



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. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

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 with 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.

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Message from the President



I am very happy to present the 3rd edition of the European Network Against Racism (ENAR) Shadow Report on Racism in Europe. This edition is based on 26 national shadow reports produced by ENAR members across the EU member states. These reports, however, reveal some alarming developments: there are many worrying trends and few improvements in the situation of racism in Europe in 2006. 2006 is a year that offers warnings of a situation that could become progressively and suddenly worse if allowed to continue.

Some of these trends stand out in particular. 2006 saw a notable rise in extremist organisations and political parties expressing racist sentiments, not only on the margins of politics but increasingly within the mainstream and even within government. There is also concern that migration policy is generally becoming more restrictive and that these restrictive migration policies can have a negative impact on the integration of ethnic minorities and third country nationals. Measures adopted by governments to counter terrorism are causing concern for the protection of human rights and are resulting in the racialisation of the security agenda. There is evidence of an association being made between terrorism and ethnic and religious minority groups, the effect of which can also be seen in migration policy.

On a more positive note, there is some improvement in relation to implementation of anti-discrimination legislation, which is increasingly providing redress to victims of discrimination. There is also an increasing recognition of multiple discrimination, though action in this area to develop tools to identify, measure and address this phenomenon is at a very early stage.

Another important function of ENAR's Shadow Report is to present examples of good practices by civil society in various areas where discrimination is manifest. These examples demonstrate the critical role of NGOs in developing creative and innovative strategies to combat racism and discrimination.

This report reveals a commonality of experiences of racism and religious discrimination across member states which demonstrates the importance of a European approach to racism. We therefore hope that EU decision makers and political leaders will use and value this report in order to ensure that anti-discrimination legislation is properly implemented, that progressive migration policies are adopted and that we move towards a Europe that is respectful of and promotes diversity and fundamental rights.

ENAR's Shadow Report for Europe is a unique mechanism to collect and present the views of civil society on the state of racism in EU member states and across Europe. It builds a perspective on racism that reflects the critical views of NGOs and vulnerable communities. It also highlights the crucial role NGOs and civil society play in supporting the participation both of communities vulnerable to racism and relevant institutions in the struggle against racism and provides some key recommendations for policy and actions at the national level. We are therefore very thankful for the valuable support of the Compagnia di San Paolo and the Open Society Institute (OSI) in enabling this unique monitoring instrument to be published, as well as for the grassroots work done every day by those who collected this important information.

A handwritten signature in black ink that reads "Bashy Quraishy".

Bashy Quraishy
ENAR President

Executive summary

Racism is a phenomenon that is contrary to the values of the European Union. The European Network Against Racism (ENAR) Shadow Report for Europe provides a unique mechanism to collect and present the views of civil society on the state of racism in EU member states and across Europe. Developments in 2006 serve as a reminder of the significance of this issue in a European context and demonstrate the need for a renewed focus and collaborative approach to combating racism.

The report identifies communities that are vulnerable to racism. It presents an overview of the manifestations of racism evident in 2006. It also provides an NGO assessment of the legal and political context and responses by governments.

Communities vulnerable to racism

Europe is a diverse society; however, ethnic and religious diversity are not always recognised or valued. Communities in Europe that are vulnerable to racism include amongst others, Roma, Sinti and Travellers; migrants including EU nationals and third country nationals, particularly undocumented migrants and asylum seekers; the Jewish community and the Muslim community. Long-standing ethnic minority communities and “national minorities”¹ as well as more recent migrants experience racism and discrimination.

Manifestations of racism

The report considers manifestations of racism in eight key areas, namely employment, housing, education, health, policing and racial profiling, racist violence and crime, access to goods and services and the media including the internet.

A number of **cross-cutting issues** are highlighted in the report. While the report examines each key area separately, it is important to recognise that **issues intersect**. For example, segregation in housing can

be a factor that impacts on segregation in education. All national shadow reports also recognise the phenomenon of **multiple discrimination**. Another cross-cutting issue is the need for accurate, accessible and effective data collection. Data collection is an important tool to help identify issues of racism, measure the extent of the problem and develop appropriate, effective solutions.

The transposition of the “Race Directive”² yielded some positive results in 2006 in the **employment** area. A number of key legal cases were taken that set important precedence and a body of jurisprudence is developing. However, the effectiveness of relevant legislation needs to be improved. Issues that remain in terms of employment relate to working conditions, access to employment and career progression. Migration issues impact on employment, affecting migrants’ access to employment and vulnerability to exploitation. Trafficking for forced labour and forced prostitution was identified as a particularly serious concern.

In **housing**, segregation is proving a pervasive phenomenon. Ethnic minorities are less likely to own property as a result of discrimination. This leaves them more dependent on rental accommodation and social housing. Here again they experience discrimination and the standard of housing can be poor. Also an issue is the use of and conditions within reception and detention centres for certain migrants including asylum seekers and undocumented migrants.

In **education**, the often lower educational attainment of ethnic minorities illustrates the effect of discrimination in education. The right to education and recognition of non-EU qualifications impact on access to education. Other indirect and structural forms of discrimination such as segregation, admission policies, lack of appropriate supports and the curriculum itself were among the factors found to contribute to lower educational attainment.

It is found that ethnic and religious minorities generally have poorer **health** status than the majority,

¹ Including those protected under the Council of Europe’s Framework Convention on National Minorities (FCNM). Examples include the Russian minority communities in the Baltic states.

² EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

demonstrated by indicators such as longevity and the infant mortality rate. Access to healthcare can be a problem due to lack of rights and other structural issues such as limited provision of support.

In terms of **policing and racial profiling**, the general lack of independent, effective monitoring and complaints procedures regarding police practices is a key concern. This has impacted on the capacity to identify, measure, validate and ensure redress where discrimination in policing occurs. The targeting of ethnic and religious minority groups through the use of racial profiling was noted to be a known common practice, with a few exceptions.

Reports across Europe reveal a very worrying trend towards increased levels of **racist violence and crime** as well as an increase in the severity of racist violence and crime. Alongside this overall trend, the report highlights a rise in extremism, by far-right groups and occasionally far-left groups.

In relation to **access to goods and services in the public and private sectors**, the "Race Directive" has enabled some limited improvement in this area. However, exemptions of certain state functions and religious institutions, weak sanctions and other factors are limiting the effectiveness of legislation in this area.

Racism in **media, including the internet**, continues. Issues highlighted relate to the limited and stereotypical representation of ethnic and religious minorities within the media; the role the media has played in the propagation of racist attitudes; and the lack of effective legislation to address racism in the media. Lack of regulation is a particular concern regarding the internet.

Legal and political context

In terms of the overall legal and political context, the 2005 report highlighted an apparent lack of political will with regard to the struggle against racism. This issue was exacerbated in

2006 by the notable rise in extremist organisations and political parties expressing racist sentiments, not only on the margins of politics but increasingly within the mainstream and even within governments.

The report examines and provides an NGO assessment of the political and legal context with regard to anti-discrimination, migration and integration, criminal justice and social inclusion.

In the area of **anti-discrimination**, attention is paid to the status and effect of the "Race Directive". An NGO assessment reveals that the "Race Directive" has not been fully or adequately transposed in many member states. Difficulties remain with regard to effectiveness in terms of the implementation of the legislation as well as the scope of both national legislation and the Directive itself. The role of equality bodies is recognised but their need for independent, adequate resources is emphasised.

In the area of **migration and integration**, there is concern that migration policy is generally becoming more restrictive. The response to the transposition of EU Directives in the area of migration³ is mixed. In general, the development of integration policy lacks a holistic, inclusive and effective approach and limited regard has been given to the 11 EU Common Basic Principles on integration.⁴ Concern is raised at the negative impact restrictive migration policies can have on integration, including restrictions in the area of family reunion and access to citizenship. Furthermore, counter terrorism is deemed to be negatively impacting on migration policy, resulting in increasingly restrictive immigration legislation.

In the area of **criminal justice**, the lack of effective legislation to combat racist crime is a cause of frustration and concern. Countering terrorism

³ Notably EU Directive 2003/109/EC designed to grant EU status of long-term residence to TCNs who have legally resided for five years in the territory of an EU member state and EU Directive 2003/086/EC on the right of TCNs legally established in an EU member state to family reunification.

⁴ See http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf.

is deemed to be negatively impacting on ethnic and religious minority communities and has been used to justify racial profiling. In all areas of criminal justice, there is a call for increased awareness raising and training of relevant authorities including the police and the judiciary, in relevant areas including anti-racism, cultural awareness and the law.

In relation to **social inclusion**, the extent to which ethnic and religious minorities are taken into account in national social inclusion strategies varies across member states. Generally what is lacking is comprehensive social inclusion measures that include all ethnic and religious minority groups. Attention is given to the role of political participation in ensuring social inclusion and the impact migration policy can have in limiting the right of migrants to vote.

Conclusion

A comparison with the 2005 Shadow Report for Europe reveals some areas of improvement. For example, the implementation of legislation arising out of the transposition of the "Race Directive" at the national level is providing redress to individuals. Cases brought in 2006 set important precedents on a number of issues. However, some of the more prominent issues in 2006 were also apparent in 2005, including the impact of counter terrorism measures and difficulties regarding the collection and availability of data. Of particular concern is the continuation of negative trends identified in the 2005 report including an increase in racist crime and the rise of extremism. Emerging issues are also coming to the fore including issues for EU10 and A8 nationals⁵ and the vulnerability of ethnic minorities, including migrants, to homelessness.

2006 is a year that describes a serious picture of the situation with regard to racism in the EU and the identification of negative trends. This is a situation that has the potential to become progressively and suddenly worse if allowed to continue. The commonality of experiences of racism and religious discrimination across member states demonstrates the importance of a European approach to racism. NGOs and civil society play a crucial role in supporting the participation both of communities vulnerable to racism and relevant institutions in the struggle against racism. The role of NGOs therefore needs to be recognised, supported and their contribution valued.

⁵ 12 of the EU15 member states put in place travel restrictions for nationals of EU10 member states (i.e. Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia), with the exception of citizens of Malta and Cyprus. These eight countries are commonly referred to as A8 countries.



1. Introduction

Racism is a phenomenon that is contrary to the values of the European Union and undermines social cohesion and the realisation of human rights. Developments in 2006 demonstrate that racism is a persistent, pervasive issue across Europe and highlight the need for a renewed focus in this area.

The European Network Against Racism (ENAR) Shadow Report for Europe provides a unique mechanism to collect and present the views of civil society on the state of racism in EU member states and across Europe. The objectives of the Shadow Report are to:

- Bring together facts and developments from across the EU on matters pertaining to racism and anti-racism and build a perspective on racism that reflects the views of NGOs and vulnerable communities.
- Be a major and recurrent tool of the network for communication and advocacy purposes towards relevant stakeholders including policy makers and the media.
- Build a documented starting point for future and coordinated action.

The report offers a snapshot of concerns with regard to racism in Europe at a particular point in time from the perspective of civil society and anti-racist NGOs. It does not attempt to present a comprehensive or scientific analysis of racism in Europe, but rather the report provides an update on and analysis of the issues relating to racism and religious discrimination across Europe in 2006. It identifies commonalities in the experience of racism. The commonality of experiences of racism and religious discrimination across member states demonstrates the importance of a European approach to racism. Cognisant of the reality that racism can manifest itself differently depending on the specific context, due regard is given to the differences between and within national contexts.

This 2006 Shadow Report for Europe is based on a comparison of national shadow reports from 26 EU member states, namely Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland,

Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United Kingdom.

Section two of this report provides information and data on communities which were vulnerable to racism in 2006. Manifestations of racism and religious discrimination are outlined in section three focusing on key problems in the areas of employment, housing, education, health, policing and racial profiling, racist violence and crime, access to goods and services and the media including the internet. Examples of good practice by NGOs are presented in text boxes also in section three under each heading. Where examples are included, further details on the initiatives can be found in the relevant national report. These examples demonstrate the critical role of NGOs in developing creative and innovative strategies.

The report proceeds in section four by presenting an overview of the political and legal developments in the key areas of anti-discrimination; migration and integration; criminal justice; and social inclusion. It provides an assessment of these developments and responses in these policy areas, from the perspective of NGOs and civil society, in light of developments in 2006 and European and international commitments.

Section five offers a synopsis of key recommendations made in national shadow reports overall in relation to anti-discrimination; migration and integration; criminal justice including the areas of racism as a crime, counter terrorism and racial profiling; and social inclusion. The report presents its overall conclusions in section six.

With regard to terminology, the report generally refers to the experiences of "ethnic and religious minority groups/minorities". However, at times it may be necessary to use other terms to reflect the different contexts of racism between member states and legal terminology. The annex at the end of the report provides further explanation on terminology used.

2. Communities vulnerable to racism



The picture of racism in Europe and of the communities vulnerable to racism is a complex one. Europe is a diverse society; ethnic and religious minority groups are part of European diversity. However, ethnic and religious diversity is not always recognised or valued across Europe. Racism is a persistent and damaging experience in the everyday lives of ethnic and religious minority groups and undermines the values that underpin the concept of the European Union, namely social cohesion and human rights.

Racism is not a fixed entity but is something that changes over time, in new and different contexts. Therefore, while there is a commonality in the experience of racism, racism can be experienced in different ways by different groups depending on the context and time.

The 2006 ENAR national shadow reports from across Europe identify particularly vulnerable communities as including Roma, Sinti and Travellers; migrants including EU citizens and third country nationals, particularly undocumented migrants and asylum seekers; the Jewish community and the Muslim community amongst others. Long-standing ethnic minority communities as well as “national minorities”⁶ also experience racism and discrimination. The 2005 report on Europe had also highlighted these groups, though the negative experiences of EU citizens in the context of intra-EU migration is raised more substantially in the 2006 national reports. The particular concern noted in the 2005 report on the racism experienced by Muslim and Jewish communities remains a very significant issue.

Communities in Europe can be vulnerable to racism on the basis of their residential status and citizenship. Third country nationals (TCNs) and especially undocumented migrants and asylum seekers are vulnerable. Vulnerability to racism can vary according to generation and there are both similarities and differences between the experiences of first, second and third generations, established minorities and new minorities.

⁶ Including those protected under the Council of Europe’s Framework Convention on National Minorities (FCNM). Examples include the Russian minority communities in the Baltic states.

Racism and discrimination can also be experienced by EU nationals when they migrate to another member state. The context of intra-EU migration has changed somewhat since the accession of EU10 member states in 2004. A8⁷ nationals are excluded from accessing the labour market by virtue of their EU citizenship in all but three member states. In Ireland, Sweden and the UK where the labour market is open to all EU nationals, there is evidence to suggest that EU10 nationals face barriers that have not affected nationals of EU15 member states to the same extent.⁸

The intersection between racism and religious discrimination is a complex one and it is clear that religious minorities are targets of racism. Among those religious minorities experiencing racism, particular emphasis was paid in the national reports to the experiences of Muslim and Jewish communities who are reported consistently as the religious minorities most vulnerable to racism. The largest minority religion in the European context is Islam. Jews are also a significant religious minority in this context.⁹

The 2005 report made reference to a rise in the incidence and acceptability of Islamophobia. Reports from 2006 provide no evidence to suggest that this trend has been alleviated rather, it remains a very significant issue.

Minorities within minorities are particularly vulnerable groups. Minority ethnic groups are not homogeneous groups; many members experience other forms of discrimination as well as racism such as sexism, heterosexism and ableism. All national

⁷ 12 of the EU15 member states put in place travel restrictions for nationals of EU10 member states (i.e. Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia), with the exception of citizens of Malta and Cyprus. These eight countries are commonly referred to as A8 countries.

⁸ Reports from Romania and Bulgaria make reference to similar implications for their respective citizens. However, such issues were not relevant in 2006 as at that time, they were not member states of the EU.

⁹ It is worthwhile acknowledging that the components of Jewish identity are complex and cannot be reduced to religious belonging only. Similarly, the nature of anti-Semitism is multifaceted as pointed out by the EUMC in its report “Manifestations of Anti-Semitism in the EU 2002-2003” (2004), available at: www.fra.europa.eu.

reports acknowledged the phenomenon of “multiple discrimination”. However, the extent and exact nature of the phenomenon is difficult to assess due to a lack of disaggregated data.

Roma, Sinti and Travellers represent a particular group that have consistently experienced discrimination in Europe over centuries. They share a common tradition of nomadism but also a common experience of racism. Depending on the context, they may be described as national minorities, established minorities or new minorities. Compared to 2005, there is no notable improvement in relation to the situation of Roma; there are some new initiatives to address this but on the whole responses need to be enhanced.

In some instances, Roma do not have a nationality and are amongst the group of “stateless per-

sons”. Roma have been part of society of some of EU15 states as well as EU10 states for centuries and still experience discrimination. In some member states Roma have come through, or are currently in, the asylum process. The precarious status of “asylum seeker” compounds the experience of discrimination for Roma in this instance.

Evidence of discrimination against anti-racist activists in 2006 on the basis of their association with ethnic and religious minority groups and their anti-racist views suggests a worrying trend. For example, in Poland the website of a right-wing extremist group, Redwatch, was closed down as it published personal details of anti-racist activists. In Malta, anti-racist activists were the target of a series of arson attacks. It was noted, however, that there was a clear public response condemning the attacks.

3. Manifestations of racism and religious discrimination

The overall purpose of this section is to provide an overview of the situation of racism and discrimination across Europe. This section has been divided into eight subtopics: employment, housing, education, health, policing and racial profiling, racist violence and crime, access to goods and services in the public and private sectors, and media including the internet. Each subtopic includes an overview of the key problem areas and relevant developments demonstrating discrimination during 2006. Under each subtopic, text boxes are included with examples of good practice by NGOs in the relevant area. Where examples are included, further details on the initiatives can be found in the relevant national report.

A number of cross-cutting issues are relevant to all subtopics. Three are highlighted here, namely the intersectionality of issues, multiple discrimination and data collection.

While the report examines each key area separately, the intersectionality of issues is recognised. Developments in one area may impact on another. For example, segregation in housing can effectively lead to segregation in education. Similarly, the quality of housing available to ethnic minorities can impact on their health status. Access to employment and income directly impacts on a person's access to goods and services.

All national shadow reports recognise the phenomenon of multiple discrimination. However, identification of specific issues and the development of appropriate responses to these can be difficult in light of issues regarding the availability of disaggregated data. Challenges also arise with regard to the potential for current legislation to address multiple discrimination.

Data is an important tool to comprehensively identify issues of racism and problem areas as well as measure the extent of the problem. This is necessary to enhance the development of appropriate, effective solutions. Difficulties regarding the collection and availability of data on racism and the experience of ethnic and religious minority groups across all areas were highlighted consistently in national shadow reports. For example, in some

countries it is not possible to collect data on the basis of ethnicity for a range of reasons including historical reasons or lack of recognition of minorities.¹⁰ In many member states, systems for the collection of data are not in place. In specific areas such as policing, the accuracy of data is questioned due to underreporting or the fact that some cases are not recorded as racist.

A number of factors impinge on the accuracy of sensitive data including trust between communities vulnerable to racism and authorities, awareness of authorities as to what racism is and the availability of resources to ensure effectiveness of data collection systems. Certain areas are particularly problematic and the limitations in the collection and availability of data with regard to racial profiling and complaints to police are consistently highlighted. This report concludes that there is a continued need for open and collaborative approaches to the development of data collection and dissemination.

3.1 Employment

Racism is a phenomenon that continues to prevail in the area of employment, despite the existence of legislation in most EU member states that outlaws discrimination in employment including on the basis of ethnicity and religion. Issues in the area of employment are multi-layered and include access, progression, underemployment and the non-recognition of foreign qualifications, poorer and sometimes dangerous working conditions and exploitation. Institutional barriers such as language proficiency and citizenship requirements also affect ethnic minorities' employment opportunities. Some groups are particularly vulnerable to racism in employment or face specific issues, depending for example on age, gender and legal status.

There are difficulties for some ethnic minorities in accessing employment and in many member states ethnic minorities are disproportionately affected by unemployment. Reports from Denmark, Finland, and Germany are among those highlighting higher rates of

¹⁰ For example, collection of data on the basis of ethnicity in the area of employment ceased in 2003 in Lithuania and in Slovakia, collection of data on the basis of ethnicity is banned. Questions regarding the recognition of ethnic minorities in France also present difficulties in this regard.

unemployment among ethnic minorities and limited access to employment. In Denmark, 52% of ethnic minorities are unemployed; unemployment of “foreigners” in Finland is 26% compared with 10.1% for Finns; the report from Germany explains that full access to the German labour market is reserved for German citizens.

Reports from Romania, Lithuania and the Czech Republic highlight in particular the unemployment rate amongst Roma. The report from Romania shows that the unemployment rate for Roma between the ages of 15-55 is 44% compared with 28% for the majority population and points to gender differences where only 34% of Roma women are employed while 58% of Roma men are employed. In the Czech Republic, statistics are particularly worrying, revealing that 74% of Roma are unemployed while the national average is 7.1%. The report from Finland, while highlighting the higher rates of unemployment of ethnic minorities overall, also points to particularly high rates for Roma who experience 50% unemployment. The report from Hungary notes that Roma are indirectly discriminated against in terms of accessing the labour market as positions they would have held in the Communist era have been phased out but no training has been provided to help Roma develop other skills so that they might access other types of employment.

The extent of inequality cannot be determined by overall employment and unemployment rates as where ethnic minorities are employed, they are often in low-skilled jobs and may be underemployed. Malta, Germany, Greece and Italy particularly highlight the underemployment of ethnic minorities and difficulties resulting from the non-recognition of foreign qualifications from non-EU countries. Problems for those with qualifications from non-EU states result from a lack of formal recognition.¹¹

Career progression and the effect of the “glass ceiling” are also issues for ethnic minority groups, as demonstrated in the report from France where the majority of complaints with regard to employment were made on the basis of discrimination in the area of career progression. There is concrete, quantitative evidence provided by a number of member states that confirms that discrimination is higher for ethnic minorities with higher levels of education. The report from Latvia, for example, indicates

that the ethnic gap in employment remains substantial for persons with tertiary education. In France it is reported that unequal pay remains an issue.

As a result of discrimination in the labour market, ethnic minorities are more likely to be employed in the informal economy, leaving them open to exploitation. While in many countries it is undocumented migrants that are employed in the informal economy, it is noted that this also affects ethnic minorities who are citizens of the country. Ethnic minorities may be more likely to be employed in the informal sector as a result of discrimination in the formal sector. Furthermore, this can affect both migrants and citizens. For example, the report from Romania states that 34% of Roma are employed in the informal sector, compared to 9% for the majority population.

In **Latvia**, the Latvian Centre for Human Rights held six **training seminars for the judiciary**, mainly judges, on the application of the EU Racial Equality Directive 2000/43/EC and the EU Employment Framework Directive 2000/78/EC. These seminars were organised in the framework of the “Latvia - Equality in Diversity I” project, in collaboration with the Special Tasks Minister’s Social Integration Affairs Secretariat and the Latvian Judicial Training Centre.

In both the formal or informal economy, there is evidence in a number of countries that poor and sometimes dangerous working conditions are an issue for ethnic minorities. The report from Italy confirms that foreign citizens are often assigned the most dangerous, dirty and demanding work, as was also the situation in 2005. It is pointed out that 25% of all temporary workers are non-EU citizens, an increase of 7% on 2004 figures. Accidents involving foreign workers are increasing with 19% of fatal accidents in the building sector involving “foreigners”, 50% of whom were between the ages of 26 and 35. In Malta, migrants are often not given the same working conditions, for example migrants can work longer hours and without being provided with the appropriate clothing and equipment. Both the reports from France and Italy highlight the continuing issue of unequal pay.

Other institutional and legal measures disproportionately affect ethnic minorities such as the requirement in a number of member states that a person attain proficiency in the national language in order to enter certain professions and trades. In Hungary and Austria, the abi-

¹¹ However, while in theory qualifications from EU member states are recognised, problems can still arise for EU citizens due to a lack of awareness among employers.

lity to speak German is often required although knowledge of the German language might not be relevant to the job.

In **Ireland**, the Migrant Rights Centre Ireland established the **Domestic Workers Support Group**. The support group is made up of women working in the private home as carers or child-minders who also do cleaning and housekeeping work. This group meets to discuss issues relevant to them and aims to build leadership, develop a shared analysis and take action on the issues affecting them.

Issues regarding language proficiency and citizenship requirements have a particular relevance in the public sector. For example, in Latvia and Estonia the requirement to speak the national language affects members of ethnic minority groups including national minorities. In Estonia for example, Russian school teachers and taxi drivers have been penalised in their professions due to the language requirement. In many member states including Luxembourg and France, members of ethnic minority groups who do not have citizenship of the country are excluded from certain positions in the public sector.

It should also be noted that the issues named do not affect all members of ethnic minorities equally and women from ethnic minorities are particularly vulnerable. There are also different issues depending on a person's age. Furthermore, certain groups are highlighted as particularly vulnerable to discrimination, including Roma. Undocumented workers are highly vulnerable to exploitation and are very limited in terms of their protection in the workplace. Evidence of the effect of multiple discrimination can be seen through some of the examples offered here including in relation to trafficking, the informal labour market and domestic work.

In **Lithuania**, the Lithuanian Red Cross together with the Refugee Reception Centre and the Vilnius University Legal Clinics implemented a project, "**consolidated assistance to persons granted asylum**", which was financed by the European Refugee Fund and sought to assist the integration of refugees into the labour market.

Trafficking and the issue of forced labour and forced prostitution are highlighted in a small number of reports, representing an emerging trend of serious concern. Furthermore, as this is an "invisible" issue, the extent of the problem is likely to be far greater than that reported.

Women, young people and undocumented migrants are particularly vulnerable to trafficking, forced labour and forced prostitution. The debate around trafficking and forced labour has begun in Ireland. The report from Cyprus makes particular reference to trafficking of women and girls for forced prostitution and the fact that measures to address trafficking often further disadvantage and victimise survivors. The report argues that migration law which grants residence/work permits for extremely short periods of time¹² and allows re-entry to the country after six months, acts as an incentive to traffickers who take advantage of the short-term contracts in different countries, moving women around the region for purposes of sexual exploitation.

In **Ireland**, the now annual **Anti-Racism in the Workplace Week** is a collaboration between the equality body, trade unions, business associations, the government Department of Justice, Equality and Law Reform and is supported by NGOs. The Week is about organisations and enterprises taking initiatives to celebrate cultural diversity in the workplace and to lay foundations for a workplace that is intercultural and integrated.

3.2 Housing

Housing is an area where only limited progress has been seen. Housing is a basic need and requires urgent attention with short and long term strategies. Problems in the area of housing remain in terms of access to housing. Discrimination in the area of access to housing can be direct and indirect and protection from discrimination is not guaranteed in all member states.

Ethnic minorities experience discrimination when purchasing property. This is most notably as a result of discrimination in banking and the financial sector (see also section 3.7) which means that ethnic minorities find it more difficult to access mortgages. Discrimination in the area of employment, as noted in section 3.1, means that ethnic minorities may have lower incomes which also impacts on their capacity to purchase property. Legal status also impacts on a person's opportunity to purchase property. In the Netherlands it was found that nearly every bank refuses mortgages to those with tempo-

¹² The report explains that migrant women are granted residence/work permits up to a maximum period of six months.

rary residence permits. In Malta, TCNs are not allowed to purchase property unless the value of the property exceeds certain thresholds. Ethnic minorities are more likely to be living in disadvantaged areas or affected by segregated housing, which has also limited their access to property. Some banks have taken initiatives to address some forms of institutional discrimination, e.g. an initiative in the Netherlands, where it was found that banks were using postal codes as a criterion in assessing suitability for mortgage approval. The Dutch banking association added a prohibition on mortgage discrimination to its code of conduct on the basis of surname and postal code.¹³

As ethnic minorities are less likely to own property, as a result of discrimination in the housing market, they are more dependent on the private rental sector and social housing where again they face difficulties.

In Hungary, the **Szegényeket Támogató Alap Egri Foundation** runs a project in Eger and surrounding areas where, with the co-operation of the local Roma communities staying in the settlements, renovations are carried out on the houses and amenities lacking in such settlements like running water, electricity, gas, sewage systems and heating installations.

In the private rental sector, reports from Belgium, Denmark, Finland, France, Germany and Slovakia point to difficulties experienced by ethnic minorities in terms of lack of protection or instances of discrimination. In Finland, for example, protections that apply in the area of public housing do not apply to the private rental sector. In the German report it is argued that the exception clause of the "Allgemeines Gleichbehandlungsgesetz", the General Equal Treatment Act, which permits discrimination if aimed at creating "economically, socially and culturally balanced conditions", can be abused and used to exclude ethnic minorities.

Problems with social housing are present particularly in relation to access and quality of housing. Access to social housing is particularly difficult for TCNs. In Cyprus for example, housing policy exclu-

des certain migrants, refugees and asylum seekers on the basis of nationality. Certain criteria may indirectly discriminate such as the length of period one is registered at one's current address, as highlighted in the report from the Netherlands.

In Malta, organisations working in "open centres"¹⁴ took it upon themselves to employ members of the migrant population to work in the centres bridging the way to improved communication while ensuring that the needs of migrants are better understood.

The increase in homelessness amongst ethnic minorities is an emerging trend and is further evidence of the difficulties experienced by ethnic minorities in accessing housing. Reports from Denmark, Finland, Hungary and Ireland are amongst those that highlight homelessness as an issue for ethnic minorities. It is therefore of particular concern that reports note that certain migrants are not entitled to access facilities for the homeless, on the basis of nationality, legal status or length of residence. In Hungary TCNs are not permitted to access homeless facilities, with the exception of permanent residents and recognised refugees. There are limitations in access to facilities in Ireland unless a person has been habitually resident in the country for the previous two years, as also noted in 2005. Homelessness is evidence also of the vulnerability of ethnic minority groups to extreme poverty as a result of discrimination and social exclusion.¹⁵

Where ethnic minorities access housing other issues are present, including poor or substandard quality of housing and segregation. The report from Portugal reveals that three quarters of ethnic minorities live in poor quality accommodation. The report from France explains that living in disadvantaged suburbs is discriminatory in itself. In Latvia the quality of social housing is poor. Reports from France, the Czech Republic and Italy refer to the existence of spatial segregation and the reality of ghettos. In Italy the issue of segregation and ghettos came to the fore in 2006 with various Council of Europe reports drawing attention to difficult living condi-

¹³ Research from the Equal Treatment Commission found that banks were discriminating between neighbourhoods when granting mortgages.

¹⁴ Migrants leaving detention may be accommodated in "open centres". A new "open centre" was opened for example in 2006, consisting of tents for migrants leaving detention.

¹⁵ This represents a vicious circle for ethnic minorities. Discrimination is itself a cause of poverty. As people are discriminated against because they are poor, ethnic minorities find themselves in a cycle that is difficult to break.

tions in many Roma camps. The report from Italy notes that the situation in unauthorised camps is made still more precarious by the fact that the police authorities regularly subject the Roma communities to forced evictions. Examples of police control at the entry point of the Via Anelli “ghetto” in Padua and forced evictions of the unauthorised Roma “Casilino 900” camp in Rome illustrate these problems.

Roma and Travellers experience particular difficulties in relation to accommodation. Reports from Bulgaria, the Czech Republic, Ireland and Italy are among the many that highlight the problems Roma and Travellers face. The report from Ireland highlights the lack of progress with regard to the situation of accommodation for Travellers, where implementation of policy is slow and Traveller families continue to live on roadsides with few or no facilities. Reports from Italy and the Czech Republic highlight the issue of eviction. The policy in Portugal to demolish substandard housing has been problematic as Roma have lost their place of residence as a result without the provision of alternative housing.

In **Romania**, Amare Phrala - Frații Noștri (Our Brothers) from Cluj-Napoca initiated and implemented two **projects to address housing issues of the Roma community**. The projects involved building houses and improving housing infrastructure of the Roma local community of Botinda village in Cluj county.

Asylum seekers and undocumented migrants are also vulnerable in the area of housing. Across Europe, reception centres now dominate as the type of accommodation provided to asylum seekers. In some member states, asylum seekers and undocumented migrants are also detained. The conditions in reception and detention centres are highlighted in the majority of reports and have received attention from a number of European bodies. ECRI, for example, highlights the need for conditions for asylum seekers and refugees in Luxembourg to be improved. In Hungary, asylum seekers must leave reception centres after a certain period, although no further arrangements are made for them. The European Parliament’s Committee on Civil Liberties, Justice and Home Affairs concluded that administrative detention centres for asylum seekers and undocumented migrants in Malta were in a deplorable

condition and failed to meet legally binding international standards.

3.3 Education

Racism in the area of education continues to be a problem. When examining inequalities and discrimination in education, obstacles arise firstly in terms of access to education. Some members of ethnic minorities are not entitled to access education in some member states, depending on their residence status. Where ethnic minorities may be entitled to access education, discrimination in the allocation of available places can arise as a result of both direct and indirect discrimination.

Educational attainment of ethnic minorities is lower than that of majority populations in many instances and the rate of early school leaving can also be higher. These issues result from a range and combination of factors, such as segregation, other indirect and structural forms of discrimination, the effects of inter-generational oppression and racist bullying.

Segregation remains a persistent problem in education, both as a result of segregation in the education system itself and spatial segregation in housing. Reports from Bulgaria, the Czech Republic, Hungary, Latvia, Ireland, the Netherlands and Slovakia are among those that highlight segregation in education. Roma, Sinti and Travellers remain among those experiencing disproportionately high levels of segregation in education, despite some governmental commitments and initiatives to combat segregation.

In **Bulgaria**, the **network of projects for de-segregation of Roma education** includes eight towns where many efforts are made by both NGOs and authorities to overcome educational segregation. The projects are funded by the Roma Education Fund.

Other indirect and structural forms of discrimination include the lack of provision of appropriate education that accommodates language, culture or is intercultural. Multilingualism is not valued in some member states, for example in Denmark, Austria and Germany, and mother-tongue language provision is

rarely provided in mainstream education. The requirement to speak only a national language is also an issue, particularly in countries where a significant proportion of the population belongs to a national minority that does not speak the language, such as is the case for the Russian minority in Estonia and in Latvia. Sometimes there is singular focus on the language barrier at the expense of other educational considerations and in Italy for example, those who have lower levels of proficiency in the Italian language are often placed in lower classes with students of a different age.

In the **Czech Republic**, the organisation **Step By Step** has attempted to improve both Czech pedagogy and access to education for minorities by training assistant teachers in methods aimed at assisting the educationally disadvantaged to participate more easily in mainstream education. Including classroom assistants from ethnic minorities, notably Roma, in mainstream education has been identified as key to assisting their integration.

The education curriculum can also be part of the problem. Limitations in the curriculum have been recognised in the UK as contributing to low school attendance and achievement by e.g. Roma and Travellers. In order to address this and as part of a government policy, materials regarding Roma and Travellers are being developed to enrich the curriculum for all pupils.

In **Portugal**, the national coordination of ENAR celebrated the 6th edition of their **Diversity Celebration** (Festa da Diversidade e Igualdade de Oportunidades) in 2006. This series of events aims to promote respect for difference.

In the area of education, discrimination on the basis of religion often comes to the fore. The role of religion and religious institutions in education in many countries is problematic. Exemption clauses in non-discrimination legislation frequently pertain to the area of education. This issue is highlighted throughout the national reports and illustrative examples can be gleaned in particular in reports from Ireland, France, Italy and Lithuania. In Ireland, ECRI has encouraged the government to explore the provision of non-denominational education as such provision is currently deemed unconstitutional. In Italy a ruling of the State Council on religious symbols in

schools¹⁶ is deemed in the report from Italy to have helped fuel the already copious and contradictory jurisprudence on the subject. The report from Lithuania describes a situation where a question in a state examination in the English language was found to place Christians in an advantageous position, discriminating against members of other religions. On the other hand, secularism in the French public school system has caused problems for Muslim students, particularly Muslim girls wearing the hijab.

3.4 Health

Ethnic minorities tend to have a poorer health status than majority populations. Specific health problems can affect ethnic and religious minorities disproportionately or arise out of specific experiences such as migration. Other health problems may require particular, appropriate responses. In addition, specific groups, e.g. women, have particular health needs or face specific issues in terms of their healthcare.

There are a range of indicators that demonstrate the poorer health status of ethnic and religious minorities. For example, the Netherlands, Ireland and Slovakia are a few amongst many countries where ethnic minorities experience lower life expectancy. Infant mortality rates are also found to be higher. The report from the Netherlands explains that immigrants have a higher mortality rate than “native” Dutch people for almost all age groups and that the gap for infants is highest. In Ireland, the phenomenon of infant mortality is more prevalent for ethnic minorities including migrants and Travellers.

Residence status can determine a person’s right to access healthcare. Migrants with temporary forms of residency experience limited entitlements to healthcare. This is particularly limited in Greece for example, where emergency care will only be granted if a person is assessed to be at risk of immediate death. In Belgium free emergency care is available to all while in Finland all residents are entitled to social security

¹⁶ *The report from Italy explains that the court, dismissing a petition by a Finnish citizen, ruled that crucifixes should be allowed to remain in schoolrooms not because they are “pieces of equipment” or “cult objects”, but because even in a “lay perspective, it [the crucifix] has a highly educative symbolic part to play, aside from its religious function, unrelated to the religion professed by the pupils”.*

as well as social and health services. The migration process itself can impact negatively on a person's health, as is illustrated in the discussion on mental health (see below).

In **Germany**, the **MiMi-Health project** (migrants for migrants) trains migrants as intercultural health mediators. After receiving training in the field of health, migrants are to organise events on health education themselves.

Ethnic minority women experience particular issues. For example, research from Germany identifies migration as a risk factor in pregnancy, following a five-year study which explored the deficits in healthcare provision for pregnant migrant women and accommodated prevention services to the needs of these women. The same study also found that migrant girls and women who suffer from stereotyping often receive inadequate counselling or treatment. Roma women have undergone coercive sterilisation in the recent past and continue to deal with resulting issues, e.g. in the Czech Republic and Hungary. In Hungary, migrant women are three times more likely to have an abortion than the national average while in Spain this figure is twice the national average. In the Czech Republic, abortion is not available to those with temporary residency. Spain reports that there is a lack of information available to ethnic minority women regarding pregnancy.

Mental health issues are problematic amongst ethnic minorities for a number of reasons and it is a complex question. Some of the factors include the trauma that migrants, particularly refugees and asylum seekers, may have experienced before leaving their countries of origin. Adapting to the new environment as well as separation issues can also impact on a person's mental health. In light of this emerging issue, it is disturbing to note that in the Netherlands, psychiatric institutions were found to discriminate against ethnic minorities.

There is evidence to suggest that drug use within ethnic minority communities may be an emerging issue. This question needs to be monitored, analysed and may require specific responses to deal with the complexity of the issue. In Spain for example, it was found that 80% of new drug users come from Eastern European countries, especially countries where there has been armed conflict. Denmark has also recognised drug use as an issue and the report suggests that a new initiative, the establishment of an intercultural advisory service,

would help drug users from ethnic minority groups to access treatment and have confidence in the health service.

The language barrier and lack of available translation services impacts on a person's care. In Estonia, it is noted that medical professionals are not required to speak Russian though a large proportion of the population are Russian and many do not speak Latvian. The report from Ireland highlights the lack of capacity of translation services to meet the demand from the healthcare sector.

In **Ireland**, **Women's Health Action** is a programme developed by the organisation Cairde to respond to the health needs of women from ethnic minority groups, including asylum seekers, refugees and other immigrants. It supports the participation of women from ethnic minority groups in identifying and addressing their own health needs.

Some services provided do not take into account culturally appropriate provision. Furthermore, some ethnic and religious minorities, e.g. refugees, have experienced torture and trauma that require specialised care. However, there is a lack of provision or limited capacity in many member states as illustrated by the situation in Denmark where persons may have to stay up to two years on a waiting list before accessing torture and trauma centres.

3.5 Policing and racial profiling

The term "policing" is used in this report in a broad sense, including the criminal justice system as a whole. Racial profiling is understood as "the use by police, with no objective and reasonable justification of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities", as defined by ECRI.¹⁷

While the extent of the problem of racism within police forces varies, all national reports highlighted this as a problem. In Germany 32% of complaints regarding discrimination were made against the police and security guards. In Spain, the NGO SOS Racismo found that 50% of reports made to them

¹⁷ ECRI General Policy Recommendation No. 11 on Combating Racism and Racial Discrimination in Policing, adopted on 29 June 2007.

related to the police. The report from the UK explains that ethnic minorities are overrepresented at all stages of the judicial process and are disproportionately affected by “stop and search” though some efforts have been made to improve this situation. Particular concern is expressed in the report from Austria, where a number of members of ethnic minorities have died in police custody.

In **Belgium**, a group of NGOs gave **recommendations on procedures regarding the deportation of undocumented migrants**. Recommendations covered areas including medical examinations, appeal procedures, control mechanisms, reporting and tracking in the home country.

Immigration is a site where police are gaining increasing authority in a number of countries in recent years. Reports from Belgium and Bulgaria are amongst those expressing concern with regard to the way deportations were carried out in 2006; border controls are also problematic as noted by many reports including those from Cyprus and the Netherlands. Concern with regard to this question has also been expressed by European monitoring bodies such as ECRI, including in relation to conditions and experiences of asylum seekers in detention in Cyprus. Their observations are also reflected in data from the US Embassy.

Racial profiling appears to have become more acceptable and widespread in the context of countering terror. However, it is a well established strategy of police and a more general phenomenon that has affected and continued to affect ethnic and religious minorities. Racial profiling disproportionately affects the Muslim and Roma communities. What is also noteworthy and of concern is that large numbers of people from ethnic and religious minority groups that are targeted through racial profiling but against whom charges are never placed indicated a discriminatory and excessively broad application of related procedures and racial profiling (see section 4.3.3).

It can be concluded, albeit in a context of limited access to official data, that racial profiling is practised in a majority of countries. Where data

is collected such as in Germany and in the UK, it is clear that racial profiling has increased in recent years. However, lack of available data presents a real barrier to identifying the extent of the problem. Reports from Estonia, Luxembourg, Malta and Sweden for example explain that they are not in a position to offer conclusive observations with regard to racial profiling due to a lack of official or unofficial data and sometimes a general lack of awareness of racial profiling. The report from Finland considers that racial profiling is not a significant issue. On the other hand, racial profiling is considered an everyday occurrence in French suburbs by NGOs but the police deny this, which reflects a discrepancy between NGO and official data in this respect.

It is a persistent anomaly across Europe that those charged with ensuring the protection and safety of society are at times guilty of racism and the violation of human rights of ethnic minorities. This phenomenon impacts on ethnic and religious minorities in overpolicing, violence and even death. Ethnic minorities have experienced racism from police on the streets, in their homes, while in police custody, including in the context of immigration control, in detention centres and at points of entry. While it is widely acknowledged that members of police forces and the institutions themselves can be guilty of racism, it has proven difficult to identify where this happens and to address the phenomenon for a range of reasons including a lack of available data, lack of trust by victims and a lack of independent and adequate complaints procedures, though there are a few notable exceptions.

In **Sweden**, an anti-discrimination bureau in Värmland conducted a **training programme for all police personnel**. The programme included seminars and workshops on the topic of discrimination. The main objective of this programme was to increase the acceptance of and tolerance for other cultures among police personnel, as well as to increase their knowledge regarding discrimination and anti-discrimination legislation.

These issues are explored further in section 4.3 which explores legal and political responses in the area of criminal justice.

In **Romania**, the Ethnocultural Diversity Resource Centre established a partnership with the Ministry of Administration and Internal Affairs with the aim of increasing the representation of national minorities within the police force and is conducting a campaign called: **“Mission possible: information campaign regarding a career as police officer for young persons belonging to national minorities”**. The campaign is also run in partnership with “Septimiu Mureşan”, a Police Agents’ School, and the Institute for the Research and Prevention of Criminality. In order to achieve equality, it is important that institutions have a representative staff; in this context a representative police force should also help to break down barriers between police and communities vulnerable to racism.

3.6 Racist violence and crime¹⁸

As in 2005, reports across Europe reveal a very worrying trend towards increased levels of racist violence and crime, an increase in the severity of racist violence and crime and a rise in extremism, by far-right groups and occasionally far-left groups. The fact that many incidents of racist violence and crime go unreported or are not recorded indicates that the extent of the problem, while serious on the basis of available evidence, is likely to be worse in reality. An assessment of responses to these issues can be found in section 4.3.

In **Finland**, during a one-year project started by the Refugee Advice Centre and supported by the Ministry of Education, solicitors gave **legal advice by email and on the phone** in Finnish, Swedish and English for two hours weekly.

A notable increase in racist violence and crime was highlighted in reports from Bulgaria, Cyprus, Denmark, Finland, Ireland, Latvia and Slovakia. Even in countries where it is reported that such incidents are rare, increases have been noted

including in Denmark, Estonia, and Lithuania. While the report from France records an overall decrease in racist violence and crime, it notes an increase in anti-Semitic violence and crime. It is in exceptional cases that a decrease in racist crime is recorded, as is evident in the Netherlands.

An increase in the severity of racist violence and crime and its consequence is adequately demonstrated through reference to the report from Belgium where instances have included murder and arson attacks, and to France where an anti-Semitic attack resulted in the death of a Jewish man. A significant rise in the existence and activity of extremist groups is recorded in Denmark, Germany, Portugal and Spain, amongst others.

The **project “Ultrà”** in **Italy** works with football supporters with the main aim of reducing violence, racism and intolerance in football through social work which targets fans and is carried out together with them. For over ten years it has organised the Anti-racist World Championship, with the participation of teams, supporters and activists from all over the world.

Racist violence and crime occurs everywhere. This report, however, highlights particular sites where new or recurring incidents of racist violence and crime are occurring. In Estonia, for example, the majority of incidents recorded related to the internet. In Greece, racist violence in sport resulted in the murder of one man after a football match between Greece and Albania. The report from Austria reveals repeated incidents on public transport.

Victims and survivors of racist violence and crime include all ethnic and religious minority groups. Amongst those whose experience of racist violence and crime is particularly noted in reports are Jews¹⁹, migrants²⁰, Muslims²¹, Roma, Sinti and Travellers²² and youth.²³ A group that is also important to name and to monitor in this context are anti-racist activists who experienced a number of attacks in 2006.²⁴

¹⁸ It should be noted that the legal definition of racist crime differs across member states (see also section 4.3.1). Where a racist incident may be considered a crime in some member states, it may not be recognised as such in another member states. The terms racist incident, racist offence and racist crime are used in reports reflecting the various legal distinctions.

¹⁹ For example, in the Czech Republic.

²⁰ Including from police as highlighted in section 3.5.

²¹ As highlighted in particular in the report from Bulgaria.

²² For example, in Romania and Ireland.

²³ For example in French suburbs and in Cyprus.

²⁴ See also section 2 on “Communities vulnerable to racism”.

In the **UK**, to tackle racially motivated offences and racist incidents and to build better relations in communities, **three Crown Prosecution Services (CPS) pilots** were launched in 2006. For example, a Race Scrutiny Panel was set up in West Yorkshire, where representatives from community race projects act as critical friends to the CPS and assist them in reducing hate crimes. This innovative method of community engagement comprises review and scrutiny of case files by community representatives and the identification of common themes and sharing of best practice.

3.7 Access to goods and services in the public and private sectors²⁵

The majority of EU member states have some form of anti-discrimination legislation in place which has also enabled the transposition of the "Race Directive"²⁶. However, the impact of the legislation varies between member states. Difficulties encountered relate to enforcement, remit of legislation and exemptions, remit of equality bodies and data. These are further explored in section 4.1 on anti-discrimination. While legislation has resulted in some improvements and provides routes for redress to individuals, it is clear that ethnic and religious minorities continue to experience discrimination in accessing goods and services in the public and private sectors.

In the **Netherlands** and as part of the EU sponsored "**GET-In**" project - a collaboration between Caritas Germany, Caritas Poland, the National Bureau against Discrimination (Article 1) - two brochures with guidelines about discrimination in the financial sector were published. The brochures are aimed at organisations working in non-discrimination and at the general public. A one-day conference for service providers was also organised.

Ethnic and religious minorities face different experiences depending on their type of residency. This can be illustrated with respect to access to public services in particular. In Greece, immigrants have experienced difficulties getting birth certificates for

their children born in Greece; in Ireland, the habitual residency condition limits access to a range of welfare entitlements to those resident in the country less than two years; in the report from Spain institutional forms of discrimination are also highlighted including provisions with regard to public housing and difficulties experienced with regard to registration, which is essential for access to public services.

Other problems encountered in accessing public service regardless of legal status include discrimination against Muslim women wearing the hijab as recorded in reports from Belgium, Bulgaria and France.

In **Slovakia**, the project "**Field Research on Equal Opportunities in Access to Employment, Goods and Services**" was developed by People Against Racism to be initiated in the context of the 2007 European Year of Equal Opportunities. The aim of the project is to monitor the real rate of discrimination in Slovakia with the assistance of testing pairs.

Issues relating to language are also problematic and include the language preconditions in countries including Latvia and Cyprus. The language barrier also impacts negatively on access to public services; the report from Poland, for example, reveals that those who cannot speak Polish are literally unable to deal with official procedures. While language can act as a barrier, it is important to note that the language question can effectively hide other issues. For example, even where translation services are available, access can remain an issue as seen in the report from the UK.

An area in the private sector that received particular attention in national shadow reports relates to financial services. This area was also highlighted in the 2005 Shadow Report for Europe. Factors that have been considered discriminatory include the consideration of name and address in credit rating assessments (see also section 3.2 which discusses the impact of discrimination in financial services on ethnic minorities' opportunities to purchase property). It is reported that in France ethnic and religious minorities experience difficulties opening bank accounts; in Romania, Roma have difficulty accessing loans and in Germany the Ombudsman has highlighted discrimination with regard to credit gaps and differential application of interest rates. On the other hand, in Italy migrants are seen as a growing market and

²⁵ Issues raised in relation to access to e.g. housing, education, healthcare and security in previous sections are also relevant to this section.

²⁶ EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

research is being carried out in this area to exploit relevant business opportunities.

In **Sweden**, Thema conducted a **research project in the area of situational testing**. The project's aim was to clarify the legal situation regarding testing as a way of proving discrimination in court proceedings in Sweden and also to create practical guidelines for Swedish NGOs on how to use situational testing in a way that will create evidence that can be used in court proceedings.

Roma and Travellers experience significant difficulties in accessing services and this has been noted particularly in the hospitality sector, including within reports from Ireland, Hungary and Romania amongst others. This is particularly problematic as it has been noted that equality legislation has had limited impact in this sector, as the report from the Netherlands highlights. While there has been notable progress with regard to access to services for ethnic minorities generally in Finland, it is acknowledged that Roma continue to experience discrimination.

3.8 Media, including the internet

The media is a particularly powerful tool and can play a very positive role in the struggle against racism. On the other hand, it can also act as a tool for the dissemination of racist ideas and perspectives. While there is some evidence of the former, for example in Malta where the media reported on conditions in detention centres, there is worrying evidence of the role of the media in the latter. A rise in extremism in the media is apparent through media monitoring carried out by NGOs and others in 2006.

The lack of representation of ethnic and religious minority groups is evident in media content and where they are included, stereotypical representations prevail. The report from Cyprus asserts that it is in television news that greatest use of stereotypes is found. The report from Lithuania finds that Roma, Jews and Muslims are most frequently represented in a stereotypical way; the report from Hungary also emphasises the predominance of stereotypical representations of Roma in the media. Other problems include the use of inappropriate language and inclusion of unnecessary information in media reports. Specific issues that received biased atten-

tion by the media in 2006 included immigration and issues related to Muslims and Roma.

Lack of representation of ethnic minorities is also evident amongst media professionals. On a positive note, progress in this area in 2006 is evident in member states including the UK where most broadcasters have set targets for employing an ethnically diverse staff.

The relationship between the media and politicians can be problematic. For example, the media can give a platform to racist statements by politicians. The relationship between the media and political parties has also been problematic, for example the situation in recent years where the then president of Italy, Mr. Berlusconi, has a significant share in the media industry. In 2006, we saw a situation in Poland which again called for greater attention to the relationship of the media with politicians and the responsibilities of each party. The relation of Radio Maryja and Nasz Dziennik as well as Telewizja Trwam to the ruling coalition of the Law and Justice Party and League of Polish Families was raised as an issue of significant concern in the report from Poland. Numerous anti-Semitic statements have appeared in these media. It is argued that repeated appearances in those media of politicians representing the government coalition greatly influenced the increase of their significance and scope of audience.

In **Estonia**, **Youth Union Siin** runs a project that aims to educate youth about democracy, equal treatment and human rights, encouraging them to publish articles about the issues in the local media. The project is innovative as it is the first project in Estonia that works with Russian-speaking youth, helping them to develop critical thinking skills and giving them the opportunity to use these skills to raise awareness through the media.

2006 saw a continued effect in Denmark and beyond of the publication of cartoons of Prophet Mohammed in the newspaper Jyllands Posten on 30 September 2005. This subject polarised Denmark and put it on the international media map. The extent of the continued debate is illustrated by MediaWatch's monitoring of the Danish press in the first three months of 2006 which indicates that the notorious caricatures were the No. 1 story.

A rise in Islamophobia is noted in the report from Denmark and a direct link is made to the publication of the cartoons. The extent to which this issue has reached beyond Denmark can be seen in statistics from the Danish Foreign Ministry which show that the case now fills 55 000 files.

In **Greece**, the Greek Forum of Migrants has launched a web page www.migrant.gr which informs the public on issues that concern migrant communities in English and Greek. They are in the process of translating the page in Arabic, Albanian, Bulgarian and Russian. They also organised an event where numerous journalists working for migrant newspapers and representatives of the Greek media were present and discussed the stereotypical representation of migrants by the Greek media.

Some positive developments with regard to the media can be noted, however. For example, reports from Romania, Greece and Lithuania all point out a decrease of racist statements in the media. While the effectiveness of legislation that prohibits racism in the media is limited,²⁷ some improvements and legislative gains have been noted in a number of the reports. A small number of cases can be seen to demonstrate occasional effectiveness of legislation. For example, in Poland the website Redwatch was closed down for publishing personal data of anti-racist activists and in Denmark a radio station was closed down on the basis of its transmission of content that was anti-Semitic and inciting racial hatred.

The internet is proving to be a platform for right-wing extremists and other racist groups. The rise of extremist groups through the internet and their increased usage of this forum are noted for example in reports from Bulgaria, Portugal and Malta. In Cyprus members of a so-called youth organisation with a website were the main suspects in an attack of Turkish Cypriots in an English school in 2006.

It is also important to note that the internet is enabling the extensive expression of racist sentiments in mainstream fora such as discussion fora

that have no connection with extremist groups. The prevalence of expressions of racism in such mainstream fora is highlighted in particular in reports from Lithuania, Malta, the Netherlands and the Czech Republic e.g. following the deportation of Roma. It is interesting to note that a Romanian website, Evenimentul Zilei, which requires users to provide an email address, has registered a very low level of discriminatory messages.

An issue of critical concern with regard to racism on the internet is the lack of regulation in this area. While some states may have legislation to regulate the internet in their jurisdiction, the international nature of the internet means that national remedies are not effective without international collaboration. This is evident in an example offered by the report from Belgium where a website was closed down due to its anti-Semitic and inciting content but is now hosted by a server in Asia. Another problem is the undermining effect that lack of regulation of the internet is having on legislation pertaining to the media more broadly. For example, a radio station that was closed down in Denmark in 2006 is now broadcasting on the internet.

In **Poland**, www.dyzurnet.pl is a website which aims to fight illegal content on the internet, including racist content. It was created as part of the EU programme "Safer Internet Action Plan", which supports the establishment of national contact points to fight illegal content on the internet.

²⁷ As noted in particular by reports from Bulgaria and Ireland.



4. Political and legal context

This section presents an overview of the political and legal developments in the key areas of anti-discrimination; migration and integration; criminal justice; and social inclusion. It provides an assessment of these developments and responses in these policy areas, from the perspective of NGOs and civil society.

4.1 Anti-discrimination

By the end of 2006, the majority of EU member states had transposed the “Race Directive”²⁸ and the positive role the Directive has played has been acknowledged. However, Austria, the Czech Republic and Estonia had yet to transpose the Directive into national law. Where transposition has occurred, issues remain. Weaknesses in the transposition of the Directive include problems with regard to limitation of scope, definitions, remedies, exemptions, shift of the burden of proof and time required to make a complaint. Problems with the implementation of aspects of the law were also noted, for example by Germany and Bulgaria. Barriers to the effectiveness of equality bodies (see below) impacts significantly on the implementation of the law. It should also be noted that weaknesses within the Directive itself have been highlighted as problematic, e.g. the position of TCNs and the fact that the Directive does not apply to the ground of nationality.

The report from Latvia explains that the area of access to goods and services is not covered in anti-discrimination legislation; the report from Ireland regrets that certain state bodies are not covered including the police and immigration officials; the report from Germany also notes that the legislation relates only to the private and employment sectors and advises that functions and services of the state should also fall within the remit of the legislation. As well as the exclusion of state functions and services in a number of EU member states, there are exemption clauses within legislation transposing the Directive that relate to institutions and organisations of religious communities that, by NGO assessments, amount to discrimination including in the area of employment. This is particularly noted by the reports from Germany and Ireland.

Reports from countries including Poland, Portugal and Bulgaria note that it is not the transposition of the law itself that is the core problem; rather the problem relates to the lack of effective implementation of the law. The report from Bulgaria notes that legislation goes beyond the requirements of the Directive but highlights that implementation is problematic.

At a conceptual level, problems with the definition and understanding of indirect discrimination are noted in reports from Lithuania and Bulgaria. In Bulgaria the equality body does not correctly apply the concept of indirect discrimination. The assessment in the report from the UK is that the transposition of the Directive also falls short in terms of indirect discrimination; also, it does not apply to prospective actions and there is no provision for class actions. The shift in the burden of proof has also been problematic. In Italy it is noted that there has been a failure to transpose the shift in the burden of proof while the report from Cyprus explains that the shift in the burden of proof only applies in judicial procedures but not where cases come before the equality body or where a victim is supported by an NGO.

Different stages of the implementation of the law must be considered when assessing its potential and actual effectiveness. The time limitation that a person faces in terms of making a complaint limits a person’s access to the law. In Germany for example, a person must make a complaint within two months of the discriminatory incident, in Ireland a time limit of six months applies. This is particularly problematic in this context, given the vulnerable position in which those who have experienced discrimination find themselves.

The potential outcome from taking a case under anti-discrimination legislation is also a factor. This can relate to the success or failure rate of cases themselves. In Sweden for example in 2006, out of a total number of 757 complaints, only six received a court verdict.²⁹ Another key issue is the question of penalties and sanctions which are often deemed as limited or ineffective, as highlighted for exam-

²⁸ EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

²⁹ The other complaints were either dismissed or settled outside of court.

ple in reports from Portugal, Germany, Ireland and Lithuania. The extent of the impact of the legislation is limited by its individualistic nature which restricts its potential to achieve structural change at an institutional or macro level.

The effectiveness of anti-discrimination legislation is determined significantly by the effectiveness of the equality bodies. It is therefore of concern to note that a number of countries including Spain and Luxembourg had not yet established equality bodies at the end of 2006. From an NGO perspective in most countries, the equality bodies are committed to fulfilling their role in ensuring the effectiveness of the law. The effectiveness of equality bodies can also be limited, however, as a result of limitations in their powers and remit and less directly through lack of resources or a lack of independent resources.

While the above named limitations are of concern, the Directive has had a positive impact. The report from Poland considers the Directive as the single most effective driver in ensuring legislation was put in place. The report from Belgium describes the transposition of the Directive as real progress and highlights in particular that the Directive provides for better definitions of key concepts than previous legislation. Mechanisms are in place to assess the efficiency of the law, as highlighted in the report from Belgium where efficiency will be assessed every five years. Such measures will help assess the overall impact of the Directive in member states.

A number of cases are highlighted that offer some indication of precedence being set by outcomes of legal cases in the area of employment. Latvia saw the first case of discrimination in employment on the grounds of ethnicity decided in favour of a Roma woman who was not hired due to her "accent" in the Latvian language. In Sweden, a settlement of the Ombudsman regarding a case where a Muslim woman was told she could not wear the hijab while employed in an amusement park was considered significant as it establishes a trend away from a previous court decision in 1986, which allowed the local government to dismiss an employee for wearing a turban. In Ireland, an employer was considered to have indirectly discriminated against an employee as contracts were not translated.

4.2 Migration and integration³⁰

4.2.1 Migration

Migration policy varies across EU member states but on the whole immigration laws and policies have been described as increasingly restrictive, short-term and focusing only on the economic contribution of migrants and less on human rights. A range of factors have contributed to the regressive trend in migration policy; of particular significance have been the externalisation of the EU borders, impacting severely on those attempting to gain access to Spain and Bulgaria; and measures to counter terror (see also section 4.3.2).

With the entry into force of the Amsterdam Treaty, most³¹ member states committed to working together to develop a common immigration and asylum policy. To this end, a directive designed to grant EU status of long-term residence to TCNs who have legally resided for five years in the territory of an EU member state was adopted in June 2003. In September 2003, a directive on the right of TCNs legally established in an EU member state to family reunification was adopted. These directives are entitled Directive 2003/109/EC³² and Directive 2003/86/EC³³ respectively.

A migrant's right to long-term residency appears to be becoming clearer in EU member states that have transposed Directive 2003/109/EC on long term residency. On the other hand, the transposition of EU Directives can result in a more restrictive situation for TCNs. In Estonia for example, it now takes five years to gain a permanent residence permit whereas previously it took three years. In Germany, the first draft law on the implementation of EU directives on residential and asylum rights was heavily debated after its publication in January. The report from Germany argues that the draft law aimed at tighte-

³⁰ Where used in this report, the term "migrant" 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.

³¹ A number of member states that are not party to the Schengen Agreement have also opted out of the development of a harmonised immigration and asylum system, e.g. Ireland and the UK.

³² EU Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

³³ EU Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

ning migration legislation rather than improving the situation for migrants.

The right to asylum is an essential right for all and underpins international protection of human rights. However, fundamental rights of asylum seekers as human beings, as well as their specific rights as asylum seekers, are being compromised daily as a result of the application of asylum law and policies.

Detention is a practice of concern for asylum seekers and also undocumented migrants. A particular concern that is highlighted in many reports is the question of detention where it is acknowledged that in some countries, conditions in detention can be deplorable and fail to reach legally binding international standards, e.g. as concluded by the EP Committee on Civil Liberties, Justice and Home Affairs with regard to the situation in Malta. These issues are further explored under sections 3.2 and 3.5 on housing and policing.

Another problem with migration policy is the extent of powers given to officials working in the area, e.g. immigration officers. Many of these powers have been extended to other officials including police who in recent years have gained an increased role in immigration (see also section 4.3). This can be compounded by the lack of procedural safeguards in the area of migration policy, including the right to appeal. The use of racial profiling at entry points and in the “control” of migrants within a country is of serious concern, as discussed also in sections 3.5 and 4.3.3.

In a number of countries including Ireland and Germany there is a duty to report to relevant authorities if one becomes aware that a person is undocumented. In Ireland, it is noted that there is a lack of clarity around the duty to report including to whom it applies and this threatens to discourage migrants from accessing essential services.

All migrants face restrictions with regard to family reunification, though the extent of this can vary depending on one’s precise legal status and income. Also, family reunification policies often discriminate against ethnic and religious minorities not only on the basis of legal status and ethnicity but also on the basis of sexual orientation, marital and family status. Furthermore, the definition of the family in migration policy does not necessarily reflect the different roles or family structure across cultures.

Family formation is also an issue in this context and it affects all members of European society including EU citizens. For example, an EU national’s right to marry the person of his or her choice is restricted through migration policy. Reports from Austria, Germany, Greece, Ireland and Poland are among those highlighting issues with regard to family formation. A related issue is the area of family planning. Section 3.4 on health highlights issues regarding family planning that affect migrant women.

Migration and integration policies impact on EU nationals differently and a clear distinction can be drawn between the experiences of EU15, EU10 and the so-called A8 nationals. Much of the discourse regarding migration refers to those immigrating to the EU from outside of the EU. The context of migration has changed somewhat since the accession of EU10 member states in 2004.³⁴

Only three EU member states have opened the labour market to so-called A8 nationals. Where the labour market has been accessed, there is evidence to suggest that A8 nationals face barriers that have not affected nationals of EU15 member states to the same extent. For example, the “habitual residency condition” was introduced in Ireland in response to accession in May 2004, limiting access to certain entitlements and services. Such conditions had not been placed on EU15 nationals. Since its introduction, the habitual residency condition applies to all those not habitually resident including all EU nationals and returned Irish emigrants.³⁵

4.2.2 Integration

At the European Council in Tampere in October 1999, EU leaders called for more dynamic policies to ensure the integration of TCNs. Subsequently, the Commission set up a network of national contact points on integration in October 2002. In November 2004, the Commission published a handbook on integration for policy-makers³⁶. Also in November 2004, the Justice and Home Affairs Council adopted the 11 Common Basic Principles (CBPs) on

³⁴ Reports from Romania and Bulgaria make reference to similar implications for their respective citizens. However, such issues were not relevant in 2006 as at that time, they were not member states of the EU.

³⁵ Evidence from NGOs suggests that some A8 nationals are paid below the minimum wage.

³⁶ Available at: http://ec.europa.eu/justice_home/doc_centre/immigration/integration/doc/handbook_en.pdf.

Integration³⁷ and in September 2005, the Commission followed up on the CBPs by adopting a framework for the integration of TCNs in the EU³⁸.

A general lack of a comprehensive integration policy at a national level is noted by the majority of national shadow reports. This situation remains relatively unchanged since 2005, despite ongoing initiatives at EU level.

An analysis of existing integration initiatives by government authorities reveals a lack of clarity regarding who has a role and who is responsible for integration. While the discourse around integration identifies a two-way process, in practice integration initiatives are targeted at ethnic and religious minorities but not necessarily the majority population. Also, integration initiatives can place a burden of responsibility on individuals to integrate but their integration is not always supported by the provision of services and conditions to enable their integration. For example, language proficiency is often highlighted as important in the integration process; yet these services are not necessarily provided or may be expensive. While in the Netherlands, a three-year integration plan is put in place on an individual basis, this is not the common practice. Also, lesser rights such as the right to vote or to family reunion significantly impact on the capacity of migrants to integrate.

The exclusivity of integration measures is also problematic. In some countries integration measures only apply to permanent residents and in the majority of countries, integration measures are not intended to include undocumented migrants. Asylum seekers' access to integration measures is also frequently restricted. In addition, the scope of integration measures is limited; a number of national shadow reports recommend that initiatives look beyond employment and consider all areas including education, housing and political participation.

While this report notes a general lack of integration policies and recommends initiatives be developed in

this area, it is important that such policies and actions reflect an inclusive understanding of integration, that recognises integration as a two-way, voluntary process that needs to be supported at an institutional level and not place unnecessary burdens on individual migrants. The CBPs provide a useful basis on which to formulate integration policies.

4.3 Criminal justice

An assessment of responses by governments in the area of criminal justice reveals that progress in this area has been limited. There are a few positive initiatives responding to racist crime but little progress has been made by governments in responding to issues faced by ethnic and religious minority groups as a result of counter terrorism or racial profiling. Indeed, government responses in the area of counter terrorism and racial profiling arguably cause problems for ethnic and religious minorities.

It is regrettable that the vast majority of national shadow reports note that there was little or no debate at the national level with regard to the EU Framework Decision on racism and xenophobia³⁹.

Responses with regard to data collection have the potential to impact positively on all areas of criminal justice. Current issues regarding data collection limit the assessment of the extent of problems in this area, the impact of legislation and the effective identification of key problematic areas and appropriate responses.

The existence and capacity of relevant data collection systems as well as the availability of data varies considerably. On the issue of data in relation to racist crime, reports from the UK, Finland and Germany are amongst the few that compliment the data collection systems. However, the report from Finland explains that while data collection systems are in place, the progress of cases from the police to the prosecutor general is not systematically monitored. The report from Germany notes that data collection is limited in that it relates only to right-wing groups and hate speech. The report from Lithuania is an example of where it is noted that the

³⁷ See http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf.

³⁸ *Communication from the Commission to the Council, the European parliament, the European Economic and Social Committee and the Committee of the Regions on a common agenda for integration: Framework for the integration of third-country nationals in the European Union, COM(2005) 389 final.*

³⁹ *Framework Decision on combating racism and xenophobia, COM(2001) 664.*

system of collecting data relating to racist crimes is poor.

The accuracy of data also needs to be considered given the general problem of underreporting. Underreporting occurs for a number of reasons, including the vulnerability of the victims or a lack of faith in the system. There has not been a consistent or comprehensive approach to addressing this issue across member states. The recording process is also problematic due to a lack of awareness of some police as to what is racism and an unwillingness sometimes to record a crime as racist.

Similarly, it can be difficult to ascertain the extent of racial profiling as little official data exists. Reports from Lithuania, Portugal and Slovakia refer to the lack of official data. However, in some countries such as Spain, the UK and Germany, records of "stop and search" and related procedures are kept.

The sections below consider responses to the specific areas of criminal justice, namely racism as a crime, counter terrorism and racial profiling.

4.3.1 Racism as a crime

There are a range of laws designed to combat at least some aspects of racist crime in most EU member states. However, it should be noted that there are very different approaches to recognising racism as a crime and the scope of national legislation varies greatly. In Greece, racism has not been criminalised while in Bulgaria the legislation in place relates only to Nazi propaganda. The report from Belgium reveals that far-right demonstrations are not outlawed whereas German legislation relates only to right-wing extremism. While changes to legislation in Italy in 2006 broadened the grounds to include religion, the term "incites" was replaced with "instigates", effectively narrowing the law's potential application.

Regretfully, the effectiveness of most laws to address racist crime comes into question and the ineffectiveness of legislation is the common factor across EU member states. Where a law might exist, the infrastructure and political will to enable and ensure effective implementation of the law does not necessarily exist. The extent of the problem can be demonstrated by the following statistical sample. In Portugal, legislation has secured only three convictions

over the six year period of 2000 to 2006; in Sweden only 3% of complaints led to prosecutions in 2006. Underreporting and lack of data remain two of the critical impediments to the effectiveness of the law, as discussed in the introduction to this section.

2006 saw some developments in legislation. In Estonia, amendments to article 151 of the Criminal Code narrow its application and criminalise only those acts of incitement which have endangered the life, health or property of a person.⁴⁰ On the other hand, the UK introduced the 2006 Racial and Religious Hatred Act which makes incitement a criminal offence. Another positive development relates to the introduction of racism as an aggravating circumstance in Latvia and Malta. Other countries that allow for aggravated sentencing include Belgium, Finland and the UK although the report from the UK is one of those that note that while aggravated sentencing is provided for, it is often dropped.

No law can ever be truly effective without adequate police responses and capacity. The response to racist crime by the police force and programmes in place to improve capacity in this regard are mixed. Overall, there has not been an adequate response to this issue. The report from Hungary highlights a significant improvement within the police force over the past five years although not perfect. The report from Latvia, on the other hand, reveals that there are no training initiatives for the police force that are funded by the government. The training that has been carried out has taken place on the initiative of the Latvian Centre for Human Rights, an NGO and ENAR member, and in one instance, the US Embassy. Guidelines were developed for police in the Netherlands but their impact to date has been minimal. The lack of training for police forces with regard to what constitutes a racist crime and general lack of awareness around racism means that in practice crimes that might be racist are not recorded as such.

Furthermore, section 3.5 highlights issues with regard to human rights violations by members of

⁴⁰ *Until the amendment, this article was used by the police to prosecute those inciting hatred, violence and insult on the basis of ethnic or race origin, such as for example, in cases of hate speech in public and on the internet.*

police forces against ethnic minorities. One of the issues regarding this is the lack of independent complaints mechanisms. In light of this, it is positive to see that the report from Ireland records some progress in this regard through the establishment of the Ombudsman. However, progress is found in only the minority of cases.

4.3.2 Counter terrorism

Measures adopted by governments to counter terrorism are causing concern for the protection of human rights and resulting in the racialisation of the security agenda. This section demonstrates a clearly negative impact of such measures on ethnic and religious minority groups. Approximately half of the reports consider counter terrorism measures to be of concern at a national level or high on the political agenda. In all but one⁴¹ of these countries, NGOs consider that anti-terrorism measures are impacting negatively on ethnic and religious minorities.

Concerns in terms of legal developments are many. There is concern that new laws regarding anti-terrorism do not provide for sufficient safeguards or due process. In some countries, anti-terror measures allow for lengthy periods of interrogation and detention. In France, the length of police custody has been extended from four days to six days. The report from Poland notes an increased use of the "community interview"⁴² and other monitoring and interrogation measures of the Muslim community in Poland. Counter terrorism measures and concerns have also resulted in a greater acceptability and application of racial profiling, as discussed further in section 4.3.3.

Anti-terror measures had substantial repercussions in 2006 in terms of data collection and protection. Firstly, the use of biometric data is increasing and reports from countries including the Czech Republic and Portugal express concern at this development. Those institutions that have access to personal and sensitive data, e.g. police forces, and the type of data they have access to, has also changed, worryingly. Reports from Denmark contain particu-

lar criticism and concern regarding increased access to personal and sensitive data. The report from Germany is also critical of this issue, where the inclusion of religious affiliation in the anti-terror file has been described as unconstitutional.

There is a view expressed in the reports that governments respond differently to members of ethnic minority communities and third country nationals in the context of counter terrorism initiatives, for example in the report from Germany.

The negative impact of counter terrorism on ethnic and religious minorities is also caused by the link that has been forged with immigration by policy makers, media and in public perception and has resulted in increasingly restrictive and intrusive policies in this area.

The effect of counter terrorism can be seen in immigration legislation⁴³ resulting in increasingly restrictive immigration legislation. There may also be a lack of safeguards for migrants within countries, at borders and in home countries. Examples illustrating this effect include the justification by the Maltese government of detention of migrants on the basis of security and difficulties obtaining visas, as highlighted in the report from Hungary where a person is applying from an Islamic country (see also section 4.2). Such measures have been criticised by bodies such as ECRI. The report from ECRI on the situation in Lithuania, for example, observes that national security and public order considerations have been mainstreamed into all aspects of asylum and refugee law and have opened significant space for the indefinite detention of foreigners who are considered to pose a threat.

4.3.3 Racial profiling

While racial profiling is often employed as a counter terrorism measure, it is a broader and more general phenomenon. No shadow report refers to legislation that promotes racial profiling per se; however, it is indirectly condoned through applications of immigration legislation, e.g. the 2005 Aliens Law in Austria and through "stop and search" measures applied in many countries including Austria, Germany and the UK to name but a

⁴¹ Finland is the exception, where anti-terrorism legislation exists but its implementation has not yet been deemed necessary.

⁴² A "community interview" involves contacting and interviewing people within the community of the presumed suspect, who are in contact with the latter in various settings including school, university, workplace, social events, etc.

⁴³ This is also the case in countries where counter terrorism is not high on the political agenda, e.g. in Bulgaria and Ireland.

few. One of the problems is also the lack of legislation outlawing racial profiling; the absence of such legislation is noted for example in the report from Denmark. Where data is collected it is clear that racial profiling has increased in recent years.

In a few countries, there is acknowledgement that racial profiling is carried out and efforts are being developed to address this issue, e.g. the racial profiling of Roma in the Czech Republic is acknowledged. In Germany, the constitutional court called for a balance between security measures and freedoms, in response to the large number of data files accessed in the aftermath of 9/11 (see below and also section 3.5).

What is also noteworthy and of concern is that large numbers of people from ethnic and religious minority groups that are subject to racial profiling but who are never charged with an offence indicates a discriminatory and excessively broad application of related procedures. For example, in Germany, 8.4 million data records have been searched in the aftermath of 9/11. Profiling delivered 95,271 possible suspects, but no proceedings have been taken against any of these suspects. In Italy, the Central Directorate of Preventative Police carried out a wide ranging control of supposed meeting places used by Muslim immigrants, which led to the identification of 19,104 persons and the arrest of 147 persons; however, none of the arrests were on grounds of terrorism related crimes.

4.4 Social inclusion

The European Commission currently defines social inclusion as “a process which ensures that those at risk of poverty and social exclusion gain the opportunities and resources necessary to participate fully in economic, social, and cultural life and to enjoy a standard of living and well-being that is considered normal in the society in which they live. It ensures that they have a greater participation in decision making which affects their lives and access to their fundamental rights.”⁴⁴

⁴⁴ European Commission (2004) Joint Report by the Commission and the Council on Social Inclusion. Available to download from: http://ec.europa.eu/employment_social/soc-prot/soc-incl/final_joint_inclusion_report_2003_en.pdf.

The extent to which the situation of minorities and migrants is taken into account in national social inclusion strategies varies across member states. Generally what is lacking is comprehensive social inclusion measures that include all ethnic and religious minority groups. That said, it is recognised that social inclusion strategies in many countries make explicit reference to or are beginning to take cognisance of the need to target and generally promote the inclusion of ethnic and religious minority groups. There are some targeted initiatives designed to address, for example, particular issues experienced by Roma and Travellers or migrants.

Undocumented migrants are excluded in a majority of cases from social inclusion measures. It should also be noted that asylum seekers and others in a temporary residency situation that may extend for many years are often not included within national social inclusion strategies.

Some national social inclusion strategies do not include ethnic minorities at all, evident particularly where society is seen as monocultural such as in Denmark; or immigration is seen as a temporary phenomenon as in Cyprus where no data on migrants is included in the first National Action Plan for Social Inclusion of 2004; or minorities are not recognised as seen from the report from France which explains that it is difficult to evaluate social inclusion measures as France does not recognise ethnic minorities. In Poland also, there is no specific mention of ethnic minorities in the NAP for Social Inclusion.

National Action Plans and National Strategies on Social Inclusion are limited and inconsistent with regard to their scope to ensure the social inclusion of ethnic and religious minority groups. Lithuania on the other hand, makes reference to minorities and migrants. Roma are referred to in the NAP in the Czech Republic.⁴⁵ Hungary makes little reference to migrants. Estonia makes specific reference to national minorities in its National Strategy for Social Inclusion.

While some social inclusion measures that include ethnic minorities are in place, a core problem remains with regard to lack of implementation that can result from lack of funding. Government initiatives in this area are often not sufficiently resourced. The report from Lithuania, for example, notes that the NAP for

⁴⁵ However, it should be noted that the National Action Plan has failed where Roma are concerned.

Social Inclusion is inclusive of ethnic minorities but there is little funding for its implementation. The National Action Plan Against Racism (NPAR) in Ireland was named as a good basis for social inclusion but its implementation and the designation of funds are somewhat ad hoc and commitment to the NPAR varies across government departments.

The role of NGOs in facilitating the social inclusion of ethnic minorities is key, especially where groups are particularly vulnerable. However, anti-racist NGOs usually experience funding difficulties.

One area that requires specific focus is that of political participation. The lack of political participation or right to political participation of ethnic minorities undermines democracy and excludes ethnic minorities. Political participation can be limited by issues related to long-term residency, nationality and access to citizenship.

In some countries, there has been an improvement in access to the right to political participation compared to 2005. In Belgium, progress was noted and 2006 was the first year in which TCNs could participate in local elections. In Finland, political participation by ethnic minorities increased. However, efforts in Italy to make local elections more accessible at a municipal level by some municipalities were cancelled at the national level. This move was expressed as being in the interest of protecting “the unity of the political order”.

The report from Latvia notes particular concern regarding the lack of access to the right to vote for non-Latvian citizens. It should be noted that the denial of the right to vote to non-citizens in EU member states affects both those with immigrant background and also many national minorities. Countries such as Latvia and Lithuania, amongst others, have a significant population of national minorities that do not hold citizenship of the country and are therefore denied the right to vote.

Furthermore, changes in citizenship and residency legislation impact on the right to political participation. Where access to citizenship has been made more accessible this has had a positive influence, however, in other countries access to citizenship has become more restricted, with resulting negative implications for political participation (see section 4.2 on migration and integration). A striking feature from the reports is the fact that policies in other areas, e.g. migration and integration, undermine social inclusion measures.

5. Summary of recommendations from national shadow reports



In the 2006 national shadow reports, ENAR members made targeted recommendations for policy and actions at the national level on the four policy areas covered in section four on “political and legal context” as well as a number of general recommendations. This section provides a brief synopsis of the focus of the recommendations made which highlight trends in the NGO identification of areas of concern across Europe.

5.1 General

National shadow reports recommend that policy and actions be taken to ensure:

- A comprehensive and holistic approach is adopted to address racism, which is underpinned by human rights and anti-discrimination and enables the development of public education, policy and legislative measures.
 - Anti-discrimination principles are mainstreamed into all policy areas.
 - Recognition of the role of the whole of society in addressing racism.
 - Recognition of the specific roles and responsibilities of certain stakeholder groups including politicians and the media.
 - Recognition and support for the important role that NGOs play in this area.
 - The development of adequate systems to collect and disseminate relevant data including on population demographics, experiences of racism and complaints. Disaggregated data is necessary to take account of minorities within minorities and multiple discrimination.
 - Existing legislation and policies are implemented, e.g. in the area of anti-discrimination, racist crime and social inclusion. The effectiveness of legislation and policies should also be monitored.
 - The development of training and awareness raising initiatives for all officials with responsibility in this area.
 - The ratification of relevant UN and Council of Europe Conventions.
- All aspects of the Directive are transposed at the national level and fully implemented.
 - The effectiveness and efficiency of the legislation is improved.
 - Equality bodies are given adequate, independent resources to carry out their work.
 - Independent and financial support is provided to those experiencing discrimination to use the legislation.
 - Complementary information and awareness raising campaigns are carried out to inform communities vulnerable to racism of their rights.
 - NGOs are resourced to support victims of racism to bring forward legal cases.
 - Legal infrastructure is developed to deal more effectively with cases of multiple discrimination.

Other recommendations made included the need to:

- Develop national actions plans against racism⁴⁷ where they do not exist and a renewed focus to ensure the implementation of existing national action plans.
- Consider the introduction of a “positive duty” which would require relevant authorities to consider the impact of policies and actions might have on ethnic and religious minority groups before they are adopted.

5.3 Migration and integration

The overarching recommendation in this area was that related policy and actions be underpinned by human rights and anti-discrimination and that migration policy be developed so that it does not negatively impact on integration. Also:

- The roles and powers of responsible authorities should be clearly defined.
- The use of detention in the context of asylum and irregular migration should be avoided.
- Conditions in reception and detention centres should be of an appropriate standard, in line at least with international standards, and monitored.
- Long term policies should be developed to allow migration to take place legally. In the interim, other measures such as regularisation are necessary to protect undocumented migrants.

5.2 Anti-discrimination

A number of recommendations were made with regard to the transposition of the “Race Directive”⁴⁶. These included the need to ensure that:

⁴⁶ EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

⁴⁷ As agreed at the World Conference Against Racism in Durban in 2001. See www.un.org/WCAR.

- Improve the right to family reunification. Also, the definition of the family should be more inclusive; in particular it should not discriminate on the basis of sexual orientation.
- All migrants need to be given consideration in the development of integration policy and actions.
- Comprehensive and inclusive integration policies need to be developed, with due regard to the EU Common Basic Principles (CBPs) on integration.
- The rights of the child must be paramount in the development of migration and integration policy and actions.

5.4 Criminal justice

Recommendations that apply to the area of criminal justice overall include:

- Independent, effective monitoring and complaints procedures need to be put in place, with regard to the work of relevant authorities including the police.
- Training in anti-discrimination and relevant legislation should be provided to all relevant authorities including the police and the judiciary.
- A holistic approach to ensuring the effective and transparent collection of relevant data should be adopted.
- Efforts should be made to support collaboration between NGOs and authorities.

A number of recommendations were made in relation to racism as a crime, counter terrorism and racial profiling as outlined below.

5.4.1 Racism as a crime

- Where comprehensive legislation is not in place to address racism as a crime, it should be developed.
- All efforts should be taken to ensure greater effectiveness of legislation on racist crime, including effective and comprehensive collection of data.
- Aggravated sentencing on the basis of racist motive, which is the practice in some member states, should be introduced.

5.4.2 Counter terrorism

While it is recognised that terrorism is a threat to human rights, recommendations point to the need to ensure that counter terrorism measures are developed and carried out in a way that protects fundamental rights.

Specifically:

- All counter terrorism measures must comply with international law.
- Discourse, policies and actions that link terrorism with ethnic and religious minorities need to be challenged.
- Actions to counter terrorism need to be monitored and proofed to ensure they are not targeting ethnic and religious minority groups or members of these groups in a discriminatory and unjustified manner.

5.4.3 Racial profiling

- Procedural safeguards need to be put in place to ensure that the fundamental rights of ethnic and religious minorities are protected and that relevant authorities do not discriminate against them through the use of racial profiling, without justification.
- As outlined above, it is imperative that relevant authorities including police and immigration officers receive adequate training to ensure that they do not use racial profiling as a discriminatory measure, without justification.
- The use of racial profiling needs to be monitored closely.

5.5 Social inclusion

Recommendations in the field of social inclusion include:

- Social inclusion measures need to be inclusive. They should apply to all minority and religious groups, such as ethnic and religious minority groups from a migrant background including recent migrants and regardless of the type of residency; national minorities; and particularly excluded groups such as Roma and Travellers.
- Broad awareness programmes are necessary to address the role that majority society plays in overcoming social exclusion.
- Political participation and the right to vote should be supported and encouraged to enhance social inclusion.
- A comprehensive approach needs to be adopted to ensure that social inclusion measures also address discrimination. Discrimination in areas such as employment, education and housing has resulted in the social exclusion of ethnic and religious minorities.

6. Conclusion

By presenting a comparative analysis of 26 national shadow reports produced by ENAR members, this report demonstrates that manifestations of racism continue, that some forms of racism are on the increase and that more extreme forms of racism are coming to the fore. Some progress has been made, for example in the area of legal protections against discrimination. During 2006 racism and discrimination were manifest in all areas of social interaction. The fact that many incidents of racist violence and crime go unreported or are not recorded as such, indicates that the extent of problem, while serious on the basis of available evidence, is likely to be worse in reality.

A comparison with the ENAR 2005 Shadow Report for Europe reveals some areas of improvement. For example, the implementation of legislation arising out of the transposition of the "Race Directive"⁴⁸ at the national level is providing redress to individuals. A number of the cases brought in 2006 set important precedence on a number of issues. There is an increasing recognition of multiple discrimination, though action in this area to develop tools to identify, measure and address this phenomenon is at a very early stage. However, some of the more prominent issues in 2006 were also apparent in 2005 including the impact of counter terrorism and difficulties regarding the collection and availability of data. Of particular concern is the continuation of negative trends identified in the 2005 report, including an increase in racist crime and rise of extremism. Emerging issues are also coming to the fore including issues for EU10 and A8 nationals⁴⁹ and the vulnerability of ethnic minorities, including migrants, to homelessness.

The ENAR 2005 report pointed to a lack of political will with regard to the fight against racism. This issue was exacerbated by the notable rise in extremist organisations and political parties expressing racist sentiments, not only on the margins of politics but increasingly

within the mainstream and even within government. This issue is also evident in 2006. This report emphasises the need to keep a close and watchful eye as racism is on the increase and there are significant concerns with regard to manifestations of racism including anti-immigration sentiments within active political circles.

The report finds that measures adopted by governments to counter terrorism are causing concern for the protection of human rights and resulting in the racialisation of the security agenda. There is evidence of an association being made between terrorism and ethnic and religious minority groups, the effect of which can also be seen in migration policy. While it is recognised that terrorism is a threat to human rights, recommendations in national shadow reports point to the need to ensure that counter terrorism measures are developed and carried out in a way that protects fundamental rights.

Data is recognised in national shadow reports as an important tool in comprehensively identifying issues of racism and problem areas as well as measuring the extent of the problem. This is necessary to enhance the development of appropriate, effective solutions. Difficulties regarding the collection and availability of data on racism and the experience of ethnic and religious minority groups were highlighted consistently across all areas in national shadow reports. These include problems regarding the collection of data based on ethnicity, lack of priority given to this area and questions regarding the accuracy of data. A number of factors impinge on the accuracy of sensitive data particularly in areas such as policing, including community relations, understanding of racism and resources. Certain areas are particularly problematic and the limitations in the collection and availability of data with regard to racial profiling and complaints to police is consistently highlighted. This report concludes that there is a continued need for open and collaborative approaches to the development of data collection and dissemination.

This report reveals a commonality of experiences of racism and religious discrimination across member states. It also provides evidence of the positive role EU interventions can make to the struggle against racism. The role of civil society, NGOs and ethnic and religious minority groups is critical if anti-racism and social inclu-

⁴⁸ EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

⁴⁹ 12 of the EU15 member states put in place travel restrictions for nationals of EU10 member states, with the exception of citizens of Malta and Cyprus. These eight countries are commonly referred to as A8 countries.

sion measures are to succeed. It is therefore of concern that in a number of member states NGOs have reported increasing difficulties in engaging with anti-racism initiatives and having their voices heard. They report that adequate consultation mechanisms are not in place; nor is sufficient funding made available to facilitate real participation of NGOs and ethnic minorities in policy development and decision making arenas.

2006 is a year that offers warnings of a situation that could become progressively and suddenly worse if allowed to continue. The commonality of experiences evident throughout the report demonstrates the importance of a European approach to racism and the importance of the role ENAR plays in monitoring these developments from a civil society perspective.

ENAR Shadow Reports

ENAR Shadow Reports are available at: www.enar-eu.org/en/publication/shadow_reports/index.shtml

Shadow Report Austria 2006, Beatrice Achaleke, AFRA Centre for Black Women's Perspectives and Simon Inou, M Media/Afrikanet

Shadow Report Belgium 2006, Mohcine Bayna, Christophe Delanghe and Mahmadou Chalaré, Mouvement contre le Racisme, l'Antisémitisme et la Xénophobie (MRAX)

Shadow Report Bulgaria 2006, Svilen Ovcharov, Bulgarian Helsinki Committee

Shadow Report Cyprus 2006, Dora Georgiou, Anthoula Papadopoulou and Doros Polykarpou, KISA - Action for Equality, Support, Antiracism

Shadow Report Czech Republic 2006, Gwendolyn Albert

Shadow Report Denmark 2006, Bashy Quraishy, Ethnic Debate Forum

Shadow Report Estonia 2006, Julia Kovalenko, Legal Information Centre for Human Rights

Shadow Report Finland 2006, Liisa Heikinheimo and Ali Qassim

Shadow Report France 2006, Brice Monnou and Frédérique Jakic, ENAR France

Shadow Report Germany 2006, Dr. Andreas Hieronymus and Lena Schröder, assisted by Ines Fögen, iMiR - Institut für Migrations- und Rassismusforschung

Shadow Report Greece 2006, Adla Shashati, Hellenic Sudanese Friendship League and Andriana Mardaki, SOS Racism Greece

Shadow Report Hungary 2006, Dr. William Ejalu, International Law Research and Human Rights Monitoring Centre

Shadow Report Ireland 2006, Catherine Lynch

Shadow Report Italy 2006, Camilla Bencini and Sara Cerretelli, COSPE

Shadow Report Latvia 2006, Svetlana Djackova, Latvian Centre for Human Rights

Shadow Report Lithuania 2006, Gediminas Andriukaitis, Lithuanian Centre for Human Rights

Shadow Report Luxembourg 2006, Anita Petersheim, ENAR Luxembourg

Shadow Report Malta 2006, Christian Attard, ENAR Malta

Shadow Report Netherlands 2006, Leyla Hamidi and Igor Boog, National Bureau against Racial Discrimination (Landelijk Bureau ter bestrijding van Rassendiscriminatie)

Shadow Report Poland 2006, Marek Kubicki, Arabia.pl

Shadow Report Portugal 2006, ENAR Portugal

Shadow Report Romania 2006, Delia Luiza Niță and Iustina Ionescu, Centre for Legal Resources

Shadow Report Slovak Republic 2006, Daniel Milo, People Against Racism

Shadow Report Spain 2006, Diego Lorente, SOS Racismo and Lucia Alonso, Comisión Española de Ayuda al Refugiado

Shadow Report Sweden 2006, Maria Bideke and Marcus Junkka, Thema and Paul Lappalainen, Centre against Racism

Shadow Report United Kingdom 2006, Sarah Isal and Katalin Halasz, UK Race & Europe Network

Annex: List of abbreviations and terminology



Abbreviations

AGG	Allgemeines Gleichbehandlungsgesetz (General Equal Treatment Act - Germany)
CERD	Committee on the Elimination of All Forms of Racial Discrimination
CBPs	Common Basic Principles on Integration
CPS	Crown Prosecution Services (UK)
ECHR	European Court of Human Rights
ECJ	European Court of Justice
ECRI	European Commission against Racism and Intolerance
ENAR	European Network Against Racism
EP	European Parliament
EU	European Union
EUMC	European Monitoring Centre on Racism and Xenophobia (now the EU Fundamental Rights Agency)
FCNM	Framework Convention on National Minorities
HBC	Habitual Residence Condition (Ireland)
NAP	National Action Plan (on social inclusion)
NGO	Non-governmental organisation
NPAR	National Action Plan Against Racism
TCN	Third Country Nationals
UK	United Kingdom
UN	United Nations
US	United States

Terminology

“Ethnic and religious minority groups/minorities”: The term “ethnic and religious minorities” is used throughout the report. However, in some instances it has been necessary to use other terms such as “foreigner” or “foreign citizen” where this is deemed necessary in the particular national context or when referring to specific legal instruments. There is no universally accepted and binding definition of a minority in international law, however one definition has been proposed by Jules Deschênes within the framework of Article 27 of the United Nations International Covenant on Civil and Political Rights: “A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law”⁵⁰.

“Migrant”: Where used in this report, the term “migrant” 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.

“Racial profiling”: The definition of racial profiling used in this report is “the use by police, with no objective and reasonable justification of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities” as defined by ECRI in its General Recommendation No. 11 on Combating Racism and Racial Discrimination in Policing.

“Third Country National (TCN)”: A person who is not a national of an EU member state.

⁵⁰ Proposal concerning a definition of the term “minority”, UN document E/CN.4/Sub.2/1985/31 (1985)



racism in europe

enar shadow report 2006

Racism is a phenomenon that is contrary to the values of the European Union and undermines social cohesion and the realisation of human rights. Developments in 2006 demonstrate that racism is a persistent, pervasive issue across Europe and highlight the need for a renewed focus in this area.

ENAR's Shadow Report for Europe offers a snapshot of concerns with regard to racism in Europe in 2006 from the perspective of civil society and anti-racist NGOs. It is based on a comparison of national shadow reports from 26 EU member states compiled by ENAR members during 2007.

The report identifies communities that are vulnerable to racism and presents an overview of the manifestations of racism evident in 2006 in employment, housing, education, health, policing, racist violence, access to goods and services, and the media. It also provides an NGO assessment of the legal and political context with regard to anti-discrimination, migration and integration, criminal justice and social inclusion, and responses by governments.

This report reveals a commonality of experiences of racism and religious discrimination across member states. It demonstrates that manifestations of racism continue, some forms of racism are on the increase and that more extreme forms of racism are coming to the fore. It provides evidence of the positive role EU interventions can make to the struggle against racism. It also highlights the crucial role which NGOs and civil society play in supporting the participation both of communities vulnerable to racism and relevant institutions in the struggle against racism.

The European Network Against Racism (ENAR) is a network of European NGOs working to combat racism in all EU member states and represents more than 600 NGOs across the European Union. Its establishment was a major outcome of the 1997 European Year Against Racism. ENAR aims to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local, regional and national initiatives with European initiatives.



european network against racism

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