

Introduction

As [recent events](#) have so sadly demonstrated, no country has been immune to the increasingly inflammatory sentiment targeting migrants, minority groups, asylum seekers and other marginalised communities.

For decades, the Council of Europe has been at the forefront of the fight against racism and intolerance. For instance, the Court of Human Rights has [long held](#) that tolerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society. Hence it may sometimes be necessary for states to sanction or even prevent forms of expression which incite, promote or justify hatred based on intolerance (provided that such measures strictly respect freedom of expression).

Similarly, the Committee of Ministers [has recommended](#) that states take a comprehensive and multifaceted approach to combating hate speech.

In this blog, we focus on two of the Council's flagship mechanisms for combating discrimination: the European Commission against Racism and Intolerance (ECRI) and the Framework Convention for the Protection of National Minorities. As usual, we will be offering a concise explainer on what these institutions do and their relevance to Scotland and the United Kingdom.

ECRI

ECRI is a unique human rights body dedicated to fighting racism, xenophobia, antisemitism and intolerance in Europe. Additionally, its remit focuses on discrimination based on grounds of ethnic/national origin, citizenship, religion, language, sexual orientation, gender identity and sex characteristics.

Composed of 46 independent anti-racism experts, ECRI differs to the other monitoring mechanisms we have explored in the series so far in that it was not in fact established by an international treaty. Instead, the Commission was set up by country leaders following the first CoE Summit of Heads of State and Government in 1993.

The heads of state [mandated](#) ECRI to closely monitor the phenomenon of racism and intolerance in each Council of Europe Member State and to publish country-specific reports. Much like the Social Rights Charter we explored in the third part of our series, ECRI also has a broader thematic mandate to study cross-cutting issues affecting all member states and to make generalised recommendations for policymakers.

The last ECRI report concerning the UK was published in [October 2024](#). With regards to Scotland, ECRI highlighted some positive policy steps taken by the Scottish Government including the development of a [Racial Literacy Programme](#) and the adoption of [a Non-Binary Equality Action Plan 2023-2028](#).

Nevertheless, the report made a series of highly critical findings regarding the fight against racism in the UK more generally. In particular, it criticised the uttering of “unacceptable statements” by high level government officials regarding minority groups; the rise in antisemitic and anti-muslim hate crime following the resurgence of violence in Gaza; and the [recent attacks in Northern Ireland](#) against businesses owned by people from a migration background. Regarding Scotland more specifically, the report expressed concern that the share of teachers from all ethnic minorities combined was only 1.8%, compared to 4.5% of the total Scottish population belonging to ethnic minorities.

Regarding its broader thematic mandate, ECRI’s recommendation on [Safeguarding Irregularly Present Migrants from Discrimination](#) addressed the “grievous hardship” suffered by migrants who are deemed not to fulfil the legal conditions for entry or stay. The recommendations included:

- respecting the fundamental human rights of irregularly present migrants in the fields of education, health care, housing, social security and assistance, labour protection and justice;
- Ensuring that no public or private bodies providing services in the fields of education, health care, housing, social security and assistance, labour protection and justice are under reporting duties for immigration control purposes;
- Prohibiting the carrying out of immigration control and enforcement operations at, or in the immediate vicinity of, schools, health facilities, housing centres legal assistance centres, food banks and religious establishments;
- Ensuring that decent working conditions are guaranteed in legislation for all persons, irrespective of immigration or migratory status.

The Framework Convention for the Protection of National Minorities

The Framework Convention for the Protection of National Minorities (or FCNM for short) entered into force in 1998 and was ratified by the UK Government the same year.

Under [the Framework Convention](#), states must ensure full and effective equality for persons belonging to national minorities and promote the conditions necessary for such minorities to develop and preserve their culture, religion, language, traditions and cultural heritage.

However, what exactly is a national minority? In principle, the FCNM leaves a great deal of discretion to states to decide this question. When they ratified the Convention, many countries [explicitly listed](#) the specific minorities in their territory who would benefit from the Convention. Other countries like the UK, however, took a far more liberal

approach and did not consider it necessary for minority groups to be named to benefit from support. Thus, individuals have the right to decide themselves whether they wish to belong to a national minority, though this must be based on objective criteria (language, traditions, cultural).

The FCNM is monitored by an expert body simply titled “the Advisory Committee”. This body works in much the same way as many of the other committees discussed in our series so far. It receives reports from states setting out the measures they have taken to implement their obligations; analyses information from NGOs and open-source materials; conducts state visits; and then publishes opinions detailing its findings and making recommendations for improvement.

The Advisory Committee last visited the UK in April 2022. Its [report](#) noted that the rights of minorities “continue to be promoted by a flourishing wealth of civil society organisations and active members of communities”. However, the pandemic, rising costs of living and the political climate had seriously impacted societal cohesion. The Advisory Committee was specifically concerned about the plight of traveller communities, who faced “persistent” levels of anti-gypsyism across society, a shortage of sites, unequal education outcomes and racist bullying in schools. For this reason, the Advisory Committee called on the UK to launch targeted campaigns addressing society as a whole combating anti-gypsyism and anti-nomadism.