



Doc. 12265
19 May 2010

Fight against extremism: achievements, deficiencies and failures

Report¹

Political Affairs Committee

Rapporteur: Mr Pedro AGRAMUNT FONT DE MORA, Spain, Group of the European People's Party

Summary

In recent years, Europe has witnessed an upsurge of certain forms of extremism, such as Islamic fundamentalism, racism and xenophobia, and separatism. In so far as they promote or are prepared to condone violence, groups inspired by these ideologies act in contravention with Europe's democratic and human rights values.

The response of Council of Europe member states should strictly comply with obligations stemming from their membership in the Organisation. More ethics in politics would help reduce racist tendencies in society.

1. Reference to committee: Doc. 11515, Reference 3425 of 14 April 2008.

A. Draft resolution²

1. The Parliamentary Assembly expresses its concern at the upsurge of certain forms of extremism in Europe which, taking advantage of the framework of rights and freedoms guaranteed by European democracies, pursue objectives which are in contravention with Europe's democratic and human rights values and, in the worst cases, condone or even promote violence.

2. Amongst these forms of extremism, racism and xenophobia represent a major source of preoccupation, also in the light of the rise in the electoral support of parties inspired by racist ideas as it has been the case in a number of recent national elections as well as in the elections to the European Parliament and the non-negligible risk that mainstream political parties tend to rely on racist discourse in order not to lose part of their electorate. What is also worrying is the increasingly hostile discourse held by some public figures, which borders on and sometimes falls squarely under the category of hate speech.

3. In addition, European public opinion and governments have become increasingly aware of the extent of the threat posed by Islamic fundamentalism, an ideology which, although remaining marginal in Europe, exerts a growing attraction amongst young Muslims, finding a breeding ground in their frustration due to racism, discrimination, social exclusion and unemployment which tend to affect them more than the rest of the population. This form of extremism has led to a number of deadly terrorist attacks also on European soil, such as in Moscow in 2002 and 2010, in Istanbul in 2003, in Beslan and Madrid in 2004 and in London in 2005.

4. European countries are also hosts to a number of extremist groups, formed by foreign citizens, who are not interested in doing harm to the country where they reside but who are engaged in propaganda and fundraising activities in order to pursue extremist objectives in their countries of origin, such as the overthrowing of the authorities through violent means, political destabilisation through terrorist or guerrilla attacks, or secession. It is urgent to work out an international legal mechanism with a view to stopping all forms of financial support to extremist groups.

5. Examples of these groups include the People's Mujahedin of Iran and the Workers Party of Kurdistan (PKK) terrorist organisation, which are present in many Council of Europe member states and *Euskadi ta Askatasuna* (ETA), which has bases in France. In this context, the Assembly voices its deep concern at the resurgence of violence prompted by separatist groups in Europe, as has been the case recently in Spain and Turkey, with a number of deadly attacks perpetrated respectively by the terrorist organisations ETA and PKK.

6. The Assembly acknowledges the complex character of extremism, its different forms and its evolving nature. Despite these differences, however, all forms of extremism which advocate or condone violence contravene the values and principles of the Council of Europe and must be countered with resolve in full respect of the guarantees and safeguards enshrined in the constitutions of Council of Europe member states and relevant human rights protection instruments, notably the European Convention on Human Rights (ECHR).

7. In this context, the Assembly recalls Articles 10 and 11 of the ECHR, respectively devoted to freedom of expression and freedom of assembly. Although these freedoms are the pillars of a pluralist democracy, their exercise can be limited, notably when such a limitation corresponds to a pressing social need, such as the prevention of disorder, the protection of morals and the protection of the rights of others, and provided that the limitation complies with the principle of proportionality and is foreseen by law. Article 17 of the ECHR adds that no state, group or person has the right to engage in an activity or perform any act aimed at the destruction of the rights or freedoms set forth in the ECHR or at their limitation to a greater extent than is provided for in the ECHR itself.

8. At the same time, the Assembly expresses doubts about the compliance of anti-extremism legislation introduced in some Council of Europe member states with international human rights instruments such as the ECHR and stresses that an exceedingly general or vague definition of the crimes set out in such legislation can increase the risk of its arbitrary application.

9. Politically, in their fight against extremism, Council of Europe member states are confronted with a number of daunting challenges, first of all how to address the root causes of extremism. Resolute action against discrimination, emphasis on civic education and inter-cultural as well as inter-religious dialogue,

2. Draft resolution adopted by the committee on 27 April 2010.

involvement of civil society and non-governmental organisations – especially those representing segments of society which are excluded de jure or de facto from ordinary channels – in consultation or decision-making processes are key instruments to reduce the potential attraction of extremist groups and movements.

10. As regards Islamist extremism, Council of Europe member states are confronted with the challenge of dealing with this threat effectively while countering the risk of stigmatising Islam as a religion. More efforts should be made to fight against Islamophobia and combat the negative stereotyping of Islam and Muslims in society, along the lines set out in General Policy Recommendation No. 5 of the European Commission against Racism and Intolerance (ECRI) on combating intolerance and discrimination against Muslims.

11. The structuring of Islamist extremist groups in dormant or active independent cells with loose international connections poses huge difficulties for domestic law enforcement and intelligence agencies and transnational co-operation, both in prevention and detection. The need to ensure the effectiveness of the work of these bodies, however, should not be used as a pretext to deprive parliament of its right and duty of democratic oversight.

12. Finally, the Assembly regrets that the challenge of establishing a more ethical attitude in politics when dealing with issues related to race, ethnic and national origin and religion is still to be met. In this context, it recalls the *Charter of European Political Parties for a Non-Racist Society*, signed by its President and the President of the European Parliament in 2003, and the *Declaration on the use of racist, antisemitic and xenophobic elements in political discourse*, adopted by the ECRI in 2005, which it commends for their relevance.

13. In the light of the above, the Assembly invites Council of Europe member states to:

13.1. address the root causes of extremism as a priority in the fight against this phenomenon by:

13.1.1. taking resolute action against discrimination, in all fields;

13.1.2. setting up consultation processes involving civil society and non-governmental organisations representing a broad spectrum of society, including categories that are more at risk of radicalisation, and thus ensuring the involvement of civil society in the elaboration and implementation of anti-extremist policies;

13.1.3. putting an emphasis on education for democratic citizenship;

13.1.4. devising clear and sustainable immigration policies, accompanied by appropriate integration policies;

13.1.5. strengthening their activities in the field of intercultural and inter-religious dialogue, also by endorsing the Council of Europe White Paper on inter-cultural dialogue;

13.1.6. working out an international legal mechanism with a view to stopping all forms of financial support to extremist groups;

13.1.7. implementing socio-economic policies aimed at contributing to the efforts for the eradication of racism, xenophobia and intolerance within society, including elimination of manifestation of discrimination on grounds of religious beliefs in access to education, employment and at the workplace, housing in mixed areas, public services as well as democratic participation through citizenship;

13.2. continue to fight terrorism and other forms of violent extremism, while ensuring the strictest respect of human rights and the rule of law, in compliance with the Council of Europe guidelines on human rights and the fight against terrorism and ECRI's General Policy Recommendation No. 8 on combating racism while fighting terrorism;

13.3. ensure that anti-extremism legislation is applied systematically and consistently to all forms of extremism and avoid all risk of arbitrariness in its implementation;

13.4. ensure that measures limiting or prohibiting the activities of extremist political parties are consistent with the case law of the European Court of Human Rights and the 1999 Guidelines of the European Commission for Democracy through Law (Venice Commission) on prohibition and dissolution of political parties and analogous measures, in particular as regards the exceptional

character of the dissolution of parties and the requirement to explore alternative sanctions before applying such a measure;

13.5. enforce the penalties foreseen by their legislation against public incitement to violence, racial discrimination and intolerance, including Islamophobia;

13.6. introduce in their criminal legislation provisions against incitement to racial hatred or hate speech, implement the Committee of Ministers Recommendation (97)20 on hate speech, and endorse the good practices and recommendations laid down in the 2008 Council of Europe Handbook on the same subject;

13.7. step up appropriate information measures to encourage victims of extremist acts to report them to the relevant authorities;

13.8. strengthen the oversight by national parliaments of the activities of intelligence agencies, along the recommendations set out in Assembly recommendation 1713 (2005) on the democratic oversight of the security sector in member states;

13.9. improve the analysis of the phenomenon of extremism and the collection and comparability of relevant data;

13.10. strengthen international co-operation in order to counter the spreading of extremist propaganda on the Internet;

13.11. ensure full co-operation with the European Commission against Racism and Intolerance (ECRI) and support its activities.

14. In addition, the Assembly asks its members, the political parties which they represent and its political groups to:

14.1. promote or endorse the Charter of European Political Parties for a Non-Racist Society;

14.2. follow the suggestions made by ECRI in its Declaration on the use of racist, antisemitic and xenophobic elements in political discourse and its General Policy Recommendation No. 5 on Combating Intolerance and Discrimination against Muslims;

14.3. promote the setting up of ethics committees within political parties and parliaments, with the right of sanctioning their members for racist, antisemitic, xenophobic or Islamophobic behaviour or discourse.

15. Finally, the Assembly encourages the Commissioner for Human Rights to devote increasing attention to all forms of extremism, including Islamophobia.

B. Draft recommendation³

1. The Parliamentary Assembly refers to its Resolution ... (2010) on Fight against extremism: achievements, deficiencies and failures, in which it expresses its concern at the upsurge of certain forms of extremism in Europe.
2. Countering extremism while upholding democracy and the respect for human rights and the rule of law represents a continuous challenge for Council of Europe member states.
3. The Assembly expresses its appreciation for the important work accomplished by numerous Council of Europe monitoring mechanisms, as well as the European Commission for Democracy through Law (Venice Commission), in assisting member states in meeting this challenge. Their expertise is even more necessary in the light of the possible effects of the recent economic crisis.
4. The Assembly also recalls that, although freedom of expression and association are the pillars of a pluralist democracy, their exercise can be limited, notably when such a limitation corresponds to a pressing social need, such as the prevention of disorder, the protection of morals and the protection of the rights of others, and provided that the limitation complies with the principle of proportionality and is foreseen by law.
5. With these considerations in mind, the Assembly calls on the Committee of Ministers to:
 - 5.1. invite the Organisation's relevant monitoring mechanisms to undertake an evaluation of the extent to which Council of Europe member states have complied with the Committee of Ministers Recommendation (97)20 on "hate speech" and endorsed the models of good practice and the recommendations put forward by the 2008 Council of Europe Handbook on hate speech;
 - 5.2. enhance the outreach capacity and the visibility of its monitoring mechanisms, such as the European Commission against Intolerance and Racism (ECRI) and the Advisory Committee on the Framework Convention for the Protection of National Minorities, in order for them to play a greater role in raising the awareness of public opinion on such matters;
 - 5.3. encourage its relevant committees and independent monitoring mechanisms, notably ECRI to:
 - 5.3.1. study the impact of the current economic crisis on extremism, as well as on racism and racial discrimination;
 - 5.3.2. pursue their work on the issue of Islamophobia, in the light of recent developments;
 - 5.4. step up its activities in the field of education and inter-cultural dialogue, including in its religious dimension.

3. Draft recommendation adopted by the committee on 27 April 2010.

C. Explanatory memorandum by Mr Agramunt, rapporteur

Contents

	<i>Page</i>
1. Introduction	6
2. What is “extremism”?	6
3. Extremist movements on the rise	7
4. Fight against extremism: priorities for more effective action	9
5. The activities of the Council of Europe	11
6. Concluding remarks	14

1. Introduction

1.1. *Scope of the report*

1. The fight against extremism represents a continuous challenge for democracies, which must respect the rule of law and human rights in all circumstances, including when countering threats against democratic and human rights values.

2. The present report was initiated by a motion presented by Mr Berényi and others, which focused on racist extremist groups and parties. I have decided, however, to expand the scope of the report in order to include other forms of extremism which represent a pressing problem for European governments, such as Islamic fundamentalism and separatism.

3. In this report, it is not my intention to point the finger at specific political parties or groups with a view to accusing them of being extremist. When referring to specific parties or groups, I will only do so to illustrate how Council of Europe member states have dealt with them, to evaluate whether they have done so in line with European standards and verify whether there is scope for improvement.

1.2. *Previous Assembly work*

4. The Assembly has played an active role in supporting the efforts undertaken by Council of Europe member states in the fight against extremism by adopting a number of resolutions, in particular in recent years, as a result of the resurgence of some forms of extremism and the increasing awareness of the threat which they represent. In this context, the Assembly has adopted:

- Resolution 1605 (2008) on European Muslim communities confronted with extremism;
- Resolution 1563 (2007) on combating anti-Semitism in Europe;
- Resolution 1495 (2006) on combating the resurrection of the nazi ideology;
- Resolution 1344 (2003) on threat posed to democracy by extremist parties and movements in Europe;
- Resolution 1345 (2003) on racist, xenophobic and intolerant discourse in politics.

5. On the related matter of terrorism – which is a form of extremism intended to provoke a state of terror in the general public for political purposes⁴ – I would like to mention, for their relevance:

- Recommendation 1534 (2001) on democracies fighting terrorism
- Resolution 1400 (2004) on challenge of terrorism in Council of Europe member states.

2. What is “extremism”?

6. Historically, the idea of the “political extreme” is rooted in the ancient Greek ethics of moderation, according to which the midpoint stands for morally appropriate behaviour that neither exaggerates nor understates.

7. Scientifically, various definitions of extremism have been given. One which I found to be particularly well-fitting is “a rejection of basic values and rules of the game in a democratic constitutional state”.⁵

4. The UN General Assembly Resolution 49/60 on measures to eliminate international terrorism, describes terrorism as “criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them”.

5. Backes U., *Meaning and forms of political extremism*, 2007.

8. Even if there can be agreement on scientific definitions, politically, putting a label of extremism on groups or parties is a controversial matter. It is not unusual for extremists to consider themselves as radicals, which has much less of a derogative character; on the other hand it is not uncommon for some politicians to try to deprive their political opponents of democratic legitimacy by labelling them as extremists.

3. Extremist movements on the rise

9. Extremist ideas or attitudes are not the prerogative of the right or the left but can be found throughout the political spectrum; in fact, some forms of extremism which have emerged over the last decades do not fit in the traditional distinction between right and left at all. It is an over-generalisation to say that in Europe, nowadays, extremism is on the rise; it cannot be denied, however, that some extremist ideas have lost their potential of attraction, while others have acquired it and in some cases have become a matter of concern also for the general public.

10. This trend is reflected in the composition of national parliaments, where the number of seats occupied by representatives of extremist parties has not ceased to increase in recent years. The same can be said for the European Parliament, where, following the June 2009 elections, a number of far-right political parties managed to obtain seats (the National Front from France, the National Front from Belgium, the British National Party and the Movement for a Better Hungary). These parties, together with others which enjoy limited or no representation in national parliaments, have even set up the Alliance of European National Movements, with a prospective view to forming a European political group.

3.1. Racism

11. All over Europe, racist movements are acquiring growing importance and have been responsible for incitement to racial violence and racist attacks on persons and properties, sometimes leading to the death of their victims. This phenomenon became particularly virulent in eastern Europe and in Russia after the end of the Cold War but continues to affect western European countries as well. It can take various forms, such as anti-Semitism, anti-Gypsism, xenophobia or Islamophobia.

12. Racist ideologies feed into a sub-culture addressed to young people, using music, DVDs, books and video games to encourage hatred against ethnic or religious groups. The same sub-culture, which is very difficult to eradicate, finds expression on the Internet and in some forms of hooliganism during football matches and other sports events.

13. From the organisational point of view, racist movements or groups often set up associations or even political parties and hide their real nature in order not to fall under the prohibition enshrined in the law of most Council of Europe member states. The main legal and political challenge, however, is not so much how to tackle groups whose deeds and discourse are outright racist, but how to deal with "mainstream" political parties which flirt with racist ideas, in order not to lose part of the electorate to the advantage of more radical parties.

3.2. Islamic fundamentalism

14. Islamic fundamentalism represents a major threat to the internal security of Council of Europe member states in so far as Islamist groups or individuals are prepared to use violence in Europe and/or want to impose a socio-political order which is not compatible with democratic and human rights standards.

15. Islamic fundamentalism in Europe is not structured in political parties or associations but it acts through independent cells that are either dormant or active, and are spread all over the world. This international dimension, in conjunction with a loose organisational structure, poses huge challenges for domestic law enforcement agencies and transnational co-operation both in prevention and detection. What makes prevention even more complicated is that, often, it is individuals outside any organised network who commit criminal acts inspired by Islamic fundamentalism, as was the case for the murder of Theo van Gogh in the Netherlands in 2004 or for the attempted murder of Kurt Westergaard, the author of the controversial cartoons of Mohammed, in January 2010.

16. There should be no confusion between Islam as a religion and Islamic fundamentalism as an ideology: "Islam is the second religion in Europe and a constituent component of European societies: in some Council of Europe member states, it is traditionally the religion professed by the majority of the population; in others, it is the religion of the majority of immigrants and of citizens with an immigrant background, who represent a growing proportion of the population. Islamic fundamentalism, instead, is an extremist ideology with a

political agenda, which promotes a model of society which is not compatible with human rights values and standards of democracy, and which, in its worst form, calls for the use of violence to achieve its aims".⁶

17. Although still a marginal phenomenon in Europe, Islamist ideology exerts a growing attraction for young European Muslims, finding a breeding ground in their frustration due to discrimination, racism, lack of equal opportunities, social exclusion, low educational achievement and unemployment, which tend to affect them more extensively than the rest of the population, and the preclusion – de jure or de facto – of the ordinary channels which are open to citizens for the expression of such dissatisfaction.

18. In parallel with the increased potential of attraction of Islamic fundamentalism, the perception by public opinion of the threat that it represents has also increased, especially due to the great mediatisation of the terrorist attacks that, starting with September 11 2001 in the United States, hit Istanbul (2003), Madrid (March 2004), London (July 2005) and other cities in the world.

19. Unfortunately, this has also provoked the rise of Islamophobia and episodes of racism and mistrust against Muslims, in European societies where, due to immigration, the number of citizens or residents belonging to this religious faith is constantly on the rise and where a growing number of people manifest their Muslim faith by wearing cultural or religious symbols, such as head-scarves or the niqab, or by growing a beard.

20. In the current context, European governments face two major challenges:

- the first one is how to tackle Islamic fundamentalism as a political ideology without stigmatising Islam as a religion;
- the other, which has been postponed for too long, is how to initiate an honest and inclusive debate on how it is possible to reconcile some aspects of Muslim religion, practice or culture with fundamental values, such as the secular character of the state and the equality between women and men. In my opinion, it would greatly help to calm down the fears and the mistrust of European citizens if they were reassured that no erosion of these values will be allowed, even in the name of an alleged respect of freedom of religion.

3.3. Organisations fomenting extremist activities in other countries

21. In Europe, nowadays, there are a number of extremist groups, formed by foreign citizens, which are not interested in doing harm to the host country but take advantage of the freedoms and rights afforded by European democracies in order to pursue extremist objectives in their members' countries of origin, such as the overthrowing of the authorities through violent means, political destabilisation through terrorist or guerrilla attacks, or secession. Examples of these groups include Euskadi ta Askatasuna (ETA), which has bases in France and possibly also in Portugal, and the People's Mujahedin of Iran, which is present in many Council of Europe member states.

22. These groups use the host country as a basis where:

- they can form associations or non-governmental organisations under the relevant legislation of the host country, are subjected to the relevant obligations and benefit from the relevant advantages, also in tax terms;
- they carry out propaganda activities in support of their objectives, by holding demonstrations, distributing information, material, etc.;
- they recruit members and collect funds;
- they establish links with sister organisations in other countries, while the "mother" organisation in the country of origin may be banned and its members subjected to prosecution – but sometimes also to persecution – by the authorities.

23. Some of these groups are listed as terrorist organisations by national authorities or the European Union, in which case they are forbidden, such as ETA, the IRA, the GRAPO (the First of October Anti-Fascist Resistance Group), HAMAS, etc. It is not unusual, however, for terrorist organisations to reconstitute themselves under a different name and a different statute after having been dissolved, in order to continue to operate.

6. Resolution 1605 (2008) on European Muslim communities confronted with extremism, paragraph 2.

3.4. Separatism

24. A number of Council of Europe member states have to tackle the threat of groups calling for the separation of a part of their territories in order to form a separate independent state or to unite with another state. Some of them are prepared to use violence in order to achieve their goal.

25. It is not uncommon for separatist movements to have two wings: an armed one, which is considered as a terrorist organisation and is normally banned on these grounds (such as Euskadi ta Askatasuna, [ETA] in Spain, the Workers Party of Kurdistan [PKK] in Turkey, the Irish Republican Army in Northern Ireland) and a political one, which often takes the form of a political party. The extent, or even the right, to which these political wings can act on the public and political scene and participate in elections depend on whether they are prepared to act through lawful means and to refuse violence, for instance, in Spain, Batasuna, a political party linked to ETA which was banned in 2003, due to its failure to condemn ETA's violence.⁷

4. Fight against extremism: priorities for more effective action

4.1. Adopting a more strategic approach to address the root causes of extremism

26. Although extremism can take different forms, the reasons why it has a potential of attraction are the same, namely: the failure of the political system to ensure participation by all segments of society, lack of equal opportunities, poverty, discrimination and a feeling of exclusion.

27. Council of Europe member states should make further efforts to address these root causes, with a strategic approach:

- emphasis should be placed on sensitive groups, such as young people, immigrants and minorities, in order to give them the instruments to resist the appeal of extremism, through the provision of civic and human rights education in schools but also through the involvement of NGOs and civil society representing these groups in consultation processes, with the authorities, at local, regional and national level;
- there should be a clear and sustainable immigration policy, accompanied by a clear and appropriately-funded integration policy;
- states should take resolute action against discrimination, in all fields;
- they should strengthen their commitment to intercultural dialogue, including in its religious dimension;
- political representatives should endeavour to explain potentially controversial policies or decisions in a clear way, in order to address the widest possible audience, avoid misinterpretations by some segments of society and reduce the impact of political manipulations;
- regional or minority languages and cultures should not be repressed; on the contrary, they should be protected and promoted.

4.2. Improving monitoring and data collection

28. Although a major problem in contemporary Europe, extremism is not a very well studied phenomenon from the scientific point of view, especially when it is of transnational character, with academic literature concentrating only on some countries or some political parties.

29. At the same time, the monitoring of the phenomenon is not systematic: some Council of Europe member states collect data on specific aspects, most often the racist nature of crimes which are reported to the police (for instance, Austria, Germany, France and Sweden).

30. These figures are certainly useful to identify trends. In Austria, for instance, the number of complaints against right-wing extremist, xenophobic and anti-semitic behaviour has soared over the last two years, rising from 419 in 2006 to 752 in 2007 and to 831 in 2008.⁸

31. However, these data reflect only one aspect of the phenomenon of extremism, they are not completely accurate as not all cases are reported, and they are not comparable with the data collected by other countries because of different definitions used to label a crime as racist. The European Union Fundamental

7. In 2009, the European Court of Human Rights confirmed that the dissolution of Batasuna did not amount to a breach of the Convention.

8. Inter Press Service News Agency, "Racism on a sharp rise", 1 July 2009.

Rights Agency considers the absence of reliable and comparable statistical data in this field as a major flaw. The European Commission against Racism and Intolerance (ECRI) regularly underlines, in its country-by-country reports, the importance of establishing and operating a system for recording and monitoring racist incidents.

4.3. *Ensuring adequate intelligence and analysis, under democratic scrutiny*

32. A complex and ever-changing phenomenon, such as extremism, requires the setting up of flexible but efficient intelligence and analysis structures. Just to give an example, in Germany the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz), which is tasked with the collection and analysis of intelligence concerning efforts directed against the free and democratic order, has undergone a comprehensive restructuring since the September 11 attacks and major investments have been made in order to improve its technical expertise in the informatics field.

33. Needless to say, as already highlighted by the Assembly, it is imperative that intelligence bodies are subjected to democratic oversight.⁹ Unfortunately, in recent months, a number of examples have been observed where relevant parliamentary committees have met with difficulties or have been prevented altogether from having access to files, often because this would have put at prejudice co-operation between the national intelligence agency and foreign agencies.¹⁰

4.4. *Introducing an appropriate legal framework and ensuring its consistent implementation*

34. From the legal point of view, member states have built up a framework against extremism, based on:

- their constitutions which, especially in countries that have experienced totalitarian regimes, often include the explicit prohibition to form or reconstitute totalitarian parties;
- criminal law;
- specific anti-terrorism legislation, which was introduced or reviewed after the terrorist attacks of September 11;
- in a few cases, specific anti-extremism legislation, as is the case in Moldova and the Russian Federation.

35. However, criticism has been raised at the compliance of this legislation, especially legislation adopted in the aftermath of terrorist attacks, with national constitutions and the main international instruments for the protection of human rights, including Council of Europe instruments such as the ECHR. The main points of criticism concern the exceedingly general or vague definition of the crimes, as well as the lack of appropriate guarantees in the gathering and use of personal data by the authorities, the increased power of law enforcement officials to arrest and the lack of appropriate judicial oversight over such arrests and detentions.

36. The fact that this legal framework is not applied systematically and consistently to all forms of extremism is also a matter of concern: it makes one wonder about the existence of a deliberate political decision to target certain extremist groups while tolerating others.

37. An issue of particular importance in this context is the limitations that can be imposed on extremist political parties. The constitutional and legal framework of the majority of Council of Europe member states emphasises the threat posed by extremist political parties. The underlying reason is the recognition of the special importance of pluralism and the role played by political parties in a democracy. The measures foreseen to limit the activities of extremist parties vary in intensity. They are:

- a ban on forming a political party and subsequent dissolution;
- the prohibition imposed on a political party on running in elections;
- the prohibition on obtaining public funding.

38. For instance, either at constitutional or at legal level, racist parties are prohibited in Portugal; fascist parties are prohibited in Bulgaria, Italy and Portugal; in Poland there is a ban against parties using totalitarian

9. Assembly Recommendation 1713 (2005) on the democratic oversight of the security sector in member states. See also Resolution 1619 (2008) on the state of democracy in Europe – Functioning of democratic institutions in Europe and progress of the Assembly's monitoring procedure.

10. See Assembly Resolution 1562 (2007) on secret detentions and illegal transfers of detainees involving Council of Europe member states: second report and Thomas Hammarberg, Commissioner for Human Rights, "Intelligence secrecy must not be used as an excuse to ignore or cover up human rights violations", *Viewpoint*, 2009.

methods; parties promoting discrimination or racial hatred are forbidden in Azerbaijan, Bulgaria, France, Spain, Ukraine and the Russian Federation; parties calling for violence are forbidden in Albania, Denmark, France, Georgia, Latvia, Portugal and Ukraine.

39. In a few Council of Europe member states there are no provisions on banning political parties; in others, such as Switzerland, the requirements are so high that it is nearly impossible to do so in a time of peace. In some other Council of Europe member states, such as Denmark, Finland and Liechtenstein, this possibility exists but has not been applied for decades.

40. Finally, some countries, such as Turkey, have a long history of party closure, a matter which has been followed very closely by the Council of Europe, including the Assembly and the European Court of Human Rights (the Court), within their respective remits. In 2004, when closing the monitoring procedure for Turkey, while acknowledging that the relevant judgments of the Court taken between 1991 and 1997 had been appropriately executed, the Assembly emphasised that the frequency with which political parties were dissolved was a real source of concern and called for a full revision of the constitution and a comprehensive review of the law on political parties. These concerns were reiterated in the Assembly's latest resolution on the functioning of democratic institutions in Turkey, which focused on the judicial proceedings aimed at dissolving the ruling Party AK.¹¹ The latest party dissolution in Turkey took place only a few weeks ago and concerned the pro-Kurdish Democratic Society Party (DTP).¹²

4.5. Enhancing international co-operation

41. International co-operation is fundamental in order to counter extremist groups based on international networks. A challenging problem is how to effectively block the distribution of extremist material online. The Internet is the main tool used by extremist movements in order to:

- communicate with other members;
- spread propaganda, by setting up websites or sending extremist promotion material to random addressees who had not expressed any interest;
- recruit, for instance by advertising training, summer holidays or other activities under the cover of which they broaden their membership;
- raise funds.

42. It is indeed a serious difficulty for domestic enforcement agencies that the majority of extremist websites are hosted outside Europe, and therefore cannot be taken down from the Internet even if such a power is granted under relevant anti-terrorism or anti-extremism legislation. At the moment, the British, Czech, Dutch and German governments are co-operating on a research project in this field, in order to identify ways to make it possible to filter extremist websites even if the domain is located outside Europe. At the same time, the European Commission has agreed to fund a project called Exploring the Islamist Extremist Web of Europe – Analysis and Preventive Approaches, in the context of its anti-terrorism activities.

5. The activities of the Council of Europe

43. In its sixty years of existence, the Council of Europe has largely contributed to the elaboration of democratic and human rights standards and assisted member states in attaining them, also in their fight against extremism. In addition, through its manifold monitoring mechanisms, as well as through the case law of its European Court of Human Rights, the Council of Europe has highlighted deficiencies and shortcomings in member states' law and practice, and indicated how to remedy them. As far as terrorism is concerned, it is worth mentioning the Council of Europe guidelines on human rights and the fight against terrorism, adopted by the Committee of Ministers in 2002.

44. The fight against extremism is thus closely linked with the main expertise of the Organisation, namely how European democracies can counter extremism in a manner which upholds democratic principles and the respect for human rights.

11. Resolution 1622 (2008) on the functioning of democratic institutions in Turkey: recent developments.

12. See the reaction of the former Assembly's President De Puig, The legacy of party closures in Turkey remains a source of concern, 11 January 2010.

5.1. Freedom of association

45. Both the European Commission for Democracy through Law (Venice Commission) and the European Court of Human Rights have spelled out limits to what Council of Europe member states can do to restrict the activities of extremist political parties, respectively through a comprehensive series of guidelines adopted in 1999 and a rich case law.

46. The European Convention on Human Rights (ETS No. 5, the Convention) itself states that restrictions to freedom of association are possible but only when they are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others (Article 11, paragraph 2).

47. The first caveat to keep in mind is that a party that aims at a peaceful change of the constitutional order through lawful means should not be prohibited or dissolved for this. Merely challenging the established order in itself cannot be considered as a punishable offence in a democratic state. In its case law, the Court has clarified that a political party may promote a change in the law or the constitutional order of a state on two conditions: firstly, the means used to such an end must be legal and democratic; secondly, the change in itself must be compatible with fundamental democratic principles.

48. On the contrary, a political party which incites violence or promotes policies which fail to respect democracy or which aims at the destruction of democracy and the flouting of the rights and freedoms laid down in the Convention, cannot lay claim to the protection of the Convention against penalties imposed on those grounds:¹³ as Article 17 of the Convention clarifies, nothing in it should be interpreted as implying for any state, group or person, any right to engage in an activity or perform any act aimed at the destruction of any of the rights or freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

49. As the Venice Commission says in its 1999 Guidelines: “prohibition or enforced dissolution of political parties may only be justified in the case of parties which advocate the use of violence or use violence as a political means to overthrow the democratic constitutional order, thereby undermining the rights and freedoms guaranteed by the constitution.” (guideline 3).

50. In addition, banning or dissolving a political party is an exceptional measure and other avenues should be explored before having recourse to it: “The prohibition or dissolution of political parties as a particularly far-reaching measure should be used with utmost restraint. Before asking the competent judicial body to prohibit or dissolve a party, governments or other state organs should assess, having regard to the situation of the country concerned, whether the party really represents a danger to the free and democratic political order or to the right of individuals and whether other, less radical measures could prevent the said danger” (guideline 5) and “Legal measures directed to the prohibition or legally enforced dissolution of political parties shall be a consequence of a judicial finding of unconstitutionality and shall be deemed as an exceptional nature and governed by the principle of proportionality. Any such measure must be based on sufficient evidence that the party itself and not only individual members pursue political objectives using, or preparing to use, unconstitutional means” (guideline 6).

51. The Venice Commission guidelines reflect a consistent case law of the Court which has repeatedly stated that the dissolution of a political party is the most drastic measure; a measure of such severity should be applied only in the most serious cases.¹⁴

52. For its part, the Assembly, in its Resolution 1308 (2002) on restrictions on political parties in the Council of Europe member states, underlined that, although democracies have the right to defend themselves against extremist parties, the dissolution of political parties should be regarded as an exceptional measure to be applied only in cases where the party concerned uses violence or threatens civil peace and the democratic constitutional order of the country.¹⁵

13. See *Yazar and Others v. Turkey*, Nos. 22723/93, 22724/93 and 22725/93, paragraph 49, ECHR 2002-II, and, *mutatis mutandis*, the following judgments: *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, paragraph 97, ECHR 2001-IX, and *Socialist Party and Others v. Turkey*, judgment of 25 May 1998, *Reports* 1998-III, pp. 1256-57, paragraphs 46-47

14. See, for all, the Court's judgment of 25 May 1998 in *Socialist Party and Others v. Turkey*, paragraph 51.

15. See also Resolution 1622 (2008) on functioning of democratic institutions in Turkey: recent developments, where the Assembly also noted that respect for the principle of proportionality is of special importance with regard to the dissolution of political parties in view of their essential role in ensuring pluralism and the proper functioning of democracy.

5.2. Freedom of expression

53. Also freedom of expression, enshrined in Article 10 of the Convention, is not an absolute right: in the Assembly's words, the enjoyment of this right "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 and intolerance".¹⁶

54. A number of Council of Europe texts have been adopted on the issue of hate speech, and the necessity to introduce it as a crime in domestic legislation. According to the Committee of Ministers, the expression "hate speech" covers "all forms of expression that spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of migrant origin".¹⁷

55. The Council of Europe published a detailed and comprehensive handbook on hate speech in 2008, which reviews the relevant case law of the Court, clarifying the limits to freedom of expression, which can vary according to:

- the context in which the relevant statements are made (political or religious);
- the capacity of the people having made the statement (politicians, journalists or civil servants);
- the instruments (press, television) and the potential impact of the statement.

56. As regards the use of the Internet, it is worth recalling the 2003 Additional Protocol to the Convention on Cybercrime, which envisages the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

5.3. Fight against racism and intolerance

5.3.1. The European Commission against Racism and Intolerance (ECRI)

57. The European Commission against Racism and Intolerance (ECRI) is the Council of Europe human rights monitoring mechanism entrusted with the task of combating racism, racial discrimination, xenophobia, anti-Semitism and intolerance in Europe from the perspective of the protection of human rights, in the light of the Convention, its additional protocols and related case law.¹⁸

58. ECRI's objectives are: to review member states' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance, and their effectiveness; to propose further action at local, national and European level; to formulate general policy recommendations to member states; to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

59. ECRI provides Council of Europe member states with advice on how to tackle problems of racism and intolerance in their country. To this end, through a system of periodic visits and reports, it examines in each country the legal framework for combating racism and racial discrimination, its practical implementation, the existence of independent bodies to assist victims of racism, the situation of vulnerable groups in specific policy areas (education, employment, housing, etc.) and the tone of political and public debate around issues relevant for these groups.

60. In addition, ECRI carries out work on general themes and adopts general policy recommendations. Amongst the most relevant for the present report are General Policy Recommendation No. 5 on combating intolerance and discrimination against Muslims, No. 7 on national legislation to combat racism and racial discrimination and No. 8 on combating racism while fighting terrorism.

61. Whereas its privileged interlocutors are governments, ECRI has decided to consolidate the communication aspect of its work, being convinced that combating racism can only be effective if the anti-racist message filters down to society in general. This has involved, among other things, organising round tables in member states and strengthening co-operation with other interested parties such as NGOs, the media, and the youth sector.

16. Assembly Resolution 1345 (2003) on racist, xenophobic and intolerant discourse in politics, paragraph 5.

17. Committee of Ministers Resolution (97)20 on "hate speech".

18. Article 1 of ECRI's Statute (Resolution Res(2002)8 on the statute of the European Commission against Racism and Intolerance, adopted by the Committee of Ministers on 13 June 2002).

5.3.2. *The Commissioner for Human Rights*

62. The Commissioner for Human Rights is an independent institution within the Council of Europe, mandated to promote the awareness of and respect for human rights in the organisation's member states. Its tasks are: fostering the effective observance of human rights and assisting member states in the implementation of Council of Europe human rights standards; promoting education in and awareness of human rights in Council of Europe member states; identifying possible shortcomings in the law and practice concerning human rights; facilitating the activities of the national ombudsperson institutions and other human rights structures; and providing advice and information regarding the protection of human rights across the region.

63. The eradication of discrimination in Europe has been mainstreamed in the work of the current Commissioner, Mr Thomas Hammarberg. Particularly in the context of his country's monitoring work, the Commissioner examines and makes recommendations for enhancing the effectiveness of national polices as well as legal and institutional frameworks against discrimination. His interlocutors include a broad range of actors, from governments to the victims of discrimination themselves and non-governmental organisations representing them.

64. Also the Commissioner devotes great attention to the outreach impact of his work. His Viewpoints and press articles which he publishes in international journals and newspapers often address xenophobia, Islamophobia, anti-gypsyism, anti-Semitism, discrimination against minorities and the need to safeguard human rights in the fight against terrorism.

6. Concluding remarks

65. In recent years there has been an upsurge of certain forms of extremism in Europe which pursue objectives that are in contravention with Europe's democratic and human rights values and, in the worst cases, condone or even promote violence.

66. Council of Europe member states have become increasingly aware of the threat of extremism and have put in place a number of legal and policy instruments to tackle it. However, the implementation of existing instruments is not uniform for all forms of extremism and serious problems remain as regards the compatibility of national legislation with Council of Europe conventions and guidelines. I have, therefore, formulated some proposals and recommendations which I have attached to this report.

67. In conclusion, I would like to mention what I see as future trends:

6.1. The foreseeable impact of the financial crisis

68. The current financial crisis and its consequences on poverty and unemployment in Council of Europe member states might aggravate the present trend of resurgence of extremist movements. On the one hand, extremist groups reviewed in this memorandum will find more and more fertile ground for recruiting new members; on the other hand, other radical protest movements might become more virulent and better organised. I am thinking, in particular, of the anti-globalisation movement, some members of which have been condemned for vandalism due to their behaviour during demonstrations, or to the street protests and disorders which took place in Greece during several weeks in 2009.

69. The Council of Europe should exercise increased vigilance on these possible developments. In this context I welcome the ECRI's ongoing reflections on the impact of the economic crisis on racism and intolerance.

6.2. The danger of stigmatising immigration

70. The effects of the financial crisis will be felt also in developing countries from Asia and Africa. It is, therefore, predictable that migration flows into Europe will increase and that calls for more restrictive immigration policies will rise.

71. Calling for restrictive immigration policies is a legitimate political stand; however, these calls become unacceptable when they rely on racist arguments.

72. In recent years, in parallel to the growing importance of Europe as a destination for migrants and asylum seekers from Africa and Asia, there has already been a rise in the electoral support to parties which,

although not having a programme which can be considered as extremist in its entirety, stigmatise immigration as a problem for society, linking it to insecurity, criminality, poverty and social problems.

73. The risk of this trend is, on the one hand, the erosion of the human rights of refugees and migrants; on the other, the rise in more or less overt racism and xenophobia, in political discourse as well as amongst the general public.

6.3. The urgency of addressing the concerns of European Muslims and preventing their radicalisation

74. On 29 November 2009, the majority of the Swiss electorate voted in favour of a provision which will prevent the construction of additional minarets in Switzerland. This decision was met with concern and disappointment by all the main human rights organisations and bodies, including the Council of Europe.

75. Observers explained this vote on the basis of the widespread fear of Islamic fundamentalism, which has been manipulated by some political forces. However, as the President of the Assembly remarked in his statement, the decision not to build any more minarets in Switzerland cannot have any positive role in addressing the causes of Islamist extremism; on the contrary, this decision will be resented by Muslims in Switzerland – who represent 5% of the population, as a discrimination and a violation of their fundamental rights, and will aggravate their feeling of exclusion.

76. This example highlights the challenges which we are confronted with as politicians: how to tackle effectively Islamist extremism – which is contrary to our values – without alienating European Muslims; how to ensure that European citizens understand the difference between the ideology of Islamic fundamentalism and the peaceful practice of Islam as a religion; how to prevent the spreading of Islamophobia and stereotypes against Muslims and protect Muslims from discrimination; how to ensure that intercultural dialogue takes root in our societies.

6.4. Ethics in politics

77. In 2003, the President of the Assembly and the President of the European Parliament signed the Charter of European Political Parties for a Non-Racist Society. This text was a civil society initiative which had received the support of the EUMC, the European Union Fundamental Rights Agency's precursor, and called on political parties to act responsibly when dealing with issues related to race, ethnic and national origin and religion.

78. Although the establishment of a steering committee to monitor the implementation of the charter was initially envisaged, there was no follow-up. In my view, the charter is more than ever a valuable basis for introducing more ethics in politics, and I strongly encourage the Assembly political groups and individual members to further promote it at national level. Likewise, I subscribe to the Declaration on the use of racist, antisemitic and xenophobic elements in political discourse, adopted by ECRI in 2005, which, in my opinion, should be better disseminated amongst political parties.

79. In particular, I would like to commend the suggestion made by ECRI, that self-regulatory measures should be introduced by political parties or national parliaments aimed at sanctioning party members or parliamentarians who promote racism and xenophobia. This view is also supported by the Venice Commission in its Code of Good Practice in the Field of Political Parties.