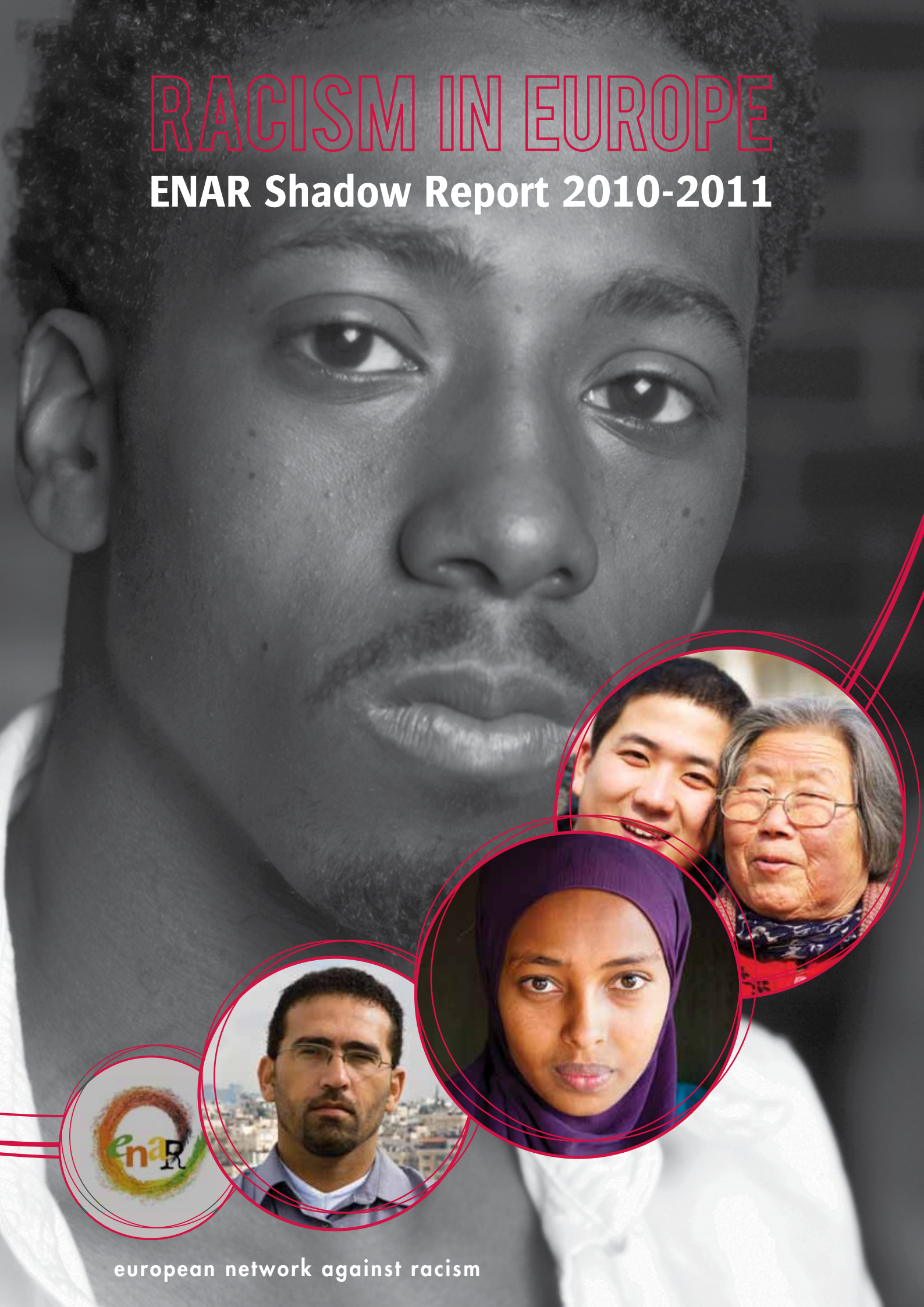


RACISM IN EUROPE

ENAR Shadow Report 2010-2011



european network against racism

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

Published by the European Network against Racism (ENAR) in Brussels, March 2012, with the support of the Community Programme for Employment and Social Solidarity - PROGRESS (2007-2013), the Joseph Rowntree Charitable Trust, the Open Society Foundations and the ENAR Foundation.

PROGRESS (2007-2013) is managed by the Directorate-General for Employment, social affairs and equal opportunities of the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields. The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA-EEA and EU candidate and pre-candidate countries.

PROGRESS mission is to strengthen the EU contribution in support of Member States' commitment. PROGRESS will be instrumental in: providing analysis and policy advice on PROGRESS policy areas; monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas; promoting policy transfer, learning and support among Member States on EU objectives and priorities; and relaying the views of the stakeholders and society at large. For more information see: <http://ec.europa.eu/progress>. The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.



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MESSAGE FROM THE PRESIDENT



This edition, based on 27 national Shadow Reports, provides a civil society perspective on the situation of racism and related discrimination in Europe, between March 2010 and March 2011. This period proved to be full of challenges for migrants and ethnic minorities in Europe. As in previous years, ENAR's Shadow Report clearly

demonstrates that racism and related forms of intolerance are serious problems that affect many people in European society. Findings indicate that racially discriminatory practices are widespread, institutional in nature and practiced at all levels of society across Europe.

This edition gives special attention to the way in which racism and racial discrimination impact the lives of people of African descent. In proclaiming 2011 the International Year for People of African Descent, the United Nations General Assembly recognised that people of African descent represent a distinct group, whose human rights must be further promoted and protected. Evidence clearly shows that the racism directed to this particular group is a particular type of prejudice and discrimination which needs to be addressed. Most policy makers in Europe do not recognise afrophobia, a term that describes the specific hatred, or discrimination, towards black Africans, or people of African descent. This highlights a lack of awareness of the specificity of the problem, even though racist acts of violence, hate crimes, and prejudice towards Africans, or people of African descent, are common place. This year's report aims to cast light on the vulnerability of this group, which is all too often forgotten.

ENAR's Shadow Report also highlights the difficulties faced by other specific communities most vulnerable to racism and/or religious discrimination in Europe, such as migrants (whether EU or third country nationals), Roma, Muslims and

Jews, in all areas of life. Most of the trends and patterns identified in this report remain largely similar to those reported in previous years. The success of far right parties continues to be on the rise, the economic crisis continues to exacerbate fear among the general public, as well as causing drastic reductions in financial support to human rights and anti-racist organisations, and few anti-discrimination cases are brought forward, due to legal provisions not being implemented in practice.

It is worrying to note that not much has changed, and that the political context is worsening. Now, more than ever, it is vital that civil society raises its concerns and demonstrates that manifestations of racism continue today, and that some extreme forms are persisting, and urgently need to be addressed. The role of NGOs in developing creative and innovative strategies to combat racism and discrimination is critical, and needs to continue. In raising its concerns, ENAR seeks to promote a whole society vision in which security, equality and prosperity are guaranteed for all. This 'progressive narrative', which is currently being developed by ENAR through collaborative research and other forms of cooperation, can go some length to taming or diffusing extremist views that tend to incite acts of racist violence against vulnerable groups.

With this Shadow Report, we hope to demonstrate the urgent need for action across the European Union in order to overcome the barriers and challenges that hinder effective equality for all. It is vital that we move towards a Europe that respects and promotes equality, diversity and fundamental rights, and which recognises the benefits of a racism-free Europe for a vibrant European society and economy.

We are very grateful to all the dedicated people who have contributed to ENAR's Shadow Reports, and for the valuable support of the European Commission, the Open Society Foundations and the Joseph Rowntree Charitable Trust in enabling this monitoring instrument to be published. By working together, we have a better chance of countering racism and achieving real equality for all.

Chibo Oneyji
ENAR President

EXECUTIVE SUMMARY

The aim of ENAR's Shadow Report on racism in Europe is to provide a civil society perspective on the situation of racism and related discrimination in Europe between March 2010 and March 2011. In view of the 2011 International Year of People of African Descent, this report gives special attention to the ways in which racism and racial discrimination impact the lives of this particular group across Europe.

The communities most vulnerable to racism and racial and/or religious discrimination in Europe are various and remain largely similar to those reported in previous Shadow Reports. Key among the communities most affected are **people of African descent, black Europeans, migrants (both EU and third country nationals), Roma, Muslims and Jews**. A number of national reports also highlight specific communities who are especially vulnerable. There appears to be a link between the vulnerability and experience of discrimination, visible characteristics of difference, and the public's perception of these characteristics. Further distinctions exist between visible minorities (including nationals of ethnic minority backgrounds) and status minorities (those whose legal status places them in a particularly disadvantaged situation in the country).

In the context of **employment**, some of the key concerns related to minorities and migrants include: unemployment rates, difficulties in the acquisition of relevant documentation and recognition of qualifications, language and cultural barriers, discrimination in recruitment processes, the glass ceiling effect within employment, and unequal working conditions. Particularly at a time of economic downturn, ethnic minorities and migrants have been disproportionately affected by both unemployment and precarious working conditions.

Issues faced in the context of **housing and accommodation** include difficulties in the private rental market, in accessing public housing and funds or loans to purchase property, poor living conditions and overcrowding, discrimination by homeless shelter staff, housing segregation, and a lack of awareness of rights and obligations.

Discrimination in **education** takes a variety of forms, including structural concerns, such as segregation and discrimination by teachers, and more personal concerns, such as language barriers and bullying at the hands of peers. The result is poorer educational attainment by many members of ethnic minorities and migrants and over-representation among early school leavers.

Manifestations of racism and related discrimination are also notable in the field of **healthcare** and include

prejudice by staff and patients, significantly lower health outcomes (including greater prevalence of certain chronic conditions), language and cultural barriers, as well as legal challenges (especially in the case of migrants).

In terms of **access to goods and services**, access to bars and places of entertainment, to financial services and to public transport continues to be highlighted as being particularly problematic.

In the context of **criminal justice**, ethnic minorities are more likely to be stopped and searched, to be arrested and prosecuted, and are disproportionately represented in prisons. Ethnic profiling is also carried out in the context of counter-terrorism, causing alienation and frustration among ethnic and religious minorities. Moreover, ethnic minorities are victims of racist violence and crimes of various forms; their complaints are often ignored or not taken seriously by the relevant authorities. Another concern is under-reporting by victims of racist violence due to lack of trust in the police and fears linked to migrant status and/or further victimisation,

In the context of the **media**, some of the key problems continue to be inaccurate reporting, negative and/or lack of representation of ethnic minorities, the use of an 'us versus them' rhetoric, as well as the promotion of racism on the internet, especially through social media.

Focus on people of African descent

People of African descent face discrimination, stereotypes and prejudice in employment, housing, healthcare, education, access to goods and services, criminal justice, and the media. Their visibility heightens their vulnerability to discrimination. Whilst most manifestations of discrimination are not particularly targeted at people of African descent, they do tend to be disproportionately affected by these manifestations. Moreover, in a context of rampant prejudice, visibility and perception of ethnic minority status appear to outplay other considerations including nationality and status.

Finally, the report provides an overview of some of the **key legal and political developments** in the fields of anti-racism and anti-discrimination as well as migration and integration.

Based on the evidence in the national Shadow Reports, the following trends emerged:

- ▶ The **economic crisis continues to have a negative impact** on migrants and ethnic minorities, both in terms of **creating fears** among the general public that incites racist behaviour, as well as in regard to financial cuts to the anti-racism cause in most countries, resulting in **less activity to combat racism** and xenophobia.
- ▶ The **success of far right nationalist parties** has been on the rise in connection to the continuous rise of far right movements propagating xenophobic and racist sentiments to tally votes and support, for instance, in the UK, Denmark, Hungary, Greece and Poland.
- ▶ In parallel, **racially motivated violence** committed both by neo-Nazi groups and other perpetrators is on the rise. Damage to property including gravesites persists.
- ▶ Although EU Member States have transposed the EU Equality Directives (to different extents) the **implementation of these laws remains inconsistent and problematic** in many Member

States. Few cases are brought forward and the legal provisions are often not implemented in practice. Moreover, a number of regressive proposals exist in some countries.

- ▶ In most EU countries, there is a shift towards **more restrictive migration policies** with states seeking to maintain more control not only of their borders, but also of those seeking the right to reside within EU territory.

The report concludes that a strong anti-discrimination legal framework alone is not enough to combat discrimination. It needs to be accompanied by monitoring and enforcement as well as political will to really achieve a Europe free from racism. Such political will is often lacking, shying away in a context of public and political discourse, which results in scapegoating ethnic and religious minorities and further alienating them. Finally, not only do ethnic minorities face discrimination, they are often blamed for 'not doing enough'. They are deemed responsible for the lack of integration, even in a context where violence and threats toward them are a common occurrence and where accessing a public place, such as a disco, is often prohibited for no reason other than their skin colour or perceived ethnic identity.

1. INTRODUCTION

This report seeks to provide an alternative perspective on the experiences of racism and racial and/or religious discrimination across the European Union. It covers the period between March 2010 and March 2011, which saw a number of important developments at both European and national levels. The report seeks to provide added value to the existing information and analysis by including the grassroots perspective regarding the situation of ethnic and religious minorities in Europe. In so doing, it aims to illustrate some of the key barriers imposed on the various groups vulnerable to racism.

At the outset, it is pertinent to define and describe 'racial discrimination'. ENAR, the European Network Against Racism, adopts the definition proposed by the International Convention on the Elimination of All Forms of Racial Discrimination: "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".¹

The report is based on 27 national Shadow Reports from across the European Union and beyond. Each report is written by representatives of organisations working closely to ethnic and religious minorities. While every attempt has been made to be as comprehensive as possible, this report can never do justice to the depth of knowledge and insight the individual authors contribute to the national reports. Their input is acknowledged and the reader is encouraged to refer to the specific national Shadow Reports for further insight.²

This report also provides an overview of racist measures and situations where ethnic (and religious) minorities face clear obstacles to equality and are at a noted disadvantage. In view of the UN International Year of people of African descent in 2011,³ special attention is devoted in this report to the ways in which racism and racial discrimination impact the lives of this particular group across Europe. The proclamation of the International Year signifies the recognition by the international community that people of African descent represent a distinct group whose human rights must be promoted and protected. The 27 national reports, on which this report is based, invariably identify people of African descent as particularly vulnerable to racism and discrimination in virtually all spheres of life. While the focus

on this group reduces nothing from the experiences of other groups, and while persons of African descent might also fall into other groups (for example, as migrants), the opportunity provided by the International Year to shine the spotlight on this particular situation cannot be ignored.

Chapter 2 outlines the communities most vulnerable to racism and racial discrimination in Europe. These include people of African descent, the Roma community, migrants, Muslims and Jews. Chapter 3 looks at manifestations of racial discrimination in employment, as well as some of the most relevant legal and political developments in the field. It seeks to highlight the difficulties and injustices faced by ethnic minorities and migrants to access the labour market and manoeuvre within the labour market itself. Chapter 4 and subsequent chapters address similar perspectives in the fields of housing, education, health, access to goods and services, criminal justice and the media. Each chapter addresses both manifestations of racism and discrimination, as well as related legal and political developments. Chapter 10 discusses some of the most relevant developments in anti-racism and anti-discrimination at both the European and national levels. Chapter 11 looks at the issue of migration and integration and provides a snapshot of the issue within the period under review. Finally, Chapter 12 makes a number of recommendations while Chapter 13 concludes the report.

Developments in the area of anti-racism and anti-discrimination are slow and hard to come by. The lives of ethnic and religious minorities in Europe today remain difficult, and impact by non-governmental organisations (NGOs) and others, while felt strongly in some areas, still has a long way to go to achieving equality for all. As the voice of Europe's anti-racist movement, the European Network Against Racism (ENAR) persists in being heard and pushing this issue forward. Moreover, ENAR challenges each and every reader in whatever capacity he or she may find him or herself to contribute in this effort to promoting equality and countering racism.

1 *International Convention on the Elimination of All Forms of Racial Discrimination, Article 1: www2.ohchr.org/english/law/cerd.htm#part1*
2 *For the national Shadow Reports, visit www.enar-eu.org/Page_Generale.asp?DocID=15294*
3 *For more information about the year, visit: www.un.org/en/events/iypad2011/*

2. COMMUNITIES VULNERABLE TO RACISM AND DISCRIMINATION

People of African descent, black Europeans, migrants (both EU and third country nationals), Muslims and Jews have been documented in the national Shadow Reports to be most vulnerable to racism and discrimination. Differences also exist between groups with visible characteristics of difference and status minorities, referring to those whose legal status places them in a particularly vulnerable position. This refers to migrants, including third country nationals, persons enjoying international protection, trafficked persons, and some EU nationals, namely, Roma.

People of African descent and members of the black community are reported as particularly vulnerable to racism and racial discrimination in most of the national reports. Defining 'people of African descent' is no easy task and indeed various definitions and descriptions exist for the group. The UN Working Group on people of African descent proposed that: "People of African descent may be defined as descendants of the African victims of the trans-Atlantic and Mediterranean Sea slave trade. The group includes those of the sub-Sahara slave trade. Descendants of the victims of the trans-Atlantic trade live primarily in the Diaspora of North, Central and South America and the Caribbean".⁴

While estimates of the number of people of African descent are scant, the United States Congress suggested "an estimated 7,000,000 individuals of African descent currently live in and have long had a presence in Europe, forming an influential part of the African diaspora".⁵ Some national reports provide a tentative description of the community in their respective countries. The report from Denmark notes that people of African descent compose 11% (49,743) of the immigrant population in the country.⁶ In Germany, statistics show that 3% (477,000) of people with migrant background come from Africa. In Spain, data reveals that 1,084,611 people born in Africa are now living in Spain, 14% of whom have Spanish nationality.⁷ 4,288 people of African descent are reported to live in the Czech Republic, representing 1% of the migrant population.⁸ Status seems to be irrelevant when compared to the more directly visible characteristics of difference associated with these communities, which, as the reports highlight, make them a target to discrimination. Legal status, however, may affect their access to certain rights as well as remedies in certain contexts. This places particular subsets of this group at a further disadvantage.

At the launch of a day of discussions on discrimination faced by people of African descent, Anwar Kemal, Chair of the UN Committee on Elimination of Racial Discrimination, noted that throughout history, people of African descent had borne a disproportionate impact of racial discrimination through greater joblessness, physical insecurity, inadequate housing and healthcare, lower life-expectancy, and many other disadvantages.⁹ The national Shadow Reports highlight that this remains the reality in Europe. The Slave Auction Party in Sweden¹⁰ underscored the severe lack of sensitivities to these issues and served as a clear reminder that certain issues still need to be addressed through educational and other initiatives.

Within this broader category, specific groups are mentioned by some reports as being particularly vulnerable. These include Sub-Saharan Africans in Malta, black Caribbeans in the UK and Somalis in Sweden. Reports from Latvia, Lithuania, Romania and Bulgaria¹¹ highlight that while people of African descent are few in number, they are nonetheless specifically targeted. On the other hand, reports from, for instance, Finland, Malta and Sweden identified this community to be perceived as the largest ethnic minority in the country.¹² The particular situation in Europe of people of African descent highlights the importance of specifically addressing their life situations. The International Year is therefore a welcome opportunity for States and the international community to achieve real change in this regard. The impact of the Year will, however, depend on a real commitment by States and the political will to address the specific needs of this community.

Another community, or group of communities, who is particularly vulnerable to racism and discrimination are **migrants**. This broad category includes EU nationals as well as third country nationals, and refers to both people with secure and insecure residence rights and immigration statuses. In public discourse, it appears that the term 'migrant' has acquired a negative connotation. Public perception is particularly relevant in this context, as highlighted by a study¹³ based on eight migrant receiving countries, including six European countries.¹⁴ It was found that respondents were inclined to significantly overestimate the size of the migrant population

4 UN Working Group on People of African Descent, *Identification and Definition of People of African Descent and How Racial Discrimination Against them is Manifested in Various Regions*, E/CN.4/2003/WG.20/WP.3

5 112th Congress, H.Res: Recognizing persons of African descent in Europe during the International Year for People of African Descent, 5 August 2011, www.govtrack.us/congress/billtext.xpd?bill=hr112-389

6 ENAR Shadow Report 2010/2011: Denmark, p.10

7 ENAR Shadow Report 2010/2011: Germany, p.11, ENAR Shadow Report 2010/2011: Spain, p.10

8 ENAR Shadow Report 2010/2011: Czech Republic, p.9

9 UNOG News and Media: Committee on the Elimination of Racial Discrimination holds day of discussion on discrimination on Discrimination against People of African Descent; 7 March 2011, available at: [www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/64948DE13A6D1033C125784C0068B4CB?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/64948DE13A6D1033C125784C0068B4CB?OpenDocument)

10 ENAR Shadow Report 2010/2011: Sweden, p.9. The incident took place on 18 April at Lund University, at a student gathering that portrayed the transatlantic slave trade by blackening students' faces and tying ropes around their necks, and then leading them to a hall for 'sale' by a white 'slave trader'.

11 See Section IV of the relevant national Shadow Reports

12 See Section IV of the relevant national Shadow Reports

13 *Transatlantic Trends: Immigration 2010*. Transatlantic Trends, United States of America. See: http://trends.gmfus.org/immigration/doc/TTI2010_English_Key.Pdf, as reported in *The International Organisation for Migration, World Migration Report, 2010/2011* (Geneva: 2011)

14 France, Germany, Italy, the Netherlands, Spain, the United Kingdom

within their countries. The report from Malta¹⁵ highlighted a similar inflation relating to the arrival of asylum seekers on the island. This is partly a reflection of the way governments and the media communicate about migration, with negative reports encouraged during times of economic recession and increased unemployment, resulting in migrants becoming considerably more stigmatised. Within the broader category of migrants, refugees and asylum seekers are highlighted as being particularly susceptible to racism and discrimination. A weak legal status in some cases, and physical differences in others, cause those enjoying or searching for international protection to be vulnerable to exploitation and substandard conditions, as well as violence and threats in some countries. For instance, Bulgaria reported that although public support for undocumented immigrants is unprecedented, they are not able to access fundamental human rights.¹⁶

The **Roma community** continued to face widespread racism and discrimination during the period under review. In most countries in which Roma communities are present, they are highlighted as facing discrimination, social exclusion and poverty disproportionately by comparison to the majority population. This is reflected partly in substandard living conditions for the Roma community, as highlighted in many national reports. Such conditions have an impact on accessing and enjoying other rights and services, including employment, education and healthcare. Reports from Finland, Sweden, Ireland, the UK, Spain, the Czech Republic, Turkey, Denmark, Greece, Bulgaria and Poland¹⁷ all highlight the specific vulnerability of the Roma community. Also during the period under review, the European Union organised the second Roma Summit, where it was, inter alia, highlighted that data on the situation of the Roma in Europe are alarming.¹⁸

A number of **religious communities** are also highlighted in national reports as being vulnerable to discrimination and prejudice. **Islamophobia** continues to be on the rise in many European countries, fuelled by populist discourses by politicians and the media. The debacle over minarets in Switzerland,¹⁹ the campaign by the leader of the populist Party for Freedom (PVV), Geert Wilders,²⁰ in the Netherlands, and the ban on wearing the burqa in Belgium and France²¹ are some examples of this growing concern. Criminal behaviour linked to terrorism and extremism is often associated with Muslims.²² Visible characteristics of difference are also a factor here. Reports from Denmark, Sweden, Germany and Spain, for instance, report the specific vulnerability experienced by Muslim women who wear

the hijab.²³ Another persecuted religious group consists of **Jews and members of the Jewish community**, who are specifically identified as vulnerable to racism in reports from Ireland, Spain, Turkey, Lithuania, Latvia, The Netherlands and Poland.²⁴ The Austrian report,²⁵ for example, describes how Jews are perceived as being more loyal to Israel than to Austria and 'obsessed' with what happened to them during the Holocaust.

A number of reports²⁶ also highlight **other vulnerable communities**, including Russians and Russian speakers in Estonia, Lithuania and Finland; Pomaks and Macedonians in Bulgaria; Christians and Kurds in Turkey; Turkish people in Germany, Austria and Bulgaria; and people from former Yugoslavia in Germany and Austria. This reflects differences in the composition of ethnic and religious minorities in European countries.

While this section has thus far highlighted separate communities as vulnerable to racism and/or religious discrimination, it is important to bear in mind that communities overlap as do the grounds of experienced discrimination. The reports from Malta²⁷ and Finland,²⁸ for instance, highlight the conflation of terms like 'African' and 'migrant'. Moreover, and more importantly, people experience **multiple discrimination** and discrimination on multiple grounds. Women, lesbian, gay, bisexual and transgender people as well as disabled people belonging to ethnic minorities can experience discrimination, which can be based on both racial and other characteristics. The tiered legal framework is often presented as an obstacle when addressing cases of multiple discrimination. This reflects the importance of the prompt adoption and implementation of the proposal for an EU Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (the so-called 'Horizontal Equal Treatment Directive')²⁹ which continued to be debated during the period under review. This Directive is expected to address current gaps in protection and to end the 'hierarchy' of discrimination grounds.

Discrimination is experienced not only at the hands of the majority population but also, in some instances, **between ethnic minority communities themselves**. While information on such discrimination is scant and further research is required in this area, it is a reality which is acknowledged by ENAR and the authors of the various Shadow Reports. This, in turn, reflects the need to work towards cohesive societies, shifting to some degree attention away from specific categories and onto individuals and society as a whole.

15 ENAR Shadow Report 2010/2011: Malta, p. 10

16 ENAR Shadow Report 2010/2011: Bulgaria, p. 8

17 See Section IV of the relevant national Shadow Reports

18 European Commission, Report on the 2nd European ROMA Summit, 8 & 9 April 2010: Córdoba, Spain

19 See: <http://news.bbc.co.uk/1/hi/8385069.stm>

20 See: <http://www.bbc.co.uk/news/world-europe-11443211>

21 See: <http://www.bbc.co.uk/news/world-europe-13031397>

22 See Section IX in the national Shadow Reports of the UK, Denmark and Spain

23 See Section IV of the relevant national Shadow Reports

24 See Section IV of the relevant national Shadow Reports

25 ENAR Shadow Report 2010/2011: Austria, p.22

26 See Section IV of the relevant national Shadow Reports

27 ENAR Shadow Report 2010/2011: Malta, p. 12

28 ENAR Shadow Report 2010/2011: Finland, p.6

29 Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation - COM/2008/0426

3. EMPLOYMENT

Manifestations of racism and racial discrimination

European law³⁰ prohibits discrimination on all grounds, including race and religion with regard to employment, access to employment, working conditions, vocational training and guidance, as well as membership in trade unions.³¹ The reality, however, as reflected by the national Shadow Reports is that many ethnic and religious minorities continue to face rampant discrimination despite positive measures in some EU Member States to overcome some of the barriers. Some of the key concerns raised in the national reports are: unemployment rates, difficulties in the acquisition of relevant documentation and recognition of qualifications, language and cultural barriers, discrimination in recruitment processes, the glass ceiling effect within employment and unequal working conditions. At a time of economic downturn, when general unemployment rates across Europe are on the rise,³² ethnic minorities and migrants have been disproportionately affected by these barriers, especially unemployment and precarious working conditions.

The period under review was characterised by economic turmoil and this, in turn, resulted in increased unemployment across the board. Eurostat data indicates that in 2010, the average unemployment rate in the European Union stood at 9.7%, the highest level since 2001. By the end of the reporting period (March 2011), the rate had further increased to 10%. Spain has an unemployment rate of over 20% while Latvia's rate stood at 18.7%.³³ This is relevant in two connected ways. First, attitudes towards migration are strongly influenced by the availability of jobs, as highlighted by the World Values Survey³⁴ as well as many of the national Shadow Reports. The rising competition on Europe's labour market therefore contributes toward negative perceptions of migrants. This is in part a reflection of the commodification of migrant workers, a process which continued to be noted during the period under review. Migrant workers continued to be seen and valued as economic units of production rather than human beings. Frisch's words, 'we wanted workers, we got people'³⁵ seem to resonate strongly. Unfortunately, this realisation has hardly been accompanied by a shift in attitude and rights to be afforded to migrant workers. The scare-mongering against migration on the basis of the limits of the labour market increased within the context of the

economic crisis. In the UK, for instance, the Work and Pensions Secretary argued that firms should give 'our young people' a chance rather than handing jobs to economic migrants.³⁶ In reaction, the British Chamber of Commerce said firms took on foreign workers because they were better qualified and had a stronger work ethic than the British.³⁷ At a time when ethnic minorities and specifically migrants are at their most vulnerable, their situation is made worse by being used as scapegoats and pitted against nationals.

Secondly, national Shadow Reports highlight that ethnic minorities are disproportionately affected by unemployment. In the UK, the unemployment rate for ethnic minorities is 12.8%, compared to 7.8% for the general population.³⁸ The report from Spain,³⁹ in turn, notes that the highest unemployment rates are found among migrants from Morocco and Sub-Saharan countries (with figures close to 50% during the second quarter of 2010), followed by Latin-Americans. In contrast, Chinese citizens have lower unemployment rates than Spanish citizens because they tend to set up their own businesses or to work within their own communities. Moreover, in Bulgaria, the unemployment rate of the Roma community stood at 49.9%, i.e. three times higher than the overall average.⁴⁰ The report from Estonia⁴¹ notes gender and age dynamics in unemployment with males and young persons from ethnic minorities increasingly exposed to unemployment. In Austria, independent of educational levels, non-Austrian citizens have a significantly higher unemployment rate (11%) than Austrian citizens (7%).⁴²

The Platform for International Cooperation on Undocumented Migrants (PICUM) highlighted in reference to examples from various EU countries that lack of access to the labour market compels undocumented migrants to seek informal work, which increases the likelihood of exploitation and human rights violations.⁴³ Similar concerns were also raised in several national Shadow Reports. Lack of choice and pressure to survive and remit money force undocumented migrants (as well as other migrants) into exploitative situations, which can go as far as slavery-like conditions. The lack of legal avenues to work is thus a concern in regard to undocumented migrants. A project in Malta⁴⁴ has sought to

30 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000

31 Ibid., Article 3(1)

32 See: http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Unemployment_statistics#Recent_developments_in_unemployment_at_a_European_and_Member_State_level

33 See: <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&language=en&pcode=teilm020&tableSelection=1&plugin=1>

34 International Organisation for Migration, World Migration Report 2011, p. 33

35 Quote attributed to the late Swiss writer, Max Frisch

36 See: <http://www.dailyrecord.co.uk/news/politics-news/2011/07/02/tories-british-jobs-for-british-workers-plan-is-racist-employers-warn-86908-23241910/>

37 See: <http://www.dailyrecord.co.uk/news/politics-news/2011/07/02/tories-british-jobs-for-british-workers-plan-is-racist-employers-warn-86908-23241910/>

38 ENAR Shadow Report 2010/2011: United Kingdom, p. 16

39 ENAR Shadow Report 2010/2011: Spain, p. 12

40 ENAR Shadow Report 2010/2011: Bulgaria, p.13

41 ENAR Shadow Report 2010/2011: Estonia, p.13

42 ENAR Shadow Report 2010/2011: Austria, p.10

43 PICUM, Main Concerns about the Fundamental Rights of Undocumented Migrants in Europe, 2010, p.35

44 ENAR Shadow Report 2010/2011: Malta, p.16

address this issue in part by creating employment support offices to assist beneficiaries of international protection in their search for legal employment. The situation, however, remained more difficult for those individuals without a legal right to participate in the labour market due to their lack of residence rights.

Lack of recognition of qualifications and previous experience of migrant workers is also widespread across the European Union. Migrant workers often complain of working within jobs that do not reflect their qualifications because the qualifications obtained in their home country are not recognised officially within the European context. This, in turn, also results in the over-representation of ethnic minorities within specific sectors of the European economy, for instance, in the fields of agriculture, construction and domestic work. The report from Malta,⁴⁵ for instance, notes that ethnic minorities in general, and migrants in particular, often find it difficult to access long term and stable employment linked to their particular set of skills and qualifications. The report from Germany highlights the contradiction apparent in the German situation where, on the one hand, there is an increasing number of qualified migrants who cannot gain access to the labour market because of discrimination, however simultaneously Germany faces a serious lack of qualified workers.⁴⁶ The report from Cyprus⁴⁷ notes that while the official restriction of access to the labour market for asylum seekers to the agriculture industry has been mitigated, employment offices continue to offer jobs to asylum seekers only in the agricultural industry. The dream of Europe, as well as pressures from home, often lead individuals into accepting such work (as well as bad working conditions), despite their 'higher' potential. Even within employment, various reports note that ethnic minorities face difficulties and discrimination in regard to advancing within the company, reflecting the glass ceiling effect on career progression.

Conditions of employment are also biased against migrants and persons from ethnic minority backgrounds. This includes unstable contracts, levels of pay where ethnic minorities and migrants are reportedly paid less than their colleagues for work of similar value, excessive working hours, and exploitative work conditions. Insults and harassment are also relatively common occurrences in a number of EU Member States. Reports from Portugal, Denmark, Lithuania, Greece and Spain highlight this reality.⁴⁸ Many of these reports showcase individual accounts and offer insight into the realities faced by ethnic minorities. The report from Bulgaria⁴⁹ outlines the case of a man of Roma descent who

filed a complaint in which he cites instances in his work place when his results were undervalued and underestimated by his employers. He was also insulted publicly on grounds of his ethnicity. His requests for instructions and/or help were ignored and his professional accomplishments were under acknowledged. The report from Sweden⁵⁰ notes that an African man, employed as a truck driver by a company in Gothenburg, made a complaint to the Equality Ombudsman after his former manager called him a 'nigger'. He was told by a colleague that his manager had asked, 'where did the Nigger go?' when he briefly interrupted his work unloading a truck to fetch a tool. Shortly after this incident, the worker was dismissed. The Equality Ombudsman assessed that the manager had subjected the worker to ethnic harassment.

The report from Spain⁵¹ notes that several cases of abuse and exploitation were reported in 2010. For instance, a man was dismissed for requesting a work contract after working for nine hours a day, six days a week, for two months with a salary of 600 Euros. An Ecuadorian domestic worker was also dismissed after she became sick. She had been working for three years as an intern without holiday or free time. The police had to intervene to help free her from the employer for whom she had been working. Another household worker without a work contract died in March 2011 when she fell from the 10th floor of a building while cleaning a window. The report from Greece⁵² highlights that domestic workers, especially migrant women, often fall victim to exploitation by their employers with some cases resulting in death. The report from Austria⁵³ highlights how a Muslim woman, who worked in one branch of a large supermarket chain, was told by her deputy branch manager that wearing a headscarf was forbidden. She continued wearing the headscarf and was pressured into signing a document with twisted facts that turned out to be a redundancy notice. ZARA, 'Civil Courage and Anti-Racism Work', a non-profit organisation working on racism issues in Austria, confirmed that her treatment was discriminatory due to her religion and wearing of the headscarf. She was referred to the Ombudsman for Equal Treatment (OET).⁵⁴ After a rapid intervention and a note from the OET, the management withdrew the dismissal and reinstated her. These cases highlight the prevalence of discriminatory conditions throughout the European Union, which are often under-reported.

The 2010 edition of the European Working Conditions Survey⁵⁵ investigated discrimination linked to age, race, nationality, sex, religion, disability and sexual orientation,

45 ENAR Shadow Report 2010/2011: Malta, p.14

46 ENAR Shadow Report 2010/2011: Germany, p.9

47 ENAR Shadow Report 2010/2011: Cyprus, p.13

48 See Section V of the relevant national Shadow Reports

49 ENAR Shadow Report 2010/2011: Bulgaria, p.16

50 ENAR Shadow Report 2010/2011: Sweden, p.11

51 ENAR Shadow Report 2010/2011: Spain, p.13

52 ENAR Shadow Report 2010/2011: Greece, p.14

53 ENAR Shadow Report 2010/2011: Austria, p.10

54 Ibid, p.9

55 See: www.eurofound.europa.eu/surveys/ewcs/2010/index.htm

and showed that those with a migrant background have more exposure to discrimination on most grounds. While nationality (7.5%) and race (6.2%) stand out at highest levels and in largest difference to the mainstream population, discrimination on the basis of religion and sex is also more likely to affect workers of migrant origin. Discrimination based on religion affects 3.9% of those with a migrant background and 0.5% of others, while discrimination based on sex affects 2.2% of those with a migrant background and 1.5% of others. This means that people of a migrant background encounter negative experiences where ethnic differences may overlap with social and economic issues, creating grounds for multiple discrimination. In terms of vulnerability, almost 8% of workers with a migrant background had no contract and more than 14% were not well informed about health risks in the workplace. People with a migrant background are more likely to encounter discrimination as well as most forms of abusive behaviour, such as verbal abuse (13%), threats (7%), bullying (6%) or unwanted sexual attention.

Focus on people of African descent

Discrimination against people of African descent in the context of employment is highlighted in a number of Shadow Reports. There is no European-wide research that describes the situation of groups discriminated against in the labour market, however, anecdotal evidence and research in individual countries or specific sub-groups strongly indicate that people of African descent are most likely to be unemployed, to face discrimination in the recruitment process, to be employed in jobs that do not reflect their qualifications, and to encounter harassment at work. This is partly reflected in the analysis undertaken above. In Poland, Africans complain that they are paid less for the same work carried out by Polish workers.⁵⁶ Similarly in Malta, anecdotal evidence indicates that African migrants are often paid much less, and sometimes half of what their Maltese counterparts are paid, for the same work.⁵⁷ In Germany, discriminatory recruitment, coupled with the visibility of the group, restricts the opportunities for Afro-Germans to advance further in the application process.⁵⁸ In Latvia, while most members of the African community hold university diplomas, few were able to find a job relevant to their educational level.⁵⁹ In Ireland, research conducted by the Irish Centre for Human Rights revealed that 46% of the Galway population had been informed through hearsay or indirect experience to not use taxis driven by Africans. 62% of African taxi drivers stated that they had experienced discrimination while seeking employment in the taxi industry, all of whom had experienced harassment that was racially motivated.⁶⁰

⁵⁶ ENAR Shadow Report 2010/2011: Poland, p.11

⁵⁷ ENAR Shadow Report 2010/2011: Malta, p. 19

⁵⁸ ENAR Shadow Report 2010/2011: Germany, p.18

⁵⁹ ENAR Shadow Report 2010/2011: Latvia, p.14

⁶⁰ ENAR Shadow Report 2010/2011: Ireland, p.12

Legal and political context

As highlighted above, EU law prohibits discrimination in employment.⁶¹ The Race Equality Directive⁶² prohibits discrimination in both the public and private spheres, including, inter alia, in relation to conditions for access to employment, self-employment, occupation and advanced vocational training; recruitment conditions at any branch or level of the professional hierarchy, including promotions; access to all types of vocational guidance, training, advanced vocational training and retraining - including practical work experience; and employment and working conditions, including dismissals and pay. It also prohibits discrimination in the context of membership and/or involvement in an organisation of workers or employers, or any organisation, whose members carry out a particular profession, including benefits provided by such organisations. The Employment Equality Directive⁶³ also prohibits discrimination on the basis of religion within this context, covering the same scope as the Race Equality Directive.

A key EU development during the reporting period was the adoption of the Europe 2020 strategy,⁶⁴ which was adopted by the European Council in June 2010. The Europe 2020 strategy is key in the context of employment, as it sets the aim of achieving 'smart, sustainable and inclusive growth' in Europe. It sets five ambitious objectives - on employment, innovation, education, social inclusion and climate - to be reached by 2020. A key target is that 75 % of the population aged 20-64 should be employed by 2020. In 2010, the rate stood at 68.6%. It also sets the target of reducing the number of persons at risk of poverty and social exclusion by at least 20 million. However, specific targets for ethnic and religious minorities or anti-discrimination targets were not particularly addressed. This is a matter of concern, particularly after acknowledging the disadvantages faced by ethnic minorities and their over-representation within the context of unemployment. The strategy does specifically mention (together with men, women, younger and older persons) the importance of getting legal migrants into the labour market. While the strategy does not specifically address the needs of ethnic minorities, it is believed that if the targets are met, then this will also result in benefits for ethnic minorities. Moreover, the general targets set can allow for anti-discrimination to be specifically addressed, but only as long as there is political will. The strategy fails to acknowledge the

⁶¹ Two instruments of European Law are of particular relevance: Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000 and Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Journal L 180, 19/07/2000

⁶² Council Directive 2000/43/EC of 29 June 2000 (ibid)

⁶³ Council Directive 2000/78/EC of 27 November 2000 (ibid)

⁶⁴ See: http://europa.eu/legislation_summaries/employment_and_social_policy/eu2020/em0028_en.htm

In **Greece, KASAPI HELLAS**, a Filipino workers' organisation, fights for the rights of migrant workers, especially domestic workers, since most of the Filipino population in Greece work in private homes. KASAPI HELLAS is a member of the RESPECT Network, which joined the International Working Group for Domestic Workers (IWG-DW) on its 'International Campaign for the Rights and Recognition of Domestic Workers' (8-Hour Campaign). This campaign asserts that domestic work should be covered by the 8-hour a day work standard, and that eight essential rights should be recognised and guaranteed for domestic workers: 1) Rights & redress; 2) Respect; 3) Remuneration; 4) Rest & recreation; 5) Retirement & insurance protection; 6) Residency & mobility rights; 7) Reproductive & family rights; and 8) Return & reintegration.

For more information: www.kasapi.gr

potential that an equal labour market can have on reducing unemployment. In its reaction to the Europe 2020 proposal, ENAR noted that if Europe wants to strengthen knowledge and innovation, it needs to encourage the fulfilment of all its talents and in particular those which are currently undervalued due to discrimination. This is the case especially for the talents of ethnic and religious minorities and migrants facing discrimination in education and/or employment, and experiencing difficulties linked with the recognition of foreign diplomas. Tackling this situation is essential to promote innovation and knowledge performance in Europe. During the period under review, progress began with regard to achieving the set targets through the implementation of flagship initiatives.

In 2010, the EU Fundamental Rights Agency launched research regarding the impact of the Race Equality Directive based on the perceptions of trade unions located across the European Union.⁶⁵ The research drew a number of interesting, albeit somewhat worrying, conclusions. These highlighted, inter alia, geographical differences in the awareness of the Directive and corresponding national legislation among the interviewees. Social partners in the old Member States (EU-15) were identified as more aware than their counterparts in the new Member States (EU-12). The report notes that in some of the EU-12 countries, it was believed that anti-discrimination laws were so ineffective as to not merit consideration, being treated by some respondents as part of a 'Western Europe package' of exotic issues that are marginal to their countries. Another trend was the tendency of trade unions to prefer compulsory regulations as opposed to employer organisations, which would opt for voluntary solutions. Another finding showed that neither employer organisations nor trade unions displayed a comprehensive understanding of racial discrimination as it affects the Roma

population. With few exceptions, the research found that the Roma community was generally not acknowledged as coming under the protection of the Directive, despite the fact that it clearly also applies to this community. The Portugal report notes that new developments emerged with regard to improving the employment situation of migrant workers in the country, but the gap concerning working conditions for the Roma persisted.⁶⁶ Most policies, it notes, target immigrant groups and do not meet the special needs of ethnic minority groups, especially Roma with Portuguese citizenship. A further concern was raised regarding the independence of equality bodies, highlighting a point often raised by NGOs working on anti-racism. The European Union Fundamental Rights Agency found that 'in most EU Member States, the Equality Bodies are not yet viewed as being entirely appropriate vehicles to use in articulating complaints about racial or ethnic discrimination in employment and in securing satisfactory outcomes. The social partner organisations interviewed voiced concerns about their lack of independence and powers'.⁶⁷ Most of the Shadow Reports highlight weaknesses of the equality bodies, including insufficient funding (made worse due to measures adopted at a time of economic recession). These, the reports note, have resulted in equality bodies being unable to adequately carry out their workload.

Despite the many references to respecting human rights as a core value of the European Union, to date, not a single EU Member State has signed or ratified the International Convention on the Rights of Migrant Workers.⁶⁸ Governments responding to a research questionnaire undertaken by the NGO December 18 alleged a failure of the Convention in distinguishing regular and irregular migrants as one of the key obstacles to ratification. They also argued that many of the rights afforded in the Convention have already been guaranteed through other international core treaties and European legislation. In its conclusion, December 18 highlighted that the Convention does draw the distinction and while it provides a set of minimum rights for all migrant workers irrespective of status, it dedicates a specific section to those who are documented and in a regular status.⁶⁹ Nonetheless, the Convention does not stress new rights, but establishes a comprehensive normative framework for a particularly vulnerable group, and could be viewed as a basic and universal instrument for fair national migration policies.

⁶⁵ EU Fundamental Rights Agency, *The Impact of the Racial Equality Directive: Views of trade unions and employers in the European Union (Vienna: 2010)*, available at http://fra.europa.eu/fraWebsite/attachments/Racial-equality-directive_conf-ed_en.pdf

⁶⁶ ENAR Shadow Report 2010/2011: Portugal, p.9

⁶⁷ FRA, *The impact of the Racial Equality Directive (Vienna: 2010)*

⁶⁸ UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 18 December 1990, A/RES/45/158, available at: www.unhcr.org/refworld/docid/3ae6b3980.html

⁶⁹ Plaetevoet R., Sidoti M., *Ratification of the UN Migrant Workers Convention in the European Union: Survey on the Positions of Governments and Civil Society Actors (Brussels: 2011)*

Most national reports acknowledge the impact of EU legislation on the national legal framework, noting that many of the national anti-discrimination provisions were inspired and based on the Race Equality Directive⁷⁰ and the Employment Equality Directive.⁷¹ However, the implementation of the legislation remains a matter of concern with few cases being brought forward and the legal provisions often not being implemented in practice. Moreover, a number of regressive proposals exist in some countries. According to the UK report, the annual speech presenting the financial estimates (budget speech) proposed that the Government will not implement Equality Act dual discrimination rules and that it will consult to remove the 'unworkable' requirement in the Equality Act for businesses to take reasonable steps to prevent persistent harassment of their staff by third parties as they have no direct control over it.⁷² These measures are justified by the need to cut costs. On the other hand, positive decisions were made by Courts regarding the access of foreigners to public employment in Italy. The report notes that the early months of 2011 were characterised, among other things, by two favourable rulings by the Courts of Lodi and Bologna, in the field of migrants' access to public employment. The first one was about the stabilisation of nurses' contracts, while the second was about public competition for professional profiles in the Single Desk for Immigration. In both circumstances, the Court ruled against two administrations (the Health Administration of the Province of Lodi and the administration of the Ministry of Interior), which had applied discriminatory criteria giving too broad a reading of the legislation which prohibits immigrants' access to public employment.⁷³

Changes to labour legislation are also reported in a number of national reports. In Romania, for instance, these are likely to negatively impact national minorities.⁷⁴ In Spain,⁷⁵ reforms made dismissals easier, while in Ireland,⁷⁶ changes to the work permit system in 2009 continue to restrict the movement of migrant workers; and new employment permits are only granted to 'highly skilled and highly paid' jobs, with a minimum salary of €30,000 per year. Some reports note developments relating to the transposition of the Employers' Sanctions Directive⁷⁷ which was due for transposition by July 2011.

In **Finland**, the **MONIVERKKO project** works to improve the skills of migrant workers by providing Finnish language education and skills training to migrants who are looking and applying for work. The project also stresses the importance of social capital in employment and organises special recruiting events where participants can visit prospective employers. It is coordinated by the Palmenia Centre for Continuing Education at the University of Helsinki and Diversa Consulting.

For more information: <http://blogs.helsinki.fi/moniverkko/pa-svenska/>

⁷⁰ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJL180/22

⁷¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJL 303/16

⁷² ENAR Shadow Report 2010/2011: United Kingdom, p.18

⁷³ ENAR Shadow Report 2010/2011: Italy, p.15

⁷⁴ ENAR Shadow Report 2010/2011: Romania, p.12

⁷⁵ ENAR Shadow Report 2010/2011: Spain, p.14

⁷⁶ ENAR Shadow Report 2010/2011: Ireland, p.14

⁷⁷ See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>

4. HOUSING

Manifestations of racism and racial discrimination

Within the context of housing and accommodation, ethnic and religious minorities continue to face prejudice and discrimination and a more problematic situation than the majority population. Some of the issues faced include difficulties in the private rental market, experiencing poor living conditions and overcrowding, difficulties in accessing public housing, discrimination by homeless shelters, housing segregation, difficulties in accessing funds and loans to purchase property and a lack of awareness regarding their rights and obligations.

Accessing the private rental market is particularly difficult for ethnic minorities across the European Union. Proving such discrimination is often difficult as overt discrimination is limited, with most forms of discrimination being cleverly disguised. The report from Belgium,⁷⁸ for instance, highlights that discriminating agencies usually appear welcoming and simply tell individuals that the lodging is no longer available. Such discrimination is highlighted in reports from Belgium, Denmark, Austria, Lithuania, Sweden, Spain, Finland, Ireland, the Czech Republic, the Netherlands, Malta and Poland.⁷⁹ According to the report from Spain, a 2010 survey indicates that 33.9% of landlords did not show properties to North-Africans, 36.8% refused to rent to Sub-Saharan Africans, while 35.1% increased the requirements set for Roma tenants.⁸⁰ The Polish report highlights that landlords either cancel or raise the rent significantly when realising that the potential tenant is from the Caucasus.⁸¹ The report from Denmark notes that the general experience of minorities when attempting to rent a room or an apartment often results in a rejection due to their accent, name and nationality.⁸² Other reports note that discrimination is sometimes even more overt and direct. The Lithuanian report⁸³ remarks that homeowners tend to rescind their offers when they meet migrants and ethnic minorities in person, or even tell them in advance that they do not rent apartments to foreigners. The report from Germany⁸⁴ refers to landlords and estate agents openly telling people of African descent that they are unwelcome. Some comments reported were 'If you at least had a German wife you would have had a chance to get this flat' or 'We do not want your colour here', or 'We are looking for a German couple'. Linked to this discrimination are cases of discrimination by estate agents, sometimes acting on instructions of landlords.

Discrimination in the private rental market forces people to move home regularly (as reported by the Irish national

In **Germany, Planerladen e.V.** works as a service point for anti-discrimination in the field of housing. In February 2011 Planerladen e.V., together with the Integration Council of the City of Dortmund and the Tenant Association of Dortmund, started a campaign to identify and highlight those landlords who practice non-discriminatory tenancy. The coalition awards non-discriminatory landlords a seal of quality as a public signal against discriminatory practice in the housing market. In collaborating with this initiative landlords pledge to adopt non-discriminatory tenancy practices. Planerladen e.V. verifies the practice through unheralded covered testing. In case of a negative result in the testing Planerladen e.V. and the landlord concerned will analyse the reasons for this and search for a solution.

For more information: www.planerladen.de

report), while increased prices coupled with poverty and social exclusion result in effective segregation. Ethnic minorities are more likely to find themselves living in areas inhabited mainly by other ethnic minorities and where living conditions are notably worse than in other areas. The report from Cyprus shows that the vast majority of migrants continue to live in dilapidated buildings, paying exploitative rents, in the centre of the major cities.⁸⁵ The report from Greece⁸⁶ describes how Roma settlements are in complete isolation from the majority population and lack basic services such as running water, electricity, sewage systems and access to public transport. The report from Lithuania quotes a survey commissioned by the Ombudsperson that describes shocking living conditions in Kiritmai⁸⁷ including: lack of electricity, heating by fuel stoves, few field water tanks, and no sewage and drainage systems.⁸⁸ The report from Italy⁸⁹ also describes that in the province of Caserta workers on dairy farms are often housed in stables close to livestock, in areas without toilets or electricity. Furthermore, migrant workers in the harvesting sector in Italy, mostly from Maghreb and Egypt, are housed in old factories or abandoned areas and only a small percentage live in shared apartments. The report from Hungary⁹⁰ highlights that the financial support provided to refugees who leave the pre-integration centre to move to private accommodation is not sufficient to acquire suitable and affordable housing. In most cases, the refugees end up staying in low cost areas with little access to health, education, or social services.

Access to public housing services is often problematic for migrants. Citizenship requirements are sometimes imposed while specific conditions are placed on migrants, especially beneficiaries of international protection. This, in turn, has the

78 ENAR Shadow Report 2010/2011: Belgium, p.14

79 See Section VI of the relevant national Shadow Reports

80 ENAR Shadow Report 2010/2011: Spain, p.15

81 ENAR Shadow Report 2010/2011: Poland, p.14

82 ENAR Shadow Report 2010/2011: Denmark, p.15

83 ENAR Shadow Report 2010/2011: Lithuania, p.15

84 ENAR Shadow Report 2010/2011: Germany, p.22

85 Available at: <http://cms.horus.be/files/99935/MediaArchive/publications/Cyprus.pdf>, accessed 30 August 2011

86 ENAR Shadow Report 2010/2011: Greece, p.20

87 A Roma camp in Vilnius

88 ENAR Shadow Report 2010/2011: Lithuania, p.14

89 ENAR Shadow Report 2010/2011: Italy, p.18

90 ENAR Shadow Report 2010/2011: Hungary, p.17

potential of resulting in homelessness and, at best, results in overcrowding as migrants support each other by hosting friends.

Some reports also note discrimination by homeless shelters as a matter of concern. The report from Hungary⁹¹ highlights that homeless refugees have difficulties accessing mainstream homeless shelters; even in those cases when it is possible, they find themselves in an environment full of racism and intolerance. The Danish report⁹² refers to December 2010, Denmark's coldest month in living memory, when some homeless shelters refused to allow Africans, Eastern Europeans and other ethnic minorities living in Denmark a place to sleep. This was the result of the Service Law passed by the Danish government in 2007, which allows shelters to refuse entry to foreigners.⁹³ Those who did accept foreigners were warned that state finances to their institution would be stopped. Not only are ethnic minorities therefore more likely to face homelessness due to discrimination but discrimination also impacts and restricts their access even to shelters.

The report from Romania⁹⁴ states that the situation of ethnic minorities in Romania is comparable to the situation of the mainstream population in highlighting that the housing conditions of the entire population are among the worst in the EU. As several Eurostat indicators reveal, half of the population in Romania lives in overcrowded dwellings, more than 40% have no bath or shower or indoor flushing toilet, and there is the highest rate of people with severe housing deprivation (28.6%). Nearly half of all houses are connected to drinking water and 45% to sewage systems.

Various national Shadow Reports also address the issue of home ownership and discrimination faced in the process leading thereto. The report from Italy⁹⁵ highlights that foreign families encounter increasing difficulties in purchasing real estate, with a widening gap between migrants and Italians, which is more pronounced in large cities. This is partly due to the cautious behaviour of banks. According to opinions expressed by 65% of real estate agencies, one of the main barriers to buying property is the difficulty for migrants to find suitable loans because of the higher requirements imposed on non-citizens by banks. The report from Portugal⁹⁶ highlights that banks require extra guarantees for foreigners in order to approve a loan for buying a house, such as a Portuguese guarantor. This practice is also current among homeowners, who usually demand a guarantor that is a Portuguese national, which is often an obstacle for

immigrants since their closest friends or relatives are usually of the same nationality.

Focus on people of African descent

The national Shadow Reports provide a snapshot which goes some way to illustrating the situation of people of African descent across the European Union. While particular countries have highlighted certain issues, they are by no means exclusive to those countries. The report from Germany notes that people of African descent are affected by gentrification, resulting in involuntary segregation. Rents tend to increase dramatically in inner city areas after re-development programmes, forcing poorer inhabitants to move to the fringes of the city, where cheaper accommodation is available. The German, Maltese and Italian reports identify people of African descent as experiencing discrimination when looking for accommodation and subsequently living in poorer conditions, impacted by overcrowding. In some cases, this is linked with difficulties accessing social housing and in other cases, to hosting family and friends.⁹⁷ Overt or hidden ethnic restrictions on who may and who may not rent property from homeowners and estate agents particularly affect people of African descent. Also emphasised is the link between employment and housing conditions. In Denmark, Africans were excluded from homeless shelters while in Italy, Lithuania, Germany and Malta discrimination is considered to be rooted in socio-economic issues, generating conflicts between residents, neighbours and homeowners. Moreover, the experiences of people of African descent in the housing sector continue to be negatively impacted by stereotypes and prejudices.

Legal and political context

While the Race Equality Directive prohibits discrimination in housing, there are a number of legal barriers which may result in discrimination against ethnic minorities. In Germany,⁹⁸ for instance, the Equal Treatment Act itself provides legitimate grounds for unequal treatment in the housing sector by providing exception clauses. One is the concept of a 'balanced ethnic mixture', which dominates housing policies in Germany since the 1970s. A quota of 15% inhabitants with a migrant background within a residential district is considered balanced. Many of the national reports refer to the need for legislation and policies to be implemented in direct partnerships with all involved, including associations of homeowners and tenants as well as banks and other relevant entities. The national Shadow Reports also highlight limitations

91 *Ibid.*, p.17

92 *ENAR Shadow Report 2010/2011: Denmark*, p. 15

93 See: <http://politiken.dk/indland/ECE1133874/eksperter-hjemloese-maa-ikke-holdes-ude-i-kulden/>, accessed 11 August 2010

94 *ENAR Shadow Report 2010/2011: Romania*, p.14

95 *ENAR Shadow Report 2010/2011: Italy*, p.18

96 *ENAR Shadow Report 2010/2011: Portugal*, p.12

97 See for instance: *ENAR Shadow Report 2010/2011: Germany*, p.22,

ENAR Shadow Report 2010/2011: Malta, p. 21, *ENAR Shadow Report 2010/2011: Italy*, p.17

98 *ENAR Shadow Report 2010/2011: Germany*, p.25

in national legal frameworks around social housing. For instance, in Cyprus,⁹⁹ the law provides that public assistance benefits may be granted only to asylum seekers, refugees and persons under subsidiary protection or holding a residence permit on humanitarian grounds, and victims of trafficking. All other third country nationals of any category are excluded from the law on grounds of their nationality and legal status. The report from Ireland highlights that the Habitual Residency Condition continues to render people homeless when they are deemed ineligible for emergency accommodation, social housing or rent allowances.¹⁰⁰ The same report highlights that the condition is forcing migrant women to stay in circumstances of domestic violence as their immigration status, and consequently access to social protection, are often tied to their spouse. This, the report notes, renders female migrants doubly vulnerable to discrimination in the field of housing. The report from Poland¹⁰¹ highlights that although the practice of excluding refugees from council housing in Warsaw has improved recently, the problem still exists and is also contributing to homelessness. In Lublin, another Polish city with a large population of refugees, the vote on a draft legislation granting refugees preferential treatment in accessing council housing has been delayed in the City Council for over a year now.

Some national Shadow Reports reflect the importance of national legislation and its implementation through court rulings. The report from Italy¹⁰² notes that after the forced eviction of a camp situated in Triboniano Street in Milan, the then Mayor promised public housing for Roma families. The promise remained unfulfilled after the Minister of Home Affairs rejected the initial solution. In December 2010 the Milan Court upheld the petition of ten Roma people. The decision of the Court was motivated by the fact that the non-allocation was caused solely by the ethnic origin of applicants. Moreover, following a judgment of the Court, Prosecutor Armando Spataro opened a criminal file to assess any racial discrimination profiles. After winning the civil case in January 2011, six families were eventually able to move into public housing. Moreover, in Lithuania, the Court issued a final verdict in a case relating to the demolition by the Vilnius City Municipality of a number of illegally built Roma houses. The Court found that the actions were arbitrary, disproportionate and illegal and awarded almost 13 000 Euros in non-pecuniary damages. According to the Lithuanian report, this judgment sets an important precedent.

A number of positive measures have been undertaken by some governments. In Spain, the 'Rental Housing for Social Integration' and 'Housing for Social Incorporation' programmes target families that are socially excluded and try to provide them with access to decent housing (through renting or purchasing).¹⁰³ In the Czech Republic, based on recommendations by the Ombudsman, the

Ministry of Local Development instructed municipalities to remove discriminatory criteria from the rules of allocation of municipality housing.¹⁰⁴ In Denmark, the Integration Act was amended so that municipalities cannot assign newly arrived refugees and immigrants to housing in ghetto areas or in areas featuring on the Social Ministry's list.¹⁰⁵

Many national reports also mention the National Action Plans on social inclusion and social protection with significant links to housing for ethnic minorities. As part of the Lisbon Strategy,¹⁰⁶ EU Member States adopt national action plans which translate the common objectives agreed under the EU framework for political cooperation, known as the 'Open Method of Coordination' (OMC). The overarching objectives for social protection and social inclusion include: social cohesion, equality between men and women and equal opportunities for all through adequate, accessible, financially sustainable, adaptable and efficient social protection systems and social inclusion policies, effective and mutual interaction between the Lisbon objectives of greater economic growth, more and better jobs and greater social cohesion. In 2010, the Lisbon Strategy came to an end, marking the last round of National Action Plans.¹⁰⁷ The report from Portugal¹⁰⁸ notes that the Plano Nacional para Acção e Inclusão (National Plan for Action and Inclusion) for 2008-2010 provides special measures to promote the social inclusion of immigrants and Roma, especially through access to housing. In other countries, such as Estonia, housing policies did not specifically address nor refer to the situation of ethnic and religious minorities. In Italy,¹⁰⁹ several measures have also been undertaken to support housing policies, including the creation of an Ethical Real Estate Fund, the 2010 Social Housing Programme and the Programme for Housing and Urban Regeneration.

The impact of austerity measures is noted in some national reports. In the UK,¹¹⁰ the welfare reform package announced by the Government in 2010 included making £50 million a year on savings on housing benefits, as well as large cuts to building new affordable homes and the provision of housing related help to vulnerable people. The report from the Czech Republic¹¹¹ notes that the preparation process for the 'Principles of the Strategy to Combat Social Exclusion' was negatively influenced by such austerity measures.

¹⁰⁴ ENAR Shadow Report 2010/2011: Czech Republic, p.13

¹⁰⁵ ENAR Shadow Report 2010/2011: Denmark, p.16

¹⁰⁶ The Lisbon Strategy for growth and jobs was launched in 2000 and came to an end in 2010. It was replaced by the Europe 2020 Strategy: http://ec.europa.eu/europe2020/index_en.htm

¹⁰⁷ The national action plans are submitted every two years and should set the national level strategy for the achievement of these goals. They represent the commitments and targets of Member States towards achieving social inclusion. For more information on the open method of coordination and the national strategies visit: <http://ec.europa.eu/social/keyDocuments.jsp?type=3&policyArea=0&subCategory=0&country=0&year=0&advSearchKey=nsr+spsi&mode=advancedSubmit&langId=en>

¹⁰⁸ ENAR Shadow Report 2010/2011: Portugal, p.14

¹⁰⁹ ENAR Shadow Report 2010/2011: Italy, p.22

¹¹⁰ ENAR Shadow Report 2010/2011: United Kingdom, p.20

¹¹¹ ENAR Shadow Report 2010/2011: Czech Republic, p.15

⁹⁹ ENAR Shadow Report 2010/2011: Cyprus, p.22

¹⁰⁰ ENAR Shadow Report 2010/2011: Ireland, p.17

¹⁰¹ ENAR Shadow Report 2010/2011: Poland, p.15

¹⁰² ENAR Shadow Report 2010/2011: Italy, p.19

¹⁰³ ENAR Shadow Report 2010/2011: Spain, p.16

5. EDUCATION

Manifestations of racism and racial discrimination

Discrimination within the education system takes a variety of forms including structural concerns (such as segregation and discrimination by teachers), and more personal concerns (such as language barriers and bullying at the hands of peers). The result of both is poorer educational attainment by many members of ethnic minorities and over-representation among early school leavers or drop-outs.

Various reports note a de facto segregation within the education system, whereby ethnic minorities are more strongly represented within lower ranked educational establishments. The UK report¹¹² notes that ethnic minority groups, with the exception of students of Chinese background, are more likely to attend less prestigious institutions. The report from Spain¹¹³ notes that Roma children are usually placed in separate classes with a lower academic level, while the report from the Czech Republic¹¹⁴ highlights that despite the European Court of Human Rights (ECHR) judgments on the issue, a third, and in some cases half the Roma children receive education in so called special/practical schools. This practice was found by the ECHR to violate the right to education. Similarly, the report from Romania highlights that children of migrant and Roma backgrounds are grossly over-represented in special schools.¹¹⁵ Moreover, the report from Austria¹¹⁶ refers to a high concentration of pupils with a migrant background in so-called special needs schools (Sonderschulen) - 27.8% of the pupils in these schools have a non-German speaking background. Segregation in schooling is also reflected in the quality of education provided. The European Commission Communication on Roma integration issued in 2010¹¹⁷ also acknowledges that education achievement within the Roma population is much lower than the rest of the population, although the situation differs among Member States. People of African descent also experience segregation in education.

Another challenge identified in many of the reports during the period under review is the existence of prejudice by teachers as well as bullying by peers. The report from Turkey, for instance, highlights that Roma children are faced with prejudice by teachers and peers, and are isolated, teased and discriminated against.¹¹⁸ The Finnish report highlights that immigrant children encounter more bullying than their peers, which is related to cultural and physical differences between the two groups rather than personalities or

individual traits or characteristics.¹¹⁹ The UK report refers to research results that found that prejudice related bullying based on students' identities was a widespread problem. In addition, racist bullying is the most widely recognised and addressed of all forms of bullying,¹²⁰ with an impact on the educational attainment of ethnic minority children. The issue of racist bullying is also quoted to differing degrees in reports from Finland, Denmark, Malta and Portugal.¹²¹ The report from Germany highlights how students, teachers and social workers report that Muslim girls wearing a headscarf are often targeted for criticism and harassment by teachers.¹²² Not only Muslim students but also students of African descent experience racist bullying during their education.

The Irish Traveller Movement Yellow Flag Project, piloted in 2008-2009, brings issues of interculturalism, equality, and diversity into both primary and secondary schools. The project is ongoing and expanding to more schools in the State.

For more information: www.itmtrav.ie

A key concern raised in various Shadow Reports is the level of early school leaving or drop-out rates within the education system. The reports from Spain and Romania note that drop-out rates are higher among children of foreign origin and the Roma population. The Romanian report identified that over 75% of drop-outs were of Roma background.¹²³ The report from Spain notes that only 20% of Roma pupils who start secondary education finish it.¹²⁴ The UK report highlights a disproportionate representation of ethnic minorities among those excluded from school. It notes that rates of permanent exclusion are highest for Gypsy/Roma pupils (0.38% of the school population), Travellers of Irish Heritage (0.30% of the school population) and black Caribbean pupils (0.30% of the school population). Black Caribbean pupils are three times more likely to be permanently excluded than the school population as a whole.¹²⁵

Low levels of education attainment are another concern raised in various national reports. The report from Sweden, for instance, highlights that one in four students with a migrant background left the compulsory school system without sufficient qualifications to enter the national programme in upper secondary school (Gymnasiet) in contrast to one in ten students of Swedish background.¹²⁶ The UK report notes that while 15.4% of white British pupils achieved the English Baccalaureate benchmark in 2010, the figures for many minority ethnic groups were far lower, at 10.4% for black African students, 10.3% for Pakistani students, 9.3% for Bangladeshi students, and 8.5% for mixed white and

112 ENAR Shadow Report 2010/2011: United Kingdom, p.22

113 ENAR Shadow Report 2010/2011: Spain, p.18

114 ENAR Shadow Report 2010/2011: Czech Republic, p.16

115 ENAR Shadow Report 2010/2011: Romania, p.17

116 ENAR Shadow Report 2010/2011: Austria, p.16

117 See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0133:FIN:EN:PDF>

118 ENAR Shadow Report 2010/2011: Turkey, p.18

119 ENAR Shadow Report 2010/2011: Finland, p.27

120 ENAR Shadow Report 2010/2011: United Kingdom, p.23

121 See Section VII of the relevant national Shadow Reports

122 ENAR Shadow Report 2010/2011: Germany, p.27

123 ENAR Shadow Report 2010/2011: Romania, p.18

124 ENAR Shadow Report 2010/2011: Spain, p.18

125 ENAR Shadow Report 2010/2011: United Kingdom, p.22

126 ENAR Shadow Report 2010/2011: Sweden, p.16

black Caribbean students.¹²⁷ Not all countries represented in this report have data disaggregated by race or ethnicity on educational attainment, making comparisons both risky and difficult. It is interesting to note, however, that the Austrian report highlights the arrival of EU nationals in Austria for purposes of studying has resulted in an unusual situation, namely, more people with a foreign background are represented in institutions of higher education, such as universities or technical colleges: 34.9% of the non-Austrian population have matriculation standard or higher compared to 28.8% of those with Austrian citizenship.¹²⁸ The report from Bulgaria notes that low levels of literacy and qualifications in the Roma community could be a key factor in contributing to the relatively high proportion of Roma not applying for, not attending, rarely attending or not graduating from school.¹²⁹

The language in which education is instructed is also a concern raised in a number of reports. The report from Turkey notes that while foreign languages such as English, French and German are permitted within the education system, the use of minority languages, most notably Kurdish, Circassian and Lax, are prohibited.¹³⁰ Moreover, language (and cultural) barriers are quoted as a key difficulty faced by ethnic minority children within the educational context. The report from Poland highlights, for instance, that asylum seekers and refugee children are not able to follow classes, read books or access other materials due to an insufficient command of the Polish language.¹³¹ The Finnish report, in turn, notes that children who doubt their language skills might be reluctant to answer questions posed in class due to fears of being bullied or made fun of as a result of imperfect Finnish language competencies.¹³²

Another key concern raised in various national reports is the reluctance to recognise degrees and academic achievement acquired outside the European Union. Non-recognition of qualifications impacts the possibility of further education as well as access to the labour market.

In the **United Kingdom**, the **Croydon Supplementary Education Project (CSEP)** provides Saturday School education and homework support for children aged four to eight from ethnic minority communities in the borough of Croydon. They currently have 130 students taking part in the project, and over 150 on the waiting list. They support core learning in English, Maths and Science and aim to prevent the continuation of ethnic imbalances in educational attainment, as well as emphasising the importance of recognising cultural heritage in mainstream schooling. CSEP also provides parent-student workshops on exam preparation and pupil exclusions from schools, as well as lifelong learning to adults in order to support the needs of the wider community and improve aspirations. For more information: www.csep.org.uk

127 ENAR Shadow Report 2010/2011: United Kingdom, p.20
128 ENAR Shadow Report 2010/2011: Austria, p.15
129 ENAR Shadow Report 2010/2011: Bulgaria, p.24
130 ENAR Shadow Report 2010/2011: Turkey, p.19
131 ENAR Shadow Report 2010/2011: Poland, p.16
132 ENAR Shadow Report 2010/2011: Finland, p.27

Focus on people of African descent

A number of trends emerged in relation to the experiences of people of African descent in the education system. The Dutch report notes how the education system has become largely segregated with schools being referred to as black or white. On a positive note, parent initiatives are noted in the same report as well as others that have sought to challenge this status quo. Some national reports, most notably (but not exclusively) coming from countries with relatively low numbers of people of African descent note that while there may be some initial apprehension, in most cases difficulties subside after meeting and interacting together. In other reports however, experiences of harassment, taunting, exclusion and bullying are reported, resulting in a generally negative experience for children of African descent. Another key concern, of which evidence in a number of countries is unfortunately lacking, relates to educational outcomes. One of the countries that have disaggregated data by ethnicity is the UK, which reports that black Caribbean students and other black students are among the lowest achieving in the education system. The report also highlights that 8% of all black university students attend Russell Group universities¹³³ compared to 24% of white students.

Legal and political context

The role of education for integration and social inclusion cannot be under-stated. Many national reports relate political discussions around the inclusion of ethnic minorities within the educational system. The EU Common Basic Principles (CBP) on Integration¹³⁴ make reference to education and training. CBP No. 4 recognises that 'basic knowledge of the host society's language, history and institutions is indispensable to integration and that enabling immigrants to acquire this basic knowledge is essential to successful integration'. CBP No. 5 notes that efforts in education are critical to preparing immigrants, particularly if their descendants are to be more successful and more active participants in society. The third edition of the Handbook on Integration¹³⁵ published by the European Commission in April 2010 dedicates a section to education and the labour market. The Handbook makes reference to and recommendations about a number of important elements including: access to primary and secondary education for all, removing biases from selection and grouping in the school system, accurate assessments of newcomers' prior learning abroad, systematic on-going support on a needs basis for

133 The Russell Group represents 20 leading UK universities which are committed to maintaining the best research, an outstanding teaching and learning experience and links with business and the public sector.
134 See: http://www.consilium.europa.eu/uedocs/cms_data/docs/press_data/en/jha/82745.pdf
135 Available at: http://ec.europa.eu/ewsi/UDRW/images/items/doc_12892_168517401.pdf

immigrant pupils, resource allocation mechanisms, training and recruiting of teachers for a diverse classroom and prioritising the implementation of intercultural education. It also makes reference to other aspects that could support the integration of students from migrant backgrounds, including outreach and partnership with parents from disadvantaged backgrounds, mother tongue tuition, the provision of models and mentors for immigrant pupils and after-school assistance to improve performance and build bridges. Finally, it makes recommendations regarding the facilitation of the transition to higher education and into the labour market. Most national reports acknowledge that education is given attention in national efforts toward social inclusion, as well as national integration policies and strategies.

In **France**, the **Lilian Thuram Foundation**, the **MGEN** (French mutual insurance for education staff) and the **CASDEN** (French cooperative bank for education staff) have launched a multimedia education programme against racism for primary school teachers and hope to propose it to up to 1.3 million children in France.

For more information: www.thuram.org

The Commission Communication on the social and economic integration of the Roma in Europe¹³⁶ published in April 2010, aims to indicate how the European Union will develop its contribution to the full social and economic integration of the Roma, on the basis of the progress achieved. The Communication sets the development of explicit desegregation policies, notably in education and in housing, supported by the Structural Funds, as well as the mainstreaming of Roma issues within broader education policies as some of the key challenges ahead. The second Communication on 'An EU Framework for National Roma Integration Strategies up to 2020'¹³⁷ also sets a number of targets and objectives to be achieved in the field of Roma integration over the coming decade. Among other things, it sets ensuring that all Roma children complete at least primary school as one of the key objectives to be achieved. It provides that Member States should ensure that all Roma children have access to quality education and are not subject to discrimination or segregation, regardless of whether they are sedentary or not. Member States should also widen access to quality early childhood education and care and reduce the number of early school leavers from

secondary education pursuant to the Europe 2020 strategy. Roma youngsters should also be strongly encouraged to participate in secondary and tertiary education.

A number of important developments also occurred on the national level over the reporting period. In Italy,¹³⁸ the Ministry of Education issued a circular to set a maximum limit of 30% on the number of foreign students in each classroom. The declared objective of the rule was to 'overcome the traditional model and educational techniques and to offer methodologies (...) suitable for new and different needs'. In the UK, the Ethnic Minority Achievement Grant which was set up to narrow achievement gaps has been mainstreamed into the 'dedicated schools grant', removing its ring-fenced status.¹³⁹ In Romania a new law was passed which should lead to more rights and special solutions for minorities, especially Roma children, and forbids any kind of discrimination.¹⁴⁰ Finland saw the enactment of a new Law on the Integration of Immigrants.¹⁴¹ It improves access to integrative education and, therefore, earlier access to language education, which is available to everyone upon request. The prior Law did not provide integrative education to those who arrived in Finland under family reunification schemes or who were outside the scope of certain state subsidies for some other reason.

136 *European Commission, Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2011: Brussels, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010DC0133:EN:HTML> (accessed 10 January 2012)*

137 *European Commission, Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2011: Brussels, p.9, available at: http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf (accessed 10 January 2012)*

138 *ENAR Shadow Report 2010/2011: Italy, p.25*

139 *ENAR Shadow Report 2010/2011: United Kingdom, p.25*

140 *ENAR Shadow Report 2010/2011: Romania, p.19*

141 *ENAR Shadow Report 2010/2011: Finland, p.29*

6. HEALTH

Manifestations of racism and racial discrimination

Ethnic and religious minorities continue to face discrimination in healthcare across the European Union. Manifestations include prejudice by staff and patients, significantly lower health outcomes, language and cultural barriers, as well as legal challenges (especially in the case of migrants).

The barriers in regard to health are thus of a legal, financial and/or social nature. The report from Greece notes a number of barriers faced by ethnic and religious minorities in accessing adequate healthcare.¹⁴² These barriers are largely applicable across the European Union. They include: legal and administrative difficulties in acquiring a valid residence permit or identification card, financial difficulties in making personal payments for health and social care services, inadequate information on access to services including allowances and benefits, language difficulties in communicating with the relevant professionals, biases and stereotypes of professionals towards ethnic minorities (generally or particular groups), as well as fear and bias of groups towards the operation of public services. The UK report also highlights a number of issues which are critical and can largely be applied to many European countries. These include: low income, sub-standard housing, poor health and safety practices in some industries which employ migrants, inadequate information on how to access health services, lack of knowledge about or denial of entitlement to primary healthcare, inadequate language support and the cultural insensitivity of some healthcare providers.¹⁴³

The Dutch report provides a perspective which goes some way to explaining the reasons behind the ineffectiveness of the healthcare system in addressing the needs of ethnic minorities. It notes that the health system is structurally racist as medical studies are only based on young, white, Dutch men. Specific disease or problems experienced by ethnic minorities are not even studied. It concludes that it is therefore no surprise that women from ethnic minorities in the Netherlands have the lowest/worst health indicators when compared to all other groups.¹⁴⁴ The general low level of diversity consciousness and diversity measures is also highlighted as a critical issue in Austria.¹⁴⁵

Discrimination and segregation in other spheres also impact access to and the quality of the healthcare available to ethnic minorities. The report from Romania highlights that access to medical care is more difficult due to the conditions in which many Roma communities live, including poor

housing, social marginalisation, unemployment and lack of identity documents.¹⁴⁶ The report from Austria highlights that healthcare services in areas with a high concentration of migrants are far worse than in others.¹⁴⁷

Adequate and disaggregated data is lacking in most countries however, when available, it illustrates a worrying trend showing that ethnic minorities have substantially poorer health outcomes than the majority population. For instance, in Romania, the life expectancy of Roma persons is 10 years lower than that of other Europeans. This, the Romanian report highlights, is the result of multiple factors including poverty, social exclusion, lack of awareness of rights as well as of prevention measures, including vaccinations. The report further describes that almost half of the Roma children do not receive appropriate vaccinations despite these being both free and compulsory. Nutrition, or the lack thereof, is also a critical factor.¹⁴⁸ The International Labour Organisation¹⁴⁹ has indicated that more than 40% of the children in Roma households are malnourished and hungry. The most recent data released indicates that child mortality is at least three times higher than the national average. The report from Ireland¹⁵⁰ also notes that life expectancy for both men and women is lower in the Traveller community than in the overall population (Traveller men 61.7, general population 76.8; Traveller women 70.1, general population 81.6). The report from Bulgaria¹⁵¹ lists a number of factors that contribute to the substantial decrease in the general level of health among Roma. These include: an outdated and dysfunctional health system, lack of appropriate infrastructure in Roma settlements which limits access to health services, lack of prioritising prevention measures, lack of health education including knowledge about infectious diseases, difficulties with financing healthcare coverage as well as outright discrimination. Data from the UK indicates that minority ethnic communities experience poorer health outcomes, with certain communities experiencing disproportionately high rates of certain health conditions.¹⁵² The report notes, for instance, that infant mortality rates in England and Wales for children born to mothers from Pakistan is double the average while people from minority ethnic communities are up to six times more likely to develop diabetes.

Language and cultural barriers are also repeatedly quoted in the context of access to healthcare. The report from Lithuania, for instance, highlights that state owned health

142 ENAR Shadow Report 2010/2011: Greece, p.26

143 ENAR Shadow Report 2010/2011: United Kingdom, p.27

144 ENAR Shadow Report 2010/2011: The Netherlands, p.18

145 ENAR Shadow Report 2010/2011: Austria, p.19

146 ENAR Shadow Report 2010/2011: Romania, p.21

147 ENAR Shadow Report 2010/2011: Austria, p.19

148 ENAR Shadow Report 2010/2011: Romania, p.21

149 John Bennett, Raportul national IRSDTC pentru România 2010, Project: Roma Inclusion in Services for Early Childhood Development, 2010

150 ENAR Shadow Report 2010/2011: Ireland, p.21

151 ENAR Shadow Report 2010/2011: Bulgaria, p.28

152 ENAR Shadow Report 2010/2011: United Kingdom, p.26

services' employees often have limited knowledge of English and translation is not provided.¹⁵³ The German report notes that for a long time researchers and professionals in the healthcare sector indicated that language, as well as cultural and religious differences, composed some of the main barriers to equal access to the health system and to equal medical treatment.¹⁵⁴ The report from Portugal, in turn, notes that 23% of respondents to a survey felt that language and culture created effective barriers. The report notes that it is often difficult to find doctors, caregivers or administrative employees who speak the languages most widely spoken by the migrant community.¹⁵⁵ Linked to this is the need for culturally sensitive healthcare provision. In Malta,¹⁵⁶ despite assistance by cultural mediators, some language and cultural barriers continue to be faced while in the UK,¹⁵⁷ evidence indicates that minority ethnic groups face problems in accessing culturally appropriate services and information from their General Practitioner. In Denmark, the possibility of requesting an interpreter was discontinued, which is likely to further impede access to quality healthcare for ethnic minorities, most notably the elderly.¹⁵⁸

Negative attitudes by healthcare professionals are also reported in many reports. The report from Sweden noted cases involving professional doctors and nurses harassing and offending migrant women during their visits to hospitals, for instance, by repeatedly asking them why they had not learned the language.¹⁵⁹ The Polish report notes that refugees are often ignored and not given treatment by doctors, despite having a scheduled appointment.¹⁶⁰

In **Romania**, the **Association for Development and Social Inclusion**, in partnership with the **Medical School "Gr. T. Popa"**, Iasi, and the **Asociatia Medicilor rezidenti din Romania**, and with the financial support of the Open Society Foundation, implemented a project introducing a course on ethics and discrimination against vulnerable groups in the university curricula relevant to health and medical services. These institutions, along with the National Council for Combating Discrimination, also organised courses on the issue of discrimination against Roma in accessing health services and medical care. This was to inform and raise awareness about discriminatory trends against Roma, as well as to provide participants with advocacy tools to enhance Roma access to public medical care.

Not only patients experience discrimination in the healthcare system, but healthcare professionals do as well. In Belgium, for instance, employees of a minority background within the health sector often complain of unfair task assignment among team members. Interim doctors, who migrate to Belgium for their medical specialty, are often unpaid during their internships whereas other interns are paid.¹⁶¹ Moreover, official specialists often refuse to validate their specialty at the end of their studies.

Partly linked to this issue is the refusal by patients to be treated by service providers from ethnic or religious minorities. The Danish report highlights that during the reporting period many patients in hospitals and nursing homes started to refuse to be examined by doctors and nurses who wore headscarves. The report quotes a survey which found that 65% of the 7,826 Danes polled said that it was the right of the patient to refuse treatment by a medical professional who was wearing a headscarf.¹⁶² The Belgian report notes that minority health workers are often subjected to discrimination and rude comments from patients.¹⁶³

A critical issue highlighted in various reports is mental health and specifically the impact of certain policies on the mental health of ethnic minorities, especially migrants. The Irish report quotes serious concerns over the impact of dispersal and direct provision on the mental health of asylum seekers.¹⁶⁴ The German report notes that a study released in July 2010 highlighted that detaining asylum seekers in detention centres is making them sick.¹⁶⁵ It notes that, even more disastrous than the impact on their physical well-being, is the impact on their mental health. 90% of interviewees said that detention had a negative impact on their mental health. The report from Italy notes that the Italian Government's decision to extend the maximum period of detention for undocumented migrants up to 18 months will have dramatic repercussions on the physical and mental health of people who have already experienced major trauma.¹⁶⁶

The impact of detention on the health of asylum seekers is also highlighted in the Malta report which addresses the complex issue of accessing medical services while detained. The report notes that many detainees had access to medical staff once a week, while a smaller proportion had access less than once a month.¹⁶⁷ The Italian report identifies poor

153 ENAR Shadow Report 2010/2011: Lithuania, p.24

154 ENAR Shadow Report 2010/2011: Germany, p.30

155 ENAR Shadow Report 2010/2011: Portugal, p.18

156 ENAR Shadow Report 2010/2011: Malta, p.33

157 ENAR Shadow Report 2010/2011: United Kingdom, p.28

158 ENAR Shadow Report 2010/2011: Denmark, p.24

159 ENAR Shadow Report 2010/2011: Sweden, p.21

160 ENAR Shadow Report 2010/2011: Poland, p.19

161 ENAR Shadow Report 2010/2011: Belgium, p. 20

162 ENAR Shadow Report 2010/2011: Denmark, p.22

163 ENAR Shadow Report 2010/2011: Belgium, p. 22

164 ENAR Shadow Report 2010/2011: Ireland, p.21

165 ENAR Shadow Report 2010/2011: Germany, p.31

166 ENAR Shadow Report 2010/2011: Italy, p.29

167 ENAR Shadow Report 2010/2011: Malta, p.32

hygienic conditions in the centres on the island of Lampedusa as potentially facilitating the spread of infectious diseases. Commenting about Sicily, the report highlights that people live in tents and the medical services are unsatisfactory.¹⁶⁸

Focus on people of African descent

It is difficult to identify manifestations of racism and racial discrimination in the field of healthcare that are particular to people of African descent. One trend that emerged, however, is that most manifestations impact this group more severely than they do other groups. This includes problems with accessing services, the quality of the services received, the linguistic and cultural appropriateness of those services, receiving rude treatment by other patients and medical personnel, as well as lower health outcomes. The report from Cyprus notes that Sub-Saharan migrants were more likely to be denied access to healthcare irrespective of legal status. In Sweden, a claim was made that an African woman was offended by hospital staff. Data in the UK highlights the lower health outcomes of this particular group. It is clear from the various national Shadow Reports that the visibility of this particular group makes them particularly vulnerable to discrimination and disadvantage.

Legal and political context

The Race Equality Directive prohibits racial discrimination in access to healthcare. The Directive has now been transposed in all EU Member States and most national Shadow Reports indicate that no legislative developments took place over the reporting period relating to anti-discrimination in the context of healthcare.¹⁶⁹

Based on research carried out in Malta, Cyprus and Romania, the Healthcare for Undocumented Migrants and Asylum Seekers (HUMA) network made a number of recommendations regarding access to medical care for undocumented migrants.¹⁷⁰ The network called for the following: ensuring effective and equitable access to healthcare and prevention for undocumented migrants and asylum seekers (access based on equal grounds as nationals with the same medical needs and level of resources); addressing the specific needs of vulnerable groups (pregnant women, children and victims of torture), including providing them immediate access to preventative medicine and care; protecting seriously ill

undocumented migrants from expulsion by granting them a permit to stay when they are unable to receive effective access to treatment in their country of origin; respecting medical confidentiality; ending the duty to denounce undocumented migrants within the health system and the penalisation of assistance to undocumented migrants; providing effective access to healthcare for foreigners confined in detention centres and monitoring detention centres by independent bodies.

After examining the legal situation in 10 EU Member States with regard to access to healthcare for undocumented migrants, the EU Fundamental Rights Agency found that: "European healthcare systems are struggling to balance considerations relating to costs and public health in a manner which adequately implements existing human rights standards. While all those residing in a country should have access to certain basic forms of healthcare - such as emergency healthcare and the possibility to see a doctor in case of serious illness or a gynaecologist in case of pregnancy - in practice such access is not always guaranteed".¹⁷¹

The Agency also found that there is often a disconnect between national legislation and what happens in practice. In countries with broad healthcare coverage, practical obstacles may keep a certain share of migrants in an irregular situation from benefiting from it, whereas in countries with limited entitlements, local level initiatives, often implemented by or through NGOs, can alleviate the situation. The report further notes that excluding migrants in an irregular situation from healthcare endangers their lives and wellbeing, increases the cost of future emergency treatment and can also potentially pose a health risk to the wider community.

A number of positive measures were undertaken in several European countries. In Sweden, the Equality Ombudsman (Diskrimineringsombudsman - DO) has focused on the right to healthcare on equal terms. It organised workshops with representatives of different interest groups, patient organisations and researchers examining gender action plans and plans for equal rights and opportunities in ten counties. In spring 2012, a report will be published with the DO's collective experience of the focus work.¹⁷² Moreover, the Swedish Ministry of Health and Social Affairs reported that the government appointed an inquiry to investigate healthcare for asylum seekers, hidden and undocumented migrants. The aim is to propose an extended obligation

168 ENAR Shadow Report 2010/2011: Italy, p.29

169 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJL180/22

170 HUMA Network, *Access to Healthcare & Living Conditions of Asylum Seekers & Undocumented Migrants in Cyprus, Malta, Poland & Romania* (Brussels: 2010/2011)

171 European Union Agency for Fundamental Rights, *Migrants in an irregular situation: access to healthcare in 10 European Union Member States* (Vienna: 2010)

172 The Equality Ombudsman, <http://www.do.se/sv/Press/Debattartiklar/Varden-maste-sluta-diskriminera-patienter/>, accessed 20 September 2011

In **Portugal**, **Médicos do Mundo** (Doctors of the World) provides medical support to undocumented migrants (as well as to other populations), from clinic analyses (e.g. HIV tests) to medical care treatment and medicines, totally free of charge, through the campaign '**Saúde sem Papéis**' (Health without Papers). Médicos do Mundo has a vehicle that drives to strategic neighbourhoods in Lisbon in order to carry out this work.

For more information: www.medicosdomundo.pt

for county councils to provide affordable healthcare to affected communities. In Poland, outreach activities were organised to help overcome some of the barriers faced by Roma in accessing healthcare.¹⁷³ Activities aimed at raising awareness of preventative medicine were mainly conducted through the employment of community nurses and by funding their work. Direct medical help was provided, ordinary medical guidance services were carried out, and medicines and personal hygiene products purchased from subsidies were distributed. The Ministry of Health in Latvia developed the 'Fundamental Principles of Society Healthcare 2011-2017'.¹⁷⁴ The document aims at maintaining, improving and restoring the health of residents of Latvia and at prolonging the duration of high-quality life. Among other things, it aims to 'avert inequality in the field of healthcare by implementing measures, which ensure all Latvia's residents equal opportunities for health'. The report from Malta¹⁷⁵ commends the work undertaken by the Migrant Health Unit which provided, inter alia, training for medical staff and awareness raising among migrant communities. In Spain, more mediation and translation services were set up to solve communication problems between doctors and non-Spanish speakers.¹⁷⁶ In Finland, a new Healthcare Act enacted at the end of 2010 allows more freedom in the choice of health centres, further reducing the risk of segregation in healthcare.¹⁷⁷ Finally, Portugal adopted a National Health Plan which goes along with the Second Plan for Immigrant Integration and proposes to promote access to the healthcare system for migrants, and to reduce inequalities in the health system.¹⁷⁸

Other reports highlight some concerns such as the delay in the implementation of the new national insurance scheme in Cyprus (which would still not resolve the problem of equal access to healthcare to all persons without discrimination, such as non-economically active migrants or undocumented migrants, but it would at least address the problems of the majority of migrant workers),¹⁷⁹ while in the Czech Republic an approved law evidently inflates the cost of insuring foreigners six-fold.¹⁸⁰ The new law is described as extremely disadvantageous for migrants and runs completely contrary to what NGOs demanded. The Netherlands noted an increase in the price of medical insurance.¹⁸¹ In Romania,¹⁸² the process of decentralisation raised some concerns regarding the changing role of health mediators, while in Italy it is reported to lead to inequalities in access to, and provision of, services to migrant populations.¹⁸³

173 ENAR Shadow Report 2010/2011: Poland, p.20

174 ENAR Shadow Report 2010/2011: Latvia, p.23

175 ENAR Shadow Report 2010/2011: Malta, p.35

176 ENAR Shadow Report 2010/2011: Spain, p.22

177 ENAR Shadow Report 2010/2011: Finland, p.34

178 ENAR Shadow Report 2010/2011: Portugal, p.19

179 ENAR Shadow Report 2010/2011: Cyprus, p.32

180 ENAR Shadow Report 2010/2011: Czech Republic, p.20

181 ENAR Shadow Report 2010/2011: The Netherlands, p. 19

182 ENAR Shadow Report 2010/2011: Romania, p.23

183 ENAR Shadow Report 2010/2011: Italy, p.30

7. ACCESS TO GOODS AND SERVICES

Manifestations of racism and racial discrimination

The Race Equality Directive prohibits discrimination in access to goods and services. Even so, to different degrees and in various areas, ethnic minorities across the European Union continue to face discrimination and racism in this field. In most contexts, data on access to goods and services does not exist and considering the personal nature of such encounters, it is often difficult for individuals to prove that such discrimination has occurred. Unfortunately, many national reports note that the situation has not improved from previous years.

The report from Spain¹⁸⁴ provides a snapshot of the prevalence of such discrimination. Research quoted in the report found that an average of 27% of the respondents affirmed that people glared at them in shopping areas (this ratio raised to 49% for Roma and to 38% for Sub-Saharan). On average, 21% of ethnic minorities were not allowed to enter a night club, a bar, a restaurant, a cinema or a shop (33% for Roma and Sub-Saharans). Sub-Saharans also experienced high discrimination rates in banking (10.8%) and in public transport (22.4%). Discrimination is also suffered by citizens from Eastern Europe, the Maghreb, Asia and Latin-American. The report from Italy¹⁸⁵ notes that complaints received by the National Office Against Discrimination (UNAR) in the public services area have increased (16% of complaints in 2010, compared to 13.7% in 2009), as well as the ones received in the financial services supply area (3.3% in 2010 compared to 2.1% in 2009).

A number of areas continued to be particularly problematic in this regard. Foremost among these is access to bars, pubs, clubs and other places of entertainment. Such discrimination is noted in reports from, among others, Finland, the Czech Republic, Germany, Bulgaria, Hungary, Sweden, Malta, Poland and Austria.¹⁸⁶ An interesting case in Bulgaria¹⁸⁷ resulted not only in the owner of the coffee shop being fined for a discriminatory action, but also the mayor, who failed to take appropriate action at the time, thereby allowing discrimination to take place. Danish TV's youth programme 'Basta' conducted a situation test, where it sent two groups of educated and well-dressed youth to five discos in Copenhagen. The group of white Danes had no problem entering while the second group of minority youth was refused entry in four discos with excuses such as: improper dress, being too big a group, and not being on the guest list. Despite this, the spokesperson of the Copenhagen police continued to deny the existence of such discrimination.¹⁸⁸ There is also a degree of 'tailing' by security or outright denial of entry into shops - a reality which affects the Roma community more than any other. The report from Poland¹⁸⁹ notes that a woman from Mongolia complained that she was followed in shops and sometimes perceived to be a shoplifter just because she looked 'different'.

Another area which is highlighted as being particularly problematic relates to financial services and access to bank credit. In Spain,¹⁹⁰ for instance, a woman was offered a credit card in a bank but when she said that she was Romanian, she was told that she could not have it because she was a foreigner. In Germany, an insurance company was accused of refusing to sell car insurance to migrants, demanding 100% more money from migrants and requiring that annual fees be paid in cash. Moreover, policies not aimed directly at ethnic minorities affect them disproportionately and result in indirect discrimination. The report from Germany¹⁹¹ notes that charges on accounts without credit disproportionately affect ethnic minorities for whom such accounts are often the only option. The report from Portugal¹⁹² notes that bank clerks often perceive potential immigrant clients as less qualified, with complex and vulnerable economic situations. Many also maintain the assumption that immigrants stay in Portugal for a short period of time and, therefore, are not worthy of the bank's investment. A case in Bulgaria¹⁹³ highlighted that the physical appearance of a black person changed a decision regarding the issuance of a loan from a certain bank. The loan had been agreed upon over the phone but upon meeting the bank staff in person, the individual was told that the loan was not going to be issued.

In March 2011, for the first time, **situation tests** took place in **Poland** as part of a Europe-wide initiative of various NGOs. They were carried out by a group of NGOs in cooperation with Warsaw local authorities. A sample of white and black test persons, who looked alike, behaved the same and wore similar clothing, visited eight popular night clubs in Warsaw. The results showed that in three of the clubs, the black test persons were discriminated against, as the door staff denied them access. Five minutes after they were refused entry, the white test persons were allowed to enter. The black test persons were told either that 'it was a private party' or 'invitations were required' and were thus refused entry.¹⁹⁴

Public transport is listed in some countries as being another area where discrimination is prevalent. The report from Italy¹⁹⁵ notes that several discrimination cases occurred on public transport, especially at bus stops. In some cases, bus drivers ignore migrants waiting on a bus and deny them access to the transport service. The choice of public transport routes is another feature related to institutional/structural discrimination. For example, the nearest bus station to the Salone Street's nomad camp in Rome is 1.5 Km away and people have to walk along an impracticable road to reach it,

184 ENAR Shadow Report 2010/2011: Spain, p.30

185 ENAR Shadow Report 2010/2011: Italy, p.37

186 See Section X of the relevant national Shadow Reports

187 ENAR Shadow Report 2010/2011: Bulgaria, p.41

188 ENAR Shadow Report 2010/2011: Denmark, p.33

189 ENAR Shadow Report 2010/2011: Poland, p.27

190 ENAR Shadow Report 2010/2011: Spain, p.30

191 ENAR Shadow Report 2010/2011: Germany, p.42

192 ENAR Shadow Report 2010/2011: Portugal, p.26

193 ENAR Shadow Report 2010/2011: Bulgaria, p.42

194 See press release: <http://www.interwencjaprawna.pl/docs/press-release-noc-testow.pdf>, accessed 31 August 2011

195 ENAR Shadow Report 2010/2011: Italy, p.37

and the closest train station has been closed for over eight months for reasons of public order, thus hindering access to the city.

A key issue relates to indirect barriers to access to goods and services, which in some situations can have the same impact on access. If information is not adequately provided to all individuals, particularly those of a certain background who are more vulnerable to prejudice, then the lack of transparency regarding their rights may hinder their ability to access goods and services. The report from Estonia,¹⁹⁶ for instance, highlights that the provision of legal aid, free of charge, by the government was inaccessible to Russian speakers since the entity running it (the Bar association with the support of the Ministry for Justice) did not and had no plans to make the documents and the services available in Russian. The report from Bulgaria¹⁹⁷ notes that the necessary information is rarely provided in languages other than Bulgarian. The public service structure as a whole is not 'foreign customer friendly'. Only a few of the clerks speak foreign languages. The report from Hungary¹⁹⁸ describes how discrimination occurs on two levels: the outright denial of access to services and/or the lack of information on how to access services. Despite the fact that under the Cypriot Constitution, the official languages of Cyprus are Greek and Turkish, with English being used as a second language, the Cyprus report¹⁹⁹ notes that most information on government websites is launched only in Greek. Ironically, the website providing information on Greek language lessons for non-Cypriots is available only in Greek. Very little information is provided in Turkish on the websites of public institutions, with more information available in English than in Turkish.

Legal barriers are another element critically addressed in a number of Shadow Reports. The 'Habitual Residency Condition' (HRC) in Ireland, for instance, acts as a barrier to accessing public sector goods and services for many migrants. Women's groups argue that the HRC is effectively leaving women no choice but to remain in violent domestic situations. A coalition of women's and migrant organisations have highlighted this fact, arguing that women experiencing domestic violence should be exempt from the HRC and be able to access services and assistance to enable independence.²⁰⁰

Focus on people of african descent

In various countries people of African descent are, partly due to the visibility of their minority status, particularly vulnerable to racism and discrimination in the context of goods and services. The impact of this behaviour is to make people feel like they do not belong, creating a tiered society. For instance, people of African descent appear to be particularly vulnerable to rejection at clubs and bars, as highlighted in reports from Malta, Germany, Poland and Cyprus. The ethnic identity of a person, combined with age and gender characteristics, increase the probability of experiencing discrimination.

Legal and political context

As highlighted elsewhere, the Race Equality Directive prohibits discrimination in access to goods and services. The adoption of the proposed Horizontal Equal Treatment Directive²⁰¹ would go some way to ensuring that a similar prohibition exists for discrimination on the basis of religion. Unfortunately, discrimination based on migrant status (provided this does not amount to indirect racial discrimination) is and will continue to be excluded from the remit of anti-discrimination legislation.

The national Shadow Reports make a number of interesting observations regarding, for instance, the proactive role taken by equality bodies in some countries. This is often done with the support of, or in partnership with, NGOs and civil society, as well as local governments. The imposition of penalties for a series of cases, and the way in which cases are presented and addressed are positive developments and a clear indication that equality bodies can be effective if they are supported by a strong political will. It is unfortunate, however, that this is not the case everywhere.

In Spain,²⁰² a proposed Comprehensive Equality Law contains two provisions which could increase the material scope of protection of the current legislation. Art. 20.1 of the law would forbid discrimination in access to goods and services. It makes express reference to financial services, transport, training and leisure activities. Art. 20.2 prohibits differentiated treatment on the grounds of ethnic origin and religion or belief. Finally, Art. 21 limits the 'admission policies' of bars and restaurants so they cannot be discriminatory and must be publicly visible for everyone. A similar rule has already been adopted in Catalonia. In Portugal,²⁰³ the Presidency of the Council of Ministers presented the second Plan for Immigrant Integration which puts forward a high number of measures regarding positive immigrant integration, specifically within public services. For example, measure 36 - Training plan for intercultural skills for National Health System employees; measure 55 - Awareness and training for fighting racial discrimination; and measure 59 - Consolidate information/training for immigrants on their rights as consumers.

196 ENAR Shadow Report 2010/2011: Estonia, p.36

197 ENAR Shadow Report 2010/2011: Bulgaria, p.41

198 ENAR Shadow Report 2010/2011: Hungary, p.31

199 ENAR Shadow Report 2010/2011: Cyprus, p.43

200 ENAR Shadow Report 2010/2011: Ireland, p.29

201 Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation - COM/2008/0426

202 ENAR Shadow Report 2010/2011: Spain, p.31

203 ENAR Shadow Report 2010/2011: Portugal, p.27

8. CRIMINAL JUSTICE

Policing and ethnic profiling

Ethnic profiling continues to raise concerns in various countries across the European Union although few countries collect specific data in this regard. The impact of such measures includes less effective policing, barriers to social cohesion, anger and frustration among ethnic minorities as well as a sense of alienation.

During the reporting period the EU Fundamental Rights Agency published results from its European Union Minorities and Discrimination Survey (EU-MIDIS) regarding policing and ethnic profiling.²⁰⁴ The 'Data in focus' report, which is the first EU-wide survey providing evidence about minorities' experiences of policing, makes a number of alarming observations. In 10 countries researchers also conducted interviews with people from the majority population (living in the same areas as the interviewed minorities) about their experiences of police stops. In six out of the 10 countries, where both majority and minority populations were interviewed, minority respondents were stopped more often than the majority population. Only minorities represented those experiencing three or more stops within a 12 month period. They were also more likely to be stopped when on public transport or on the street. The report noted, for instance, that among those stopped by the police in public transport or on the street in Hungary,²⁰⁵ 83% were Roma as opposed to 10% of the general population. In Spain,²⁰⁶ 81% of North Africans were stopped in similar circumstances as opposed to 30% of the majority population. Moreover, minorities were more likely to be asked for identification documents during such stops with, for instance, 90% of North Africans in Italy²⁰⁷ and 88% of Roma in Greece²⁰⁸ being asked for documents as opposed to 48% of the majority population in these countries. The report also notes that minority respondents were more likely to experience disrespectful attitudes from the police during these stops. Research by the Open Society Justice Initiative on Profiling in France found, inter alia, that many youth are so used to being asked for their identity documents and searched that they have accepted this as 'normal' as long as it is not accompanied by further police action or abuse. Moreover, the same research found that those targeted for these checks seem to be rather young, with police profiling 12-14 year-olds in certain locations.²⁰⁹

The national Shadow Reports provide information and anecdotes that confirm the findings of the EU-MIDIS research. The UK report²¹⁰ notes evidence demonstrating

that minority ethnic communities are over-surveyed and under-protected by the criminal justice system with black people being at least six times, and Asian people twice more likely to be stopped and searched than a white person. The same report notes that young black and Asian men feel they are stopped and searched simply because they fit a general stereotype, resulting in anger and alienation among these communities. According to the government's 'Citizenship survey', ethnic minorities are more likely than white people to feel that they would be treated worse than people of other races by the criminal justice system (15% compared to 9%).²¹¹ The report from Bulgaria²¹² also highlights that stop and search practices and the general attitude and behaviour of police and law enforcement authorities reveal that ethnic profiling is being carried out, with Roma and immigrants as the main victims. The report from Denmark²¹³ describes that passengers with non-European characteristics, even possessing Danish citizenship or permanent residence rights, are routinely checked when they arrive on flights from the Middle East, Pakistan and Turkey. In Sweden,²¹⁴ Somali men are often singled out and put under suspicion in public places as potential terrorists. The report from Ireland²¹⁵ highlights that ethnic profiling and policing are issues which can affect all ethnic and religious minorities and notes with concern the lack of legislation proscribing ethnic profiling by law enforcement officials. A snapshot of the reports indicates that Roma, migrants, Muslims and people of African descent are the groups most likely to be affected by ethnic profiling. Various other reports note that there are impressions that ethnic profiling occurs but with no hard evidence to back up the allegations.

Another key concern is mistreatment by the police. A report on police violence in Bulgaria noted that the percentage of people of Romani descent among the victims of abuse by the police is 'disproportionately high'.²¹⁶ The report from Bulgaria further notes a case of mistreatment by the police involving an asylum seeker. The report from Spain²¹⁷ notes that during or after police raids, instances of physical and sexual abuse are relatively frequent. For instance, in San Sebastián a migrant was put in a cell and badly beaten until he collided with a chair and lost consciousness. In a raid in Quintana (Madrid), some women were forced to undress and the excuse provided was that they were being searched. The report from Austria highlights that a man was brought into a police station and told that he would be deported. Upon discovering at the police station that the man had a permanent residence permit to live in Austria, the police officer accused him of allegedly making noise, being

204 European Union Agency for Fundamental Rights: *Data in Focus Report Police Stops and Minorities*, Vienna, 2010, available at http://fra.europa.eu/fraWebsite/eu-midis/index_en.htm, accessed 15 January 2011

205 ENAR Shadow Report 2010/2011: Hungary, p.24

206 ENAR Shadow Report 2010/2011: Spain, p.24

207 ENAR Shadow Report 2010/2011: Italy, p.31

208 ENAR Shadow Report 2010/2011: Greece, p.29

209 Open Society Justice Initiative, *Ethnic Profiling in France: A Well-Documented Practice*, May 2011

210 ENAR Shadow Report 2010/2011: United Kingdom, p.29

211 *Ibid.*, p.30

212 ENAR Shadow Report 2010/2011: Bulgaria, p.33

213 ENAR Shadow Report 2010/2011: Denmark, p.25

214 ENAR Shadow Report 2010/2011: Sweden, p.26

215 ENAR Shadow Report 2010/2011: Ireland, p.23

216 ENAR Shadow Report 2010/2011: Bulgaria, p.33

217 ENAR Shadow Report 2010/2011: Spain, p.24

aggressive, resisting orders from the police officer, etc.²¹⁸ The Greece report notes that after a member of an ethnic minority was physically and verbally attacked, the police did not take the names, details or statements of the attackers but instead took the names of the organisations that attempted to support the victim of the attack.²¹⁹ The report from Belgium²²⁰ highlights that police violence appears to be a relatively common practice.

Another issue linked to policing is the treatment of human rights defenders working on migrant and ethnic minority related issues. The report from Estonia²²¹ notes that human rights defenders working to promote the rights of ethnic minorities are being harassed by the authorities and special services, and are under constant surveillance. The Estonian Security Police keep tight control over anti-fascist movements and on human rights defenders working for the promotion of ethnic minority rights, regarding them as a threat to the Constitutional order in the country. The report from Cyprus²²² refers to the prosecution of the Executive Director of the anti-racist organisation KISA, who was charged with 'rioting' and 'unlawful assembly' after a multicultural festival was interrupted by far-right supporters, who proceeded to attack, attempting to murder a third country national, and seriously harm others.²²³ The criminal case is still pending in Court, despite the criticism and pressure put on Cypriot authorities from international, European and national inter-governmental organisations, NGOs and EU institutions.

The over-representation of ethnic minorities within prison populations is also a worrying trend. In the Czech Republic,²²⁴ an estimate of approximately 30% of the prison population is Roma, although they represent only 2% of the general population. In the UK,²²⁵ black people are, on average, five times more likely to be imprisoned than white people, and the proportion of black people imprisoned in England and Wales is almost seven times greater than their share of the population. Although minority ethnic groups make up 11% of the population in England and Wales, 25% of the prison population is now from a minority ethnic background. The report from Portugal²²⁶ notes that foreigners are more likely to be subjected to criminal charges and imprisonment and that the foreign population is over-represented among the inmate population, with 20% of the inmates in 2010 being foreign. The same report refers to recent studies that show

foreigners to be effectively subjected to discrimination by the Portuguese judicial system, since statistical evidence reveals that foreigners receive more severe penalties and longer prison sentences, which seems to be based only on their national origin or ethnicity.

StopWatch is a research and action group in the **United Kingdom** that campaigns for fair and accountable policing, with a focus on the impact of police powers on ethnic minority communities. As a coalition of civil society groups, activists and academics, StopWatch works to reduce disproportionality and promote best practice in stop and search powers. They work with communities, ministers, policy makers and senior police officers to review police use of stop and search powers, reduce disproportionality, and work towards more effective monitoring and accountability of stop and search.

For more information: www.stop-watch.org

The lack of systematic monitoring of policing practices is a matter of concern in a number of countries. It leads to a situation of impunity for racial discrimination by law enforcement authorities and hinders the adoption and implementation of measures to overcome ethnic profiling. Information on law enforcement entities is generally difficult to access and while many of them have their own internal grievance mechanisms, access to them by equality bodies is often also difficult. The Czech Helsinki Committee,²²⁷ reacting to the situation in the country (but which statement can be applied across the European Union), stated that continuous ignoring of institutional discrimination causes a lack of analysis of the causes (primary and secondary) and of strategies to overcome it. Various reports also note the lack of active participation of NGOs on the issue.

Racist violence and crime

The consensual view appears to be that there has been an increase in racist violence and crime across Europe in recent years. Statistics in this area can be difficult to interpret, not only because of their general lack, but also due to the fact that increases in reported numbers may reflect either a growing number of incidents or a growing awareness and likelihood of reporting by victims and law enforcement officials. While assessing the prevalence of instances of racist violence and crime is relatively impossible, most national reports provide snapshots of particular cases from their countries. These are cases of individuals and small groups who are violently attacked and beaten, harassed and threatened and in some cases killed. All too often, the only reason behind the attack is that an individual looks like he might be a migrant, Roma or another member of an ethnic minority.

218 Author's interview with Mag. Wolfgang Zimmer, Head of ZARA's Counselling Unit, 29 March 2011, Vienna. Detailed data on the stop and search practices cannot be provided at the moment as most of the cases are pending.

219 ENAR Shadow Report 2010/2011: Greece, p.30

220 ENAR Shadow Report 2010/2011: Belgium, p. 24

221 ENAR Shadow Report 2010/2011: Estonia, p.30

222 ENAR Shadow Report 2010/2011: Cyprus, p.33

223 Ibid.

224 ENAR Shadow Report 2010/2011: Czech Republic, p.21

225 ENAR Shadow Report 2010/2011: United Kingdom, p.31

226 ENAR Shadow Report 2010/2011: Portugal, p.20

227 ENAR Shadow Report 2010/2011: Czech Republic, p.21

Racist violence and crime took a number of distinct forms over the period under review. It included hate speech and threats being broadcast on the internet or through posters. It evolved to threats and harassment in public places and to pushing and shoving. Property was vandalised including private houses and properties, places of worship, cemeteries and other monuments. Individuals were also beaten and stabbed.

Many national reports mention the Jewish community as being particularly susceptible to violence and crime. Anti-Semitic violence and specifically the desecration of Jewish properties and cemeteries are reported in a number of national Shadow Reports. Various reports also mention migrants and people of African descent as being particularly vulnerable to racist violence and crime. The report from Austria,²²⁸ for instance, notes that most victims of hate crime happen to be people with a migrant background. The UK report²²⁹ describes that in cases where the ethnicity of the victim was known, just over 45% were Asian, 18% Black, 10% White British, 7% Polish, 1.25% Chinese and 1.25% from Traveller communities; 1.8% of the cases examined were anti-Semitic, and in 7% of the cases the victims were Muslim. Moreover, although information on the victim's immigration status is not always known, in 10% of cases the victims were migrant workers, refugees, or asylum seekers. In Sweden,²³⁰ the group most vulnerable to racist hate crimes is Afro-Swedes, with 780 cases reported of Afrophobic hate crime in 2010. The Swedish National Council for Crime Prevention reported that 97% of all victims of xenophobic/racist hate crimes are minority groups.

In terms of perpetrators the UK report²³¹ notes that nearly 93% of the perpetrators were white, 3.8% were Asian and 2.8% black. The Czech report²³² notes that neo-Nazi movements were the most important players in the given period when it comes to hate crime. In Sweden,²³³ majority groups were the perpetrators in 77% of the cases, with other minority groups being represented in 20% of the cases.

Hate speech and threatening language targeting ethnic minorities has unfortunately been mainstreamed into political and public discourses. The report from Italy²³⁴ highlights that this has resulted in a situation in which violent manifestations of racism and hate crimes are no longer confined to specific social, economic or geographical conditions. Cultural barriers have been brought down and social disapproval no longer plays a role as a deterrent. The

report from Austria²³⁵ blames the violence partly on the prevalence of stereotypes about ethnic minorities in the country.

The report from Hungary²³⁶ makes an observation which can be generalised to a number of other countries. It notes a reluctance by the police to treat incidents of violence against persons from particular groups as 'crimes motivated by hate', especially when the attacks have targeted Roma and/or other vulnerable groups. However, in cases where the perpetrators are thought to be Roma targeting Hungarians, the incidents are immediately recorded as racially motivated crimes. The report from Estonia²³⁷ notes that the police have no special instructions on how to treat cases where a racial motive can be assumed in any particular way. Police officers do not appear eager to pursue this as it would be additional work for them. On a positive note, the report from Finland²³⁸ highlights that the police response to racist violence is commendable. The Police College of Finland provides extensive reports on racist violence and community relations that are further utilised in the education of police personnel. The police have also established an online tool for reporting crimes, and are discussing and developing common standards for civilised discussion on the internet. Such initiatives are imperative to harness the growth of openly defamatory or racist communication under the anonymity of the internet.

Another critical concern raised in various Shadow Reports is the question of under-reporting of racial violence to the police and other entities. This is the result of various issues, most notably fear linked to migrant status, fear of further victimisation, lack of trust in the police and lack of conviction that reporting will result in any action by the competent law enforcement authorities. A reflection on profiling and the way reports by ethnic minorities are often addressed helps explain this reluctance. The report from Bulgaria²³⁹ notes an institutional reluctance to investigate crimes committed against Roma persons. The report from Italy²⁴⁰ highlights this reluctance explaining it on the basis of mistrust in public institutions, lack of knowledge of rights, and dissatisfaction with the police reaction to complaints. Interestingly in Ireland,²⁴¹ the Garda Síochána Ombudsman Commission Report for 2010 states that the public attitude of non-Irish nationals towards policing does not differ from the overall population, with almost eight out of 10 individuals who had recent contact with the Gardai being satisfied. The report from Romania²⁴² highlights that pressure to not report racially

228 ENAR Shadow Report 2010/2011: Austria, p.22
229 ENAR Shadow Report 2010/2011: United Kingdom, p.32
230 ENAR Shadow Report 2010/2011: Sweden, p.26
231 ENAR Shadow Report 2010/2011: United Kingdom, p.32
232 ENAR Shadow Report 2010/2011: Czech Republic, p.21
233 ENAR Shadow Report 2010/2011: Sweden, p.27
234 ENAR Shadow Report 2010/2011: Italy, p.33

235 ENAR Shadow Report 2010/2011: Austria, p.22
236 ENAR Shadow Report 2010/2011: Hungary, p.26
237 ENAR Shadow Report 2010/2011: Estonia, p.31
238 ENAR Shadow Report 2010/2011: Finland, p.38
239 ENAR Shadow Report 2010/2011: Bulgaria, p.33
240 ENAR Shadow Report 2010/2011: Italy, p.31
241 ENAR Shadow Report 2010/2011: Ireland, p.23
242 ENAR Shadow Report 2010/2011: Romania, p.27

motivated incidents against Roma and others continues to be exerted both by society at large and state bodies and agencies, as the image of Romania abroad remains a significant concern for the Romanian government. Due to major cuts in funding for watchdog NGOs, the monitoring of racist incidents has become a major problem.

Counter-terrorism

The issue of counter-terrorism is becoming more pressing in some EU Member States, while in others, it is not at all important. Efforts to curtail the risk of terrorism have serious implications on human rights as well as on equality, specifically for those minorities who are stereotypically linked by prejudice to such acts. In a context of securitisation, when various other concerns can be side-lined, one needs to be particularly attentive to ensure that counter-terrorism efforts do not undermine attempts at social cohesion and integrating societies.

A key concern within the context of counter-terrorism is the way in which such efforts are being applied. General fears on security issues have been manipulated toward xenophobic and specifically Islamophobic trends in various European countries. The UK report²⁴³ highlights NGO concerns about the disproportionate impact of counter-terrorism measures on Muslim communities, with research indicating that Muslims are continuously treated as a 'suspect' community. This results in their feeling alienated, isolated, vulnerable and anxious. In Bulgaria,²⁴⁴ counter-terrorism has traditionally been directed at immigrants, however, during the reporting period, attention has also shifted to Muslims, irrespective of whether they are migrants or nationals. In Spain,²⁴⁵ since the 2004 bombings in Madrid, the government started to monitor the surrounding of mosques more intensely, while in Greece it has become common in recent years to hear (and use) accusations of terrorism and criminality against Muslim immigrant populations.²⁴⁶ In Malta,²⁴⁷ statements by extremist parties have tried to link the arrival of irregular immigrants with terrorism. On a positive note however, these statements were largely ignored by mainstream politicians and the public at large.

Other human rights concerns are also raised with regard to counter-terrorism efforts. In Spain, for instance, the most criticised counter-terrorism measure is incommunicado detention, which allows a judge to authorise the detention of those suspected of terrorism activities for up to 13 days, during which they are not allowed to choose an attorney or

doctor or inform anyone about their situation.²⁴⁸ In Denmark, the legislation allows for the immediate administrative deportation of foreigners held in Danish security, as the Danish Intelligence Service staff considers them to be a danger to national security and the Ministers of Justice and of Integration support this assessment.²⁴⁹

Interestingly, a number of countries noted that counter-terrorism is not a big concern and the impact on ethnic and religious minorities is therefore minimal. The report from the Czech Republic notes that no counter-terrorism measures are carried out, while the report from Estonia²⁵⁰ highlights that the country is not traditionally considered as being at risk of terrorism. Similarly, the report from Portugal concedes that it neither has home-grown terrorists nor is it targeted by foreign terrorist organisations.²⁵¹ The Irish report notes that the current counter-terrorism debate evident in a number of Member States does not have the same relevance or resonance in Ireland.²⁵²

Focus on people of African descent

In the context of ethnic profiling one's visibility is a critical factor. This results in people of African origin being particularly vulnerable in this context. Most national reports specifically indicate that people of African descent are among the groups that suffer the most from ethnic profiling, discrimination in the implementation of counter-terrorism policies as well as victimisation in racially motivated crimes, including attacks on their person and property. People of African descent are clearly at a disadvantage in the context of the criminal justice system, evident by cases of subjugation to violence at clubs, such as in a University town in Estonia, being four times more likely to have data records stored in a criminal record in the UK, simply being stopped, irrespective of behaviour, at airports or on the street, or having their reports of complaint ignored.

Legal and political context

November 2010 marked the deadline for the transposition of the EU Framework Decision on combating racism and xenophobia by means of criminal law²⁵³. The purpose of this Framework Decision is to ensure that racist and xenophobic offences are sanctioned in all Member States by at least a minimum level of effective, proportionate and dissuasive criminal penalties.²⁵⁴

243 ENAR Shadow Report 2010/2011: United Kingdom, p.34

244 ENAR Shadow Report 2010/2011: Bulgaria, p.39

245 ENAR Shadow Report 2010/2011: Spain, p.27

246 ENAR Shadow Report 2010/2011: Greece, p.30

247 ENAR Shadow Report 2010/2011: Malta, p.40

248 ENAR Shadow Report 2010/2011: Spain, p.27

249 ENAR Shadow Report 2010/2011: Denmark, p.30

250 ENAR Shadow Report 2010/2011: Estonia, p.33

251 ENAR Shadow Report 2010/2011: Portugal, p.22

252 ENAR Shadow Report 2010/2011: Ireland, p.27

253 Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law; Official Journal L 328, 06/12/2008

254 Preamble, Para 13

Broadly speaking the Framework Decision is about criminalising the incitement to racial²⁵⁵ hatred. In particular it obliges Member States to criminalise public incitement to racial hatred,²⁵⁶ the public dissemination or distribution of tracts, pictures or other material containing expressions of racism and xenophobia,²⁵⁷ as well as the condoning, denial or trivialisation of genocide, war crimes and crimes against humanity.²⁵⁸ The Framework Decision also refers to racial motivation for ordinary crimes, providing that Member States should make such motivation an aggravating circumstance or that such motivation may be taken into consideration by the courts in the determination of penalties.²⁵⁹ It provides that each Member State shall take the necessary measures to ensure that the racist conduct is punishable by criminal penalties, ranging from one to three years of imprisonment. It refers broadly to those who commit the crime but also to those who instigate, aid and abet the crime, while also making provisions regarding the liability of legal persons.²⁶⁰ Measures were undertaken towards its implementation in Hungary, Bulgaria, Denmark, Lithuania, Latvia, Cyprus, Germany, Spain, the Czech Republic, Finland, Portugal and Ireland.²⁶¹ In Hungary,²⁶² for instance, the Parliament declared the trivialisation of the Holocaust a crime punishable by up to three years imprisonment.²⁶³ The provision which was initially enacted in February 2010 was changed in June 2010 and the new formulation now punishes those who deny the genocides committed by national socialist or communist systems, or deny other deeds against humanity. The word 'Holocaust' is no longer in the law.

Most national reports did not identify notable developments in the legislative framework during the period under review. Most speak of national legal frameworks which criminalise incitement to racial hatred and also make racial motivation an aggravating circumstance for other crimes, including crimes against the person. However, even in countries where such provisions have been enacted, their implementation remains scarce with few reports noting that such measures were ever used during the period under review. Other countries, like Ireland, have yet to make racism a crime and thus far, there is no legal framework.²⁶⁴ The report from Denmark refers to attempts by factions in Danish politics to remove or reformulate the Penal Code provision which criminalises hate speech.²⁶⁵

A key weakness of the legal and political context is the absence of adequate data collection, monitoring and analysis mechanisms, which would not only provide a clear picture of

the concerns, but also inform the development of measures to address them. The Belgium report refers to recommendations for monitoring, or policing, police officers and ensuring that they act within strict legal parameters and are held accountable for their actions.²⁶⁶ Similar recommendations can also be drawn onto other Member States where, as highlighted above, such accountability might be necessary.

The impact of cuts is also noted in some reports. The report from Romania²⁶⁷ identifies the significant decrease in funding for watchdog NGOs as worrying. The report from Lithuania²⁶⁸ notes with concern the closure of the Special Investigation Department of the Prosecution Office. The Department had been responsible for the investigations linked to racist violence and crime. The report notes that it is difficult to determine how the change will affect the prosecution of hate crimes. However, most of the NGOs working in the field believe this will be a significant step backwards. On the contrary, the report from Cyprus²⁶⁹ notes that through EU funding the police have engaged in diversity related work while the Swedish report²⁷⁰ commends the continued work of the Stockholm Hate Crime Unit. The aim of the unit is to ensure that investigations of hate crimes are pursued swiftly and actively by specialists while still at the crime scene.

A number of positive measures were reported. In Ireland,²⁷¹ the 'Garda Diversity Strategy' and 'Implementation Plan 2010-2012' were launched in 2010 and are ongoing. The Hungarian police force is recruiting more officers from minority groups, especially the Roma.²⁷² At the same time, the police is communicating with these particular groups in order to improve relations between the police and the minority populations. In Denmark,²⁷³ under the title 'Stop Hate', a very visible campaign against hate crime was launched by the Copenhagen and Frederiksberg municipalities, with the help of Copenhagen police and the Danish Institute for Human Rights. In countries, like Latvia and Ireland, NGOs are working with the police for the provision of training on policing ethnic minorities.²⁷⁴ Moreover, some reports, such as the one from Romania,²⁷⁵ identify how the police are trying to reach out to ethnic minorities, although the potential of such measures is difficult to assess.

255 *The definition in this context is broad and refers to any group defined on the basis of race, colour, descent, religion or belief, or national or ethnic origin*

256 *Article 1(1)A*

257 *Article 1(1)B*

258 *Articles 1(1) C and D*

259 *Article 4*

260 *Article 5*

261 *See Section IX of the relevant national Shadow Reports*

262 *ENAR Shadow Report 2010/2011: Hungary, p.29*

263 *Ibid.*

264 *ENAR Shadow Report 2010/2011: Ireland, p.27*

265 *ENAR Shadow Report 2010/2011: Denmark, p.33*

266 *ENAR Shadow Report 2010/2011: Belgium, p. 27*

267 *ENAR Shadow Report 2010/2011: Romania, p.27*

268 *ENAR Shadow Report 2010/2011: Lithuania, p.28*

269 *ENAR Shadow Report 2010/2011: Cyprus, p.38*

270 *ENAR Shadow Report 2010/2011: Sweden, p.29*

271 *ENAR Shadow Report 2010/2011: Ireland, p.23*

272 *ENAR Shadow Report 2010/2011: Hungary, p.25*

273 *ENAR Shadow Report 2010/2011: Denmark, p.33*

274 *See Section IX of the relevant national Shadow Reports*

275 *ENAR Shadow Report 2010/2011: Romania, p.29*

9. MEDIA

Manifestations of racism and racial discrimination

Negative reporting of ethnic and religious minorities is commonplace across the European Union. A key manifestation is the reference to ethnicity and/or racial features when reporting crime and the promotion of the ‘us versus them’ rhetoric. Most national reports acknowledge the critical role that the media plays in informing public opinion. Discrimination in the media is therefore a matter of grave concern due to its (potential) ripple effect on the population more broadly.

Some of the concerns raised regarding media and equality include stereotyping, lack of investigative reporting, sensationalistic reporting and negative representation. In Spain,²⁷⁶ ethnic minorities are often presented by the media as a negative phenomenon or as ‘a problem that public authorities must solve’. About 66% of the news in the press about migrants is linked to negative topics such as crime, mafia, prostitution etc. The UK report²⁷⁷ highlights that Gypsy, Roma and Travellers are consistently presented in a negative light in the mainstream media, and this hostile media coverage is often exacerbated by regular negative comments by government and senior ministers on Traveller issues. At the same time, negative and particularly inaccurate reporting of so-called ‘illegal immigrants’ has become commonplace within the media in the UK, as this group is presented as enjoying wide access to jobs (taking away jobs from the natives) and social benefits (costing tax payers money) to which they should not be entitled. The report from Greece²⁷⁸ remarks that xenophobic and discriminatory reporting consistently remains a favourite approach for a large segment of journalists, since immigrants are still considered responsible for a series of crimes. On a positive note, the report from Lithuania²⁷⁹ highlights that the tendency of the mainstream media to use explicitly xenophobic statements or general and negative terminology in articles on minorities and migration has been decreasing in recent years. It does maintain, however, that a more sophisticated xenophobic tone is still widespread.

A further concern continues to be the reluctance of the media to represent ethnic minorities. Except for some exceptional circumstances, ethnic minorities were often not asked to comment and provide expert input on news that directly or indirectly affected them. On the contrary, some reports note that a number of extreme right-wing commentators are often used in the mainstream media to lambast ethnic and religious minorities. A related issue which is raised in a

number of Shadow Reports²⁸⁰ is the lack of representation of ethnic minorities as employees within media entities. In Germany,²⁸¹ for example, only 2-3% of journalists have a migrant background.

The report from Spain²⁸² praises the presence of migrants as protagonists in TV sitcoms, a phenomenon that increased during the last year. ‘Destination Spain’, ‘Don’t call me foreigner’ and ‘Travellers in Andalusia’ were aired programmes, in which migrants were interviewed and gave their impression of Spain and their reasons for migrating.

The International Organisation for Migration²⁸³ noted that in some circumstances, the media has played a part in developing or exacerbating unsubstantiated ideas that migration ‘threatens’ national sovereignty and national social cohesion. The media was also identified as promoting uninformed stereotypes regarding migrants while failing to report positive dimensions. The report also notes that as various forms of media are often the primary source of information about migrants and migration, particularly for those who have little or no contact with migrants, the images portrayed in the media can have a far-reaching effect. Finally, it highlights the fact that the media has significant influence on public discourse, shaping public opinion, thus affecting stakeholders, especially policy makers and politicians.

In 2011 the **Latvian Centre for Human Rights** implemented the project “Media and Diversity” aimed at raising awareness of journalists and journalism students about diversity issues in the media. A seminar for journalism students “Diversity in Mass Media” was held and education material for journalists and journalism students was published.

For more information:
www.humanrights.org.lv/html/lv/aktual/publ/30464.html

A key concern raised in many national reports is the use of the internet to spread racist and xenophobic messages. This appears to have continued to increase during the period under review. The report from Denmark²⁸⁴ highlights that in recent years, social media has become very effective in spreading hatred, discrimination and racism and is being used to misinform the public about ethnic and religious minorities. The Malta²⁸⁵ report notes that online news websites often allow readers to share ‘comments’. These, it reports, are often used to express anti-immigrant sentiments, with racist comments being a relatively normal

276 ENAR Shadow Report 2010/2011: Spain, p.32

277 ENAR Shadow Report 2010/2011: United Kingdom, p.39

278 ENAR Shadow Report 2010/2011: Greece, p.37

279 ENAR Shadow Report 2010/2011: Lithuania, p.35

280 See for instance the Spanish Shadow Report

281 ENAR Shadow Report 2010/2011: Germany, p.45

282 ENAR Shadow Report 2010/2011: Spain, p.32

283 International Organisation for Migration: World Migration Report 2011: Communicating Effectively About Migration (Geneva: 2011)

284 ENAR Shadow Report 2010/2011: Denmark, p.40

285 ENAR Shadow Report 2010/2011: Malta, p.47

occurrence in these discussions. The Dutch report²⁸⁶ notes that anti-Semitic and anti-Roma/Sinti statements on the internet have radically increased. The Portugal report²⁸⁷ identifies an increase in racist websites in the past years, with Roma and immigrants being targeted. The report from Poland²⁸⁸ describes the internet as being filled with xenophobic, homophobic and racist posts and comments and as a platform of uncontrolled anger, rudeness and unacceptable behaviour hidden behind anonymity and impunity. The Irish report,²⁸⁹ in turn, notes that racism on the internet is increasingly evident, an issue which it views as concerning considering the limited legal capacity to deal with incitement to racial hatred cases on the internet. The Danish report,²⁹⁰ similarly to others, notes that Facebook includes numerous racist groups which use social media to spread discriminatory and racist comments without any fear of legal consequences. Similarly, the report from Italy indicates that Facebook hosted about a hundred anti-Muslim groups, 350 anti-immigrant groups and 300 anti-Roma groups, some of them with peaks of 7,000 members.²⁹¹

The report from Estonia²⁹² makes specific reference to 'life journaling' and 'blogging' which have become popular both with ordinary people and public figures. It notes that all too often anti-minority and intolerant opinions are being expressed through such media. On a positive note, a number of national reports also highlight that the anti-racist movement has moved towards a more effective use of the internet to its advantage.

Focus on people of African descent

Whether being used in sensationalistic adverts,²⁹³ or the passing of degrading comments,²⁹⁴ on TV, radio or other media, or the space given to exponents of the far right,²⁹⁵ or the use of derogatory terms,²⁹⁶ people of African descent are particularly targeted in the media. Social media is used to instigate racism and promote discrimination, whether through comments on news items or the creation of Facebook groups. In brief, while there is no specific type of discrimination in this context that particularly affects people of African descent, this group tends to be particularly affected as far as stereotypes and prejudices are concerned.

Legal and political context

Possibly the most important development in the past year is a change to the Criminal Code in Finland²⁹⁷ which extended the criminal responsibility of racist or discriminatory remarks to operators of internet forums on which remarks are posted. This change has created an impetus to moderate the content of the forums more actively and is likely to have reduced the most vocal use of racist or discriminatory language on the internet. Hungary²⁹⁸ adopted a law which, inter alia, sets up a media control body which will be in a position to impose penalties for unfair reporting and racism and xenophobia through the media. In Spain,²⁹⁹ a new Media Law, adopted in 2010, prohibits any discriminatory advertisements and foresees the setting up of a supervisory body, the National Council of Audiovisual Media. In 2010, two other major legal developments included the adoption of a regulation against violence and racism in sports and the ratification of the Council of Europe Convention on Cybercrime. However, the Additional Protocol on racist acts committed through computer systems is still in the process of being ratified.³⁰⁰

Some media outlets have taken positive measures to overcome discrimination in the media even if challenges persist in various countries. In Malta,³⁰¹ a legal notice was enacted back in 2007 aimed at promoting racial equality through the media while prohibiting racism and discrimination in the broadcast media. In Portugal,³⁰² the media code of ethics seeks to address these concerns. Self-regulation is the strategy in some places while other reports indicate that this has not been particularly effective.

286 ENAR Shadow Report 2010/2011: the Netherlands, p.26

287 ENAR Shadow Report 2010/2011: Portugal, p.30

288 ENAR Shadow Report 2010/2011: Poland, p.29

289 ENAR Shadow Report 2010/2011: Ireland, p.32

290 ENAR Shadow Report 2010/2011: Denmark, p.41

291 ENAR Shadow Report 2010/2011: Italy, p.41

292 ENAR Shadow Report 2010/2011: Estonia, p.41

293 See Section XI of the Sweden Shadow Report

294 See Section XI of the Cyprus Shadow Report

295 See Section XI of the Malta Shadow Report

296 See Section XI of the Germany Shadow Report

297 ENAR Shadow Report 2010/2011: Finland, p.40

298 ENAR Shadow Report 2010/2011: Hungary, p.33

299 ENAR Shadow Report 2010/2011: Spain, p.33

300 ENAR Shadow Report 2010/2011: Spain, p.33

301 See Section XI of the Malta Shadow Report

302 See Section XI of the Portugal Shadow Report

10. ANTI-RACISM AND ANTI-DISCRIMINATION

The key legal instruments in the context of anti-discrimination are the Race Equality Directive and the Employment Equality Directive to which reference has been made elsewhere in this report. While the transposition of the Directives has been completed, a number of countries (including Lithuania, Poland, Latvia, Germany, Spain, Portugal, Romania, Austria, Estonia and Turkey) report poor transposition or implementation of the Directives or their principles.

In 2010, the EU Fundamental Rights Agency³⁰³ published a 'Data in Focus' report addressing rights awareness by ethnic minorities. The report focuses on respondents' knowledge about their rights in the field of non-discrimination, including knowledge about equality bodies (and related organisations) in EU Member States. The report highlights some worrying trends. It found, inter alia, that 57% of respondents were unaware or unsure about the existence of legislation covering three different areas of non-discrimination on the basis of racial or ethnic origin. Only 25% of the respondents knew of the existence of such legislation covering employment, access to goods and services and housing. Moreover, 80% of all respondents could not think of a single organisation that offered support to victims of discrimination - be this government-based, an independent institution or authority, such as an equality body, or an NGO. Furthermore, when given the name of an equality body in their Member State, 60% of respondents indicated never having heard of them. The report also presented worrying trends regarding the reporting of instances of racial discrimination. It found that 82% of all those who were discriminated against in the past 12 months did not report their most recent experiences to anyone. Of these, 36% said this was due to a lack of awareness on how and where to report this, and 21% said it was due to the inconvenience of reporting, the bureaucracy involved or the time it would take to report. This reality is also confirmed in the national Shadow Reports which indicate a severe under-reporting of incidents.

The period under review was marked by lack of progress regarding the proposed Horizontal Equality Directive. At both the European and national levels no particular developments were noted in this regard. However, efforts were made at EU level regarding the situation of the Roma community. In April 2010, the European Commission published two important documents regarding the situation of Roma in an effort to raise awareness and promote the inclusion of Roma across the European Union. The first document, the Communication on the social and economic integration of Roma in Europe, sets the context by including the obligations of the European Union and its Member States towards the Roma living in Europe. It acknowledges the shift from needs assessment to action. In seeking to identify how existing mechanisms

and instruments can be used to advance the wellbeing of the Roma community, it notes the continued enforcement and further development of EU legislation in the areas of non-discrimination, freedom of movement, data protection and anti-racism, as well as setting up the European Platform for Roma Inclusion and adopting the Common Basic Principles for Roma Inclusion. This provides, so is argued in the Communication, a practical framework for public policy makers at all levels on how to design and implement successful initiatives. Another important element of progress is the fact that most Member States have a stronger focus on internal coordination and on the involvement of Roma communities themselves in drawing up and implementing specific measures. The Communication notes a number of challenges ahead, including improving cooperation between European, national and international players and representatives of Roma communities, translating this commitment and cooperation into positive changes at the local level, more effective communication of the benefits of Roma inclusion for local and national economic and social development, promoting the integrated use of EU Funds in order to tackle multi-dimensional challenges of Roma exclusion, developing explicit desegregation policies, notably in education and in housing, achieving a special focus on the most disadvantaged micro-regions and mainstreaming Roma inclusion issues into the broad policy areas of education, employment, public health, infrastructure and urban planning, and economic and territorial development, rather than treating this as a separate policy area. The second document launched by the Commission is the Progress Report on the implementation of the EU instruments and policies for Roma inclusion 2008-2010.³⁰⁴ The report includes information about developments at the European level regarding the Roma community. It specifically addresses progress achieved by EU Member States, notably in the health, education, employment and housing sectors. The report also pays attention to Roma children and women as vulnerable groups.

The Second Roma summit was held in Cordoba, Spain, in April 2010 with the participation of approximately 400 representatives of EU institutions, national governments, regional and local public authorities and civil society (including Roma organisations). The Summit aimed to take stock of the achievements made at EU level for Roma inclusion over the past two years, and to renew the relevant commitments. The Trio of the Spanish, Belgian and Hungarian Presidencies of the EU adopted a declaration at the end of the Summit which highlighted the joint commitment for mainstreaming Roma issues into all relevant policies, a roadmap for the actions of the European Platform for Roma inclusion, the effective use of the EU Structural Funds to this

303 European Union Agency for Fundamental Rights, *Data in Focus Report Rights Awareness and Equality Bodies (Vienna: 2010)*

304 European Commission, *Roma in Europe: The Implementation of European Union Instruments and Policies for Roma Inclusion Progress Report 2008-2010*

end and the follow up of the Summit at EU Council level. The declaration was well received by civil society organisations with positive statements issued, inter alia, by the European Roma Policy Coalition (ERPC).³⁰⁵ The ERPC considered the joint statement of the Trio of Presidencies to hold great promise and in particular welcomed the measures relating to EU funding allocations as well as the renewed emphasis on the fundamental rights dimension in its mainstreaming objectives, and the commitment to guarantee personal safety and combat discrimination.

The involvement of the European Platform for Roma Inclusion was critically assessed during the period under review, indicating a misuse of the Platform's potential. In a statement issued in December 2010 the ERPC argued that the platform had, by not linking its agenda to the achievement of the Framework Strategy by April 2011, missed the opportunity to act as a meaningful forum which can make ongoing efforts more effective.

Many of the national Shadow Reports highlight the negative impact of financial cuts on anti-discrimination efforts. In some countries, measures were discontinued while in others equality bodies have had their funding cut, making it more difficult for them to carry out assigned tasks. In Lithuania,³⁰⁶ for instance, the programme for the Integration of Roma in Lithuanian Society for 2008-2010 was formally discontinued in June 2010 although it was meant to last until the end of the year, receiving only one tenth of all funding in 2010. Moreover, the National Anti-discrimination Programme for 2009-2011 received less than 1% of the funding which was initially planned for the year.

Anti-discrimination measures continue to come under attack from various sources. In the Czech Republic,³⁰⁷ the Ombudsman (who also serves as the equality body) criticised the country's anti-discrimination law. In other circles, the work of equality bodies came under attack in parliaments, mainly at the hands of representatives from far right parties. Attacks carry the risk of undermining the potential of these measures.

Few countries reported legislative developments in the field of anti-discrimination. The Polish report³⁰⁸ however, does, as it relates the coming into force of the act on the transposition of certain EU provisions in the field of equal treatment. It notes that the process leading up to the act went from a wide ranging model to a limited act, which is an almost verbatim implementation of the Directives, not extending beyond their scope. The report also highlights a number of weaknesses with the system including the role of the equality

body. Similar developments, i.e. the full transposition of the Race Equality Directive, are also reported in the Latvian report. In Spain,³⁰⁹ a new Comprehensive Equality Law was proposed and is currently being discussed in Parliament. This new law has been received very positively by NGOs because it substantially improves the previous legislation. However, civil society organisations fear it could be watered down during the upcoming parliamentary discussions.

Positive developments are also noted in some countries. In Germany,³¹⁰ for instance, the Federal Anti-discrimination Body launched three important initiatives. The initiative 'Society without Discrimination' comprises three sub programmes, namely the networks against discrimination (which seeks to create nationwide networks of helpdesks offering protection against discrimination), the 'Coalition against Discrimination' (which aims to encourage the development of consolidated strategies against discrimination) and 'Diversity mainstreaming in Administrations' (which works towards the production of a manual with descriptions and recommendations on how to implement equal opportunities within and by administrations). The pilot scheme 'Anonymous Application Procedure' aims to target discrimination in the context of hiring procedures in access to employment, while the research project 'University without discrimination' aims to develop indicators to make discriminatory structures and procedures within universities visible. Progress was evident in Finland³¹¹ as well, where the decision was made to establish a National Human Rights Institute to monitor the realisation of human rights and fundamental freedoms.

305 See: www.romapolicy.eu

306 ENAR Shadow Report 2010/2011: Lithuania, p.38

307 ENAR Shadow Report 2010/2011: Czech Republic, p.30

308 ENAR Shadow Report 2010/2011: Poland, p.33

309 ENAR Shadow Report 2010/2011: Spain, p.36

310 ENAR Shadow Report 2010/2011: Germany, p.49

311 ENAR Shadow Report 2010/2011: Finland, p.48

11. MIGRATION AND INTEGRATION

A key development in the field of migration during the period under review was the adoption in March 2011 of the Directive on preventing and combating trafficking in human beings and protection of victims, as well as the replacement of the Council Framework Decision 2002/629/JHA.³¹² The Directive marks an important development and improvement in the EU's efforts in this regard. While maintaining a focus on the criminalisation of the offence, the Directive places considerable attention (more than the previous instruments and the international legal framework) on both preventing and protecting trafficked persons. Indeed the dire situation of trafficked persons is described in a number of the national Shadow Reports. One critical feature of the Directive is its emphasis on the identification of a trafficked person. The Directive provides that Member States shall take the necessary measures to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with the relevant support organisations. In terms of the protection of trafficked persons, the Directive effectively creates a two tier structure with some basic protections (namely assistance and support) to be made available to all trafficked persons, and a higher level of protection to be secured for those who cooperate with the prosecution process.

In the field of asylum, the year under review saw further discussion on the proposals for the recast of the Qualification and Procedures Directives. 2010 also saw the establishment of the European Asylum Support Office (EASO) based in Malta. Its main tasks are: to develop practical cooperation among EU States on asylum, by facilitating exchange of information on countries of origin, providing EU States with support for translation and interpretation, training of asylum officials and assisting in the relocation of beneficiaries of international protection. In addition, it is tasked to support EU States under particular pressure, in particular through the establishment of an early warning system, coordinating teams of experts to assist in managing asylum applications, establishing appropriate reception facilities and contributing to the implementation of the Common European Asylum System by collecting and exchanging information on best practices. The EASO is another mechanism within a broader context of harmonising efforts in the field of asylum, which might be in a position to support the ever closer harmonisation of asylum decision making in Europe. At the time of writing, the EASO was still in the early stages of development. An assessment of its effectiveness would be premature.

In October 2010 the European Commission also put forward a proposal for a Directive establishing common entry and residence conditions for third-country seasonal workers. This proposal forms part of the EU's efforts to develop a comprehensive immigration policy. Its purpose is to introduce a special procedure for the entry and residence of third-country nationals applying to reside in the EU for seasonal employment, and to define their respective rights.

Seasonal workers are defined in the proposal as a third-country national who retains a legal domicile in a third country, but who resides temporarily for the purposes of employment in the territory of a Member State, working in a sector of activity dependent on the passing of the seasons, under one or more fixed-term work contracts, concluded directly between the third country national and the employer established in a particular Member State. The proposal discusses the conditions of admission (namely the criteria for admission, the grounds for refusal, and the withdrawal and non-renewal of the permit). Procedural matters linked to the issuance of the permit are also included (including issues of access to information, the seasonal work permit, duration of stay, facilitation of re-entry, procedural safeguards and accommodation). The proposal further deals with the rights of seasonal workers. Reacting to the proposal, a Standing Committee of experts on international immigration, refugee and criminal law³¹³ noted that the proposed Directive as amended by the Council is highly non-committal. Member States are essentially free to continue issuing national residence permits for seasonal employment. The Committee also notes the possible negative effects of the Directive, highlighting that the absence of binding provisions does not prevent Member States from using certain Directive provisions to legitimately reduce the relevant standards in their national legislation. The Directive, the Committee argues, will function de facto function as 'the European standard'. This would have serious consequences, since the rights or protection provided in certain clauses of the amended proposal are clearly below the level of rights and protection granted to all lawfully employed workers, irrespective of their nationality, according to the EU Charter of Fundamental Rights, the International Labour Organisation Convention No. 97 (Migrant Workers) and the International Covenant on Economic, Social and Cultural Rights. Regarding the formulation of the Directive, the Committee argues that this falls short of the requirement of legal certainty. The Committee also notes that changes made to the original proposal by the Council, when coupled with the idea of facilitating re-entry in subsequent years, risked creating a situation of permanent seasonal workers which would render persons subject to relatively precarious working conditions. At the end of the reporting period the proposal was being discussed and no final decisions had yet been made.

On the issue of integration during the period under review, the European Commission issued the third edition of the Handbook on Integration for Policy Makers and Practitioners.³¹⁴ The Handbook, which has come to be used extensively by integration practitioners deals with European exchange of information and good practice, mass media and integration, awareness raising and migrant empowerment, dialogue platforms, the acquisition of nationality and the practice of active citizenship, as well as immigrant youth, education

312 Directive 2011/36/EY of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

313 Meijers Committee, Standing committee of experts on international immigration, refugee and criminal law, <http://www.statewatch.org/news/2011/nov/eu-meijers-cttee-seasonal-employment.pdf>, accessed 10 February 2012

314 Available at: http://ec.europa.eu/ewsi/UDRW/images/items/docl_12892_168517401.pdf

and the labour market. Similarly to the previous handbooks, this one compiles best practices and lessons from the EU Member States, developed in close cooperation with the National Contact Points on Integration. The general aim of the handbooks is to create a coherent framework on integration. The period under review also saw increased engagement by the European Commission and the EU Ministerial Conference on Integration with the concept of integration modules.³¹⁵ Three such modules started to be developed linked to language and introduction courses, the commitment of the host society and the active involvement of immigrants. The development of integration modules takes forward the work undertaken in the handbooks. The modules aim to systematise and apply learning achieved through the development and use of the handbooks. Aside from the Handbook, the period under review also saw the continued regular work of the European Integration Forum. This, however, was criticised as being both slow and ineffective by some civil society organisations.

The British Council and the Migration Policy Group launched the third edition of **MIPEX - the Migrant Integration Policy Index**³¹⁶ which attempts to rank countries according to their potential for integration. The report found generally that migrants are still discouraged from becoming politically active or gaining full citizenship, although the trend in reforming countries is to open voting rights, dual nationality and birth right citizenship (e.g. Portugal, Greece and Luxembourg). MIPEX highlights in the field of education that policies generally fail to address the needs of a new generation of diverse students, with few schools required to help teachers, migrant students and parents in addressing migrants' specific needs. In terms of employment, most countries guarantee equal and secure rights for reunited families and long-term residents to work. However, reunited families and long-term residents are often asked to fulfil more requirements than many nationals (including requirements related to income, age limits and tests, without any support to pass the tests). Nearly all the countries examined guarantee legal migrants equal working conditions and access to unions once they are able to access the labour market. But nearly half exclude migrant workers, who pay full taxes, from parts of the social security system. In terms of anti-discrimination the research found that anti-discrimination laws are being strengthened in some countries (e.g. Sweden and the UK) although very few have strong policies and bodies to promote equality in society. Overall, countries tend to score around 50 on the MIPEX 100-point scale and since the second edition of MIPEX have only increased one point on average. Most countries are creating as many opportunities as obstacles for immigrants to become equal members of society. Most of the national Shadow Reports refer to and support the assessment of the national ranking accorded under the MIPEX assessment, however, they also note that MIPEX looks at policies in the abstract and does not seek to evaluate the impact of the policies and the way they are implemented in practice.

315 For more information about integration modules, see: Niessen J, Kirchnerberger A, *Integration Modules: New Tools for European Co-operation*, Migration Policy Group (Brussels: 2010), <http://www.statewatch.org/news/2011/nov/eu-meijers-ctee-seasonal-employment.pdf> (accessed 10 February 2012)

316 See: www.mipex.eu

The national Shadow Reports also make a number of remarks regarding developments in the countries' migration and integration policies and legal frameworks. Most reports highlight a shift towards more restrictive migration policies with states seeking to maintain more control not only of their borders, but also of those seeking the right to reside within their territories. Greece³¹⁷ adopted an Action Plan on Migration Management while others adopted new laws or amended the existing frameworks, generally moving towards more restrictive policies. This is linked to the notion of securing borders and managing migration. The enactment or adoption of new legislation, policies or strategies for integration was reported from, among others, Sweden, Cyprus, Germany, Finland, Portugal, Romania and Austria.³¹⁸ This is generally considered a positive development recognising the importance of integrated societies.

Due to Romania's efforts to align its national policy with EU requirements on foreigners' integration policy, a National Strategy on Immigration was adopted for the period 2011-2014, entitled 'Migration is a process that must be managed and not a problem to be solved'.³¹⁹ The document sets guidelines and objectives to be attained at the national level in regard to regular migration, prevention, combating irregular immigration, asylum, and integration of foreigners in Romanian society, and introduced an 'Action plan for the further development of the National Integration Plan (NIP)'. In Cyprus,³²⁰ the newly adopted 'National Action Plan for the Integration of third country nationals' envisages a positive approach to integration and includes elements of support and information for third country nationals legally residing in the country, utilising and/or activating local government, and fostering the participation of civil society. However, it is not evident how these policies will be implemented in practice. To date, apart from language courses, no other measures have been applied to integrate third country nationals in Cyprus. The Finnish report³²¹ notes that a new Act on the Integration of Immigrants will enter into force on 1 September 2011. It will increase the level of access to integrative education and widen the range of different tools available to guarantee successful integration. Also of great importance is the fact that every immigrant will be entitled access to a personal integration programme under this Act, and that municipalities will be obliged to provide all unemployed immigrants access to these programmes. With the new Act, Finland also meets the requirements outlined in the European Common Agenda for Integration. These positive developments are worthy of praise, particularly considering the growing negative perceptions of migrants across the European Union and increasingly restrictive immigration and integration policies.

317 ENAR Shadow Report 2010/2011: Greece, p.45

318 See Section XIII of the relevant national Shadow Reports

319 ENAR Shadow Report 2010/2011: Romania, p.44

320 ENAR Shadow Report 2010/2011: Cyprus, p.55

321 ENAR Shadow Report 2010/2011: Finland, p.51

12. RECOMMENDATIONS

Employment

1. Address without delay legal and policy provisions likely to force individuals or groups into situations of exploitation or abuse simply because the legal framework restricts their opportunity to move out of such situations.
2. Allow all people, with particular focus on ethnic minorities, the possibility to compete on equal footing with others on the labour market, avoiding unnecessary restrictions on their rights or added burdens on their efforts.
3. Ensure that all efforts are made to recognise and respect qualifications obtained in third countries; ensure that the potential of every individual is both acknowledged and utilised fully.
4. Develop equal and inclusive labour markets, where equality is perceived as a benefit rather than a burden, thereby eliminating some of the barriers in the implementation of measures, especially in the face of the economic crisis.
5. Ensure that integration programmes for migrants and training courses for nationals support the employability of participants and address labour market needs.

Housing

1. Abolish without delay requirements likely to result in situations of inequality, abuse and dependency.
2. Ensure that accommodation provided to migrants and other ethnic minorities, including detention and reception centres, abide by basic minimum housing standards.
3. Ensure that homeowners, estate agents, homeless shelters and other housing services do not discriminate in the provision of their services.
4. Foster the development of guidelines and training for these service providers to ensure fair and equal treatment.
5. Avoid policies and practices likely to result in segregation.

Education

1. Address the needs of ethnic minority children in schools and pre-schools through increased resources and training of teachers in order to better meet the needs of the students.
2. Develop or implement national intercultural education strategies which acknowledge and value diversity in the classrooms.
3. Apply positive action measures, among other strategies to ensure that segregation is avoided at all costs. This includes developing monitoring mechanisms to assess and prevent discrimination in the enrolment processes.

4. Develop public education campaigns to overcome stereotypes and negative attitudes toward migrants and Roma children, in an effort to foster their integration.
5. Develop measures to address issues of absenteeism and early drop-out rates of children in general and ethnic minorities in particular.
6. Carry out actions to reduce the achievement gaps between people of different ethnic groups at schools and universities.

Health

1. Provide linguistically and culturally appropriate healthcare services, including the training and provision of interpreters within the system.
2. Ensure the accessibility of the healthcare system to those in need, irrespective of legal or financial status.
3. Ensure that sufficient data is compiled regarding the health status and outcomes of different ethnic minority groups and that it is used for preventative healthcare and not means by which to exclude certain groups.
4. Set clear targets in tackling race inequalities in service provision and public health to put the health outcomes of minority ethnic communities on a par with the general population.

Access to goods and services

1. Exert pressure on and encourage service providers to combat discrimination of ethnic minorities in access to goods and services, such as access to shops, public transport, financial services as well as places of entertainment.
2. Develop initiatives of situation testing to ascertain discrimination and bring entities suspected of discriminating to account before the relevant authorities.
3. Provide training and information to service providers regarding their responsibilities and duties under anti-discrimination legislation.

Criminal justice

1. Monitor police actions, including stop and search procedures, to ensure that racial or ethnic profiling is not permitted or encouraged.
2. Carry out more targeted efforts to recruit more people with minority backgrounds into law enforcement positions.
3. Strengthen punishment and sanctions at the institutional and political levels in cases of racist and xenophobic violence.

4. Ensure the transposition and implementation of the EU Framework Decision on combating racism by means of criminal law.
5. Ensure that counter-terrorism efforts are carried out in an effective manner, with respect to human rights and equality. Do not scapegoat or alienate particular communities.

Media including the internet

1. Develop partnerships with the media to ensure that it acknowledges its important role in altering the language and approaches used, to overcome prejudice and combat stereotypes.
2. Develop mechanisms to counter incomplete and inaccurate reporting by the media.
3. Follow the example of some EU Member States, by allowing for the prosecution of racist material disseminated on the internet.
4. Strengthen critical voices in the integration discourse, which bring European and international perspectives with regard to discrimination into existing media discourses; carry out media education and training on human rights and anti-discrimination issues.

Anti-racism and anti-discrimination

1. Develop diversity monitoring mechanisms at the micro and macro levels; develop reporting requirements and data collection mechanisms at the European and national levels in order to ensure that the situation of ethnic and religious minorities is duly understood and that adequate data informs the development, implementation and evaluation of legislation, policies and measures.
2. Raise awareness among ethnic minorities of their rights under anti-discrimination legislation, including information on available remedies.
3. Ensure that remedies are available and provide effective sanctions as a way of promoting equality.
4. Ensure that a variety of actors, such as the business community, trade unions, local governments among others, are involved in the fight against racism and discrimination.

5. Develop, in partnership with various actors, positive action measures to help overcome some of the structural discrimination faced by ethnic and religious minorities.
6. Continue to mainstream anti-discrimination and equality in all areas of policy on the European and national levels, ensuring policy coherence and achieving target-setting. Ensure that equality impact assessments become part of the policy making processes at the various levels.
7. Include statistics broken down by nationality and ethnicity in the evaluation of social inclusion policies.

Migration and integration

1. Promote positive values, conceptions and principles at all levels around the issue of migration and the value of diversity, including through the use of positive terminology.
2. Ensure that responsibility for integration is shared, in recognition of integration as a two-way process, moving away from situations where full responsibility is placed on migrants.
3. Encourage EU Member States to involve migrants in the planning and delivery of interventions and services to migrants communities.
4. Avoid the detention of migrants and ensure that international law is abided by at all times.
5. Sign, ratify and implement the UN Convention on the Rights of all Migrant Workers and Members of their Families.

13. CONCLUSION

This report has sought to provide an overview of the various manifestations of discrimination experienced by ethnic and religious minorities in Europe between March 2010 and March 2011. It highlighted the disadvantages faced in employment, education, housing, healthcare, in the provision of goods and services, in the area of criminal justice, as well as in the media. It has sought to provide a snapshot of the most important legal and policy developments in the one year time period.

It has highlighted a number of common trends. First, that a strong legal framework alone is not enough to combat discrimination. It needs to be accompanied by monitoring and enforcement as well as political will to really achieve a Europe free from racism. Second, such political will is often lacking, shying away in a context of public and political discourse, which results in scapegoating ethnic and religious minorities and further alienating them. Third, not only do ethnic minorities face discrimination, they are often blamed for 'not doing enough'. They are deemed responsible for the lack of integration, even in a context where violence and threats toward them are a common occurrence and where accessing a public space, such as a disco, is often prohibited for no reason other than their skin colour or perceived ethnic identity.

The situation of people of African descent has received particular attention throughout the report. This particular group continues to face discrimination, stereotypes and

prejudice in employment, housing, healthcare, education, access to goods and services, criminal justice, and the media. Their visibility heightens their vulnerability to discrimination. While most manifestations of discrimination are not particularly targeted at people of African descent, they do tend to be disproportionately affected by these manifestations. Moreover, in a context of rampant prejudice, visibility and perception of ethnic minority status appear to outplay other considerations including nationality and status.

The report has painted a picture of disadvantage and discrimination, which we hope will result in a commitment toward effective action for change. Everyone, ranging from the European Union to each and every individual, has a role to play in achieving the goal of a Europe where racism and racial discrimination are really shown the 'red card'. The time to act is now. At a time when excuses are found to reduce efforts to combat discrimination, individual and group actions become more critical. ENAR consequently encourages individuals and organisations to unite in communities of resistance in countering the emerging anti-immigrant, Afrophobic, Islamophobic, anti-Semitic and other hate-related trends.

14. TERMINOLOGY

Ethnic and religious minorities

Throughout the report the term ethnic and religious minorities is used to define the broad category to which the report refers. Whilst no universally accepted definition of minority exists, the definition used by the International Organisation for Migration will be used. This provides: "a minority may be considered to be a group which is numerically inferior to the rest of the population of a State and in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics which differ from the rest of the population and who, if only implicitly, maintain a sense of solidarity directed towards preserving their culture, traditions, religion or language"¹⁸¹. Specific terminology is used when necessary.

Migrant

The term migrant, as used for the purposes of this report, may include long-term and short-term migrant workers, students, asylum seekers and refugees, stateless persons, spousal and family dependants, women migrants and children, and undocumented migrants.

Third country national

A person who is not a national of an EU Member State.

Integration

is understood as a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.

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RACISM IN EUROPE

ENAR Shadow Report 2010-2011

ENAR's Shadow Report on racism in Europe provides a unique monitoring tool bringing together facts and developments from across Europe on racism and related discrimination. The 2010-2011 report draws on 27 national Shadow Reports presenting an NGO perspective on the current situation of racism in Europe. The report does not base itself solely on hard data but builds on the compilation of the experiences and analysis of those experiencing racism and discrimination on the ground.

The report identifies communities that are vulnerable to racism and presents an overview of the manifestations of racism evident in 2010-2011 in employment, housing, education, health, access to goods and services, criminal justice, and the media, as well as an NGO assessment of the legal and political context.

The findings in this report indicate that racism and related forms of intolerance continue to be serious problems that affect many people in European society. Racially discriminatory practices are widespread, institutional in nature and practiced at all levels of society across Europe.

The commonalities in the experience of racism and discrimination across EU Member States which are evident in the report demonstrate the importance of a European approach to racism and the role of ENAR in monitoring these developments from a civil society perspective.

The European Network Against Racism (ENAR) is a network of over 700 organisations working to combat racism in all EU Member States (as well as Croatia, Iceland and Turkey), and acts as the voice of the anti-racist movement in Europe. ENAR aims to combat racism, racial discrimination, xenophobia and related intolerance, to promote equality of treatment between European Union citizens and third country nationals, and to link local/regional/national initiatives with European Union initiatives.



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