Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1345 (2003)[1]

Racist, xenophobic and intolerant discourse in politics

Parliamentary Assembly

1. The electorates of all sovereign states are entitled to choose their political representatives in free, democratic elections. The Parliamentary Assembly observes, however, that this principle is neither freestanding nor absolute, but implies and depends upon respect for the rule of law and non-discriminatory protection of human rights and fundamental freedoms.

2. The Council of Europe is an organisation devoted to supporting and promoting all of these three principles as the joint foundations of liberty, justice and security. Membership of the Council of Europe requires that states act to protect and promote all the indivisible, interconnecting and interdependent basic principles of the Organisation. Democracy is incomplete and the rule of law ineffective if human rights are not protected equally and universally. In this respect, the Assembly recalls Article 3 of the Statute of the Council of Europe.

3. The Assembly also recalls Articles 13 and 14 of the European Convention on Human Rights (ECHR), which require states to ensure provision of effective remedies against violations of rights and freedoms, and to secure the enjoyment of protected rights and freedoms without discrimination. The Assembly further recalls Protocol No. 12 to the ECHR, which requires that the enjoyment of all rights and freedoms set forth in law be secured without discrimination, and Article 17 of the ECHR, which prohibits that the Convention be interpreted in such a way as to allow disproportionate limitation of the rights and freedoms contained therein.

4. The Assembly is itself a body of democratically elected national representatives and as such is profoundly and immediately concerned with the preservation and promotion of political freedoms and pluralism. It therefore supports without reservation full protection of the rights contained in Articles 10 and 11 of the ECHR, concerning the freedoms of expression and of assembly and association, without which pluralist democratic political activity would be impossible.

5. The Assembly observes, however, that Articles 10 and 11 are not absolute rights but qualified rights, the enjoyment of which may be limited by competing public interests, amongst which are the prevention of disorder, the protection of morals and the protection of the rights of others. In particular, this allows for limitation of these rights and freedoms when they are exercised in such a way as to cause, incite, promote, advocate, encourage or justify racism, xenophobia or intolerance. The Assembly recalls the relevant jurisprudence of the European Court of Human Rights, and notes with approval the guidance on these matters given by the European Commission for Democracy through Law (Venice Commission) in its "Guidelines on Prohibition and Dissolution of Political Parties and Analogous Measures"2 and by the European Commission against Racism and Intolerance (ECRI) in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.3

6. The Assembly also recalls the 2003 Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, as well as the 1965 United Nations International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

---

1. Assembly debate on 29 September 2003 (26th Sitting) (see Doc. 9904, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr McNamara). Text adopted by the Assembly on 29 September 2003 (26th Sitting).

7. The Assembly notes in particular and fully supports the invaluable work of ECRI. It also notes with appreciation the complementary work of the European Union's Monitoring Centre on Racism and Xenophobia (EUMC). The Assembly recalls the work of the European Conference against Racism of October 2000 and in particular its conclusions and report.

8. The Assembly recalls its own previous work, in particular Recommendations 1222 (1993) on the fight against racism, xenophobia and intolerance, 1275 (1995) on the fight against racism, xenophobia, anti-Semitism and intolerance, 1438 (2000) on the threat posed to democracy by extremist parties and movements in Europe and 1543 (2001) on racism and xenophobia in cyberspace, along with Resolution 1308 (2002) on restrictions on political parties in the Council of Europe member states. The Assembly also recalls the work of the European Parliament concerning racism, intolerance and xenophobia, in particular its reports on countering racism, xenophobia and intolerance in the European Union and in the candidate countries. It further recalls the positions of the United Nations Commission on Human Rights in its Resolutions 2002/39, 2001/43 and 2000/40, of the United Nations General Assembly in its Resolution 55/82 and of the Secretary General of the United Nations in his Note A/53/269.

9. The Assembly takes note of the Charter of European Parties for a Non-Racist Society.4 It strongly encourages extension of application of this instrument throughout Europe. It fully supports the establishment of a permanent body representative of political parties from all Europe to monitor implementation of the charter and considers that co-operation with the European Parliament is highly desirable in this respect.

10. The Assembly recognises that manifestations of racism, xenophobia and intolerance in political discourse come from all parts of the political spectrum, take a variety of forms and are of varying gravity. Accordingly, the Assembly recommends a progressive range of measures intended to accommodate and address fully the complexity of the situation.

11. The Assembly therefore recommends that political parties in all member states of the Council of Europe sign the Charter of European Political Parties for a Non-Racist Society, to fully and effectively implement its provisions and to co-operate in the establishment and thereafter in the activities of its supervisory body.

12. The Assembly further recommends that member states:

12.1. ratify without reservation and implement fully Protocol No. 12 of the ECHR as a matter of urgency;

12.2. ensure that all appropriate measures are available and fully and effectively implemented against incidents and patterns of racist, xenophobic or intolerant discourse in political life: for example, the suspension of individual politicians from holding political or public office or, in more extreme cases, dismissal therefrom;

12.3. ensure that criminal legislation includes an appropriate range of offences and sanctions which are fully and effectively implemented, including, without distinction or hesitation, against politicians and political parties, taking into account that their elevated public profile, influential role and privileged status indicate both that greater responsibility and awareness are expected of them and that more severe penalties may be justified against them;

12.4. establish legal procedures for the suspension, prohibition or dissolution of political groups and parties as a last resort in exceptional cases of racist, xenophobic or intolerant discourse of exceptional gravity, ensuring that such measures are proportionate to the conduct in question and are applied under procedures guaranteeing fair trial and effective safeguards against arbitrariness, in full recognition of the rights and freedoms of the ECHR as interpreted by the Court's jurisprudence and in accordance with the Venice Commission Guidelines;

12.5. insofar as they have not already done so, ratify without reservation and implement fully the CERD at the earliest opportunity;

12.6. give full and immediate effect to the provisions of ECRI's general policy recommendations, in this context General Policy Recommendation No. 7 in particular, and to take careful note of the comments made in ECRI's country-by-country reports.