



EUROPEAN FRAMEWORK CONVENTION
ON PROMOTING TOLERANCE AND
COMBATING INTOLERANCE

Brussels, 10.XI.2008

Preamble

The Member States of the Council of Europe and the other States, signatories to the present framework Convention,

Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the protection and development of the human rights and fundamental freedoms set forth in the Convention for the protection of human rights and fundamental freedoms;

Reaffirming their profound belief in these fundamental freedoms, which are the foundation of world justice and peace and are best maintained by pluralist democracy and a common understanding and observance of the human rights upon which they depend;

Wishing to follow-up the Declaration of the Heads of State and Government of the member States of the Council of Europe adopted in Vienna on October 9, 1993;

Considering that the creation of an environment of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor of enrichment for each society instead of division;

Considering that the realization of a tolerant and prosperous Europe does not depend solely on co-operation between States but also requires cross-border co-operation between local and regional authorities without prejudice to the constitution and territorial integrity of each State;

Having regard to Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which 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,” and Protocol 12 thereto, which contains a general clause prohibiting discrimination;

Bearing in mind that the United Nations Charter reaffirms the faith in fundamental human rights and the dignity and value of the human person and calls for the practice of tolerance and living together in peace with one another as good neighbours;

Affirming the principles of international law recognized by the Charter of the Nüremberg International Military Tribunal and the judgment of the Tribunal, which condemned war crimes and crimes against humanity as the greatest crimes in international law for which there is no period of statutory limitation;

Recalling also that the Universal Declaration of Human Rights affirms that “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”(Article 1), “Everyone has the right to freedom of thought, conscience and religion” (Article 18), “of opinion and expression” (Article 19), and that education “should promote understanding, tolerance and friendship among all nations, racial or religious groups” (Article 26);

Having regard to the UNESCO Declaration of Principles on Tolerance, in which Article 6, in order to generate public awareness, emphasizes the dangers of intolerance and the need to react with renewed commitment and action to encourage the teaching of tolerance,

Noting the relevant international instruments, including:

- United Nations Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Prevention and Punishment of the Crime of Genocide
- 1951 Convention relating to the Status of Refugees and its 1967 Protocol and regional instruments
- Convention on the Elimination of All Forms of Discrimination against Women,
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- Declaration on the Elimination of All Forms of Intolerance Based on Religion or Belief
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
- Declaration on Measures to Eliminate International Terrorism
- UNESCO Declaration on Race and Racial Prejudice
- UNESCO Convention and Recommendation against Discrimination in Education
- Vienna Declaration and Programme of Action of the World Conference on Human Rights
- Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

Taking into account the important work performed by intergovernmental and non-governmental organizations in promoting tolerance and combating intolerance in Europe, and in particular that of the European Commission against Racism and Intolerance, the European Union Agency for Fundamental Rights and the OSCE Office for Democratic Institutions and Human Rights;

Having regard to the case law of the European Court of Human Rights and recalling that this Court held that to dispute the existence of crimes against humanity committed under the National-Socialist regime is one of the most severe forms of racial defamation and incitement to hatred of Jews and that the denial of such crimes against humanity and the justification of a pro-Nazi policy can not enjoy the protection afforded by Article 10 of the European Convention on Human Rights;

Having regard to the Additional Protocol to the Convention on Cybercrime concerning the criminalization of acts of a racist or xenophobic nature committed through computer systems;

Recalling General Policy Recommendation N° 1 on combating racism, xenophobia, anti-Semitism and intolerance, and General Policy Recommendation N° 2 on specialised bodies to combat racism, xenophobia, anti-Semitism and intolerance at national level of the European Commission against Racism and Intolerance;

Recalling General Policy Recommendation N° 7 on national legislation to combat racism and racial discrimination, which contains the key elements of appropriate legal measures in combating racism and racial discrimination effectively of the European Commission against Racism and Intolerance;

Bearing in mind the Declaration of Concern and Intent on “Anti-Semitism in Europe Today” adopted on March 27, 2000 by the participants of the Strasbourg “Consultation on Anti-Semitism in Europe Today,” which was convened by the Secretary General of the Council of Europe;

Having regard to Recommendation (2001) 15 of the Committee of Ministers to member States about the teaching of history in 21st century Europe, which was confirmed by Ministers of Education at the ministerial seminar held in Strasbourg in October 2002;

Recalling the principles contained in the Charter of European political parties for a non-racist society;

Taking note of the conclusions of the OSCE Conferences on Anti-Semitism held in Vienna on 19-June 20, 2003 and in Berlin on April 28-29, 2004;

Recalling the work of the European Union in combating racism and discrimination and taking note of the conclusions of the seminar on “Europe against anti-Semitism, for Unity in Diversity” organized in Brussels on February 19, 2004;

Recalling that Europe’s history obliges it to remember its past and remain vigilant by actively opposing any manifestations of racism, xenophobia, anti-Semitism and intolerance;

Paying homage to the memory of the victims of the systematic persecution and extermination of Jews during the Nazi era, as well as of the other victims of policies of racist persecution and extermination during the Second World War;

Stressing in this respect that the Council of Europe was founded with the express idea of defending and promoting the common and just values – in particular the protection and promotion of human rights – on which Europe was rebuilt after the horrors of the Second World War;

Recalling that combating racism, xenophobia, anti-Semitism and intolerance is rooted in the protection and promotion of human rights;

Profoundly convinced that combating anti-Semitism, while requiring a specific type of action, is an integral and intrinsic component of the fight against racism;

Stressing that anti-Semitism has persisted for centuries across Europe;

Observing the current increase in anti-Semitism in many European countries, and stressing that this increase is also characterized by new manifestations of anti-Semitism;

Stressing that efforts to counter anti-Semitism should include complete implementation of legal provisions against racism and racial discrimination with regard to all perpetrators and for the benefit of all victims, with special insistence on the provisions against incitement to racial violence, hatred and discrimination;

Convinced, furthermore, that these efforts should also include the promotion of dialogue and co-operation between the different segments of society on the local and national levels, including dialogue and co-operation between different cultural, ethnic and religious communities;

Emphasizing strongly the role of education in the promotion of tolerance and respect for human rights, thereby helping in the fight against anti-Semitism;

Reaffirming the provision of the Durban Declaration, in which the participating States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and nationalistic ideologies which encourage violence, and which stated that these phenomena could never be justified in any instance or in any circumstances.

Profoundly convinced that tolerance is the solid foundation of any civilized society and of peace;

Wishing to follow up on the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

Being resolved to define the principles to be respected and the obligations which go with them, in order to ensure in the member States and such other States as may become Parties to the present instrument the effective protection – through promotion of tolerance and combating any manifestation of intolerance – of the rights and freedoms of persons belonging to the most vulnerable groups or to victims of various racist acts, with great respect for the law and national integrity and sovereignty;

Being determined to implement the provisions set out in this framework Convention through national legislation and appropriate governmental policies,

Have agreed as follows:

Article 1

- A. The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding, brotherhood, tolerance, dialogue and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.
- B. The scope of this Framework Convention may be extended by the adoption of Additional Protocols to counter any other forms of intolerance not dealt with in the present Framework Convention.

SECTION I

Article 2

In the present Framework Convention, tolerance is defined as respect, acceptance and appreciation of the rich diversity of the world's civilizations, cultures, religions, different forms of expression and ways of being human. It is fostered by knowledge, openness, communication, and freedom of thought, conscience and belief. Tolerance is harmony in difference. It is not only a moral duty; it is also a political and legal necessity. Tolerance is, above all, an active attitude prompted by recognition of the universal human rights and fundamental freedoms of all. Tolerance is the responsibility that upholds human rights, pluralism (including cultural pluralism), democracy and the rule of law. It involves the rejection of dogmatism and absolutism and affirms the standards set out in international human rights instruments. Tolerance is to be exercised by individuals, groups, local authorities and States.

Article 3

In the present Framework Convention, intolerance is defined as racially, politically or ideologically motivated activities or actions committed by individuals, groups or the State against individuals, groups or communities. Such activities or actions include: incitement to racial violence, hatred and discrimination; aggressive nationalism; commitment to perform racist, xenophobic and anti-Semitic acts; denial of the Holocaust and crimes against humanity; production, printing, and dissemination of racist, xenophobic, and revisionist material; participation in the activities of groups involved in racist or xenophobic actions or which advocate racist, xenophobic, or revisionist doctrines.

Article 4

The Parties shall examine, in conformity with relevant regional and universal human rights instruments, norms and standards, their Constitutions, laws, legal systems and policies in order to identify and eradicate intolerance towards individuals, groups or communities, whether implicit, explicit or inherent.

Article 5

The Parties shall adopt and implement effective measures and policies at the national and regional levels in addition to existing national anti-discrimination legislation and relevant regional and international instruments and mechanisms. This should encourage all citizens and institutions to take a stand against intolerance and to recognize, respect and maximize the benefits of diversity within and among all nations. This goal will be attained by working together to build a harmonious and productive future through putting into practice and promoting values and principles such as tolerance, justice, equality, non-discrimination, democracy, fairness, friendship and respect within and between communities and nations, specifically through public dialogue, information and education programmes to raise awareness and understanding of the benefits of cultural diversity, including programmes where public bodies work in partnership with international and non-governmental organizations and other sectors of civil society.

Article 6

The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective steps to promote mutual respect, understanding and co-operation among all persons living in their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

Article 7

The Parties undertake to take the appropriate steps to protect all people who may be subject to threats or acts of discrimination, hate, hostility or violence as a result of their ethnic, cultural, linguistic, sexual or religious identity.

Article 8

All individuals, groups and participating Parties should make efforts to foster tolerance towards others and contribute to the establishment of a global culture of tolerance.

Article 9

The Parties recognize that all states need governments that are democratic, transparent, responsible, accountable to their people and responsive to their needs and aspirations. *In this context the Parties shall endeavour to ensure that* respect for human rights, fundamental freedoms and the rule of law in their territory or territories are sufficient for the effective promotion of tolerance and the prevention and elimination of racially, politically or ideologically motivated actions committed by individuals, groups, local authorities or the State against individuals, groups or communities (*referred to in Article 3*).

Article 10

The Parties recognize that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur frequently in the context of discriminatory, xenophobic and racist practices.

Article 11

The Parties undertake to plan, reinforce, promote and implement effective legislative and administrative policies, as well as other preventive measures to protect certain groups of workers, including migrant workers, who are victims of racism, racial discrimination, xenophobia and related intolerance. They shall pay special attention to protecting people engaged in domestic work and trafficked persons from discrimination and violence, as well as combating prejudice against them.

Article 12

- A. The Parties undertake to enact legislation aimed at combating anti-Semitism, taking into account the suggestions of the European Commission against Racism and Intolerance in its General Policy Recommendation No 7 on national legislation to combat racism and racial discrimination.

- B.

The Parties shall ensure that the law provides that racist motivation constitutes an aggravating circumstance for all criminal offences and that such motivation includes anti-Semitic motivation.
- C.

The Parties shall ensure that criminal law on combating racism includes anti-Semitism and penalizes the following anti-Semitic acts when committed intentionally:

a.

public incitement to violence, hatred or discrimination against a person or group of persons on the grounds of their Jewish identity or origin;

b.

public insults and defamation of a person or group of persons on the grounds of their actual or presumed Jewish identity or origin;

c.

threats against a person or group of persons on the grounds of their actual or presumed Jewish identity or origin;

d.

the public expression, with an anti-Semitic aim, of an ideology depreciating or denigrating a group of persons on the grounds of their Jewish identity or origin;

e.

the public denial, trivialization, justification or condoning of the Holocaust;

f.

the public denial, trivialization, justification or condoning, with an anti-Semitic aim, of crimes of genocide, crimes against humanity or war crimes committed against persons on the grounds of their Jewish identity or origin;

g.

the public dissemination, public distribution, production or storage for the purpose of public dissemination or public distribution, with an anti-Semitic aim, of written, pictorial or other material containing manifestations covered by points a), b), c), d), e) and f) above;

h.

the desecration and profanation, with an anti-Semitic aim, of Jewish property and monuments;

i.

the creation or leadership of a group that promotes anti-Semitism; support for such group (such as providing financial aid or other material needs, producing or obtaining documents); participation in the activities of such group with the intention of contributing to the offences covered by points a), b), c), d), e), f), g) and h) above;

Article 13

The Parties shall counter intolerance through the adoption and implementation of legal provisions aimed at prohibiting and preventing racism, xenophobia, anti-Semitism and the like by implementing legal provisions against racism and racial discrimination with respect to all perpetrators without exception and for the benefit of all victims, with special emphasis on provisions against incitement to racial violence, hatred and discrimination.

Article 14

The Parties shall urge individuals to desist from racist incitement, derogatory language and negative stereotyping, especially in the context of conflict situations.

Article 15

The Parties shall reaffirm that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy and tends to encourage the recurrence of such acts.

Article 16

The Parties also agree that the dissemination of any ideas based upon racial superiority or hatred shall be declared an offence punishable by law with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.

Article 17

The Parties condemn the persistence and resurgence of neo-Nazism, neo-Fascism and totalitarian or any other violent, nationa-

listic ideologies based on racial or national prejudice. They affirm that these phenomena can never be justified at any time or in any circumstances, and agree that any manifestation of these phenomena should be categorized as criminal offences and be punished effectively.

Article 18

The Parties shall design, promote and implement strategies, programmes, policies, and adequate legislation at the national, regional and international levels, which may include special positive measures to further equal social development and ensure the civil and political, economic, social and cultural rights of all victims of acts of discrimination, hate, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity, including more effective access to political, judicial and administrative institutions, as well as to promote effective access to justice and a guarantee that the benefits of development, science and technology shall contribute effectively to the improvement of the quality of life for all, without discrimination.

Article 19

- A.

The Parties shall establish such institutions and call upon the authorities, individuals, groups and society in general in those countries where they perform their tasks of promotion, protection and prevention to co-operate to the maximum extent possible with these institutions, while respecting their independence.
- B.

The Parties shall establish and support the functioning of an independent specialized body along the lines set out in ECRI's General Policy Recommendation No 2 on specialized bodies to combat racism, xenophobia, anti-Semitism and intolerance at the national level, and ensure that the actions carried out by this body cover all forms of anti-Semitism.
- C.

The Parties shall support these institutions and similar bodies, including through the publication and circulation of existing national laws and jurisprudence and co-operation with institutions in other countries to facilitate the spread of knowledge of the manifestations, functions and mechanisms of these practices and the strategies designed to promote tolerance and to prevent, combat and eradicate intolerance.

Article 20

The Parties shall endeavour to support and strengthen the paramount role played by their parliaments in the fight against intolerance in adopting appropriate legislation, overseeing its implementation and allocating the requisite financial resources.

Article 21

The Parties shall recognize and actively support the fundamental role of civil society in the fight against intolerance, in particular in assisting States to develop regulations and strategies, taking steps and action against all forms of discrimination and through follow-up implementation.

Article 22

The Parties shall support the activities of non-governmental organizations, which play an important role in fighting intolerance, promoting the appreciation of diversity and developing dialogue and joint anti-racist actions between different cultural, ethnic and religious communities.

Article 23

The Parties undertake to work to eliminate violence, especially violence motivated by intolerance, by:

- (i)

Developing educational materials to teach young people the importance of tolerance and respect;
- (ii)

Addressing bias before it manifests itself in violent criminal activity;
- (iii)

Establishing working groups that include local community leaders and national and local law enforcement officials to improve coordination, community involvement, training, education and data collection, with the aim of preventing such intolerant criminal activity;
- (iv)

Ensuring that civil rights laws prohibiting violent criminal activity are strongly enforced;
- (v)

Enhancing data collection regarding violence motivated by racism, racial discrimination, xenophobia and related intolerance;

- (vi) Providing appropriate assistance to victims and public education to prevent future incidents of violence motivated by racism, racial discrimination, xenophobia and related intolerance.

Article 24

The Parties shall encourage non-governmental organizations, academic institutions and the private sector to: improve concepts and methods of data collection and analysis; promote research, exchange experiences and successful practices and develop promotional activities in this area; and develop indicators of progress and the participation of individuals and groups in society subject to racially motivated intolerance.

Article 25

The Parties undertake to introduce and, as applicable, to reinforce anti-discrimination and anti racism components in human rights programmes in school curricula, develop and improve relevant educational material, including history and other textbooks, and ensure that all teachers are effectively trained and adequately motivated to shape attitudes and behavioural patterns, all based on the principles of non-discrimination, mutual respect and tolerance.

Article 26

The Parties shall plan and implement programs for co-operation and assistance aimed at promoting tolerance and fighting intolerance among States on the regional and sub-regional levels with due regard for the legitimate interests of the States concerned.

Article 27

Co-operation between the Parties on questions relating to the promotion of tolerance and the fight against intolerance should include, among other things, the exchange of information and experience in order to promote mutual understanding and confidence.

Article 28

The Parties shall co-operate in order to promote and implement the principles set forth in the present Framework Convention on the national and regional levels.

Article 29

Nothing in the present framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.

SECTION II

Article 30

- A. The Committee of Ministers of the Council of Europe shall monitor the Contracting Parties’ implementation of this Framework Convention.
- B. A procedure shall be determined for Parties that are not members of the Council of Europe to participate in the implementation mechanism.

Article 31

- A. Within a period of one year following the entry into force of this Framework Convention in respect of a Contracting Party, such Party shall transmit to the Secretary General of the Council of Europe full information on the legislative and other measures taken to give effect to the principles set out in this framework Convention.
- B. Thereafter, each Party shall transmit to the Secretary General on a periodical basis and whenever the Committee of Ministers so requests any further information of relevance to the implementation of this Framework Convention.

- C. The Secretary General shall forward to the Committee of Ministers the information transmitted under the terms of this article.

Article 32

- A. In evaluating the adequacy of the measures taken by the Parties to give effect to the principles set out in this Framework Convention, the Committee of Ministers shall be assisted by an advisory committee, the members of which shall have recognized expertise in the field of protecting national minorities.
- B. The composition of this advisory committee and its procedure shall be determined by the Committee of Ministers within a period of one year following the entry into force of this Framework Convention.

Article 33

This Framework Convention shall be open for signature by the member States of the Council of Europe. Up until the date when the Convention enters into force, it shall also be open for signature by any other State so invited by the Committee of Ministers. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 34

- A. This Framework Convention shall enter into force on the first day of the month following the expiration of a period of ... months after the date on which ... member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 34.
- B. With respect to any member State which subsequently expresses its consent to be bound by the Framework Convention, the Framework Convention shall enter into force on the first day of the month following the expiration of a period of ... months after the date (of signature) or of the deposit of the instrument of ratification, acceptance or approval.

Article 35

- A. After the entry into force of this Framework Convention and after consulting the Contracting States, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention, by a decision made by the majority provided for in Article 20.d of the Statute of the Council of Europe and by a unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.
- B. With respect to any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of ... months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 36

- A. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
- B. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of ... months after the date of receipt of such declaration by the Secretary General.
- C. Any declaration made under the two preceding paragraphs may, with respect to any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of ... months after the date of receipt of such notification by the Secretary General.

Article 37

- A. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or more of the reservations provided for in the annex to this Framework Convention (if any such reservations exist). No other reservation may be made.

- B. Any Contracting State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

- C. A Party which has made a reservation with respect to a provision of this Framework Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

Article 38

- A. Any Party may at any time renounce this Framework Convention by means of a notification addressed to the Secretary General of the Council of Europe.

- B. Such renunciation shall become effective on the first day of the month following the expiration of a period of ... months after the date of receipt of the notification by the Secretary General.

Article 39

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Framework Convention, of :

- a. any signature;

- b. the deposit of any instrument of ratification, acceptance, approval or accession;

- c. any date of entry into force of this Convention in accordance with Articles 35, 36 and 37;

- d. any other act, notification or communication relating to this Framework Convention.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Framework Convention.

Done at the, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to this Framework Convention.