



European Network Against Racism
Réseau européen contre le racisme
Europäisches Netz gegen Rassismus

‘United Against Racism: Dignity and Justice for All’

Comments of the European Network Against Racism to the
Durban Review Conference
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The European Network against Racism (ENAR) is a network of some 600 NGOs working to combat racism in all EU Member States. ENAR is determined to fight racism, racial discrimination, xenophobia and related intolerance, to promote equality of treatment between EU citizens and third country nationals, and to link local/regional/national and European initiatives.

European Network Against Racism
43, rue de la Charité, B-1210 Brussels
Tel: +32 2 229 35 70 - Fax: +32 2 229 35 75
Visit ENAR's website: www.enar-eu.org

The European Network Against Racism calls on European governments and the European Union to use the opportunity of the Durban Review Conference to reinforce their commitments to a *world without racism*, founded on the values of respect for human dignity, freedom, democracy, equality and respect for human rights, including the rights of persons belonging to minorities

The vision of the European Network Against Racism (ENAR) is of a Europe without racism, where each individual enjoys equal rights and has an equal opportunity to participate in society. We stand for and promote a Europe which is multiethnic, multicultural, multifaith and which respects its own diversity. We believe that multiculturalism is beneficial and that European societies are the result of the contribution of every person living within the European Union, irrespective of national or ethnic origin, culture, religion or belief.

European societies are increasingly diverse in terms of cultures, ethnicities, religions, languages and the acknowledgment of the very existence of this diversity. Parallel to that, under the pressure of globalisation and in the absence of a clear common project for the future of Europe, fear of losing European societies' cohesiveness and of the dilution of national and societal identities is on the rise, while tensions, inequalities and discrimination continue to be a reality in the daily lives of a growing number of individuals and groups throughout Europe.

Since its inception over 10 years ago, ENAR has advocated for the fundamental rights of ethnic and religious minorities and migrants in Europe, making it a leading anti-racist and human rights organisation. With some 600 member organisations in all 27 EU member states, it has regularly and consistently monitored contemporary manifestations of racism, racial and religious discrimination and xenophobia, thereby demonstrating the significance of the issue of racism within the European context. It has drawn attention to racially motivated crimes and incidents, racial and religious discrimination in various areas of life (including employment, education and access to goods and services), as well as related intolerance in key areas of life, whilst keeping track of political, economic and legal developments that have an impact on the lives of ethnic minorities and important implications for the fight against racism in the member states of the European Union.¹

The Network's systematic monitoring of contemporary manifestations of racism has presented the trends and patterns concerning the phenomenon of racism in EU member states between 2001 and 2007. These trends have demonstrated that racism is not a fixed entity but something that changes over time, and in different contexts. While there is a commonality in the experience of racism and discrimination, it can be and is experienced in different ways by different groups and in different places depending on the context and time.

Consequently ENAR has constantly called on the EU and its member states to retain the focus on the fight against racism and its different forms in a collaborative approach that is based on international human rights standards. **ENAR believes that the follow-up conference to the 2001 World Conference against Racism, Racial discrimination, Xenophobia and Related Intolerance provides a unique opportunity to renew and strengthen the commitment towards the common goal of a *world without racism*, that is founded on the values of respect for human dignity, freedom,**

¹ See ENAR Shadow reports: http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN

democracy, equality and respect for human rights, including the rights of persons belonging to minorities.

The Durban Review Conference comes at an appropriate time to initiate a comprehensive review of the concrete legislative and policy measures taken by States to realise the goals proclaimed at the World Conference in 2001. ENAR undertook an assessment of the implementation of the National Action Plans against Racism, underlining the importance of comprehensive, long-term strategies that enable governments to systematically work towards equality for all in a collaborative international effort and in close cooperation with other governments and civil society organisations.² The overview has shown a mixed picture with some States having pushed ahead with ambitious programmes while others still lack a comprehensive action plan, or indeed any anti-discrimination plan at all.

The urgent need for a holistic approach to addressing racism that is underpinned by a strong human rights based approach, that includes strong anti-discrimination laws and policies and that ensures the mainstreaming of anti-discrimination principles into all relevant policy areas (including employment, education, housing, health, policing and criminal justice, access to goods and services, media, political participation) has been reiterated by the annual ENAR Shadow reports on the state of racism in European countries. While there have been some improvements over the last decade, alarming trends, such as the rise of far-right movements, an increase in the numbers of crimes on grounds of race or religion, and widespread negative public perception of migrants, call for a continued and reinforced commitment and collaboration between all stakeholders; the UN, the EU, the Council of Europe, the OSCE, States and governments at all levels, civil society and representatives of minority groups.

ENAR believes that the coordinated cooperation of all actors can contribute significantly to the fight against ethnic and religious discrimination. Complementary to legislative efforts to be undertaken at international, European and national levels and to the concrete implementation of human rights instruments and anti-discrimination measures, the voluntarist development of soft tools such as intercultural dialogue becomes a key factor in the fight against discrimination.

The Durban Review Conference also offers a concrete opportunity to promote strategies of a vibrant dialogue between civil society, States and international organisations, as the contribution of civil society has proven to be crucial in developing, implementing and evaluating policies and legal instruments. In many European States that have implemented National Action Plans Against Racism, the important role of civil society organisations has been recognised and positively exploited as a tool towards the achievement of the desired goals.

In line with its mission to foster a collective civil society voice and to influence decision making in the European Union and its member states, and in order to redress the negative consequences of discrimination based on colour, ethnicity, national origin, culture or religion and to promote diversity and create the conditions for equal participation in a community characterised by a plurality of values, ENAR hereby presents its recommendations to the Durban Review Conference on a range of pressing human rights issues where the DRC is uniquely placed to effect change.

² ENAR Extended Fact Sheet No. 29: *'Durban's Legacy: National Action Plans against Racism in the European Union'*, October 2006, <http://cms.horus.be/files/99935/MediaArchive/pdf/FS29%20-%20NPAR%20-%20October%202006%20EN.pdf>

ENAR's Recommendations to the Durban Review Conference

1. Secure firm commitment to a comprehensive and universal, human rights based approach to preventing, combating and eliminating all forms of racism, racial discrimination, xenophobia and related intolerance

ENAR welcomes the initiative of the United Nations to review and learn from the progress made since the 2001 World Conference Against Racism held in Durban, South Africa, in the framework of the Durban Review Conference, which it sees as an important opportunity to address the problems of racism, racial discrimination, xenophobia and related intolerance.

We believe that this year, in the context of the global economic crisis, the Durban Review Conference (DRC) takes on even greater significance: politicians, governments, leaders of international organisations and EU institutions at all levels must mitigate the impact of the crisis on ethnic and religious minorities and migrants and ensure cohesive societies where nobody is left behind.

Racism remains a deep-rooted problem and with the increasing insecurity that people feel about their future it is likely to increase over the months to come. This feeling of insecurity can provoke a siege mentality, and a rising tide of hardening attitudes, intolerance and violence in both word and deed.

Politicians must therefore show leadership in prioritising human rights and social objectives in this context of increasing inequalities and persistent discrimination. They should in no event use the current crisis to erode democratic values, to promote messages likely to fuel xenophobic and racist attitudes or to undermine the values of equal treatment and respect for human rights, including the rights of persons belonging to minorities. This is all the more important considering the rise in political parties expressing racist sentiments, not only on the margins of politics but increasingly within the mainstream, as well as a worrying trend towards increasing racist violence in a number of EU member states as clearly highlighted in ENAR's 2007 Shadow Report on Racism in Europe.³

Restoring citizens' confidence must be achieved through a firm commitment to democratic values and human rights. States should use the occasion of the Durban Review Conference to reassure citizens by reinforcing their political will towards a comprehensive and universal approach to preventing, combating and eliminating all forms of racism, racial discrimination, xenophobia and related intolerance. Furthermore, the DRC offers a concrete opportunity to empower people for a better future by developing a participatory approach to democracy and stimulating a strong civil society involvement in the debates leading to the DRC and in defining concrete actions. The contribution of civil society has been proven to be crucial not just in developing, implementing and evaluating policies and legal instruments but also in providing a common channel through which people seek to exercise civil and political rights and contribute to social well-being. Strategies leading to the development and the long term sustainability of a vibrant dialogue between and among civil society actors, States and institutions should be embedded in a political framework based on intercultural dialogue, mutual respect and appreciation.

Intercultural dialogue⁴ allows us to understand the reality and authenticity of everyone's experience in a safe environment, but it requires a supportive framework, a true equal opportunities strategy,

³ http://cms.horus.be/files/99935/MediaArchive/pdf/Shadowreport2007_EN_Low%20final%20with%20corrections.pdf

⁴ Intercultural dialogue as having the following understanding: "a series of specific encounters, anchored in real space and time between individuals and/or groups with different ethnic, cultural, religious, and linguistic backgrounds and heritage, with the aim of exploring, testing and increasing understanding, awareness, empathy, and respect. The ultimate purpose of Intercultural Dialogue is to create a cooperative and willing environment for overcoming political and social tensions".

capacity building, and funding. Intercultural dialogue is an endeavour which can only succeed if different sectors and different levels of government collaborate.⁵

ENAR calls on the DRC to:

- Reinforce the commitment of all States and stakeholders to a comprehensive and universal human rights based approach to preventing, combating and eliminating all forms of racism, racial discrimination, xenophobia and related intolerance.
- Promote intercultural dialogue as a value and as a collective method fostering democratic decision making and establish a supportive framework for a participatory approach leading to the DRC and in defining concrete actions for the future.

2. See a real change result from the Durban Review Conference

The fight against racism requires respect for the universality and indivisibility of the fundamental human rights of all. Thus, as well as ensuring that combating racism, racial discrimination, xenophobia and related intolerance are high priorities for the DRC, it is also crucial that any future programme is founded, built and operated on the recognition of the rights of all. Fundamental human rights must be seen as the foundation stone for the review process whereby sources, causes, forms and contemporary manifestations of racism must be reviewed in order to enable effective legal and policy responses and collaborative efforts to achieve equality for all.

An essential element of the review process is the assessment of the implementation of the Durban Declaration and Programme of Action (DDPA) adopted at the 2001 World Conference Against Racism in Durban. Key to the implementation of the DDPA is the adoption and implementation by all UN States, including all EU member states, of a National Action Plan Against Racism. The adoption and implementation of these plans is lacking in many States and the future programme should make it a priority to promote the adoption and/or implementation of these plans by individual States.

ENAR believes that it is vital that EU member states who have not yet fully developed and implemented National Action Plans Against Racism are held to account through the Review Process.

ENAR calls on the DRC to:

- Ensure that the review process is placed in a framework which recognises the universality and indivisibility of the fundamental human rights for all.
- Call upon States to adhere to their international obligations to protect, promote and fulfil fundamental human rights.
- Recognise the vital importance of the review process as well as the urgent need to continue the process and spirit of consensus that prevailed at the Durban WCAR Conference in 2001.
- Increase appropriate and effective preventive measures to eliminate all forms of racism and racial discrimination by considering the role of all stakeholders including States,

Definition from Platform for Intercultural Europe: *'The Rainbow Paper. Intercultural Dialogue: From practice to Policy and Back'*, September 2008.

⁵ Platform for Intercultural Europe: *'The Rainbow Paper. Intercultural Dialogue: From practice to Policy and Back'*, September 2008.

governments, international and regional organisations, public bodies and agencies, human rights institutions, the media and civil society.

- Reinforce the importance of effective and competent legal frameworks based on international human standards whereby victims of racism, racial discrimination, xenophobia and related intolerance are able to seek effective remedies and adequate redress through accessible, fair and independent public procedures.
- Promote the adoption and/or implementation of the National Action Plans Against Racism by all States.
- Establish effective monitoring mechanisms on the implementation of the National Action Plans involving civil society actors and identify the roles and responsibilities of all stakeholders.
- Provide the necessary financial resources to facilitate and continue the Durban review process beyond the DRC.

3. Promote the universal ratification and implementation of key Human Rights instruments

ENAR calls on the DRC to promote the ratification and implementation, without reservation, by all States and the EU, of the:

- International Convention on the Elimination of All forms of Racial Discrimination and the declaration of the recognition of the rights of individuals to file complaints as laid down in article 14 of the Convention
- European Convention on Human Rights and Fundamental Freedoms and Protocol No. 12 (for European States)
- Convention for the Protection of the Rights of All Migrant Workers and the members of their families
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
- Convention on the Protection and Promotion of the Diversity of Cultural Expressions
- Convention for the Elimination of Discrimination Against Women, and the additional Protocol
- Convention on the Rights of the Child, and the additional Protocols
- Declaration on the Rights of Indigenous peoples
- Convention on the Rights of People with Disabilities and its Optional Protocol

European institutions to fully implement and where needed revise relevant Community legislation to comply with the:

- CERD General Recommendation 30 on discrimination against non-citizens
- 1951 United Nations Convention Relating to the Status of Refugees
- 1954 United Nations Convention Relating to the Status of Stateless Persons
- Relevant recommendations of the Council of Europe
- Conventions of the International Labour Organisation
- Palermo Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and against the Smuggling of Migrants by Land, Air and Sea⁶

4. Establish effective international and national legal and policy mechanisms whereby international organisations, governments and civil society actors are able to effectively address and combat racism, racial discrimination, xenophobia and related intolerance and identify and share good practices achieved at national, regional and international levels

Racism today is a complex and multi-faceted phenomenon. The face of racism has evolved over the last decades and has taken many different forms, including through ethnic and religious discrimination. Due to the impact of legislation and prevailing attitudes “directly” racist discourse appears to be slowly disappearing and this discourse tends to be restricted to the language of extremist groups. However new subtle and insidious forms of discrimination are widespread throughout society. From being a prejudice based on the belief that race is the primary factor defining human traits and abilities, racism has evolved to include less overt prejudicial behaviour, which can be more difficult to recognise, yet is often more severe due to its pervasive and persistent nature.

Data collected by anti-racist civil society across the EU has demonstrated that racism is manifested in new and subtle forms in a broad range of areas, including employment, housing, education, health, policing, racist violence and crime, access to goods and services and the media. ENAR members have also pointed out that seemingly different and independent issues intersect and can have a magnified impact on vulnerable communities, who also experience multiple discrimination.⁷

Therefore measures addressing the problems of racism, racial discrimination, xenophobia and related intolerance can only be effective if they are based on a clear understanding of the immediate and underlying causes and contemporary forms and dynamics of discrimination, exclusion and deprivation as well as the damages that are caused to the individual, the community and to society. The process of analysis and assessment should lead to the development of appropriate legal measures, policies and strategies that are able to tackle the problem in a holistic and multi-sectoral approach. The involvement of all stakeholders, including civil society organisations, is essential in order to design and implement strategies that are able to bring about real change, both in terms of

⁶ See ENAR General Policy Paper on Third Country Nationals (2006)

http://cms.horus.be/files/99935/MediaArchive/pdf/gpp_3_en.pdf

⁷ See the ENAR Shadow Reports: http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN

immediate remedy and in addressing wider issues such as the social, economic, and political determinants of racism including the pursuit of human rights.

The collection and sharing of evidence and good practices aimed at raising awareness, preventing, combating and eliminating racism should inform any legal or policy measures to be developed. The need for accurate, accessible and effective data collection should also be addressed by the DRC, as data collection is an important tool to help identify issues of racism, measure the extent of the problem and develop appropriate and effective solutions. Civil society plays a very important role in ensuring that the gaps in official and academic data are filled, to offer an alternative to that data and an NGO perspective on the realities of racism. The DRC must seek to ensure that civil society organisations are empowered to carry out their roles through recognition of their contributions and by ensuring financial support and a strong role in developing, implementing and monitoring policies.

ENAR calls on the DRC to:

- Ensure that a human rights based, holistic and multi-sectoral approach is pursued when designing policies and strategies to address racism, racial discrimination, xenophobia and related intolerance, which is informed by a thorough analysis of the causes and dynamics of contemporary racism in the wider political, legal, social and economic context.
- Ensure that a comprehensive human rights impact assessment is carried out on proposed and future actions that not only enables assessment of whether proposals comply with fundamental rights standards but also explores ways in which proposals can enhance the enjoyment of fundamental rights.
- Reinforce the importance of the development of adequate systems, ensuring data protection, 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.
- Develop effective mechanisms of good practice sharing between States, governments, international and civil society organisations.
- Ensure that funding is available for civil society organisations to sustain and improve their work against racism, discrimination, xenophobia and related intolerance.

5. Strengthen efforts to identify concrete measures and initiatives at all levels to implement the Durban Declaration and Programme for Action and further initiatives aimed at combating racism

General

ENAR calls on the DRC to ensure that:

- Relevant national and EU legislation is reviewed for compliance with human rights standards. In the area of justice and home affairs particular attention should be paid to the rights of third country nationals and to protection against discrimination in the areas of policing and counter-terrorism.

- The role of equality bodies is recognised and enabled through strengthening their powers where these have been limited; their independence is acknowledged and sufficient resources are allocated for them to carry out their work.
- There is clear leadership and commitment of States, international organisations and the EU to implement positive action measures, including better guidance on the use of positive action, data collection and positive duties.

Anti-discrimination

ENAR calls on the DRC to ensure that:

- Anti-discrimination is firmly established as a core part of the human rights framework.
- Existing national and EU legislation provides for the highest possible standards in protection against all forms of discrimination.

➤ **Religious discrimination**

ENAR calls on the DRC to ensure that the following principles underpin all actions in the fight against discrimination. These principles are that discrimination on the grounds of religion or belief must:

- Not be used as a surrogate for racial prejudice, discrimination and/or oppression.
- Be subject to comprehensive European anti-discrimination standards.
- Not undermine the full realisation and enjoyment of human rights protections.

➤ **Multiple discrimination**

- States address multiple discrimination in their national legal frameworks.

➤ **Discrimination against women and children**

- Promote gender sensitive and age sensitive policy making and pay particular attention to the experiences and needs of women and children in designing legislative measures and policy instruments aimed at combating racism.

Migration

ENAR's strategic goal in the field of migration is to promote the rights of third country nationals and to ensure that migration, and related policies and practices, do not undermine ENAR's vision of a Europe without racism where each individual has an equal opportunity to participate in society. Integration and migration policies need to be firmly grounded in a human rights-based approach ensuring anti-racism and anti-discrimination through a common set of rights for all.

ENAR calls on the DRC to ensure that the following principles underpin all action:

- Promote positive values, conceptions and principles.
- Use positive terminology in the political discourse.
- Comply with human rights based instruments.
- Make use of demographic data, challenging assumptions.
- Respect the links between anti-discrimination, integration and social inclusion.
- Enforce existing labour law.
- Protect worker's rights.
- Promote gender sensitive and age sensitive policy making.
- Ensure participation and the migrant's voice.

Poverty and social exclusion

ENAR calls on the DRC to ensure that:

- A comprehensive approach is adopted that is informed by a thorough analysis of the links and mutually reinforcing negative impact of racism and poverty.
- Measures to combat social exclusion and poverty are inclusive of all ethnic and religious minorities and migrants.

Education

In order to drive and support the elimination of racial discrimination, promote inclusion and diversity in education and training systems, and enhance the educational attainment of ethnic minority and migrant pupils across Europe, ENAR calls on the DRC to ensure that the following principles underpin all actions:

- Education is central in addressing the challenge of social cohesion and promoting solidarity and non-discrimination in a more diverse Europe. Education and training systems must instill values of respect, diversity and challenge prejudice. The systems themselves must be free of discrimination at all levels. Education and training systems must ensure access to quality education for all that adequately addresses underachievement and educational disadvantage.
- Better partnership must be promoted between formal and non-formal education and training systems and civil society.

Criminal justice

➤ **Racism as a crime**

ENAR calls on the DRC to ensure that the following principles underpin all action:

- Harmonise criminal protection against racism at the highest level.
- Racism must be widely defined in order to ensure an effective response.
- Racial motivations must be identified as an aggravating circumstance.
- Hate crimes cannot be excused on the grounds of freedom of expression.
- Combating racist crime requires comprehensive and complementary strategies.

➤ **Support for victims**

ENAR calls on the DRC to ensure that:

- Targeted victim support initiatives will be put in place, either through mainstream service provision or, if appropriate, specific services dealing with racist crime. These services must be adequately supported to ensure the effective implementation of existing and new legislative provisions, and in particular in securing prosecutions.
- The needs of ethnic minority communities are mainstreamed throughout the administration of justice.
- The participation of ethnic minorities in all sectors of the system.
- Training and awareness raising programmes are available to sensitise majority actors, including police officers, lawyers and judges to the needs of ethnic minority communities.
- Ethnic and religious minority communities are empowered through capacity building programmes.

➤ **Counter terrorism**

The fight against racism and the fight against terrorism are intrinsically linked. The challenge is to secure the effectiveness of counter-terrorism strategies by ensuring that they are carried out within the context of the international human rights framework and in a non-discriminatory manner.

ENAR calls on the DRC to ensure that efforts to combat racism and terrorism are mutually reinforcing:

- Terrorism is an extreme form of intolerance which represents a serious threat to fundamental rights.
- Counter-terrorism must be conducted in the framework of human rights and anti-discrimination.

- Counter-terrorism measures must not have a disproportionate impact on ethnic and religious minorities.
- Anti-racism is a key element in preventing terrorism.
- Effective counter-terrorism is the result of engagement and participation with all communities.

➤ **Racial profiling**

ENAR calls on the DRC to ensure that:

- Procedural safeguards are put in place to ensure that the fundamental human rights of ethnic and religious minorities are protected and that relevant authorities do not discriminate against them through the use of racial profiling.
- The use of racial profiling is monitored closely.

Conclusions

ENAR hopes that the Durban Review Conference will, by considering and implementing these recommendations, reaffirm the importance of combating all forms of racism, racial discrimination, xenophobia and related intolerance and the protection of human rights in Europe and in the world.