in May 1995, focussed the attention of the candidate countries on the importance for the European Union of the respect for human rights, including those of minorities, as the guarantee of a stable and democratic Europe. It also highlighted the importance of regional co-operation and the strengthening of democratic institutions through co-operation arrangements.

## II. EU AND EC TREATIES

The Treaty on European Union that entered into force on 1 November 1993, states that one of the main objectives of the Union's Common Foreign and Security Policy is *"to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms"* (Title V, Article J. 1(2), fifth indent). Similarly, with regard to development assistance, it states that *"Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms"* (Art.130u.2).

The Amsterdam Treaty, which came into force on 1 May 1999, introduces further provisions relating to respect for fundamental human rights. The Union, according to Article 6 (1) of the Treaty on European Union *'is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States'*.

According to Article 6(2), *'the Union shall respect fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.'*

For the first time, on the basis of Article 7 (TEU), any Member State violating human rights in a 'serious and persistent' manner risks the suspension of some of its membership rights under the Treaty.

Moreover, the new Article 13 of the EC Treaty enables the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, to *'take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'*.

Article 29 of the Treaty on the European Union as introduced by the Treaty of Amsterdam concerning the new provisions on police and judicial cooperation in criminal matters states that *"Without prejudice to the powers of the European Community, the Union's objective shall be to provide citizens with high levels of safety within an area of freedom, security and justice by developing common action among Member States in the fields of police and criminal cooperation in criminal matters and by preventing and combating racism and xenophobia"*.

Finally, Article 49 of the TEU concerning accession to the EU states that '*any European state which respects the principles set out in Article 6(1) may apply to become a member of the Union.*'

### **III. THE SITUATION IN THE CANDIDATE COUNTRIES**

In the context of enlargement, the candidate countries are expected to address the issues presented in the Commission's Opinions and Regular Reports and to implement the priorities set out in the Accession Partnerships regarding the problem of minorities.

#### **III.1 National minorities in the CEECs**

This section describes the situation of minorities in Estonia, Latvia, Slovakia and Romania. However, the presence of other minorities from certain EU Member States in the CEECs must be also noted. This is the case of the German-speaking minority in Poland towards whom the policies of the Polish authorities have been constructive. This minority now has electoral representation and the creation of a region (Opole) has strengthened its integration.

##### *a) Minorities in Estonia and Latvia*

The Commission opinions revealed the complex situation of minorities in Estonia and Latvia who make up a large proportion of each country's population. Although some had acquired Estonian, Latvian or Russian citizenship, most were former citizens of the Soviet Union who had no citizenship at all.

The opinions found that the mainly Russian-speaking minorities in Estonia and, to an even larger extent, in Latvia, were frequently denied citizenship, notably because of the restrictive and excessively slow naturalisation procedure and shortcomings in the teaching of the national language, knowledge of which is a precondition for naturalisation.

In Latvia in particular, the opinion commented on the substantial delays in the naturalisation procedure caused by measures covering the period up to 2003 which bracket the number of people who can apply for Latvian nationality by age. It also referred to cases of discrimination against the Russian-speaking minority in Latvia as regards access to certain occupations.

Both the regular reports published in 1998 and information obtained since point to positive trends with regard to the minorities concerned. These have subsequently been confirmed. Indeed, several measures recommended by the Commission in connection with international organisations such as the OSCE have been adopted.

Following a referendum in Latvia, which produced a 53% vote in favour, the measures restricting the granting of citizenship by age bracket were abolished and others adopted granting citizenship at birth to stateless children born in Latvia. Further steps have been taken to improve teaching of the national language and abolish most of the restrictions on the Russian minority's access to certain professions while provision has been made for the abolition of the remaining restrictions. A programme for the social integration of minorities is also being prepared.

