



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



RESPONSE OF THE EUROPEAN NETWORK AGAINST RACISM (ENAR)

EUROPEAN UNION FUNDAMENTAL RIGHTS AGENCY CONSULTATION:

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FEEDBACK ON METHODS AND RELEVANCE OF RESEARCH TOPICS OF THE ANNUAL REPORT:

a. Appropriateness and assessment of methods used for data collection and reporting at national level

Introductory remarks

Policy makers and human rights activists are becoming increasingly aware of the strategic importance of data collection in informing policies to combat racial discrimination and other form of fundamental rights abuses. Data collection is a key mechanism to document discrimination on the basis of racial and ethnic origin and religious belonging and through this contributes in several ways to the fight against discrimination. The following data categories can be identified in that regard:

- general monitoring on racial discrimination patterns and manifestations
- situation of different groups with regard to specific sectors (employment , housing, education) ;
- targeted monitoring in narrowly defined settings in order to identify instances of structural discrimination and accelerate the adoption of remedial measures and forward looking policies aiming to redress disadvantage and promote positive measures to realize equality

All of these mechanisms are strategic to the implementation of the EU existing anti-discrimination framework and statistical data is crucial in that regard. It is obvious that despite the important work on data collection and comparability provided by FRA EU member states continue to lack disaggregated data by race, ethnic origin and religious belonging. The UN Human rights committee periodic review of France regarding its obligations under the International Covenant on Civil and Political Rights, adopted in July 2008, criticized France's failure *"to provide any statistical information that would allow the empirical assessment of effective access to private and public employment, public services, and political participation, on the part of persons belonging to racial, ethnic or national minorities, as well as members of different religious communities."*¹ The Committee noted that *"the absence of this information can mask problems of de facto discrimination, and impede the design of appropriate and effective public policies to combat all forms of racial and religious discrimination. (articles 2, 25, 26 and 27)"*²

The Committee was therefore suggesting that France *"should collect and report adequate statistical data, disaggregated on the basis of racial, ethnic, and national origin, in order to enhance the effectiveness of its of its efforts aimed at ensuring equal opportunity to persons belonging to these minorities groups"* France is of course not an isolated example, the Committee on the Elimination of all forms of Racial Discrimination (CERD) recently made very similar criticisms of Austria and

¹ Concluding observations adopted by the Human Rights Committee under the Covenant on Civil and Political Rights in respect of the report submitted by France - 93rd session -Geneva -7 to 25 July 2008,

² Concluding observations adopted by the Human Rights Committee under the Covenant on Civil and Political Rights in respect of the report submitted by France - 93rd session -Geneva -7 to 25 July 2008,

concerns over a lack of data, especially disaggregated statistics, is a common theme in UN treaty body recommendations.

The ENAR Policy Seminar on Positive Action³ in 2007 highlighted the need for data collection that can expose the inequalities faced by religious and ethnic minorities, and contribute to the design of effective policies to address these inequalities, including positive action. Thus the focus of data collection, the type of data collected, the methods used, the categories chosen etc need to be those that can (a) measure the inequality experienced by vulnerable groups and (b) inform policy development to address inequalities. The seminar highlighted that EU data protection rules specifically allow data collection on 'race', ethnicity and religion and allow for the 'processing' of such data where the goal is to tackle discrimination, through for example positive action measures in national law.

The Important role of the Fundamental Rights Agency in enabling Member States and the European Union to meet their obligations.

The European Commission has been undertaking work to pursue effective data collection on discrimination, and it has recently committed in its Communication 'Non-discrimination and equal opportunities: A renewed commitment' to improving the collection of data, including statistical data, on the grounds of racial or ethnic origin, religion and belief and sexual orientation as a vital component of the fight against discrimination. As part of this, the European Commission is in the process of setting up a 'Non-Discrimination Governmental Expert Group', part of whose role will be to discuss issues related to data collection. The Fundamental Rights Agency must work with the European Commission to ensure that there is complementarity between the work undertaken on data collection by the Agency and that undertaken by the European Institutions. It must also further work to ensure that the data that is collected and presented in a way that enables its use in policy making.

There are a range of important, and difficult, issues that need to be dealt with, including those of categories, sensitivity, accuracy and reliability. The justification and need for collection of sensitive data is that it is of central importance in ensuring respect for fundamental rights. The Fundamental Rights Agency is thus in a key position to address such concerns, in collaboration with civil society, the European Institutions and other key actors such as Equinet.

The Contribution of civil society: ENAR national shadow reports best practices

The scarcity of statistical data also makes it important that other sources and techniques can be considered. ENAR recognizes the work started by FRA (formerly EUMC) in this direction through the launch of "pilot victim surveys". FRA should ensure that a better balance is reached in its reporting between statistical and empirical data collection and the data resulting from the contribution of civil society experiential research. NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities suffering from racism on a daily basis. The ENAR national Shadow Reports and other 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

³ Results of an ENAR policy seminar- Understanding positive action-From theory to practice-Brussels, 29-30 November 2007

not backed up by the rigors 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. This vital source of information has been acknowledged in the section 3.3.1 of the report but referencing by the agency in this regard doesn't seem to be done in a systematic way. This approach should be given more substance and visibility.

b. Relevance of issues covered for civil society concerns

The consultation rightly highlights that, this year, the report consists of data and analysis on developments in the thematic areas of the fight against racism, xenophobia and related intolerance in the EU in the year 2007. Considering the fact that the 2009 report will be based on data collected under the broader mandate, it is to be expected that it will cover a broader range of areas. This presents an opportunity and a challenge. The opportunity is to bring the issues facing ethnic and religious minorities into the mainstream and consider their links with other thematic areas such as the rights of the child and compensation for victims. The challenge will be to ensure that the vital work that has been undertaken to date of highlighting important rights issues in the thematic area of racism and xenophobia is not lost or reduced in doing so.

ENAR has welcome the effort continued in the FRA report 2008 of the monitoring of racial discrimination as it prevails in the various economic and social areas of life. In ENARs view the following are the key priority areas on which data collection is needed. The collection of data on each of these areas and the presentation of that data through the annual report would ensure that the issues covered had a high level of relevance for ethnic and religious minorities:

- Employment
- Housing
- Education
- Health
- Policing and racial profiling
- Racist violence and crime
- Access to goods and services in the public and private sector
- Media, including the internet

In addition, in each area the following data needs to be analysed and highlighted:

- The experiences and level of enjoyment of rights of the diversity of groups affected by racism, xenophobia and related intolerance, including not only a broad understanding of the extent of discrimination and racism, but also, for example, discrimination against the Roma and Third Country Nationals, Islamophobia and Anti-Semitism and discrimination.
- An analysis of the rights that are engaged by each of these key policy areas, with a link made to the European Charter of Fundamental Rights
- An analysis of the extent to which the EU political and legal context has either (a) contributed to promoting the enjoyment of rights and/or (b) contributed to a reduced level or lack of protection.



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Relevance of content and structure of opinions for civil society concerns

The conclusions and opinions, as far as they go, are useful for ENAR work. They are based on expertise and objective evidence and regularly confirm our findings from our own evidence gathering. However, ENAR believes that this could be further strengthened if:

- The recommendations are more clearly connected to the development of European policies and are more specific. They remain for the time being too general and further work is needed to enable their use in bringing the evidence of the Agency into EU policy development. Other Recommendations (Opinions) could be defined in relation to certain groups, e.g. on the Roma, Sinti and Travellers; asylum seekers and irregular migrants in all areas covered by the report (employment, education etc.)
- Opinions (recommendations) are needed on the empowerment of disadvantaged groups and their participation in developing and implementing policies. Best practices coming from civil society need to be systematic. The newly set up civil society platform could play an important role in this context.

TECHNICAL ASPECTS OF THE REPORT:

c. Size, content and structure of the report

As an organization with specific expertise, we are able to access and use the report and find the contents and structure useful. However, this may not be so for all those who would be interested in the content of the report, and accessibility and communications of the key findings could be improved. ENAR puts forward the following suggestions that we feel would help a wider audience make use of the report and ensure its accessibility to grassroots audiences.

- The executive summary should include a 'Conclusion' section which would analyse trends compared to previous years and put forward one or two major recommendations.
- An 'accessible summary' that utilizes the executive summary and user friendly language should be used to promote the report to a wider public;
- Consideration should be given to producing shorter briefing papers on specific sections of the report, such as education, migration, or discrimination against the Roma.

SUGGESTIONS FOR THE FOLLOW-UP ON THE ANNUAL REPORT:

d. What topics of this report could be further researched etc.?

Please see above under question (b). Additional topics that could be further researched include: social inclusion policies and their implications on ethnic minorities and migrants; further data on migrants in the areas of employment, education, health, housing, access to goods and services, representation in and by the media. Multiple discriminations and its manifestations will also be an important theme that needs to be addressed across the range of topics.

e. How can your organisation contribute to the follow up of the opinions of this report? Would you need advice or training from FRA on possible ways of following up?

As an expert organization we do not require advice and training. However, there is a need for further work to build the capacity of anti-racist civil society more broadly and notably in the area of data collection. ENAR suggests that the most effective way to do this is to engage in partnership with representative organizations such as ENAR. The Network has previously engaged with the Fundamental Rights Agency work to capacity build civil society on racism, xenophobia and related intolerances, such as our participation in the FRA training on the Race Equality Directive. We believe that this type of collaboration could be further extended to support the capacity building of civil society in following up the opinions and recommendations and using the findings of the report. We suggest that the FRA further explores this possibility through FRA Civil Society Platform.

f. What cooperation and awareness raising activities would you suggest as a follow up to the report?

The launch of the annual report of the Agency is a key opportunity to raise awareness of the issues that are highlighted by the data and for the use of the data in advocacy work of organizations. At the present moment the potential for synergies between the awareness raising work of the FRA in the launch of the report and its findings and the role of civil society are underutilized and it is therefore unable to have the extent of impact or visibility that would otherwise be the case.

In this context ENAR urges the FRA to explore the possibility of working with key organizations, through FRA Civil Society Platform, to develop joint strategies around the launch of the report. This could include, for example, providing advance copies of the report to enable key civil society organizations to issue press releases and briefings on the findings, developing joint briefings on key issues or themes with organizations with a specific expertise, involving key civil society organizations in launch events, considering joint activities around other annual reports that cover key themes, such as the ENAR Shadow Reports, etc. Such synergies would enable a better use to be made of the findings of the report by civil society at the same time as raising the profile and credibility of FRAs work among civil society and in particular grassroots organizations.

g. Other follow-up activities

As ENAR has highlighted at other points in the submission, we strongly feel that a greater link needs to be made between the data and recommendations of the FRA and the policy making of EU Institutions. In this context we suggest that the FRA should share the findings with the following bodies and establish close working relations with DG EMPL as well as DG JLS as a priority, building towards a relationship with others that develop policy in key areas such as education. We would also recommend that a

process is developed to monitor the extent to which EU Institutions and the EU Member States take into account the recommendations and opinions of the report and to report on this on an ongoing basis. While keeping the focus of responsibility for securing rights on the EU Institutions and Member States, it may also be useful to consider making sensible recommendations for the NGO sector, linked to the awareness raising and support activities and developed in close cooperation with the civil society platform, and in line with the role of NGOs, such as encouraging 'situation testing' done by research organisations.