



Response of the European Network against Racism (ENAR)

ENAR Contribution to the public consultation on the Green Paper on “Equality and Non-discrimination in an Enlarged Europe”

August 2004

The European Network against Racism (ENAR) is a network of some 600 European NGOs working to combat racism in all EU Member States. Its establishment was a major outcome of the 1997 European Year against Racism. ENAR is determined 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/national initiatives with European initiatives. Further information is available at: www.enar-eu.org

Introduction

The European Network against Racism welcomes the Commission Green Paper on the future of anti-discrimination policies as a well-timed initiative to respond to the new challenges of enlargement and to design the shape of future EU actions in this policy area following the current action programme to fight discrimination.

Despite the strong engagement of governments in 2000 to establish the minimum standards to protect every person residing on the European territory against forms of discrimination listed in Article 13, the slow transposition of these instruments three years later shows that a lot still needs to be done. Implementing a coherent European anti-discrimination policy indeed is a long-term project that will need permanent corrective mechanisms to address in depth the root causes of prejudice and exclusion and ultimately create a Europe where everyone enjoys equal rights.

The European Network against Racism therefore wishes to present the following recommendations:

- **Reviewing the EC approach**

ENAR shares the understanding of the EC that the fight against discrimination should lead to the respect and promotion of diversity in the EU society, provided that acknowledgement and celebration of Europe's growing diversity is accompanied by concrete positive action. Failing that, diversity could result in empty (if not ambiguous) rhetoric. Furthermore, alongside such relevant, but primarily voluntary, instruments ENAR would like to see more progressive instruments enforceable by law by everyone being affected by discrimination.

This understanding leads us to encourage the EC to widen its current approach on anti-discrimination and diversity in order to include a stronger equal rights enforcement, which ENAR feels is eminent to achieve a society practising equality as a fundamental principle.

- **Raising the legal standards and make full use of them**

Besides stressing the importance of implementations of current legal standards, the Commission mentioned the possibility for changes or corrections to the two Equality Directives to be suggested in its respective reports in 2005 and in 2006. Although it mentions that more legislation is needed to combat discrimination there is no specific reference to the reinforcement of measures to combat racial and ethnic discrimination.

While the pressure needs to remain high on Member States to transpose the current legal standards, ENAR is convinced that for the protection against discrimination to be effective, the same level of protection should be offered against all forms of discrimination, this including more attention to be paid to multiple discrimination. The current split between the protection against discrimination on the ground of race and ethnicity and other causes is incoherent with the principle of equality and creates an unacceptable hierarchy of protection. This is particularly so for victims who are both target groups for racial and religious discrimination. Race and religion are often closely linked and it is often very difficult to distinguish whether a Sikh or a Jew, for example, has been discriminated because of his/her origin or his/her belonging to this specific religious community. Another reason why we need

to have the same level of protection for all types of discrimination is that the debate on “what precise type of discrimination” the person has suffered is a very artificial one, especially for people with multiple identities or belongings.

ENAR recommends that the Commission take the above-mentioned shortcomings into consideration when evaluating the implementation of the Race Equality Directive and to take the necessary measures to harmonise the European legal standards against discrimination on all grounds. ENAR invites the EC to reflect on the opportunity to promote a “European Year of Diversity” in order to achieve political momentum towards comprehensive anti-discrimination legislation and raise awareness about intersectional issues and multiple discrimination.

ENAR highly welcomed that rather rapid steps were taken by the EC to open infringement procedures towards countries not transposing or complying with the two Equality Directives.

The European Network against Racism has always strongly supported the establishment of anti-discrimination legislation with the objective to make legal tools available to victims of racism to be able to claim their rights. It is hoped that this objective is met in the near future. However ENAR is convinced that only strong legislation, made known and easily accessible will achieve such an objective.

We therefore call upon the EC to continue its efforts in the process of working with governments to guarantee a full compliance with the Equality Directives and to use any measures at hand to sanction governments if not done so. In parallel to these efforts we advocate to make an utmost effort to inform potential victims of discrimination (within the Information campaign on discrimination and beyond) about their rights and to support with all possible means that transposed legislation is used as much as needed to achieve change. We are convinced the action programme PROGRESS will constitute a perfect tool to consider such measures to make full use of new/improved legislation, through information, project activities and support measures.

- **Mainstreaming equality**

The Green Paper discusses the principle of integrating non-discrimination in other policy areas, referring to the European Employment Strategy, the Social Inclusion Agenda, the Lisbon strategy, etc. It fails, however, to provide for a strategy allowing for equality to be integrated into all Community initiatives and in every stage of development of Community law.

The attempts made to mainstream anti-racism into other policy areas have been characterised by a case-by-case approach, lacking any form of coherent policy development strategy. ENAR has recently issued the publication “Mainstreaming equality in European Union law and policymaking” based on extensive policy research that proposes different elements for a challenging overall “equality mainstreaming strategy”.

ENAR believes that the time is ripe for the Commission to bring together the existing bits and pieces of the currently fragmented equality mainstreaming approaches in order to develop a coherent and comprehensive equality mainstreaming strategy and the structure needed to

implement such a strategy. ENAR would therefore encourage the Commission to produce a Communication to elaborate such a strategy and to reflect, which structure might be the appropriate to ensure implementation successfully. Such measures should include the possible adoption, both at EU and national level, of comprehensive “equality schemes” to be implemented at any level of public and private employment as well as in provisions of goods and services.

- **The need for specific action to combat discrimination against the Roma and to promote their integration**

As the Green Paper correctly highlights, the Roma community has become the largest ethnic minority in Europe. By their number they correspond to the population of a small EU member state. The Roma have been targeted with discriminatory actions over centuries. It is time for the EU to turn the tide. They are often excluded from all public services offered to the mainstream citizens. They therefore often do not enjoy the same political, social or legal rights as other citizens in the European Union.

ENAR therefore encourages the Commission to design the appropriate strategies and measures to provide the same standards of services and rights to the Roma population in Europe. We think in particular of specific measures to promote their integration, in line with the suggestions made in the 2004 Annual report of the group of independent experts on Human Rights. This could, for example, lead to a specific strand of funding in the new action programme PROGRESS, designed in a horizontal manner to cover all areas where the Roma population is treated unequally. Should the EC not support this suggestion a mainstreaming approach could be chosen to reflect on Roma specific issues in all activities and funding the EC carries out.

- **Grounds of discrimination not covered by the EU legislation**

To be consistent with the steps forward recently made in the European integration with the adoption of the Draft Constitutional Treaty, which fully incorporates the EU Charter of Fundamental Rights, European anti-discrimination policies should take into consideration the grounds of discrimination listed not only in current Art. 13, but in Art. 21 of the Charter, thus including colour, social origin, genetic features, language, political or any other opinion, membership of a national minority, property and birth. Furthermore, as the WCAR 2001 in Durban stated, "*xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices*". ENAR is therefore convinced that migration policies and legislation, both at EU and national level, should no longer be kept out of the scope of anti-discrimination provisions.

ENAR urges the EC to take initiatives in order to "ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin"¹ as well as to grant to third country nationals residing in the EU

¹ General Recommendation n. 30 of the UNHCHR Committee on the elimination of racial discrimination.

territory a level of protection against discrimination on the ground of nationality as close as possible to the one enjoyed by EU citizens.

- **The future Community action programme to combat discrimination - PROGRESS**

The Commission is putting a certain emphasis on the *integrated approach* towards the fight against discrimination in the green paper by expressing “the need of having one general approach integrating all grounds listed in Article 13, including sex, in the Community support to fight against discrimination”, referring to the future support programme to combat discrimination.

ENAR has also taken note of the Proposal for a Decision of the European Parliament and of the Council establishing a Community Programme for Employment and Social Solidarity – PROGRESS, presented by the Commission and designed to follow up the current Community Action programme to combat discrimination. This proposal clearly follows the same standpoint by merging not only all anti-discrimination support actions, but also the actions undertaken to promote social inclusion and social protection as well as supportive measures to promote employment.

Acknowledging the added value of a horizontal approach ENAR nevertheless stresses the need for safeguards against excessive “merging” of the complex problems caused by different forms of discrimination. While a lot of elements are certainly common, there also needs to be a clear margin of manoeuvre for the “specificities” in activities against different forms of discrimination. We therefore recommend maintaining the specific focuses on the various grounds of discrimination in the new action programme.

Furthermore specific action to target discrimination in employment which the projects implement under the EQUAL programme, have often produced very positive and sustainable outcomes. ENAR deplors that under the current proposals for reform of the structural funds, no immediate follow up measures are envisaged to replace the EQUAL initiative.

Experience of the Action Programme to fight discrimination 2000 – 2006 was generally positive and structural improvements made during this time were highly appreciated.

ENAR would therefore suggest using such positive experiences, to design the new action programme in a comparable manner and to maintain on the one hand the horizontal analysis and on the other the specific funding made available for the various grounds of discrimination in the form of projects and its networks on the EU level. We furthermore would like to underline that the volume of future funding for anti-discrimination work should remain.

We would additionally like to highlight that the rich experience of smaller local or regional NGOs is not neglected.

ENAR therefore suggests that innovative activities of local or regional NGOs should be granted under the new action programme, making benefit of creative ideas that might have a positive impact on the development of future strategies on the EU level.

Furthermore we believe that the exchange of experience as well as results of activities and projects funded in future should receive a more prominent role in the new action programme. We are convinced this will create synergy effects with other stakeholders.

We would like to suggest to highlight on the exchange of experiences in activities and projects supported under the new action programme and include such exchange in a systematic manner.

- **Other initiative to support anti-discrimination measures**

Contemporary forms of racism and ethnic/racial discrimination are more and more often characterised by a "cultural" rather than biological approach, negatively emphasising the, actual or alleged, cultural diversities among different, actual or alleged, ethnic groups. The fight against racism and racial discrimination cannot be won unless it's won on the educational and cultural ground.

ENAR appreciates the efforts made to include anti-discrimination issues in education and culture related policies and programmes and encourages the EC to strengthen the equality aspects and strands in community programmes such as (not exhaustively) Culture, Youth, Socrates, Grundtvig as well as in the Framework Research Programme.

- **Cooperation with other Directorate Generals (DG's) working on Racism and ethnic discrimination**

ENAR recognised over the past years that the responsibility to work on racism, xenophobia, ethnic and racial discrimination is shared by several DG's. Due to this spread of responsibility in some occasions a rather artificial divide is created, which does not always appear to support a coordinated action.

We strongly acknowledge the efforts made by DG EMPL to design anti-discrimination policies on ethnicity/race and we encourage other DG's working in related areas to strive for comparable efforts.

We therefore invite the EC to review this current divide and to rethink how an enhanced coordination and cooperation can be established. This could be done by establishing an intersectional working group guaranteeing exchange and coordination of all activities carried out by the EC related to racism and ethnic discrimination. In this context we believe that the tangible experiences made by DG EMPL can serve as positive examples for other DG's such as DG JAI to actively include anti-discrimination policies in areas such as migration and integration of third country nationals.

- **Information and awareness-raising on citizen's rights and obligations and the role of NGO's**

The Commission underlined the key role played by NGOs in raising the awareness of citizens on their new rights and obligations with the transposition of the EU non-discrimination legislation (two Equality Directives). It also mentions the role of specialised bodies established by the Race Equality Directive in providing assistance to victims of

discrimination. The Commission also stressed the need to involve trade unions, employers and local authorities in raising awareness of discrimination in society.

ENAR supports this approach and underlines the importance of the role of NGO's in the implementation of the principle of equal treatment, by serving as an essential partner in raising awareness about new rights and obligations under anti-discrimination law and providing assistance to victims. ENAR encourages the EC to take any possible initiative for a larger involvement of the organisations gathering actual or potential victims of discrimination and racism.