



## **Comments of the European Network against Racism (ENAR)**

### **European Commission**

#### **Communication consultation on 'Opportunities, access and solidarity: towards a new social vision for 21<sup>st</sup> century Europe' COM(2007) 726**

**(February 2008)**

*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](http://www.enar-eu.org)*

## 1. Introduction

Racism is a reality in the lives of many ethnic and religious minorities<sup>1</sup> in the EU. The extent and manifestations of this reality however are often unknown and undocumented. This can be evidenced in the Communication COM(2007) 726 final and in the background document to the consultation prepared by the Bureau of European Policy Advisers which slightly touches upon Europe's increased ethnic and cultural diversity but doesn't make any further steps to explore the extent of discriminatory and racist practices and disadvantages suffered by a significant number of ethnic and religious minorities in all Member States of the EU.

ENAR therefore hopes that the **EU would seize the opportunity of the social reality stocktaking and the revision of the Social Agenda to put non-discrimination, anti-racism and social inclusion at the heart of the Agenda ensuring equality mainstreaming and policy coherence at all stages and levels.**

In order to contribute to the efforts of the social reality stocktaking exercise to develop a diagnosis on Europe's social situation the report 'ENAR Shadow Report on Racism in Europe 2006' is attached to this submission. The ENAR Shadow Report for Europe provides a unique mechanism to collect and present views of civil society on the state of racism in EU Member States and across Europe. Based on 26 National Shadow Reports produced by ENAR members in Member States, the European Report serves as a reminder of the significance of this issue in the European contexts and demonstrates the need for a renewed focus and collaborative approach to combating racism.

ENAR is a member of the Social Platform<sup>2</sup> and has actively participated in the development of the Platform's response to this Communication, COM (2007) 726 final.<sup>3</sup> This paper is intended to build on that analysis and recognises the importance of the social reality stocktaking exercise. Consequently this submission will not address the range of concerns and issues highlighted in the Social Platform's response but rather concentrate on providing a brief response from the perspective of race equality and non-discrimination.

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<sup>1</sup> The submission refers to 'ethnic and religious minorities'. There is no universally accepted and binding definition of a minority in international law, however one definition has been 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 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 other, 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'.

<sup>2</sup> [www.socialplatform.org](http://www.socialplatform.org)

<sup>3</sup> [http://cms.horus.be/files/99907/MediaArchive/Policies/Demographic\\_change/2007%2011%20Social%20Platform%20Orientation%20paper%20on%20demographic%20and%20social%20changes.pdf](http://cms.horus.be/files/99907/MediaArchive/Policies/Demographic_change/2007%2011%20Social%20Platform%20Orientation%20paper%20on%20demographic%20and%20social%20changes.pdf)

In the context of Europe's social reality ENAR will seek to raise awareness of the situation of ethnic and religious minorities across Europe, and of manifestations of racism in employment, education, housing, health systems, criminal justice system, access to goods and services and in the media. The following sections of the submission offer a snapshot of concerns with regard to racism in these areas. A concise and comprehensive view is provided by the 26 National Shadow Reports and the attached European Shadow Report 2006 from the perspective of civil society and anti-racist NGOs.

ENAR welcomes the opportunity to contribute to the social reality stocktaking exercise and looks forward to an ongoing debate on the renewal of the Social Agenda. The ENAR shadow reporting is an annual exercise of ENAR members, which started in 2002 and will also be carried out during the course of 2008 in respect of the year 2007. ENAR would like to offer the full set of National and European Shadow Reports covering social trends and policy responses regarding racism and discrimination in the past 5 years, as we believe that these are the most comprehensive and wide-ranging surveys on racism in Europe and as such could serve as important tools in exploring social trends and the main factors driving Europe's transformation.

## **2. Changing social realities - manifestations of discrimination and disadvantage in the Member States of the EU**

Racism and discrimination are phenomena that are contrary to the values of the European Union and undermine social cohesion and the realisation of human rights. The ENAR Shadow reports demonstrate that racism is a persistent and pervasive issue across Europe, and highlight the need for a renewed focus in this area, in particular when sketching out a new 'life chances' social vision for the 21<sup>st</sup> century Europe.

In the following sections a brief outline<sup>4</sup> is provided on the main **impediments that Europe's many ethnic and religious minorities face which hamper their well-being and full participation in our societies.**

### ***Employment***

The transposition of the "Race Directive"<sup>5</sup> 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.

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<sup>4</sup> Abstracts are taken from the attached 'ENAR Shadow Report on Racism in Europe 2006'

<sup>5</sup> EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

There are difficulties for some ethnic minorities in accessing employment and in many member states ethnic minorities are disproportionately affected by unemployment. In Denmark, 52% of ethnic minorities are unemployed; unemployment of “foreigners” in Finland is 26% compared with 10.1% for Finns; in Germany 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%.

Issues in the area of employment are multi-layered and, in addition to underemployment, include access, progression, and the non-recognition of foreign qualifications, overrepresentation in the informal economy, poorer and sometimes dangerous working conditions. 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, which affects in particular women, young people and undocumented migrants.

### ***Housing***

In *housing*, segregation is proving a pervasive phenomenon. Problems in the area of housing remain in terms of discrimination in the area of access to housing, which can be direct and indirect and protection from discrimination is not guaranteed in all member states.

Ethnic minorities are less likely to own their own property as a result of institutional discrimination practiced by financial sector, e.g. in the Netherlands it was found that banks were using postal codes as a criterion in assessing suitability for mortgage approval. This means that ethnic minorities find it more difficult to access mortgages. In addition, discrimination in employment leads to ethnic minorities having lower incomes to purchase property. This leaves them more dependent on the rental accommodation and social housing. Here again they experience discrimination. In Finland, for example, protections that apply in the area of public housing do not apply to the private rental sector. In Germany 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.

The increase of homelessness amongst ethnic minorities is also an evidence of the vulnerability of ethnic minority groups to extreme poverty as a result of

discrimination and social exclusion.<sup>6</sup> Denmark, Finland, Hungary and Ireland are amongst those countries in which homelessness is an issue of great concern for ethnic minorities.

Where ethnic minorities access housing other issues are present, including poor or substandard quality of housing and segregation. In Portugal three quarters of ethnic minorities live in poor quality accommodation. Reports from France, the Czech Republic and Italy refer to the existence of spatial segregation and the reality of ghettos. This represents a vicious circle for ethnic minorities. Discrimination itself is 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.

Also an issue is the use of and conditions within reception and detention centres for certain migrants including asylum seekers and undocumented migrants. The conditions in reception and detention centres are highlighted in the majority of reports and have received attention from a number of European bodies. 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.

### ***Education***

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 admission policies, lack of appropriate supports and the curriculum itself were among the factors found to contribute to lower educational attainment.

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.

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.

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## **Health**

It is found that ethnic and religious minorities generally have poorer *health* status than the majority, demonstrated by indicators such as longevity and the infant mortality rate. 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.

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; they may refuse certain investigations or screenings unless done by women health professionals. Culturally insensitive healthcare provision can deter from take-up, which can impact on health in the long term.

Access to healthcare can be a problem due to lack of rights and other structural issues such as limited provision of support. 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.

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.

## **Criminal justice system**

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. 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 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.

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.

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, there is a rise in extremism, by far-right groups and occasionally far-left groups across Europe. The rise of political parties has helped to mainstream right wing narrative about ethnic and religious minorities, which is creating an atmosphere that leads to discrimination and segregation and negatively affects integration and cohesion. Furthermore, the relationship between media and politicians can be problematic. The media can give a platform to racist sentiments by politicians.

Victims and survivors of racist violence and crime include all ethnic and religious minorities groups. Amongst those whose experience of racist violence and crime is particularly noted in reports are Jews<sup>7</sup>, migrants<sup>8</sup>, Muslims<sup>9</sup>, Roma, Sinti and Travellers<sup>10</sup> and youth.<sup>11</sup> 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.

### ***Access to goods and services in the public and private sectors***

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. Difficulties encountered relate to enforcement, remit of legislation and exemptions, remit of equality bodies and data.

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

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<sup>7</sup> For example, in the Czech Republic.

<sup>8</sup> Including from police.

<sup>9</sup> As highlighted in particular in Bulgaria.

<sup>10</sup> For example, in Romania and Ireland.

<sup>11</sup> For example in French suburbs and in Cyprus.

housing and difficulties experienced with regard to registration, which is essential for the access of 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.

### ***Media, including the internet***

Racism in *media including the internet* continues. Issues highlighted relate to the limited and stereotypical representation of ethnic and religious minorities within the media and the role the media has played in the propagation of racist attitudes. 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.

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.

Lack of regulation is a particular concern in relation to addressing racism in the media and in the internet, which 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.

### **3. The role of the EU in realising a 'life chances' social vision for Europe: key areas for action to advance well-being through opportunities, access and solidarity**

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 and discrimination, it can be experienced in different ways by different groups depending on the context and time. **ENAR strongly believes that a new social vision of how best to advance the well-being of all in our diverse societies must take account of the needs and experiences of communities across Europe that are vulnerable to racism and discrimination** including

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”<sup>12</sup> as well as more recent migrants experience racism and discrimination.

Cognisant of the reality that racism manifest itself differently depending on the specific national, economical, social and legal contexts, as evidenced by the previous section commonalities can be identified in the experience of discrimination, disadvantage and racism, which demonstrate the importance of a common European approach. **These commonalities, policies (or the lack thereof) and societal realities can be identified as impediments that hinder the ability of vulnerable communities to enjoy long-term well-being and the ability of societies to achieve social cohesion among all of their members.**

The Council of Europe provides a comprehensive framework to unfold substantial elements of well-being in a diverse society. The framework is based on the four pillars of **equality/non-discrimination** providing fair and equal access to available resources and rights; **dignity/recognition** addressing the rights of the individual to recognition and respect; **autonomy/development** encompassing the right of individuals to lead autonomous life based on their own choices and pursuit of personal fulfilment; and **participation/commitment** referring to the dynamic interactions between active citizens and open, flexible societies.

This ‘**access to human rights**’ approach places an emphasis on participation, which permeates all four dimensions and permits to secure all member’s rights to equal access, self-expression, individual development and civic participation.<sup>13</sup>

ENAR supports the use of the new approach on how best to advance well-being that has been proposed by the Communication COM(2007) 726 final placing opportunities, access and solidarity at its core, but would encourage **the use of the elements of the framework developed by the Council of Europe as a benchmark** against which impediments to well-being of ethnic and religious groups could be measured and analysed and **as a strong foundation** for developing comprehensive and coherent policies to achieve greater and sustainable social cohesion.

The elements of the two approaches are complementary accommodating the main objective of advancing well-being: to start well in life, realise one’s own potential and make the most of the chances offered by an innovative, open and modern Europe policy responses should be developed around access to

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<sup>12</sup> 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.

<sup>13</sup> Migration Policy Group: ‘Setting up a system of benchmarking to measure success of integration policies in Europe’, A study for the European Parliament, Brussels, January 2007

knowledge, the acquisition of skills and competencies and personal improvement (*Opportunities - Autonomy/development*). Positive anti-discrimination measures must be implemented in order to ensure fair and equal access to rights and resources, such as education, job opportunities, quality healthcare and social protection and to participation in culture and society (*Access - Equity/non-discrimination*). To foster social cohesion and social sustainability and to make sure that no individual is left behind the rights of the individual to recognition and respect must be addressed through policy responses that negotiate the right to and limits of self-expression in diverse societies (*Solidarity – Dignity/recognition*).

The major advantage of the Council of Europe's definition is however that it makes a step further and encompasses the concepts of participation and commitment placing rights but also responsibilities on the individual *and* on society to achieve *sustainable* social cohesion: through encouraging individuals to take on social obligations and exercise their civic rights while fostering social bodies to seek out and embrace the contributions of individuals a dynamic interaction between active citizens and open, flexible societies could be achieved. **This is a 'life chances' social vision that ENAR is envisioning for the 21<sup>st</sup> century Europe. An environment of non-discrimination, dignity, mutual respect and personal development that enables the active participation of ethnic and religious minorities in diverse societies.**

The profoundly human rights approach of the Council of Europe employs a framework that concerns *all members of society* and seeks to respond to the question on how to arrange social cohesion in the midst of increasing diversity. In line with this rights-based approach and with the vision taken by the European Commission in its ambition to achieve a wider distribution of 'life chances' to allow *everyone* in the EU to have access to the resources, services and capabilities ENAR is supporting the view of *encompassing all members of society as a whole* but draws attention to the *distinctive needs* of ethnic and religious minorities which makes them highly vulnerable in our societies, with high risks of social and financial exclusion and *lower life chances* to advance in different areas of life.

Building on the 'access to rights approach' which secures everyone's rights to equal access to rights and resources, self-expression, individual development and civic participation **a comprehensive and coherent policy framework must be developed that is tailored to the experiences and needs of ethnic and religious minorities** and that is built into all policy areas of the EU through a progressive use of equality-mainstreaming and human rights impact assessment procedures as well as the effective use of data as a tool to comprehensively identify issues of racism and discrimination and problem areas. 21<sup>st</sup> century Europe is a rich and diverse society which is a cause for celebration. Acknowledging the diversity we live in and accommodating different needs leads to individual and implicitly to collective well-being.

Finally, the Council of Europe's approach permits all categories of ethnic and religious minorities and other vulnerable groups **to secure basic human rights with European and international human rights standards as the decisive benchmark for a diverse society built on social justice and social cohesion.**

## Conclusion

ENAR strongly hopes that the social reality stocktaking will take account of the experiences and social realities of the many ethnic and religious minorities that live in Europe and that this exercise will contribute to gaining a consistent and clear understanding of the causes of inequality and the impediments that hinder individuals to advance in life. Based on a sound human rights basis, the framework proposed by this submission analyses these obstacles on all aspects of life that are important for people in leading a fulfilling life but instead of focussing on equal opportunities or equal outcomes it recognises people's different experiences and needs and removes the impediments that limit to fulfil their potential.

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