

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF GERMANY SUBJECT TO INTERIM FOLLOW-UP**

Adopted on 23 March 2012¹

¹ Any developments which occurred after 2 August 2011, date on which the response of the German authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

FOREWORD

As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

Accordingly and in line with the guidelines for the fourth round of ECRI's country-by-country work brought to the attention of the Ministers' Deputies on 7 February 2007¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2007)986/4.1.

1. *In its report on Germany (fourth monitoring cycle) published on 26 May 2009, ECRI strongly recommended that the German authorities take a more proactive role in raising awareness of the legal framework now in force against racial discrimination¹, notably among groups who are especially vulnerable to this phenomenon. To this end, ECRI recommended that the authorities run an awareness-raising campaign specifically targeted at ensuring that potential victims of racial discrimination are aware of the existence and scope of the General Equal Treatment Act (AGG) and of the mechanisms for invoking their rights before the courts.*

ECRI notes with interest that from November 2009 to February 2010, the Federal Anti-Discrimination Agency (ADS) ran a general anti-discrimination awareness-raising campaign, placing posters in airports and railway and public transport stations in 128 cities, distributing free postcards in cinemas, restaurants and bars, running banners on frequently visited Internet sites, and visiting 1 500 schools. The motto of the campaign, “Diversity instead of Uniformity – Working Together for Equality” (*Vielfalt statt Einfall – Gemeinsam für Gleichbehandlung*), continues to serve as the motto of the ADS and the posters and postcards can still be ordered from its website. From December 2010 to February 2011 the ADS ran a second awareness-raising campaign focusing specifically on its counselling offers. Posters were placed in train stations, in dining cars of high-speed trains, in regional trains in Berlin-Brandenburg and on the back page of schedules distributed in high-speed trains.

ECRI welcomes these important efforts to raise awareness about diversity and equality and about the services provided by the ADS and notes with interest that according to the results of the evaluation of the first campaign, a relatively high proportion of citizens remembered it. It considers this a positive, albeit incomplete, response to its recommendation above. It emphasises in this context the importance of reaching all the potential victims of racial discrimination, including migrants, refugees and asylum-seekers, and hopes that it will in future be possible to make information such as that relayed in the 2010-2011 campaign available more widely and in languages other than German. ECRI is concerned to learn that the Budget Committee of the Federal Parliament decided in autumn 2011 to reduce the budget of the ADS – which was already significantly reduced in 2010 – by approximately a further 13% and that this decision appears to have led directly to the cancellation of a further planned campaign.

2. *In its report on Germany (fourth monitoring cycle), bearing in mind that no immediate move away from the present streaming system for secondary schooling in Germany was envisaged, ECRI recommended that the German authorities take urgent steps to implement targeted training programmes to ensure that all teachers have the capacity to assess objectively the skills of students due to enter the secondary school system, in order to ensure that students are not sent to schools in the lower academic streams unless this is strictly necessary.*

ECRI recalls that at present in Germany, pupils move to secondary schools after four years of primary school (six in the *Länder* of Berlin and Brandenburg). It also notes that Berlin has begun a process of merging the two lower streams of secondary education (*Hauptschule* and *Realschule*) into comprehensive schools (*Gemeinschaftsschule*), while maintaining *Gymnasium* as the top stream of secondary education. This situation is however the exception and, like the existing three-tier schemes of secondary education in the other *Länder*, maintains a structure in which teacher assessment plays a strong role in determining the type of secondary education received by children.

ECRI notes with interest that the authorities recognise that the transition from one type of school to another is of paramount importance for the development of young persons and must therefore be carried out with all due caution and care. It also notes the information provided by the authorities according to which teachers' recommendations as to the secondary educational path of pupils are generally based on their observation of children over several years; primary schools'

¹ In line with the definitions set out in ECRI's General Recommendation No. 7 on national legislation to combat racism and racial discrimination, all references to these phenomena include grounds such as “race”, colour, language, religion, nationality or national or ethnic origin.

recommendations are associated with extensive consultations with parents; primary schools and secondary schools co-operate in this process; and the extent to which the recommendation of the primary school determines the outcome of the process or is used simply as an aid to decision-making varies between the *Länder*. ECRI notes that in some *Länder*, the choice of education path may be changed during the first two years of secondary school (grades 5 and 6) and that pupils at all types of school may, if they perform well enough, obtain a mid-school leaving certificate at the end of grade 10, which qualifies them for educational paths that can subsequently give access to tertiary education.

As regards the training of teachers in pedagogical diagnostics and in dealing with heterogeneity, the authorities have indicated that these subjects are gaining in significance in teacher training and continuing education courses. ECRI understands that such training is not a compulsory element of in-service teacher training. The authorities have also indicated that approaches to language diagnostics and to the promotion of language skills, which may help to improve the situation of pupils with a migration background, have been identified via the FÖRMIG² model programme.

ECRI notes the safeguards in place regarding the decisions on educational paths for children entering secondary schools. However, it also notes that these safeguards were already in place at the time of drafting of ECRI's fourth report. While ECRI welcomes indications from independent research that reading performance gaps between pupils with and without a migration background narrowed in Germany between 2000 and 2009,³ it notes that in some *Länder*, a very small proportion of children were enrolled in *Hauptschule*, but a very high proportion of these had a migration background. ECRI considers that its recommendation has only been partially fulfilled and that further efforts are needed to improve the education outcomes of pupils with a migration background in Germany. It observes that making training in managing diverse classrooms and in the objective evaluation of pupils' skills compulsory for teachers responsible for formulating recommendations as to the secondary educational paths of pupils could provide a valuable contribution towards this goal.

3. *In its report on Germany (fourth monitoring cycle), ECRI strongly recommended that, as part of their ongoing efforts towards creating a workplace free of racism, the German authorities launch an awareness-raising campaign aimed specifically at changing employers' attitudes towards persons with an immigrant background. It noted that this campaign should focus not only on employers' obligations and liabilities under the new General Equal Treatment Act (AGG) but also on the positive aspects of diversity in the workplace. It could form part of a regular series of such campaigns.*

ECRI notes with interest that since four German companies launched a Charter for Diversity in 2006, the Federal Government has been supporting this initiative, which is now under the patronage of the German Chancellor. Companies that choose to sign the Charter voluntarily commit themselves to promoting diversity in their company or public institution, annually publishing information about activities carried out and progress made in implementing the Charter and including their employees in its implementation. To date over 1 000 companies, including 18 of the DAX-30 corporations, have signed the Charter, which now covers approximately five million employees.

The Integration Commissioner of the Federal Government has also launched a campaign entitled Diversity as Opportunity (*Vielfalt als Chance*), which both promotes the above-mentioned Charter for Diversity and seeks to raise companies' awareness of the fact that ethnic and cultural diversity is both a resource and a factor of success. Elements of this campaign have included competitions, workshops, television advertisements and an Internet campaign focusing on how companies and public administrations can successfully make use of the potential of immigrants.

² FÖRMIG (Förderung von Kindern und Jugendlichen mit Migrationshintergrund) is a nationwide model programme for supporting children and youths with a migration background.

³ OECD, PISA in Focus, "How are school systems adapting to increasing numbers of immigrant students?", 2011/11 (December), p4, Immigrant students and reading performance in 2000 and 2009.

In addition, the ADS has launched a pilot project on anonymous job application procedures, in which eight public and private employers are testing new ways to recruit employees that may assist in overcoming discrimination in recruitment procedures. The project features prominently on the website of the ADS and reportedly generated considerable publicity and debate about the prevailing recruitment culture in Germany when it was launched. ECRI notes that an interim report published by the ADS⁴ found a number of flaws in the project as piloted but also made a series of recommendations based on these results to improve the process in future.

ECRI notes that all of the above initiatives have focused on voluntary action by companies to promote diversity. It welcomes these initiatives as an important contribution to reducing racial discrimination in the field of employment. However, it considers that more needs to be done to fulfil its recommendation. It highlights in this context that the authorities have a key role to play in ensuring that all companies – and not just those that are already convinced of the advantages of diversity – take action to promote diversity. It also notes that few efforts since its fourth report seem to have focused on raising the awareness of employers as to their obligations under the AGG and considers that more needs to be done in this field in order to combat racial discrimination effectively.

⁴ ADS, Zwischenbericht "Anonymisierte Bewerbungen - das Pilotprojekt", 16 June 2011, available (in German only) at www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/20110616_Zwischenbericht_anonym.pdf.

