

RACISM IN EUROPE

ENAR Shadow Report 2011-2012



european network against racism

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to bring an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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MESSAGE FROM THE PRESIDENT



I am very happy to present this latest edition of the European Network Against Racism (ENAR) Shadow Report on Racism in Europe. It is based on 26 national Shadow Reports and provides a crucial and unique civil society perspective on the situation of racism and related discrimination in Europe, from March 2011 to March

2012. Unfortunately, as in previous years, racial and religious discrimination continue to affect the lives of many ethnic and religious minorities throughout Europe in various ways, whether in access to education, employment, housing, goods and services, or in how they are treated by the police and criminal justice system.

This report highlights in particular the experiences of Muslim communities and is the first pan-European qualitative survey of Islamophobia. Islamophobia describes an irrational fear, prejudice and hatred towards Islam, Muslims or Islamic culture. Evidence from the national Shadow Reports shows that Islamophobia is widespread in many European countries and that increasing prejudice towards Muslims is often greater than that experienced by other religious or ethnic minority groups. This year's report aims to cast light on the vulnerability of this group, which is all too often at worst dismissed, or at best underestimated.

ENAR's Shadow Report also highlights the discrimination and racism faced by other communities vulnerable to racism and/or religious discrimination in Europe, such as immigrants (whether EU or third country nationals), Roma, people of African descent and Jews, in all areas of life. Many of the trends and patterns identified in this report remain largely similar to those reported in previous years.

The public perception of ethnic minorities and migrants in most countries remains a negative one: they are often accused of stealing job opportunities, working for less pay, and benefitting from social services. The political and economic situation has clearly caused social unrest and in some countries particularly affected, has further resulted in responses to the crisis in the form of major cuts to public services and anti-discrimination work. A disturbing element is that neo-Nazism continues to hold sway in some countries and racist violence manifests itself widely and has in fact increased in many countries.

As a consequence, civil society organisations are filling the vacuum left by governments and politicians in terms of leadership, demonstrating yet again their value and importance. However, while an active civil society is welcome and necessary, it is not the responsibility of civil society alone to uphold equality and human rights, but of all actors. In addition, civil society organisations' capacity to deliver vital services has been severely restricted by funding cuts.

With this Shadow Report, we hope to demonstrate the urgent need for action across the European Union in order to overcome the barriers and challenges that hinder full equality. States need to show real political commitment to invest in action to curb racism and discrimination and to ensure equality and protection of human rights for all in Europe. Today more than ever, it is vital that we move towards a Europe that respects and promotes equality, diversity and fundamental rights, and which recognises the benefits of a racism-free Europe for a vibrant European society and economy.

Finally, we are very grateful to all the dedicated people who have contributed to ENAR's Shadow Reports, and for the valuable support of the European Commission and the Open Society Foundations in enabling this unique monitoring tool to be published.

Chibo Onyeji
ENAR President

EXECUTIVE SUMMARY

The **communities in Europe most vulnerable to discrimination** and racism continue to be immigrants and other ethnic minorities, especially Black Africans and Roma. The newer migrants from within the European Economic Area (EEA) also experience hostility. The public perception of ethnic minorities in most countries remains a negative one: ethnic minorities, particularly immigrants or those with a migrant background, are often accused of stealing job opportunities, working for less pay, benefitting from social services, while they and Roma are further blamed for rising crime. Political parties are seen as complicit in promoting negative stereotypes of immigrants and stirring up racial tension to serve their own purposes. It is disturbing that neo-Nazism continues to hold sway in some countries and that in most countries the racist narrative still resonates with the general public.

The special focus section on Muslim communities in Europe, the first pan-European qualitative survey of this particular group,¹ confirms that they are not a homogeneous group, but vary according to their ethnic and national origins as well as social class in the different national contexts. Statistical evidence of discrimination against Muslims is often uneven because not all countries collect such data. Nevertheless, **Islamophobia is widespread** and increasing prejudice towards Muslims is often greater than that experienced by other religious or ethnic minority groups. Islamophobia can take the form of opposition to, as well as protests against, the building of mosques, criminal damage to Islamic buildings and violence towards Muslims. Muslims continue to experience discrimination in all the collective areas covered in this report and **Muslim women and girls** are often affected the most by religious discrimination and hatred because of treatment towards them due to their attire. In some countries, wearing the full veil in public is prohibited.

There have been **few significant legal developments** in this reporting period. A worrying trend to emerge is the active scaling back of anti-discrimination measures which is largely, but not exclusively, a result of the economic crisis. There are concerns that public spending cuts have undermined further the effectiveness of anti-discrimination law and policy.

The period under review was an exceptional one for migration as a result of the Arab Spring, which was felt more acutely in Italy and Malta. Aside from the Arab Spring, **irregular migration continues to be perceived as a chronic problem** and a major route into the EU. The

response of most countries to irregular migration has been to criminalise and detain migrants, which is a major concern for NGOs. Despite this, a number of countries have adopted laws to implement Council Directive 2009/50/EC, allowing for 'blue cards' to ease the process of highly skilled migrants entering and moving within the EU to work and live.

Eight countries adopted **integration policies and strategies** during the reporting period and most countries have implemented and filed with the European Commission their National Roma Integration Strategies. Although NGOs have welcomed these integration strategies in general, they have also been critical about some countries' lax descriptions for reporting, monitoring, funding and implementing these strategies.²

Access and full participation in all collective areas of society

Discrimination in the areas of employment, education, health, housing, goods and services, political participation, media and criminal justice is rife and prevents full participation in social, economic and political life.

Discrimination in **employment** continues to be problematic for ethnic minorities; they experience high unemployment rates, and migrant workers, especially, tend to work in low paid, unskilled manual jobs where conditions are generally poor and the potential for exploitation and abuse by employers is great. Some of the barriers to employment for ethnic minorities include language proficiency, under-employment – and informal recruitment practices that are discriminatory in nature.

Segregation of Roma pupils in **education** remains a pressing problem in some countries and one which some governments appear reluctant to address or uncertain how to do so. Migrant pupils and other ethnic minority children are also often placed in special needs schools or in separate classes. Bullying is a continuing problem, especially for Muslim pupils, who are targeted by both pupils and teachers. The educational attainment rates for ethnic minorities and Roma children are lower than for children amongst the national majority. There are multiple and interconnecting reasons for the lower attainment rates such as high drop-out rates, poorer social conditions and starting education in a 'special' school. Language classes and support services for children who do not speak the national language remain inadequate. Disproportionate numbers of school exclusions amongst ethnic minority pupils mainly in the UK continue to be of concern.

¹ Other similar studies include: The EU Fundamental Rights Agency EU-MIDIS - Minorities and Discrimination Survey on Muslims, published in 2009, which covers 14 EU Member States; and Amnesty International's report on discrimination against Muslims in Europe, published in 2012, which focuses on five countries: Belgium, France, the Netherlands, Spain and Switzerland.

² This refers to integration strategies generally and Roma strategies in particular.

Access to affordable, quality **housing** is a challenge for ethnic minority groups. The privately rented sector is the main source of housing for ethnic minorities but it is largely unregulated. Discrimination takes the form of higher rents and refusals by landlords to let properties to certain ethnic minority groups. Access to public housing is generally in short supply and is restricted by strict eligibility criteria, which in some cases have been held to be unconstitutional by national courts. Homelessness and poor housing conditions are also problems facing ethnic minority groups. The problem is more acute for Roma.

Discrimination in **healthcare** is less prevalent compared to the other collective areas; however, ethnic minorities experience poorer health outcomes compared to the majority population. Language barriers, social exclusion, negative attitudes by health workers towards ethnic minorities and eligibility criteria for receiving healthcare services have been highlighted as the barriers to the provision of healthcare.

A lack of information on rights and obligations in the area of **goods and services** and weak enforcement mechanisms result in fewer complaints of discrimination in this area. Discrimination in the provision of financial services, accessing leisure facilities, and segregated bars and clubs are the issues highlighted as most problematic for ethnic minorities.

Political participation may include eligibility to vote, the right to join a political party or stand in elections. Eligibility varies between countries and may be complex but holding citizenship is a common requirement, although it can be difficult to acquire. Participation in elections can be uneven between ethnic groups.

Social media and social networking sites have become a growing space for disseminating xenophobic, Islamophobic and racist discourse, however, regulation of the **internet** is seriously inadequate and often completely lacking. The **news media** plays a critical role in shaping public opinion. However, news reporting of ethnic minorities, according to all the Shadow Reports, is generally negative and distorted. There is a tendency for the media to blame migrants and asylum seekers for high rates of unemployment and criminality.

Ethnic profiling generally manifests itself in the use of stop and search powers and is a priority concern for ethnic minority communities and NGOs because it can lead (and has led) to disproportionate use of the powers of those powers. A particular concern around ethnic profiling is the powers to stop and search without reasonable suspicion.

There has been an increase in **racist violence and crime** across Europe, although under-reporting makes it difficult to assess the full picture. Some countries criminalise racial

motivation in any crime; however, the evidence suggests that poor police responses to racially motivated crimes results in such crimes going undetected. Most countries have legal provisions in place for tackling hate speech; however, in some cases they are insufficient or ineffective. Politicians are regular perpetrators of hate speech and some have been prosecuted in this regard. Racism at football matches is also highlighted as a recurring phenomenon.

Moreover, **counter-terrorism measures** are often associated with xenophobia and in particular Islamophobia and raise serious human rights concerns and equality issues, given the focus on Muslim and migrant communities.

Lack of monitoring data in all areas covered in this reporting period makes it difficult to analyse the extent of discrimination and racism properly. There is clearly a need for EU Member States to put in place effective mechanisms for collecting data disaggregated by race and ethnic origin and for monitoring racism and racial discrimination.

Currently, the impact of the economic crisis on the equality agenda and rising levels of racism and xenophobia are the primary **concerns for civil society**. Many NGOs are concerned about the disproportionate impact of the recession on programmes designed to improve the situation of vulnerable ethnic minority groups. NGOs have also been critical of the failure by national governments to raise awareness of rights and to ensure effective enforcement models are put in place to tackle discrimination; some NGOs see this as constituting an inadequate transposition of the Race Equality Directive and a failure of Member States to adopt the Horizontal Directive, which would protect against discrimination outside of employment on the grounds of sexual orientation, religion or belief, disability and age. Moreover, integration strategies aimed at migrants and asylum seekers, whilst generally regarded as positive by NGOs, have come under criticism for their underlying assimilationist approach. National Roma Integration Strategies have also been welcomed, but NGOs have been disappointed by their quality and implementation. Overall, anti-discrimination activists see the biggest challenge is the lack of political will of many Member States to invest in actions to curb racism, discrimination and related intolerance and to ensure equality and the protection of human rights for all residing in Europe.

RECOMMENDATIONS

To European Union Institutions

1. Recognise anti-Gypsism, Afrophobia and Islamophobia as specific forms of racism deriving from Europe's history of colonial abuse and repeated persecutions and reiterate commitment to fight anti-Semitism, one of the bases of the European peace project.
2. Promote the benefits of migration and diversity for European social, political, cultural and economic prosperity, including by supporting EU-wide research outlining facts and data refuting fallacies on migration and by reflecting these facts in EU integration policies.
3. Review Council Framework Decision on Combating Racism and Xenophobia and include an accurate definition of the types of racist and xenophobic activities and behaviours, as well as severe sanctions against public figures engaged in racist and xenophobic activities and behaviours.
4. Adopt without further delays European Commission proposal of 2008 for a Council Directive on protecting equal treatment outside employment irrespective of religion or belief, disability, age or sexual orientation (Equality Directive), which represents one of the main and most complete EU instruments to promote and guarantee genuine equality in the EU and combat bias and discrimination.
5. Respond strongly and swiftly to infringements of European fundamental rights legislation and to the non-execution of judgments revealing violations of non-discrimination laws.
6. Adopt a common EU framework for the collection and analysis of reliable comparable data disaggregated by racial or ethnic origin for the purpose of combating discrimination, in accordance with data protection safeguards.
7. Remove nationality and legal status exemptions from the EU anti-discrimination directives to ensure that third-country nationals and undocumented migrants are efficiently protected.
8. Undertake consultation with experts and civil society on religion and belief discrimination in employment and develop guidelines on "reasonable accommodation" of religious and cultural diversity in the workplace.

To European governments

1. Lead by example and support joint initiatives of academics, civil society organisations and public authorities that promote equality and progressive values, challenge hatred and the rejection of differences and aim to end discriminatory divisions in society.
2. Adopt comprehensive hate crime legislation that ensures aggravated sentencing for racially motivated crimes.
3. Broaden the scope of data collected on hate crime, including through the use of victimisation surveys, encourage victims of hate crime and witnesses to report incidents, and provide financial and psychological support to victims seeking redress.
4. Forbid expressly ethnic profiling by means of national legislation and adopt clear guidelines for police stop-and-search activities.
5. Remove financial, psychological and linguistic obstacles to access to justice for victims of discrimination, including by raising awareness about non-discrimination legislation, building trust between vulnerable communities and remedial institutions, offering training to judges, lawyers and prosecutors on discrimination and improving legal aid schemes.
6. Take a courageous approach to tackling hate speech and racist rhetoric in the public discourse and adopt a zero tolerance policy to stigmatising comments and terminology likely to incite violence, racism or other forms of discrimination.
7. Use positive terminology and encourage positive media reporting about ethnic and religious minorities and migrants to emphasise their economic, social and cultural contributions to European societies.
8. Reinforce legislation to monitor hate on the internet and in the media and promote ethical journalism, protective of values such as equality and dignity.
9. Ensure that any restriction on the wearing of religious and cultural symbols and dress at work is limited to very narrow circumstances, pursues a legitimate goal and represents a proportionate requirement, in accordance with international human rights standards including European Court of Human Rights case-law.

10. Acknowledge the pervasive effects of structural discrimination in employment and prevent the formation of reservoirs of “wasted talents” by promoting close collaboration among employers, trade unions and civil society organisations to explore, collect and transfer good practices aiming at increasing equal and unrestricted access to the labour market for migrants and ethnic and religious minorities.
11. Sign, ratify and implement the UN Convention on the Rights of all Migrant Workers and Members of their Families and prosecute employers who abuse migrant workers.
12. Review and support with funding the legislative and policy framework preventing segregation in education and immediately end the placement of Roma children in separate, low-quality schools.
13. Review school curricula to ensure that they take into consideration the presence of minorities and migrants and their contribution to culture and society, and contribute to overcoming stereotypes and promoting inclusion; hiring more teachers and school assistants from ethnic minority and religious groups should be considered.
14. Bring legal protection against forced evictions in line with international standards, find all possible ways to avoid de facto segregation in housing and develop guidelines on avoiding discrimination and promoting equality in housing for housing providers in the public and private markets.
15. Provide effective and affordable access to health care without discrimination, including by offering training to health care providers to respond to the needs of ethnic minority groups and removing all language obstacles to service provision.
16. Support victims of discrimination in access to goods and services in seeking redress and ensure that all service providers are aware of their obligations under anti-discrimination legislation.
17. Support equality bodies with appropriate funding to effectively and impartially carry out their responsibilities.
18. Empower and strengthen grassroots mobilisation of minorities and migrants as equal and active citizens through inclusion and capacity building, with a particular focus on women and young people as change agents.

1. INTRODUCTION

This report covers the period March 2011 to March 2012, which has seen an exceptional economic downturn affecting much of Europe as well as the 'Arab Spring', resulting in increased migration into some European countries. The political and economic situation has clearly caused social unrest and in some countries particularly affected, has further resulted in responses to the crisis in the form of major cuts to public services. At the same time, NGOs, many of which work tirelessly to fight for racial equality and against discrimination, are under pressure to make cuts to their own staffing levels, which are making it more difficult for them to fulfil their own aims.

The aim of this report is to highlight the general picture in terms of how racism and racial discrimination manifests itself across Europe. It also sets out to identify any measures introduced or continuing during the reporting period that have resulted in racial discrimination being successfully challenged, as well as any new political, social and legal developments of significance. Some of the political and legal developments highlighted include those enhancing legislation designed to strengthen provisions for combating racial discrimination, as well as some which have the effect of weakening or cutting back on those organisations set up to combat it.

Clearly, racial and religious discrimination continue to affect the lives of many ethnic and religious minorities throughout Europe in various ways, for instance, in access to education, employment, housing, goods and services as well as in how they are treated by the police and criminal justice system. Racial profiling as well as racial hatred and violence also manifest themselves widely and in fact have increased in many countries. This report highlights in particular the experiences of Muslim communities and is the first pan-European qualitative survey of Islamophobia.

The report is based on 26 individual national Shadow Reports; which include evidence taken from hard data that is available as well as other assessments made by NGOs who work on these issues at the grassroots of their particular country. Any good practice that is apparent regarding the collection and monitoring of ethnic data is also highlighted.

Chapter 2 looks at significant political and legal developments during the year, including any changes in migration, asylum and integration policies, changes in public perception and political discourse or attitudes; as well as the involvement of NGOs in any developments. This year there is a special focus on Muslim communities, so Chapter 3 includes an assessment on how these communities experience discrimination and how Islamophobia manifests itself; including the role the media and politicians play. Chapter 4 discusses legal, political and policy developments in a number of areas, namely employment, education, housing, health, goods and services, political participation, media, and criminal justice; and good practice examples in these respective areas are highlighted. Chapter 5 then looks at how NGOs have critically assessed the situation in their countries in regard to issues raised in their individual reports, followed by Chapter 6, which lists policy recommendations.

There are inevitably issues that are not included in the report due to space restrictions. However, the individual reports can be referred to for more detailed information and be helpful in obtaining more insight into a particular issue and/or country. More information on the report of each country is available at http://www.enar-eu.org/Page_Generale.asp?DocID=15294&langue=EN.

2. SIGNIFICANT POLITICAL AND LEGAL DEVELOPMENTS IN 2011/2012

2.1 Changes in regard to the communities most vulnerable to racism or related discrimination

Immigrants, irrespective of their status and especially Black Africans, continue to experience widespread hostility and racial discrimination, as documented by the Shadow Reports from Italy, Malta, Belgium, Greece and Poland. The Roma community remains the largest single national minority which continues to face universal racism and discrimination, despite national strategies on Roma integration.

Migrant workers, a category which may include European Economic Area (EEA) nationals, are also a source of resentment and hostility; some of the national Shadow Reports show that the newer wave of economic migrants are particularly affected, such as the Poles in the Netherlands and Lithuania, where worsening attitudes have been highlighted, and Serbians and Macedonians in Luxembourg. However, as the German Shadow Report observes, there is also a practice of 'utility racism' where 'migrants are valued and welcomed as long as they can sustain themselves economically' but are deemed worthless if they cannot.³ This is echoed in the Shadow Report for Iceland⁴ and, to some extent, in the Austrian policy of 'integration based on merit'.⁵

For countries such as the UK and the Netherlands there are now second and subsequent generations of ethnic minority origin who are not 'immigrants' but who still experience racial hatred and discrimination, such as Black Caribbeans, Black Africans and Asians in the UK and Moroccans, Turks and Surinamese in the Netherlands. There are other national minorities who experience discrimination such as the Sami and Ingrian Finns in Finland and the Irish Traveller community in the UK, who also face racial hatred from other communities. Newer national minorities are also emerging as vulnerable groups such as Russians and Russian speakers in Estonia, or Serbians in Croatia, a trend which continues from last year. Attacks on the Jewish community continue, as evidenced by the reports from Austria, Belgium, Bulgaria, Spain and Romania where anti-Semitism remains prevalent in media reports. The Shadow Reports also highlight an increase in Islamophobia. This is further examined in Chapter 3.

2.2 Changes in legal developments regarding discrimination and equality legislation

All reporting countries have transposed the provisions of the EU Council Directive 2000/43/EC (the Race Directive) into their national legislation, except Iceland and Croatia, who are

required to align their legislation with EU *acquis* as a candidate and acceding country respectively. Consequently, very few countries reported any significant legal developments since the last reporting period.⁶ A worrying trend to emerge from the Shadow Reports is the active scaling back of anti-discrimination measures, which is largely, but not exclusively, a result of the economic crisis. The 2010/2011 report signalled the detrimental effect which austerity measures were beginning to have on anti-discrimination measures and this has worsened during the current reporting period. Not surprisingly, the severity of the financial crisis in Greece has caused the Greek government to focus on its economy and on the delivery of a rescue package consisting of drastic budget cuts in public services to the European Commission. As a result, ethnic minority communities in Greece are doubly disadvantaged by the absence of any major legal developments and reduced targeted services.⁷ In Spain, the Comprehensive Equality Bill, which was under progress during the previous reporting period, was dropped by the government in 2011 with no plans to resurrect it.⁸ The Netherlands, too, is retreating from policies which actively promote equality: the government has announced that it will abolish the affirmative action policy on the basis of gender and ethnic origin which is permitted under the 1994 General Equal Treatment Act. According to the coalition parties, 'selection must be based on quality'.⁹

The reductions in the budgets for the national equality bodies have also undermined further the effectiveness of anti-discrimination law and policy. The Shadow Reports from Poland, Estonia and the UK express concern that the equality bodies are unable to deliver their objectives due to the financial constraints imposed on them. In the UK, the government has withdrawn funding for the Equality and Human Rights Commission's (EHRC) helpline and grants programme, leading to the termination of both services, and has introduced a parliamentary bill which amends the powers and duties of the EHRC. NGOs consider that these changes will severely restrict the ability of the EHRC to tackle racism effectively.¹⁰

Some countries have strengthened their anti-discrimination legislation or introduced measures to tackle hate speech, demonstrating that the wider economic or political instability need not inhibit progress. Both the Czech Republic and Bulgaria have introduced legislation to improve the participation of Roma children in education: the Bulgarian School Education Act 2012 provides expressly for the integration of Roma children and is based on three

3 This term was coined by the German Left. See ENAR Shadow Report 2011/12: Germany, p. 8.

4 ENAR 2011/12 Shadow Report: Iceland.

5 ENAR 2011/12 Shadow Report: Austria.

6 The European Commission will report on the application of the two anti-discrimination directives (Directive 2000/43/EC on Racial Equality and Directive 2000/78/EC on Employment Equality) in 2013.

7 ENAR 2011/12 Shadow Report: Greece.

8 ENAR 2011/12 Shadow Report: Spain.

9 ENAR 2011/12 Shadow Report: The Netherlands.

10 ENAR 2011/12 Shadow Report: United Kingdom.

principles: equal access; preservation of ethno-cultural education and protection from discrimination.¹¹ Finland has also recognised the importance of protection and respect for national minorities by introducing the Mining and Water Act 2011 with the purpose of enabling the Sami community to engage in their culture and related traditional livelihoods.¹²

In Austria, racial discrimination in housing advertisements was outlawed. In addition, the Austrian Penal Code was amended to widen the prohibition of incitement to hatred by extending the list of protected characteristics from race and religion to race, colour, language, religion or belief, citizenship, descent or national or ethnic origin, as required under the EU Framework Decision on Racism and Xenophobia.¹³ In Greece, draft legislation has been introduced which establishes a general framework for effective legal protection of victims of racist crime, and imposes heavy fines and prison sentences for offenders.¹⁴

2.3 Changes in migration, asylum and integration policies

The period under review was an exceptional one for migration as a result of the Arab Spring. Its consequences were felt acutely by Italy and Malta, prompting the adoption of special measures. Between mid-January and the end of July 2011, the total number of migrants to arrive in Italy reached unprecedented figures: 48,036 compared to a total of 1,430 in the whole of 2010. The Italian government responded by declaring a state of humanitarian protection from 12 February until 30 December 2011, which was supported by legal measures and included the issue of a temporary residence permit for a period of six months. This permit allowed migrants to circulate freely in EU countries according to the Schengen Convention but provoked a legal and political conflict with France, which temporarily reintroduced border controls.¹⁵ In Malta, the collapse of a 'push back agreement' between the governments of Libya and Italy coincided with the Arab Spring and led to an increase in arrivals from affected North African countries. The Maltese government responded by renewing its much criticised detention policy.¹⁶

Aside from the Arab Spring, irregular migration remains a chronic problem for some countries and according to the European Commission Communication on Immigration and Asylum, continues to be a major route into the EU.¹⁷

The response of most countries to irregular migration is to criminalise and detain migrants, which is a major concern for NGOs. The decision in the case of *El Dridi* is therefore a useful one. In *El Dridi*, the Court of Justice of the European Union (CJEU) held that Italian legislation on detention and criminalisation of irregular migrants was incompatible with the principle of proportionality under the EU Returns Directive.¹⁸ The Italian government responded with the adoption of a new law, which provides that detention may be adopted on a case-by-case basis, taking into account the particular needs of the foreign national.¹⁹ However, NGOs remain critical of the policy. Italy is not alone: the use of detention also attracts criticism in the Lithuanian report, where the majority of irregular migrants are detained, and in Luxembourg, where NGOs have criticised the extension of the maximum period of detention as well as the detention of minors.

In relation to documented migrants, the most notable European Commission initiative has been the 'Single Permit Directive'.²⁰ The Directive establishes a single application procedure for a work and residency permit for third-country nationals and creates a common set of rights for such workers residing in a Member State. Also, the EU Immigration Portal,²¹ which was launched in November 2011, provides useful advice to foreign nationals interested in moving to the EU and to migrants who are already in the EU and would like to move from one EU Member State to another.

During the period under review, Bulgaria, Italy, Luxembourg, Malta and Slovakia adopted laws to implement Council Directive 2009/50/EC, allowing for 'Blue Cards'.²² However, in Bulgaria the law has been criticised for imposing a strict 'labour market test', which requires prospective employers to demonstrate that no other Bulgarian or EU national or other permanent status holder living in Bulgaria is able to perform the job. Consequently, very few Blue Cards have been issued.²³ Similarly, in Austria the 'Red-White-Red-Card' allows highly qualified workers, skilled workers and graduates of Austrian universities, as well as their family members, entry into Austria and access to the Austrian labour market without quota regulations, but based on a fixed point system. It also imposes stricter language controls; migrants must have a basic command of the German language before entering Austria.²⁴

11 ENAR 2011/12 Shadow Report: Bulgaria.

12 ENAR 2011/12 Shadow Report: Finland.

13 ENAR 2011/12 Shadow Report: Austria.

14 ENAR 2011/12 Shadow Report: Greece.

15 ENAR 2011/12 Shadow Report: Italy.

16 ENAR 2011/12 Shadow Report: Malta.

17 Communication from the Commission to the European Parliament and the Council: 3rd Annual Report on Immigration and Asylum (2011), Brussels, 30.5.2012 COM(2012) 250 final.

18 CJEU C-61/11, *El Dridi*, [28 Apr. 2011].

19 Law No. 129 of 2 August 2011.

20 Directive 2011/98/EU of the European Parliament and of the Council on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State

21 See <http://ec.europa.eu/immigration/>.

22 The Blue Card is a work visa which allows non-EU skilled workers to live and work in the EU.

23 ENAR 2011/12 Shadow Report: Bulgaria.

24 ENAR 2011/12 Shadow Report: Austria.

Not surprisingly, the use of detention for asylum applicants continues to prove controversial. For example, NGOs and the United Nations Refugee Agency (UNHCR)²⁵ have severely criticised the new Austrian Alien and Asylum law, which requires compulsory attendance by asylum applicants at reception centres at the beginning of the application process. In Greece, the Legal Service of the Greek Council for Refugees successfully challenged the duration of detention for asylum seekers before the administrative court of Piraeus in June 2011. The court held that detention should last only as long as is strictly necessary to process and examine asylum claims and to complete the deportation procedure; further, the process must be carried out with due diligence and regular reviews to prevent the unnecessary deprivation of liberty.²⁶ More positively, the Finnish Act on the Reception of Persons Seeking International Protection (746/2011) entered into force in 2011; its purpose is to secure the immediate means of support and care for persons seeking international protection, persons receiving temporary protection and victims of trafficking.²⁷

Eight countries adopted integration policies and strategies during the reporting period: Austria, Bulgaria, Finland, Italy, Luxembourg, the Netherlands, Poland and the UK. Austria, Bulgaria and the Czech Republic also established ministerial leads on migration and integration, whilst Luxembourg moved to a devolved approach to integration by imposing an obligation on all local councils to create consultation commissions on integration. The creation of the Secretary of State for Integration in Austria was initially welcomed by NGOs but they are now highly critical of the Secretary of State's failure to address the issue of racism. According to these NGOs, even the location of the post within the Ministry of the Interior is problematic as integration is treated as a matter of internal security.²⁸

The EU Common Framework for the integration of non-EU nationals states that integration is 'a dynamic, two-way process of mutual accommodation by all immigrants and residents of EU countries'.²⁹ However, the period under review has been marked by a shift from integration as a 'two way process of mutual accommodation' to 'conditional integration' or, as in the case of Austria, 'integration based on merit'. The Austrian integration policy includes some positive elements, such as a home-visit programme for

parents with pre-school children and the expansion of a mentoring scheme to help migrants enter the labour market. However, the policy is openly described by the Secretary of State for Integration as 'integration based on merit', which has met with the disapproval of NGOs. Critics of the policy argue that the merit principle places the responsibility for social integration solely on the individual immigrant and disregards any difficult socio-economic circumstances for a failure to fully integrate.³⁰

The Netherlands and the UK have seen a shift from multiculturalism to a focus on majority and shared values and from targeted measures to mainstreaming. The Dutch Minister of the Interior and Kingdom Relations stated that 'people who wish to live in the Netherlands are expected to contribute to social cohesion and demonstrate involvement and citizenship'.³¹ The new Dutch integration policy calls for an end to integration and a tougher approach to people who ignore Dutch values or disobey the law; it includes the cessation of grants and measures for the integration of specific groups; a bill to ban face coverings in public and a common agenda for modern citizenship. Similarly, the UK's integration strategy, 'Creating the Conditions for Integration', states that it will promote a 'clear sense of shared aspirations and values which focuses on what we have in common rather than our differences'.³² The government states that the strategy complements other strategies on social mobility, equality and social justice but it has been severely criticised by British NGOs for its failure to set out any concrete proposals for tackling racial inequalities and for ignoring the EU Common Basic Principles on Integration.

Examples of positive steps taken to improve integration can be found in Luxembourg and Finland. In Luxembourg, voting rights in local council elections were extended in 2011 to all third country nationals. Also, foreign nationals with at least five years residency became eligible to stand for the office Mayor and Alderman/woman.³³ In Finland, the new Act on Integration of Immigrants (1386/2010) has as its stated aims the promotion of equality between all residents of Finland (immigrants and those born in Finland) and the facilitation of integration in the early stages of immigration. The Nationality Act was also amended to reduce the period of legal residency from six to five years of residence before applying for Finnish nationality.³⁴

25 'UNHCR calls on Austrian parliament to modify draft asylum bill' Briefing Notes, 1 April 2011, <http://www.unhcr.org/4d95b52e9.html>.

26 ENAR 2011/12 Shadow Report: Greece.

27 ENAR 2011/12 Shadow Report: Finland.

28 ENAR 2011/12 Shadow Report: Austria.

29 Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, A Common Agenda for Integration - Framework for the Integration of Third-Country Nationals in the European Union, COM/2005/0389 final.

30 ENAR 2011/12 Shadow Report: Austria.

31 ENAR 2011/12 Shadow Report: The Netherlands, p. 11.

32 ENAR 2011/12 Shadow Report: United Kingdom, p. 9.

33 ENAR 2011/12 Shadow Report: Luxembourg.

34 ENAR 2011/12 Shadow Report: Finland.

2.4 Changes in public perceptions, political discourse or attitudes in regard to most vulnerable groups

It is worrying that the public perception of immigrants, asylum seekers, Roma and other minorities in almost all countries remains very negative; this has been exacerbated by the economic crisis as evidenced in reports by Greece, Spain and Portugal, where it has become common to accuse immigrants of stealing job opportunities, working for less pay, benefiting from social services and perpetrating violent crimes. In an exceptional display of good leadership, the Prosecutor General in Portugal stated publicly in January 2012 that racial and religious-based discrimination tended to increase in moments of economic crises and denounced as false the notion of a causal link between immigration and criminality.³⁵ Sadly, however, the perception of immigrants as criminals and recipients of welfare benefits is widely held and one which resonates with the general population of many EU countries. For example, the Estonian Shadow Report referred to a report by the Ministry of Justice which found that 46% of the population agree that immigrants increase criminal activity.³⁶ The European Values Study reports that antipathy in Austria towards persons with a migrant background and minorities has increased and ranks Austria in second place for its disapproval of migrants, Jews and Roma.³⁷

Disturbingly, the Shadow Reports show that neo-Nazism continues to hold sway in some countries. A survey by the Open Society Foundations in 2011 in Slovakia showed that three in four Slovaks (75.5%) subscribe to or at least sympathise with the ideas of extreme-right groups.³⁸ For the second consecutive year, members of ENAR Bulgaria sent a protest letter to the Mayor of Sofia and the Prime Minister regarding the 'Lukov march'. This is an annual demonstration organised by the Bulgarian National Union, with the support of 'patriotic' organisations and fascist groups, and led by General Hristo Lukov, who is known for his anti-Semitic views.³⁹

The German Shadow Report describes the 'new' Germany as 'still struggling with its ugly fascist past' and observes that the perception of being 'German' is still of a 'white' person who may be 'Christian' or a 'non-believer' but not 'black' or 'Muslim'.⁴⁰ In November 2011, it came to light that a terrorist group of three ordinary citizens, with a supporting network called the 'National Socialist Underground', had killed nine shopkeepers from migrant backgrounds and a police officer and had carried out several bomb attacks over a period of fifteen years.

Disappointingly, it has been reported that sometimes even the mainstream political parties are complicit in stirring up racial tensions to serve their own purposes. This was palpably evident in Greece where issues relating to immigrants and refugees featured heavily in the campaigns of all the major political parties during the 2012 election. This allowed far-right groups to exploit the economic crisis to increase their popularity and recruit members in the poorer areas of the city, and led to an explosion of anti-migrant rhetoric and violent attacks against Asian and African migrants. The Greek Shadow Report observes that a number of the attacks were carried out by supporters and members of the far-right Golden Dawn party, which entered the Hellenic Parliament for the first time in 2012.⁴¹ In France, during the French Presidential election campaign, issues such as immigration and the place of Islam and Muslims in France were used by political parties on both the right and left to attract votes.⁴² In Slovakia, even the Slovak Democratic and Christian Union Party which had previously been supportive of human rights issues embraced anti-Roma sentiment during the most recent election campaign. Despite this rhetoric, a historical milestone was achieved as the first candidate of Roma origin was elected to the National Council of the Slovak Republic since the country became independent in 1993.⁴³

2.5 Developments addressing social aspects

The EU Framework for National Roma Integration Strategies up to 2020 seeks to accelerate Roma integration through the design and implementation of national strategies up to 2020. The European Commission's Communication on the Framework document states that an estimated 10-12 million Roma in Europe face prejudice, intolerance, discrimination and social exclusion in their daily lives. They are marginalised and live in very poor socio-economic conditions. Yet, their integration would not only bring social benefits, but economic benefits to both Roma people and local communities. It is estimated that full Roma integration in the labour market could bring economic benefits of around €0.5 billion annually for some countries.⁴⁴

Under the EU Framework, Member States are required to present their national strategies to the European Commission. All reporting countries have filed national strategies with the European Commission except for Austria, Croatia, France, and Iceland. In general, NGOs have welcomed the publication of their national strategies but some comment that the quality and implementation of the strategies are disappointing (see Chapter 5).

35 ENAR 2011/12 Shadow Report: Portugal.

36 ENAR 2011/12 Shadow Report: Estonia.

37 ENAR 2011/12 Shadow Report: Austria.

38 ENAR 2011/12 Shadow Report: Slovakia.

39 ENAR 2011/12 Shadow Report: Bulgaria.

40 ENAR 2011/12 Shadow Report: Germany, p. 7.

41 ENAR 2011/12 Shadow Report: Greece.

42 ENAR 2011/12 Shadow Report: France.

43 ENAR 2011/12 Shadow Report: Slovakia.

44 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, an EU Framework for National Roma Integration Strategies up to 2020, COM/2011/0173 final.

2.6 NGO involvement

Civil society organisations continue to play a valuable and effective role in promoting equality and integration and are often at the vanguard of the struggle against racism and xenophobia but their capacity to deliver vital services has been severely restricted by funding cuts. As the Greek Shadow Report observes:

‘Only human rights and anti-racist NGOs appear to be seriously attempting to tackle this trend [the rise in racism], with some support from politicians. However, such NGOs are currently facing serious funding difficulties and some may be unable to continue their very important work’.⁴⁵

As this report documents, there are still many positive contributions made by civil society. Possibly the most striking measure was in Portugal, where the Prosecutor General’s office signed a co-operation protocol with the Commission for Equality and Against Racial Discrimination (CICDR), to work together to promote a more effective investigation of discriminatory practices under the law. The CICDR also launched a ‘Soccer Against Racism’ initiative where signs were placed in Portuguese stadia during matches saying ‘Soccer against racism: join us!’.⁴⁶ Another example is an NGO project in Bulgaria, which monitored immigration detention centres between January and June 2011 and included visits by civil society volunteers.⁴⁷ Estonia remains the one country where the Shadow Report acknowledges difficulties in maintaining any kind of dialogue between the state, politicians and civil society. The report laments the fact that civil society is inactive on race issues and that there are no NGOs providing services to victims of discrimination which are run by minority groups and no useful research projects on the situation of minorities in Estonia.⁴⁸

⁴⁵ ENAR 2011/12 Shadow Report: Greece, p. 34.

⁴⁶ ENAR 2011/12 Shadow Report: Portugal.

⁴⁷ ENAR 2011/12 Shadow Report: Bulgaria.

⁴⁸ ENAR 2011/12 Shadow Report: Estonia.

3. SPECIAL FOCUS: MUSLIM COMMUNITIES AND ISLAMOPHOBIA

Muslim communities are not homogeneous within Europe. They vary according to ethnic and national origins as well as social class and have different migration histories. In those countries where the cultural and religious traditions of Muslims are catered for, then the integration of Muslims occurs easily. Elsewhere policies of assimilation are pursued where such cultural and religious traditions are not recognised and where there is an assumption that Muslims will not manifest their traditions, but instead adopt the local culture. Muslims continue to be subject to discrimination in employment and other situations (see chapter 4). Furthermore, Islamophobia - which is an expression widely used within the reports describing an irrational fear, prejudice and hatred towards Islam, Muslims or Islamic culture - is widespread. It can manifest itself in the form of hate speech and violence, and be expressed by politicians and their political parties. In July 2012 the Council of Europe's Human Rights Commissioner reported that some political parties in some countries continue to use an anti-Muslim rhetoric for electoral purposes.⁴⁹

Many of the Shadow Reports describe their Muslim population as heterogeneous. For example, although the Czech Republic has a small Muslim community it is ethnically diverse; furthermore, Lithuania is reported as having seven Muslim communities.⁵⁰ The Muslim community is reported as being heterogeneous elsewhere, including in Spain, Finland, Germany and Italy. Another feature is the difference in social class. A large number of Muslims in the UK are from the Bangladeshi and Pakistani communities and have higher rates of income poverty.⁵¹ By contrast, in Slovakia, a recent survey showed that most Muslims (with the exception of Slovak converts) are either white collar professionals who remained in the country after completing their university studies in the socialist era or economic migrants who hold important business posts.⁵²

According to the Shadow Reports, prejudice towards Muslims is often greater than that experienced by other religious or ethnic minority groups. In the UK Baroness Warsi⁵³ has commented that Islamophobia is seen as normal, and that prejudice against Muslims does not carry the same social stigma as prejudice towards other ethnic and religious groups. Islamophobia is promoted by both extremist political parties as well as mainstream parties to gain votes and popularity generally. In the Czech Republic for instance, extremist parties are mainly responsible for any open intolerance

towards Muslims in the political sphere.⁵⁴ While in France, Islamophobia is used across the political spectrum; the left casts Islam as a threat to the sacred principle of 'laïcité'⁵⁵ whilst the right presents Islam as a threat to the French way of life.⁵⁶ In Finland, reference is made to 'immigration-critical' politicians of the True Finns Party and the fact that members of the party including a Member of European Parliament (MEP) have been fined by the court for expressing anti-Muslim views on blogs.⁵⁷

'Eurabia' is a term that has been used in many countries to define the kind of Europe in which the Arabic presence will supposedly grow stronger because of the immigrant population's exponential demographic growth, bringing an alteration to European identity. In Italy, one of the staunchest proponents of this thesis, Mr. Mario Borghezio, of the Lega Nord party and a MEP, recently proposed taxing Muslims who have too many children in order to slow down 'the great Islamic advance in Europe'.⁵⁸ During the Spanish electoral campaigns of 2011, support for far-right parties, such as 'Plataforma per Catalunya' (PxC), 'España 2000' or 'Democracia Nacional', rose during the 2011 regional elections, especially in areas with high unemployment rates and a high Muslim population. Some politicians have been successfully prosecuted. For instance, a former member of PxC was convicted in November 2011 for incitement to hatred against Muslims during the Catalanian elections campaign.⁵⁹

The media and social media have also contributed to the rise in Islamophobia. For example in the Netherlands, according to the Reporting Centre for Discrimination on the Internet (MDI), most of the discriminatory statements reported on the Internet and social media websites were Islamophobic in content.⁶⁰ In Belgium, 51% of complaints relating to discrimination against Muslims received by the Centre for Equal Opportunities were in relation to the media.⁶¹ There is also a tendency for the media to make generalisations about Islam based on individual cases involving conflict within Muslim families. In some countries, however, the media is reported as being less biased. For example, in Latvia it is reported that individual leaders liaise with the media to promote a positive portrayal of Muslims and counter any negative images.⁶²

Islamophobia also manifests itself as opposition to, as well as protests against, the building of mosques; criminal damage to Islamic buildings and violence against Muslims. There is

49 *The Council of Europe Commissioner's Human Rights Comment, Anti-Muslim prejudice hinders integration*, <http://humanrightscomment.org/2012/07/24/anti-muslim-prejudice-hinders-integration-5/>, accessed 14 August 2012.

50 *ENAR 2011/2012 Shadow Reports: Czech Republic and Lithuania*.

51 *ENAR 2011/2012 Shadow Report: United Kingdom*.

52 *ENAR 2011/2012 Shadow Report: Slovakia*.

53 *The first Muslim woman in the UK to serve as a Cabinet Minister*.

54 *ENAR 2011/2012 Shadow Report: Czech Republic*.

55 *A French concept derived from secularism*.

56 *ENAR 2011/2012 Shadow Report: France*.

57 *ENAR 2011/12 Shadow Report: Finland*.

58 *ENAR 2011/12 Shadow Report: Italy*.

59 *ENAR 2011/12 Shadow Report: Spain*.

60 *ENAR 2011/12 Shadow Report: The Netherlands*.

61 *ENAR 2011/12 Shadow Report: Belgium*.

62 *ENAR 2011/12 Shadow Report: Latvia*.

resistance to the building of mosques in many countries; for instance in Austria,⁶³ there are height restrictions on buildings which are designed to prevent mosques from being built; and in Iceland mosques are linked to terrorism.⁶⁴ According to the 2011 Report on International Religious Freedom, unknown assailants in Greece launched multiple arson attacks against several informal mosques as well as ordinary mosques in downtown Athens.⁶⁵

Muslims in Sofia were victims of attacks by activists from the political party ATAKA. Due to ATAKA's support for the ruling party in Parliament, the Sofia municipality allowed the party to assemble freely, regardless of the fact that it systematically incited hatred, discrimination and violence on religious grounds. Protestors threw eggs and stones at the mosque and hard objects at people. Five worshippers were injured. During the reporting period no one had been sentenced.⁶⁶

Muslim women and girls are most affected by religious discrimination and hatred in Europe because of their attire. In some countries, wearing the full veil is prohibited in public. In France, the National Education Minister Luc Chatel declared that mothers wearing the headscarf could not accompany their children during school trips.⁶⁷ Despite the fact that the use of the full veil is not very extensive in Spain, it has become a hot topic of discussion after the French ban, and

several local councils have adopted regulations to ban its use in public facilities.⁶⁸ In Italy, a Bill was introduced to ban the wearing of veils because it is considered oppressive to women.⁶⁹ In the Netherlands, some employers have banned the veil in the workplace, arguing that the ban is justified under equality and human rights laws. Legislative proposals have been introduced to ban the wearing of veils in order to appease the policies of the Party for Freedom (PVV) which advocates anti-Islamic policies and which has increased its share of electoral support.⁷⁰ In Poland, Muslim women who wear the hijab are often rejected for public-facing jobs or asked to remove the hijab when dealing with clients.⁷¹ The Shadow Report for Spain highlights similar difficulties noting that Muslim women are only offered jobs with no client contact.⁷²

Statistical evidence of discrimination against Muslims more generally is uneven as not all countries collect such data; furthermore those that do may not capture the full extent of discrimination due to under-reporting in several countries, for instance, in Austria, Ireland, Lithuania and Poland. Although an independent body in France which provides support to victims of Islamophobia publishes statistics, its report notes that it can be very difficult for civil society to measure Islamophobia and figures presented may not accurately reflect the reality, as authorities often persuade victims not to register complaints as 'religious'.⁷³

63 ENAR 2011/12 Shadow Report: Austria.

64 ENAR 2011/12 Shadow Report: Iceland.

65 ENAR 2011/12 Shadow Report: Greece.

66 ENAR 2011/12 Shadow Report: Bulgaria.

67 ENAR 2011/12 Shadow Report: France.

68 ENAR 2011/12 Shadow Report: Spain.

69 ENAR 2011/12 Shadow Report: Italy.

70 ENAR 2011/12 Shadow Report: The Netherlands.

71 ENAR 2011/12 Shadow Report: Poland.

72 ENAR 2011/12 Shadow Report: Spain.

73 ENAR 2011/12 Shadow Report: France.

4. ACCESS AND FULL PARTICIPATION IN ALL COLLECTIVE AREAS OF SOCIETY

This section gives an overview on discriminatory and racist trends and patterns in the areas of employment, education, health, housing, goods and services, political participation, media and criminal justice. In the period under review, all national reports indicate that despite many good initiatives by state actors, civil society and NGOs to combat discrimination in all its insidious forms, it continues to play a significant role in preventing members of many ethnic minority groups from participating fully in all collective areas of society. Lack of monitoring data has also been identified throughout the reports as a major obstacle to understanding the extent of discrimination in the collective areas.

4.1 Racism and related discrimination in employment

4.1.1 Manifestations of racism and related discrimination in employment

Discrimination in employment continues to be problematic for ethnic minorities, despite EU Directives which prohibit racial and religious discrimination in employment.⁷⁴ The reports raise a wide range of issues and concerns impacting on their employment situation. These include high unemployment rates; barriers to employment such as language and residency criteria for working migrants; exploitation by employers; the types of employment available to ethnic minority groups; educational background and difficulties in having previous qualifications obtained outside the EU recognised; and representation in public jobs. Other issues of concern raised in various reports include the lack of available data on the extent of discrimination in employment, lack of awareness of rights and/or a fear of asserting rights.

Ethnic minorities throughout the EU continue to face disproportionately high rates of unemployment, a phenomenon that has increased as a consequence of the economic crisis. The 2011/12 Shadow Reports of Croatia, the UK, Spain, Greece and Cyprus all remarked on this trend. Research in the UK revealed that the gap between employment rates of ethnic minorities and their white counterparts had widened during the crisis.⁷⁵ In particular ethnic minorities have been hardest hit by cuts to jobs in the public sector where they are well represented. Spain reported that the economic downturn 'is having a greater negative impact on minority groups especially migrants and Roma'.⁷⁶ The unemployment rate for these groups in the first quarter of 2012 was 37%. Spain has attributed this disparity to the fact that these groups are more likely to work in sectors which are traditionally susceptible to economic recession,

such as the construction industry. Cyprus reported a similar trend, noting that ethnic minority groups are also being squeezed out of jobs which they usually fill.⁷⁷

Language proficiency and low educational attainment are cited by various reports as reasons for the low employment rates for the Roma, Africans, and young black men; however, as the report of Iceland observed, language can be used as 'an excuse for not hiring immigrants'.⁷⁸ In Finland, for example, it is common for employers to require fluency in Finnish even for jobs which may only require basic language skills.⁷⁹

The position of migrant workers remains gloomy. Migrant workers tend to work in low paid, manual jobs, described in the Maltese report as the '3 Ds' (dirty, dangerous and degrading).⁸⁰ They also face other problems such as unpaid wages, long hours and irregular working patterns. In addition, they can be in jobs for which they are over-qualified. This is partly due to the lack of recognition of qualifications obtained outside the EU. A particular concern raised in various reports was the restrictions placed on workers holding work permits. In a number of countries, work permits are tied to the employment, which limits the worker's opportunities to change jobs freely. The reluctance of some authorities to allow a change of employer and the exposure to exploitation and abuse by employers, increases the 'risk of [them] becoming undocumented', as noted in Ireland's report.⁸¹ Greece, Poland and Romania commented on the precarious situation of migrant domestic workers - who are predominantly women - noting their particular vulnerability to multiple (intersectional) discrimination.⁸² More positively, Spain has extended the rights of domestic workers, which require employers to provide employees written contracts of employment, rest breaks, sick leave, and contribute to the social security system.⁸³

The aim of the **Duizend en een Kracht (Thousand and One Force) project in the Netherlands** was to enable 50,000 immigrant women to participate fully in Dutch society within three years. Municipalities, volunteer centres and women's and migrant organisations worked closely together to make this plan succeed. Through training, counselling and mediation, the women gradually discovered and strengthened their own skills and abilities. The project created a thousand and one new opportunities for immigrant women and the local community.

See: www.duizendeneenkracht.nl

74 Directive 2000/43/EC on Racial Equality and Directive 2000/78/EC on Employment Equality.

75 ENAR 2011/12 Shadow Report: United Kingdom.

76 ENAR 2011/12 Shadow Report: Spain, p 13.

77 ENAR 2011/12 Shadow Report: Cyprus.

78 ENAR 2011/12 Shadow Report: Iceland, p. 14.

79 ENAR 2011/12 Shadow Report: Finland.

80 ENAR 2011/12 Shadow Report: Malta.

81 ENAR 2011/12 Shadow Report: Ireland, p. 14.

82 ENAR 2011/12 Shadow Reports: Greece, Poland and Romania.

83 ENAR 2011/12 Shadow Report: Spain.

A number of the reports also remarked upon informal recruitment practices which are indirectly discriminatory in nature. For example, in Finland, employers rely on networks for recruitment rather than openly advertising jobs.⁸⁴ Discriminatory advertising was also identified as problematic in the reports of Malta, Austria, Lithuania, Latvia and the Netherlands. In Latvia, for example, the majority of the 48 complaints of discrimination to the State Labour Inspectorate were related to job advertisements.⁸⁵ In Iceland, employers ask job applicants to provide photographs with job applications, which may disadvantage certain ethnic minority groups.⁸⁶ In Ireland, a study was conducted whereby fictitious CVs were sent to recruiters, half with recognisably Irish names and the other half with African, Asian and German names. It found that candidates with Irish names were twice as likely to be invited to interviews as non-Irish candidates with comparable levels of skills and qualifications.⁸⁷

Many Shadow Reports commented on the particular vulnerability of Muslim women wearing the headscarf.⁸⁸ In France, the Haut Conseil à l'Intégration (Integration Council) issued a recommendation on religious expression and 'laïcité'. Although the recommendation does not apply to the employment context, some private companies have nonetheless relied upon it to refuse work to women wearing the headscarf.⁸⁹ The Netherlands' report referred to research carried out by Amnesty International that showed: 'Headscarves (and beards) have been considered problematic' in public-facing roles and also back office positions.⁹⁰ Various reports also noted general difficulties for Muslims in the workplace such as lack of accommodation of religious practices. In Belgium, a study showed that 44% of employers agree that wearing the headscarf can influence the selection of candidates for a job.⁹¹

The **Fundación Alares project in Spain** promotes a 'Diversity Charter': a voluntary code to which Spanish companies can adhere. The project seeks to encourage and improve the private sector's commitment toward equal opportunities and social inclusion. The Charter endorses the principles contained in the Racial Equality Directive and the Framework Directive on Employment Equality. There are currently 545 signatories, including consultancy firms, multinational companies, and Social and Medium-sized Enterprises (SMEs).

See: www.fundacionalares.es

⁸⁴ ENAR 2011/12 Shadow Report: Finland.

⁸⁵ ENAR 2011/12 Shadow Report: Latvia.

⁸⁶ ENAR 2011/12 Shadow Report: Iceland.

⁸⁷ ENAR 2011/12 Shadow Report: Ireland.

⁸⁸ ENAR 2011/12 Shadow Reports of Poland, Germany, Malta, Netherlands and France.

⁸⁹ ENAR 2011/12 Shadow Report: France.

⁹⁰ ENAR 2011/12 Shadow Report: The Netherlands.

⁹¹ ENAR 2011/12 Shadow Report: Belgium.

4.1.2 Facilitating factors or protective measures in employment practices

Various Member States have introduced measures to tackle high unemployment rates among ethnic minority groups. In the Netherlands, a project was set up to tackle the high unemployment rates of former refugees. The project set a target to help 2,500 former refugees get jobs within the space of three years. It achieved a 90% success rate.⁹² The Finnish government has introduced policies such as the Act on the Promotion of Integration (1386/2010) to improve employment rates of immigrants by 'promoting integration training and improving the status of immigrants in vulnerable situations'.⁹³ To promote awareness of rights and obligations under equality law, the Spanish Observatory of Racism and Xenophobia published a 'Guide to Managing Diversity in the Workplace' for employers. The guide aims to inform employers about the Spanish legislation in force, explains the business case for diversity and provides indicators to measure and improve employers' diversity policies.⁹⁴

4.2 Racism and related discrimination in education

4.2.1 Manifestations of racism and related discrimination in education

Inequalities continue to pervade the education system with widespread evidence of racism and racial discrimination against a range of ethnic minority groups. This can take the form of segregation, bullying, exclusion and discriminatory admission policies, all of which can impact on attainment levels as well as lead to early school-leaving and drop-outs. To fully understand how inequalities and discrimination manifest themselves sufficient data and monitoring is required. Many countries do collect data and monitor for inequalities; however it is evident that there are still significant gaps and data collection does not necessarily result in monitoring which can inform policy development.

Segregation

The segregation of Roma pupils remains a pressing problem in some countries and one which governments and statutory agencies appear reluctant or uncertain how to address. In Slovakia, a court ruling that a school had unlawfully segregated Roma pupils on grounds of their ethnicity and should desegregate the pupils was ignored by the school, who argued that the non-Roma parents would otherwise move their children from their school.⁹⁵ The school's actions received political and public support. Five years after

⁹² ENAR 2011/12 Shadow Report: The Netherlands.

⁹³ ENAR 2011/12 Shadow Report: Finland.

⁹⁴ ENAR 2011/12 Shadow Report: Spain.

⁹⁵ ENAR 2011/12 Shadow Report: Slovakia.

the DH⁹⁶ case, in which the European Court of Human Rights (ECtHR) found discrimination and human rights violations in the segregation of pupils, a disproportionately high number of Roma pupils in the Czech Republic are still sent to special primary schools with simplified curricula, worsening their further and higher education prospects. Research from the Office of the Ombudsman found that Roma children form approximately one third of the special needs school population. They thus encounter difficulties in progressing to secondary school and higher education.⁹⁷ In Bulgaria, Roma pupils are often isolated from the rest of the community in schools where they form the majority. However, the new Education Act encourages integration in education, although it does not prohibit segregation within schools.⁹⁸ In Croatia, measures are being introduced to give effect to the ECtHR's decision in March 2010 in the Oršuš and Others v. Croatia case, which had found indirect discrimination against Roma children. However, reports on the Action Plan of the Decade for Roma inclusion (2005-2015) showed that there were still 44 Roma-only elementary classes in schools during the year 2010/2011.⁹⁹

The **Romano Centro in Austria** works to enhance the living conditions of the Roma and to combat discrimination against them. The focus is on education and cultural issues. The Romano Centro has for example employed Roma school assistants and mediators at various schools in Vienna since 2000. They foster dialogue between teachers, students and parents; motivate and assist the students during lessons; and help teachers with communication and language problems.

See: www.romano-centro.org

Migrant pupils and other ethnic minority children are also often placed in special needs schools, including those with particular language needs, or in separate classes. In Croatia, Serbian pupils are often placed in separate classes. Finland records a similar trend of pupils being placed in separate classrooms because they are not fluent in Finnish.¹⁰⁰

Children held in detention centres are also segregated. In its 2012 annual report, Amnesty International in Poland expressed concerns about this and the fact that those in detention are not given proper access to education even though education in Poland is compulsory; education provided in these centres is often irregular and does not involve trained teachers.¹⁰¹

Bullying and prejudice

Most of the Shadow Report authors report on the continuation of bullying in schools, especially of Muslim pupils who are targeted by both pupils and teachers alike. For instance, the Austrian, Dutch and German reports cited negative attitudes towards Islam, which particularly affects Muslim girls.

Research carried out in the Netherlands highlights the high proportion of prejudice against Muslim schoolchildren, while Muslim pupils in Germany, in particular Muslim girls wearing headscarves, also reported facing harassment from teachers. The German Shadow Report highlights that teachers have also been reported as displaying prejudicial and stereotypical attitudes towards Muslims who are often exposed to 'depreciatory stereotypes'.¹⁰²

A working group on bullying was set up in Ireland in 2011 following a 2010 report on the subject, but some NGOs have criticised the working group for not focusing on racist bullying; they also criticise schools' lack of policies to combat this phenomenon.¹⁰³ In Italy, bullying against Roma, Sinti and Caminanti students can take the form of extreme violence, while the Ethnic Research Institute opinion polls show a rise of negative attitudes toward the Polish minority in Lithuania.¹⁰⁴

Drop-out rates and attainment

Overall, the educational attainment rates for most ethnic minority groups are lower than for children amongst the national majority. There are multiple and interconnecting reasons highlighted for these lower attainment rates, such as higher drop-out rates, poorer social conditions, and disadvantage associated with starting education in a 'special' school with lower standards.

Bulgaria, Lithuania and Spain all highlight early drop-out rates for Roma children. For instance, while seven out of 10 Roma attend kindergarten in Spain, only 1 out of 10 Roma finishes upper-secondary school.¹⁰⁵ The Bulgarian Shadow Report suggests that Roma consider education to be a threat to their lifestyle and a contributory factor for their high drop-out rate; but it also recognises that drop-out rates also have to be considered in the light of mistrust and discrimination faced daily by the Roma community. In addition, research has highlighted a causal link between financial difficulties and limited access to social services and high drop-out rates.¹⁰⁶ In Iceland, the drop-out rate for immigrant pupils is 20% compared to 4% of the Icelandic pupils.¹⁰⁷

96 *DH and others v Czech Republic 57325/00: 2007 (ECHR).*

97 *ENAR 2011/12 Shadow Report: Czech Republic.*

98 *ENAR 2011/12 Shadow Report: Bulgaria.*

99 *ENAR 2011/12 Shadow Report: Croatia.*

100 *ENAR 2011/12 Shadow Report: Finland.*

101 *ENAR 2011/12 Shadow Report: Poland.*

102 *ENAR 2011/12 Shadow Reports: The Netherlands and Germany.*

103 *ENAR 2011/12 Shadow Report: Ireland.*

104 *ENAR 2011/12 Shadow Reports: Italy and Lithuania.*

105 *ENAR 2011/12 Shadow Report: Spain.*

106 *ENAR 2011/12 Shadow Report: Bulgaria.*

107 *ENAR 2011/12 Shadow Report: Iceland.*

Examples of lower attainment levels amongst ethnic minority children include Germany where the number of pupils with a migrant background who only achieve the lowest competency level is more than twice as high as amongst pupils without a migrant background.¹⁰⁸ In Luxembourg, foreign national students represent 42% of the school population. Only 20% of them successfully pass their final secondary exams, which is attributed to the high proportion of placements in 'special' schools or being pushed towards a vocational education instead. Students of Portuguese and Cape Verde backgrounds are the most affected and are often orientated towards lower levels of study.¹⁰⁹ In the UK, although educational achievement gaps have decreased over the last few years, achievement still varies considerably between different ethnic groups, with Roma and Irish Traveller, Black Caribbean, Pakistani, and African pupils falling significantly behind; and Chinese, Indian and Bangladeshi pupils achieving higher than the national average at age 16. The highest attainment gap at university level is between Black and White students. NGOs in the UK have expressed concerns at the mainstreaming of the Ethnic Minority Achievement Grant as schools could avoid using the money for special provisions for ethnic minorities.¹¹⁰

Other policies which can affect a pupil's chances and performance in education include exclusion policy. The UK report referred to research on school exclusions published by the UK's Children Commissioner that found that 'a male pupil of Black Caribbean background, with Special Education Needs, living in a low-income household and receiving free school meals is 168 times more likely to be permanently excluded from school before the age of 16 than a female White British pupil who lives in a more affluent household'.¹¹¹

Language

The insufficiency of language classes and support services for children who do not speak the national language was highlighted as a concern. There are reports in Bulgaria that language provision for refugees and asylum seekers is inadequate.¹¹² Although courses at the Integration Centre of the State Agency of Refugees are rated highly by students, the classes are not long enough and do not cater for all levels of education; places are limited; and asylum seekers have problems accessing the courses. In Ireland there are reports of cuts to the number of language assistants.¹¹³ According to the Polish Shadow Report, Roma pupils sometimes lack an understanding of Polish, which is interpreted by the school authorities as a mental disability. These pupils are

consequently placed in 'special' schools but a recent study showed that these children are often capable of attending a mainstream school.¹¹⁴ This discriminatory tendency happens in many other countries and relative to a number of different marginalised groups, but is always linked to national language competency.

4.2.2 Facilitating factors or protective measures to combat education challenges

Efforts are underway across Europe to reduce discrimination and inequality in education and to promote integration. For example, a report published in Austria points out that measures for equal opportunities should be taken in the areas of school management, systematic promotion of (multiple) language skills and standardisation of teacher training are necessary, as well as the appointment of more migrant teachers.¹¹⁵

School-Home Support provides specially targeted services to help overcome barriers to learning for specific communities in three ethnically diverse boroughs of London, in the **United Kingdom**. School-Home Support employs community workers to support families of Somali, Bangladeshi, Turkish and Turkish-Kurdish origin, whose first language is not English, to encourage them to communicate their needs and participate fully in their children's education. Recruited from within the community, they help school staff understand the issues that families face, as well as helping families to understand the education system and enabling parents to provide support to their children at school. The ultimate aim is to improve attendance, educational attainment, self-esteem and confidence of the pupils involved.

See: www.schoolhomesupport.org.uk

Examples of good practice include a campaign in Bulgaria about the benefits of education of young Roma, which was conducted by interns in the Programme for Medicine Students and Young Doctors of Roma Ethnic Background. While sharing their experiences with students in different cities and rural areas, they emphasised that literacy and education are the key to a dignified and fulfilling life.¹¹⁶ The new School Education Act (adopted by the Bulgarian government in March 2012) includes principles regarding the educational integration of Roma children. However, the Act does not prohibit segregation of classes based on ethnicity within schools. The Czech Republic has a National Action Plan on Inclusive Education (NAPIE). Since the DH case there have been two amendments to regulatory decrees. Pre-school education and teaching assistants have been introduced, although schools have had problems finding

108 ENAR 2011/12 Shadow Report: Germany.

109 ENAR 2011/12 Shadow Report: Luxembourg.

110 ENAR 2011/12 Shadow Report: United Kingdom.

111 ENAR 2011/12 Shadow Report: United Kingdom, p. 27.

112 ENAR 2011/12 Shadow Report: Bulgaria.

113 ENAR 2011/12 Shadow Report: Ireland.

114 ENAR 2011/12 Shadow Report: Poland.

115 ENAR 2011/12 Shadow Report: Austria.

116 ENAR 2011/12 Shadow Report: Bulgaria.

alified Roma teaching assistants.¹¹⁷ The Greek Ministry of Education and the Special Secretariat of Intercultural Education are working towards the gradual abolition of schools attended exclusively by Roma pupils through the Education of Roma Children' project.¹¹⁸

In some schools in Finland, teachers and special needs assistants with a Roma background have been appointed to serve as role models for Roma pupils.¹¹⁹ In Luxembourg, the Ministry of Education has put in place a service welcoming children of recent immigrants, which provides information for parents, students and teachers and offers intercultural mediation between parents and teachers in several languages.¹²⁰ Malta also introduced a project to assist with the integration of pupils from third countries. The results of this research feed into the development of effective services for students and their families in order for them to integrate fully into Maltese society.¹²¹

4.3 Racism and related discrimination in housing

4.3.1 Manifestations of racism and related discrimination in housing

Access to affordable quality housing is a challenge for ethnic minority groups across Europe and the fallout from the recession has been exacerbating the problem. Despite discrimination in housing being prohibited in all the reporting countries, ethnic minority groups continue to face racism and discrimination in this area. The 2011/12 Shadow Reports identify a number of disparate issues which are impacting on ethnic minorities' access to housing. Some of the key issues include discriminatory practices in the privately rented sector; eligibility for public housing; homelessness; poor living conditions, and the segregation and ghettoisation of ethnic minority communities (particularly the Roma). Roma face unique challenges, for example, forced evictions, difficulties securing culturally appropriate accommodation, and a failure by governments to implement national Roma integration strategies effectively. Lack of awareness of rights and the dearth of national data on the housing situation of ethnic minorities are also issues of concern highlighted by some reports.¹²²

The privately rented sector is the main source of housing for many ethnic minority groups, particularly those who are not eligible for public housing such as migrant workers.

Discrimination (usually indirect) within the privately rented market is documented as widespread, although difficult to assess, in the reports of Finland, Italy, Poland, Spain, Germany, Malta, Austria, Lithuania, Iceland, the Czech Republic and Ireland. There is also evidence of direct discrimination in the form of charging ethnic minorities higher rates of rent.¹²³ According to the Cyprus Shadow Report migrants pay higher rates of rent for sub-standard housing. The sector is largely unregulated,¹²⁴ which enables landlords and agencies to act with impunity.

The **village of Sveržov** established its own **social enterprise in Slovakia** that employed local Roma. Their aim was to build homes for themselves. While the construction was financed from the municipal budget, the Roma were required to bear at least 20% of the total costs in the form of labour. The funds they saved by doing the work themselves were used to equip their flats with adequate furnishings (i.e. bathrooms or fitted kitchens), which helped the Roma enjoy higher housing standards compared to the allotted rented unfitted flats they usually receive, requiring they furnish them themselves. At the same time, the participating Roma acquired new working habits.¹²⁵

Negative attitudes by both landlords and existing tenants act as obstacles to ethnic minorities seeking rented accommodation. The Ombudsman for Minorities' Annual Report of Finland, while acknowledging the challenges of investigating discrimination in the privately housing sector, noted that landlords admitted an applicant's immigration status was a reason for not letting a home to a 'specific person'.¹²⁶ Iceland found that 22% of Icelanders 'do not like Muslims living in their neighbourhoods'.¹²⁷ A survey undertaken in Lithuania found that over 60% of people would not let homes to Roma (and ex-offenders), 39-40% would not let to Chechens, refugees or Muslims and between ¼ to 1/5 of the respondents would not let to Black people, Hindus, Chinese, non-Lithuanian speakers and Jews.¹²⁸ Some reports noted that the housing situation for Muslims was better than for other ethnic minority groups. One explanation given for this was that landlords believe Muslims will pay their rent.

'Situation testing'¹²⁹ has been used by some countries to flush out discriminatory behaviour in the private rental market. One such study in Spain showed that estate agencies offered fewer properties to migrants and refugees.¹³⁰ A common

117 ENAR 2011/12 Shadow Report: Czech Republic.

118 ENAR 2011/12 Shadow Report: Greece.

119 ENAR 2011/12 Shadow Report: Finland.

120 ENAR 2011/12 Shadow Report: Luxembourg.

121 ENAR 2011/12 Shadow Report: Malta.

122 See, for example, ENAR 2011/12 Shadow Reports: Estonia and Lithuania.

123 ENAR 2011/12 Shadow Report: Germany.

124 ENAR 2011/12 Shadow Report: Cyprus.

125 ENAR 2011/12 Shadow Report: Slovakia, p. 48.

126 ENAR 2011/12 Shadow Report: Finland.

127 ENAR 2011/12 Shadow Report: Iceland, p.17.

128 ENAR 2011/12 Shadow Report: Lithuania.

129 Situation testing is the systematic research procedure for creating controlled experiments analysing employers' and service providers' responses to employees' or service users' personal characteristics.

130 ENAR 2011/12 Shadow Report: Spain.

problem identified in various reports¹³¹ is discriminatory statements in advertising¹³² such as: 'This flat will only be rented to native Austrian citizens';¹³³ 'Salted pork leg instead of kebab';¹³⁴ and 'No arabs, [sic] blacks or young boys'.¹³⁵

Access to public housing is generally limited because demand exceeds supply but for ethnic minorities in particular access is compounded by strict eligibility criteria. Many countries include a residency condition in national and regional eligibility criteria and in some instances the national courts have held some of these criteria to be unconstitutional. In Italy, for instance, the local law in Verona which excluded third country nationals from accessing public housing was the subject of infringement proceedings by the European Commission.¹³⁶ In Bulgaria, some local councils have imposed a citizenship requirement for eligibility to housing, for instance, the Varna municipal council's requirement for all applicants and their family to be Bulgarian citizens. This policy was held to be unconstitutional because of its discriminatory impact.¹³⁷ Polish migrants face similar problems to Bulgaria; in Pruszków, for instance, they must be registered in the city but the municipality will only sign a rental agreement with a citizen of Pruszków, which in practice excludes non-citizens.¹³⁸

SOS Racisme Catalunya in Spain successfully mediated in several racist conflicts between neighbours. In one case, the representatives of SOS Racisme Catalunya worked together with the lawyers of both parties in order to reach an agreement, whereby the victim agreed to drop the criminal prosecution if the offender apologised.¹³⁹

Various Shadow Reports remarked on the prevalence of homelessness among ethnic minority groups. The UK, for example, noted that between 1 January and 31 March 2012, 30% of applicants from homeless households accepted by local authorities were of an ethnic minority group.¹⁴⁰ Research in Estonia showed that amongst the homeless population in Tallinn, 66.4% were non-Estonian speaking;¹⁴¹ while there was a slight increase in homelessness among the immigrant population in Finland.¹⁴²

Many reports highlight problems of overcrowding, disrepair and lack of basic utilities. The problem is more acute for the Roma who, according to most reports, often live in accommodation which lacks basic facilities such as indoor toilets, indoor bathrooms or electricity.¹⁴³ Poor housing has reached crisis levels in Romania where it is reported that 70% of Roma living in urban areas are not connected to drinking water, sewage or gas.¹⁴⁴ Poland reported that 20% of Roma households do not have access to an indoor kitchen or bathroom.¹⁴⁵ In Slovakia, the picture is as bleak; 16% of Roma are reported to live in substandard housing which is at risk of fire and flooding.¹⁴⁶ Many of the reports refer to the ripple effect of poor living conditions on other areas such as health and education. According to the Finnish report, there was a shortage of housing to accommodate the needs of Muslim families.¹⁴⁷

4.3.2 Facilitating factors or protective measures to combat housing challenges

Positive initiatives exist to combat housing challenges in most countries. Slovakia has implemented a programme of housing support which allows councils to build low cost housing for low income families. The PECE II programme in Spain aims to promote interaction and cohesion in diverse areas¹⁴⁸. Austria provides training for landlords on a range of issues including intercultural awareness.¹⁴⁹ Latvia successfully challenged a decision by a local council to offer substandard housing to a Roma family, which led to the council withdrawing the offer.¹⁵⁰ In Germany, a campaign was initiated in Dortmund to build up a pool of landlords, property owners and letting agencies to ensure equality in the housing market.¹⁵¹ The Housing Finance and Development Centre in Finland is working towards reducing long-term homelessness and an NGO called 'No Fixed Abode' is also working to improve the living conditions of the homeless.¹⁵² The Czech Republic's 'Concept of Housing Policy 2011' aims to improve accessibility of housing for groups at risk of social exclusion.¹⁵³ Portugal's second National Plan for Immigrants' Integration has initiated measures to tackle the problems faced by immigrants by focusing on improving social housing.¹⁵⁴

131 See, for example, ENAR 2011/12 Shadow Reports: Finland and Czech Republic.

132 Discriminatory advertising is prohibited by the EU Race Equality Directive.

133 ENAR 2011/12 Shadow Report: Austria.

134 ENAR 2011/12 Shadow Report: Germany.

135 ENAR 2011/12 Shadow Report: Malta.

136 ENAR 2011/12 Shadow Report: Italy.

137 ENAR 2011/12 Shadow Report: Bulgaria.

138 ENAR 2011/12 Shadow Report: Poland.

139 ENAR 2011/12 Shadow Report: Spain, p. 40.

140 See ENAR 2011/12 Shadow Report: United Kingdom.

141 See ENAR 2011/12 Shadow Report: Estonia.

142 See ENAR 2011/12 Shadow Report: Finland.

143 See ENAR 2011/12 Shadow Reports: Poland, Romania, Slovakia and Estonia.

144 ENAR 2011/12 Shadow Report: Romania.

145 ENAR 2011/12 Shadow Report: Poland.

146 ENAR 2011/12 Shadow Report: Slovakia.

147 ENAR 2011/12 Shadow Report: Finland.

148 ENAR 2011/12 Shadow Report: Spain.

149 ENAR 2011/12 Shadow Report: Austria.

150 ENAR 2011/12 Shadow Report: Latvia.

151 ENAR 2011/12 Shadow Report: Germany.

152 ENAR 2011/12 Shadow Report: Finland.

153 ENAR 2011/12 Shadow Report: Czech Republic.

154 ENAR 2011/12 Shadow Report: Portugal.

4.4 Racism and related discrimination in health

4.4.1 Manifestations of racism and related discrimination in health

Discrimination in healthcare is considered to be less prevalent than in other areas such as housing and employment; however, ethnic minorities experience poorer health outcomes compared to the majority population and they continue to experience difficulties when accessing healthcare services.

The key areas of concern emerging from the Shadow Reports in this area are: the impact of social exclusion on health outcomes; language barriers; discriminatory treatment in the provision of healthcare services; entitlement to healthcare services for migrants; and the mental health of migrants.

Many of the Shadow Reports note that language is a barrier to migrants accessing healthcare.¹⁵⁵ In Portugal, for example, a study found that 47% of healthcare professionals consider that a lack of support in providing translation and interpreting services impact on the care of immigrants. Finland and Estonia acknowledge that there is a lack of available translation/interpretation services. Research in Finland found that language barriers hinder non-Finnish speaking people particularly when making 'phone calls or filling in forms'. The law in Iceland entitles everyone to access interpretation services when using healthcare services, paid for from the healthcare centre budget. However, Icelandic NGOs have expressed concerns that limited funds lead many healthcare centres to restrict the amount they spend on translation services. Some efforts are being made to address language barriers in many countries, for instance, the hiring of cultural mediators in health centres and hospitals in Malta in 2010 has improved access to healthcare for migrants there.¹⁵⁶ However, most Shadow Reports advocated the need to do more to overcome this problem.

The effects of social exclusion on the health of vulnerable groups, such as poor working conditions, unsuitable housing conditions and social isolation were highlighted in various reports. The Roma are especially affected in this context and continue to face some of the worst health outcomes compared to other ethnic minority groups: they have a lower life expectancy and higher maternal and infant mortality rates.¹⁵⁷ Slovakia points to factors such as lack of access to water, poor nutrition and living in segregated settlements,

as contributing to the poor health conditions of the Roma.¹⁵⁸ According to Bulgaria, the Roma are limited in their daily activities due to poor health and are more likely to suffer chronic diseases.¹⁵⁹ In some Member States, the human rights of Roma have been violated by health officials, for example, in Slovakia, where Roma women have been subjected to 'forced sterilisation'.¹⁶⁰

A scheme, financed by the European Refugee Fund, was launched to **train social mediators from the refugee community in Bulgaria** to provide support for asylum seekers and for vulnerable refugees in the first year after being granted protection. Ten foreign nationals trained to work with the institutions, learning about relevant rights and obligations in healthcare, social services, education, housing, professional qualification and access to the labour market. They are also trained to enable communication among vulnerable immigrants and state service providers, including healthcare, social services, education, branches of the National Employment Agency, etc.

See: <http://media.framar.bg/здравни-новини/бежанско-мигрантската-служба-на-бчк-започва-проект-в-подкрепа-на-бежанци-и-търсеши-убежище>

The Austrian Shadow Report considers that there is a correlation between health and lower living standards and social and economic difficulties experienced by migrants.¹⁶¹ Germany referred to the high rate of occupational accidents suffered by migrant workers who are more likely to work in jobs where the risks of accidents are greater.¹⁶² Portugal raised an interesting issue in relation to the health of migrant women: it observed that migrant women tend to be more restricted by health problems compared to men.¹⁶³ The Greek report remarks on the specific problem of poor sanitary conditions in refugee camps: it found that 60% of health problems experienced by those living in refugee camps were linked to the living conditions in the camps.¹⁶⁴

The negative attitude of healthcare workers has also been highlighted as a problem in many reports. For example, Serbians in Croatia are subjected to hostile and insensitive treatment, and in one case a new mother was asked by staff to name her child Jovan instead of Ivan so that it would not upset other patients.¹⁶⁵ Lithuania reported that a survey of various ethnic and religious groups showed that while they did not feel discriminated against in the health sector they

155 See, for example, ENAR 2011/12 Shadow Reports: Finland, Lithuania, Iceland, Estonia, Portugal and Luxembourg.

156 ENAR 2011/12 Shadow Report: Malta.

157 See ENAR 2011/12 Shadow Reports: United Kingdom, Ireland and Bulgaria.

158 ENAR 2011/12 Shadow Report: Slovakia.

159 ENAR 2011/12 Shadow Report: Bulgaria.

160 ENAR 2011/12 Shadow Report: Slovakia.

161 ENAR 2011/12 Shadow Report: Austria.

162 ENAR 2011/12 Shadow Report: Germany.

163 ENAR 2011/12 Shadow Report: Portugal.

164 ENAR 2011/12 Shadow Report: Greece.

165 ENAR 2011/12 Shadow Report: Croatia. Jovan is a common Serbian name that the health officials wanted changed into a common Croatian name.

experienced negative attitudes from health workers.¹⁶⁶ Situations in France were described where some doctors or other healthcare workers have refused to treat patients because of their ethnic origin or religion; and in some cases doctors have required ethnic minority patients (usually Muslim men with beards and Muslim women wearing the headscarf) to wear 'neutral clothing'.¹⁶⁷ In Spain, a Moroccan woman had to give birth in the waiting room of a hospital because the nurse repeatedly ignored her symptoms for 45 minutes. The nurse also made racist comments.¹⁶⁸

As with public housing, eligibility for medical treatment may depend on a patient's residency status but complex rules on entitlement may not be fully understood by immigrants, especially during the transitional period between refugee status and granting of citizenship. For example, in Bulgaria, while refugees and asylum seekers have equal rights to healthcare services on becoming registered citizens, they face various difficulties when accessing medical services because of delays in converting from refugee status to citizenship and between registration as a refugee and applying for the national insurance fund.¹⁶⁹ The experience for undocumented migrants in healthcare is noted in some reports as especially precarious; although they can use emergency medical services they are deterred from using them for fear of being reported. This is less of an issue in Luxembourg where undocumented immigrants can register for health insurance without fear of being reported to the authorities.¹⁷⁰

The mental health of ethnic minority groups may also be affected by the impact of immigration policies, such as dispersal and detention policies, especially for asylum seekers, refugees and undocumented immigrants. Spain, for example, noted a connection between the impact of the economic crisis and its effect on the mental health of immigrants.¹⁷¹ The unavailability of data on mental health is identified as a critical issue. The UK reported that in spite of the poorer outcomes in mental healthcare experienced by Black Africans and Caribbeans, the Department of Health took a decision to stop collecting data in this area.¹⁷²

4.4.2 Facilitating factors or protective measures to combat health inequalities

There are a range of positive developments to improve access to healthcare services for ethnic minority groups. NGOs in Greece, in conjunction with the Ministry of Health, set up a medical programme for immigrants who do not have access

to the healthcare system.¹⁷³ Portugal's II Plan for Immigrant Integration includes measures to create healthcare systems that are migrant friendly, setting up partnerships between social actors to empower migrant communities and the creation of a Commission to implement the law guaranteeing access to healthcare services for undocumented migrants.¹⁷⁴ In Slovakia, the 'Programme to Support the Health of Disadvantaged Communities in Slovakia in 2009-2015' is operated by public health offices in cooperation with medical workers.¹⁷⁵ The aim of the programme is to raise awareness among Roma communities on matters pertaining to health such as reproductive rights and vaccination programmes. Italy introduced a central record of all the rules for the provision of healthcare for immigrants in Italy.¹⁷⁶ A number of Member States have introduced measures to tackle language and cultural barriers: one such example is the production of information booklets in different languages used in Austria.¹⁷⁷

The Finnish Association for Mental Health (FAMH) is an NGO whose projects respond to social changes by creating new models for promoting mental health in different spheres of life. Amongst the aims of their many projects, FAMH organises services for immigrants and their families and provides support to immigrant adolescents. In addition, FAMH launched the online programme 'SELMA' in autumn 2011, which is designed to help people overcome difficult periods in their life. To accommodate immigrants, the information is in English, Russian, Somali and Sorani (Kurdish) and provides information about the mental adjustment process specific to immigration.

See: www.mielenterveysseura.fi/en

Despite many positive developments in improving access to healthcare services for ethnic minority groups, various reports highlighted factors which continue to hamper equal access, for example, there is no mechanism for dealing with discrimination issues in the health sector in Germany and Finland.¹⁷⁸

4.5 Racism and related discrimination in access to goods and services

4.5.1 Manifestations of racism and related discrimination in access to goods and services

A major problem in the provision of goods and services is the lack of information on rights and obligations and weak enforcement models, meaning that levels of complaints are

166 ENAR 2011/12 Shadow Report: Lithuania.

167 ENAR 2011/12 Shadow Report: France.

168 ENAR 2011/12 Shadow Report: Spain.

169 ENAR 2011/12 Shadow Report: Bulgaria.

170 ENAR 2011/12 Shadow Report: Luxembourg.

171 ENAR 2011/12 Shadow Report: Spain.

172 ENAR 2011/12 Shadow Report: United Kingdom.

173 ENAR 2011/12 Shadow Report: Greece.

174 ENAR 2011/12 Shadow Report: Portugal.

175 ENAR 2011/12 Shadow Report: Slovakia.

176 ENAR 2011/12 Shadow Report: Italy.

177 ENAR 2011/12 Shadow Report: Austria.

178 ENAR 2011/12: Shadow Reports: Germany and Finland.

low. The shortage of official data on discrimination in this area makes it difficult to analyse the full extent and causes of the problem. Some of the issues raised in this reporting period include discrimination in the provision of financial services; discrimination in social settings such as bars, clubs and restaurants; discrimination in the provision of public services; and a lack of awareness of rights.

A number of the national Shadow Reports referred to discriminatory practices within the provision of financial services. Some of the problems relate to the criteria applied by financial institutions for obtaining credit. For instance, to access credit in Portugal, it is necessary to have a guarantor who is a Portuguese citizen and who can verify residency.¹⁷⁹ Similarly, in Poland the temporary residential status of many migrant students prevents them from obtaining mobile phone and internet contracts.¹⁸⁰ Research in the UK shows that despite ethnic minority groups having more aspirations to set up their own businesses, they are less likely to do so because they are more likely to face discrimination in accessing business loans.¹⁸¹ In Italy, there was a decrease in the number of complaints of discrimination relating to the provision of financial services (down from 3.3% in 2010 to 1% in 2011). However, there is a worrying issue concerning access to credit in Italy. A survey by the Bank of Italy found that foreign entrepreneurs pay higher interest rates (an average of 70 'base points' more) than their Italian counterparts. Furthermore, there are differences in treatment between different ethnic groups: Eastern Europeans pay on average 1.3 percentage points higher than their Italian counterparts compared to Africans and Asians who pay anything between 40 and 85 percentage points more.¹⁸²

Discrimination in accessing leisure facilities such as bars, clubs and restaurants has been highlighted as a significant problem, particularly for Muslims, in many of the Shadow Reports.¹⁸³ Iceland reported an incident involving violence towards two Muslim women in a bar. Spain also reported that Muslims and people of Arabic origin face greater problems accessing bars and leisure premises compared to other groups. Germany referred to several cases of Muslim women being refused entry to fitness clubs unless they were willing to remove their headscarves. In Italy, discrimination in public places such as bars, shops and clubs decreased by over one percentage point (from 5.4% in 2010 to 4.3% in 2011); complaints against public bodies decreased (falling from 15.9% to 10.9%), while complaints involving leisure and sport increased.¹⁸⁴

The Immigrant Association in the Azores (Associação de Imigrantes nos Açores - AIPA) is an NGO which represents immigrants living in the islands of Azores, Portugal. With the aim to integrate immigrants into Portuguese society, AIPA offers a platform with a number of services (e.g. medical services, plumbing, babysitting, etc.) where immigrants can access the service, safe in the knowledge that they won't face discrimination.

See: www.aipa-azores.com

Segregated bars and clubs are highlighted by some reports as an issue of concern. In Croatia, for example, there are in practice separate bars for Croatians and Serbians.¹⁸⁵ Refusing services and/or applying different policies to ethnic minorities accessing goods and services are also noted as problematic in various reports. The Netherlands referred to the discriminatory manner in which services may be provided, for instance, in one case, a local jeweller adopted an entrance policy which prevented Antilleans and Moroccans from entering his jeweller shop without a prior appointment.¹⁸⁶ In another case, the organisers of the Utrecht Marathon offered different monetary prizes to Dutch runners and foreign runners to discourage the latter from participating in the marathon because of their general success.

Discrimination in the provision of public services is highlighted by various reports. The negative attitudes of public officials towards ethnic minorities can also hinder access to goods and services, especially where the service user does not speak the language of the country. According to non-Polish citizens in Poland, 'public institutions are not prepared to provide services to persons of different backgrounds and foreigners who only speak some Polish or do not know the language at all'. This group considered that 'incompetence, negative approach and unequal treatment' characterises the main difficulties faced by non-citizens in accessing public services.¹⁸⁷

A lack of awareness of the law was noted in many reports as contributing to the low number of complaints in this area. Germany, for example, remarked that since the passing of the Equal Treatment Act only four people have pursued a complaint through the courts.¹⁸⁸ Latvia reported one verification procedure in this area having been initiated by the Ombudsman Office in the first half of 2012.¹⁸⁹ The Equality Authority in Ireland recorded 840 queries relating to goods and services' complaints compared to 1236 relating to employment,¹⁹⁰ and Bulgaria reported that in 2011 there were

¹⁷⁹ ENAR 2011/12 Shadow Report: Portugal.

¹⁸⁰ ENAR 2011/12 Shadow Report: Poland.

¹⁸¹ ENAR 2011/12 Shadow Report: United Kingdom.

¹⁸² ENAR 2011/12 Shadow Report: Italy.

¹⁸³ See ENAR 2011/12: Shadow Reports of Austria, Finland, Iceland, Spain and Germany.

¹⁸⁴ ENAR 2011/12 Shadow Report: Italy.

¹⁸⁵ ENAR 2011/12 Shadow Report: Croatia.

¹⁸⁶ ENAR 2011/12 Shadow Report: The Netherlands.

¹⁸⁷ ENAR 2011/12 Shadow Report: Poland, p. 24.

¹⁸⁸ ENAR 2011/12 Shadow Report: Germany.

¹⁸⁹ ENAR 2011/12 Shadow Report: Latvia.

¹⁹⁰ ENAR 2011/12 Shadow Report: Ireland.

50 such complaints to the Commission for Protection against Discrimination.¹⁹¹ In Spain, complaints of discrimination in access to goods and services account for 24% of all discrimination complaints.¹⁹² Lithuania was the only country to report an increase in discrimination complaints in this area.¹⁹³ Also, many of the Shadow Reports remarked on the lack of research in this area, which makes it difficult to monitor the scale of the problem. Some countries have resorted to situation testing as a method of unearthing the prevalence of discrimination in accessing goods and services.

4.5.2 Facilitating factors or measures to promote equality in accessing goods and services

Various reports refer to initiatives to raise awareness and encourage victims to submit complaints. For example, the German equal treatment body started an awareness raising campaign to encourage individuals and anti-discrimination organisations to become active in cases of discrimination relative to accessing clubs/discos. The campaign has led to several court cases being taken up in Hannover and Leipzig and has been extended to other German cities.¹⁹⁴ Ethnic minority communities have also been proactive in developing services to meet their needs and to avoid discrimination.

4.6 Racism and related discrimination in political participation

4.6.1 Manifestations of racism and related discrimination in political participation

Political participation has many components, including eligibility to vote in elections as well as the right to join a political party or stand in elections. The requirements vary between countries. Citizenship is generally required in order to be able to vote, although in some cases of dual citizenship the right to vote may be denied. Furthermore, in some circumstances individuals may have a right to vote in some elections but not others; or for some candidates and not others. The Shadow Reports have highlighted some of these different levels of participation. For instance, in Estonia, persons with undefined citizenship and third country nationals (TCNs) who hold permanent residence permits are allowed to vote in municipal elections, but cannot stand for elections themselves or even become members of political parties. Political participation of TCNs is high; there is, however, an attitude that non-Estonians should not influence national policy, although it is alright for TCNs to do so at local level.¹⁹⁵

¹⁹¹ ENAR 2011/12 Shadow Report: Bulgaria.

¹⁹² ENAR 2011/12 Shadow Report: Spain.

¹⁹³ ENAR 2011/12 Shadow Report: Lithuania.

¹⁹⁴ ENAR 2011/12 Shadow Report: Germany.

¹⁹⁵ ENAR 2011/12 Shadow Report: Estonia.

'Programme Roma', organised by the Open Society Institute in Bulgaria, is an internship programme for young Roma in the Bulgarian Parliament. The programme is conducted with the support of the National Democratic Institute, USA and the Parliament. Its goal is to expand the knowledge of young Roma who have an interest in the sphere of politics and public administration in the legislative processes and the decision-making process. It is hoped the programme will contribute to a shift in public attitudes regarding the participation of Roma in politics.

See: www.osf.bg/?cy=10&lang=1&program=1&action=2&news_id=446

TCNs with a permanent resident right can vote and stand in local elections in Lithuania, although citizenship is required to vote in general elections of the Lithuanian Parliament and for the President.¹⁹⁶ Other EU citizens residing in Latvia for more than six months are entitled to take part in municipal and European Parliament elections. However, full political participation of Latvia's minority groups is hampered by citizenship legislation. A high proportion of Muslims do not have citizenship. This has been attributed to the advanced age of many Muslims, financial problems, as well as the lack of opportunities to acquire Latvian language proficiency to the required level.¹⁹⁷ Since the amendment of the Elections Act in 1985, non-Dutch citizens who have been resident in the Netherlands for five years are entitled to vote and stand for election at local level. This has led to an increase in municipal council members from this group.¹⁹⁸ In Luxembourg, a new electoral law extends the right to vote in the local government elections to all third country nationals,¹⁹⁹ although in reality there are very few politicians of foreign origin. In Poland, voting rights and the right to join a political party are restricted to Polish citizens only, but EU citizens who reside there permanently have active and passive voting rights in the local councils.²⁰⁰

In the Czech Republic, proposals to allow dual citizenship were criticised by NGOs for making it difficult to acquire citizenship which is required to vote.²⁰¹ According to the Migrant Integration Policy Index, Slovakia has one of the strictest systems in place for obtaining citizenship through naturalisation.²⁰² In France, foreign nationals do not have the right to vote, not even at local level; and in the case of ethnic and religious minorities who have French citizenship, there is a high abstention rate due to feelings of social exclusion.²⁰³

¹⁹⁶ ENAR 2011/12 Shadow Report: Lithuania.

¹⁹⁷ ENAR 2011/12 Shadow Report: Latvia.

¹⁹⁸ ENAR 2011/12 Shadow Report: The Netherlands.

¹⁹⁹ ENAR 2011/12 Shadow Report: Luxembourg. It also opens local government jobs to foreign citizens residing in the country for at least five years.

²⁰⁰ ENAR 2011/12 Shadow Report: Poland.

²⁰¹ ENAR 2011/12 Shadow Report: Czech Republic.

²⁰² ENAR 2011/12 Shadow Report: Slovakia.

²⁰³ ENAR 2011/12 Shadow Report: France.

In Greece, recent amendments to the Greek citizenship Code, which introduced specific provisions to allow second-generation migrants to apply for Greek citizenship, have been brought into question by the Supreme Administrative Court of Greece which has said that only Greek citizens have the right to 'stand and vote' at the prefectural and municipal elections. In addition, the Fourth Department of the State Council declared the Law 3838/2010 - which provides Greek citizenship to immigrants residing in Greece - to be unconstitutional. The issue has been referred to the Greek Supreme Court for a final decision.²⁰⁴

Several organisations have participated in the national campaign 'I can vote' in Luxembourg to encourage foreign residents to vote in the local election that took place in October 2011. For example, the cooperation Luxembourg-Montenegro organised meetings in various districts in order to encourage residents from ex-Yugoslavia to register to vote. See: www.clm.lu/fr/blog/projekti

Even where there is a right to vote there may still be a low turn-out amongst ethnic minorities in elections as well as under-representation in political parties and parliament, local government and assemblies. For example, in Spain, only 10% of Roma voted in elections compared to 38% of other excluded minorities.²⁰⁵ In the UK in February 2012, the Ethnic Minority British Election Study found that ethnic minorities now make up approximately 8% of the electorate; 78% of ethnic minorities in the sample were registered to vote, although the proportion was significantly lower among Black Africans (59%), in comparison to 90% of white British people. Ethnic minorities are less likely than White British to register to vote, but among those who are registered turnout rates are very similar to the rates among the White British.²⁰⁶

4.6.2 Facilitating factors or protective measures to promote equality in political participation

Some countries have sought to encourage wider political participation, although there was no evidence that the toolkit from Migration Policy Group (MPG) had been implemented.²⁰⁷ In Bulgaria, for example, there was a training of eleven independent Roma observers to oversee the Bulgarian elections in 2011.²⁰⁸ In the Czech Republic, the Equal Opportunities Party, established as a political party in January 2012, seeks to improve the social status of socially vulnerable groups (mostly Roma) in the Czech population and as such, can be considered as

actively attempting to encourage Roma to participate in politics.²⁰⁹ The government also set up an advisory group to encourage participation by vulnerable groups.

While the Labour Institute of the General Confederation of Greek Workers and the Greek Forum of Migrants ran a project to promote political participation in Greece;²¹⁰ during the last elections in Ireland, a number of migrant and ethnic minority organisations developed initiatives including voter registration campaigns. Projects are now underway to try to give a voice to 'new voters', people who have become Irish citizens through naturalisation.²¹¹ Since 2011, some local governments in Italy sent letters to inform immigrants, born in Italy who reached the age of majority, of the possibility of applying for Italian citizenship.²¹²

The Portuguese Government is currently creating a specialised bureau to support immigrants in registering as voters and to provide information on political participation.²¹³ According to the last report on the Immigrant Integration Plan, these bureaux are due to be in operation from the second half of 2012. In Slovakia, the greatest achievement was the establishment of the Committee for National Minorities and Ethnic Groups as a participative, consultative and political organ to represent the voice of minorities;²¹⁴ while in Spain the main institution to enable migrants' political participation is the 'Forum for the Social Integration of Migrants', which was created in 1994 as a means to promote migrants' associations and link them with public policy makers.²¹⁵

The **Greek Forum of Migrants** (GFM) represents more than 30 migrant communities in Greece. In 2010, the GFM organised information meetings for its members regarding the implementation of the new laws for citizenship and voting rights. The GFM is developing a programme, funded by the Stavros Niarchos Foundation, to foster the social integration of second-generation immigrants, focusing on the critical age of 16-25, but addressing other age groups as well. See: www.migrant.gr/cgi-bin/pages/index.pl?arlang=greek

204 ENAR 2011/12 Shadow Report: Greece.

205 ENAR 2011/12 Shadow Report: Spain.

206 ENAR 2011/12 Shadow Report: United Kingdom.

207 Migration Policy Group, *Becoming a Party of Choice: A Tool for Mainstreaming Diversity*, http://www.migpolgroup.com/publications_detail.php?id=338.

208 ENAR 2011/12 Shadow Report: Bulgaria.

209 ENAR 2011/12 Shadow Report: Czech Republic.

210 ENAR 2011/12 Shadow Report: Greece.

211 ENAR 2011/12 Shadow Report: Ireland.

212 ENAR 2011/12 Shadow Report: Italy.

213 ENAR 2011/12 Shadow Report: Portugal.

214 ENAR 2011/12 Shadow Report: Slovakia.

215 ENAR 2011/12 Shadow Report: Spain.

4.7 Racism and related discrimination in the media

4.7.1 Manifestations of racism and related discrimination in the media, including the internet

The media has an important role to play in shaping and influencing public opinion and thinking. Responsible, balanced reporting is therefore critical in the media to ensure the public is being properly informed. However, all of the Shadow Reports show that media reporting of ethnic minority groups is generally negative and distorted, and in some instances can have a 'debilitating impact on community cohesion'.²¹⁶ The main concerns identified were associations between race and ethnic origin and crime and social disorder and negative portrayals of ethnic minority groups such as the Roma, Muslims, immigrants and asylum seekers; the proliferation of racist rhetoric on the internet and social networking sites; ineffective regulation of the media; and under-representation of ethnic minorities in traditional media.

Media InterAct, a one-year project from July 2011 to June 2012, aimed to initiate an avenue for mainstreaming the diversity and integration of third-country nationals within the media in **Malta**. The common element across the initiatives planned within the project was the acknowledgement that the media can play an important role in increasing positive awareness of third country nationals living in Malta, as well as facilitating intercultural exchange between people with different cultural backgrounds and society at large.

See: www.sosmalta.org/mediainteract

Various reports commented on the media perpetuating a negative public image of ethnic minority groups to reflect public discourse. The media in Slovakia, for example, has a tendency to refer to the ethnicity of the Roma when reporting stories about criminal activity, which they do not do when referring to other groups.²¹⁷ The Spanish report referred to a recent study that found that 65.8% of media news stories relating to crime refer to the nationality of the perpetrator. The groups cited most often were Eastern European Roma and Black Africans.²¹⁸ A survey of the Greek media, conducted in 2011 by the European programme Mediva, showed that migrants are frequently mentioned in the context of rising criminality. The survey observed that the media are more likely to condemn racist attacks abroad, such as the racist murders in Norway in 2011, but are indifferent to the plight of migrants and other vulnerable groups in Greece.²¹⁹ In Malta, media reports on refugees are usually negative and inaccurate and there is a tendency to refer to

them as 'illegal immigrants'.²²⁰ The Maltese report also stated that 'user comments' sections in newspapers are seen as a 'free for all' for racists, xenophobes and Islamophobes. In Cyprus, racism and discrimination in the media is widespread and racist and xenophobic discourses, which are developing rapidly, are given high media coverage.²²¹ In many cases, the media cast blame on migrants and asylum seekers for the high rates of unemployment and criminality, usually without regard for the vulnerable situation of these groups. Latvia noted that while Muslim representatives did not consider Islamophobia to be a problem in the media, ignorance about Islam, Muslims and Muslim societies allowed non-Muslims to buy into Islamophobic propaganda, stereotypes and prejudices.²²² More positively, in Finland, there is a good portrayal of 'multiculturalism' by the public media.²²³

The use of social media and social networking sites as a growing space for disseminating xenophobic, Islamophobic and racist discourse²²⁴ continues to be an increasing phenomenon, as demonstrated by the Shadow Reports of Poland, Greece, Italy, Ireland and the Netherlands, as well as other studies.²²⁵ In Italy, the internet has the highest incidence of racist behaviour (84%); compared to the press (10.7%), television (4.6%) and radio (0.8%).²²⁶ The Dutch Complaints Bureau for Discrimination on the Internet received over 1,500 complaints of discriminatory expressions of which 684 were judged actionable.²²⁷ Greece is concerned by the increase in the use of blogs (about 800 in the reporting period) with racist, xenophobic, far-right and nationalistic content,²²⁸ while Ireland is concerned about the lack of effective mechanisms for tackling racism on the Internet.²²⁹

A number of the Shadow Reports expressed concern about the lack of regulation of the media, both traditional (print and broadcast) and social.²³⁰ The Cypriot Shadow Report observed that despite having a code of conduct regulating the media, most continue to promote racist and xenophobic sentiments. The report was also critical of the Ombudsman's handling of complaints which was viewed as ineffective: 'as complaints submitted to the Ombudsman did not seem to have changed the situation as they just make recommendations and prefer the media to self-regulate'.²³¹

²²⁰ ENAR 2011/12 Shadow Report: Malta.

²²¹ ENAR 2011/12 Shadow Report: Cyprus.

²²² ENAR 2011/12 Shadow Report: Latvia.

²²³ ENAR 2011/12 Shadow Report: Finland.

²²⁴ See ENAR 2009/10 Shadow Report: Racism in Europe and ENAR 2010/11 Shadow Report: Racism in Europe.

²²⁵ See, for instance, the DEMOS study, 'The New Face of Digital Populism', http://www.demos.co.uk/files/Demos_OSIPOP_Book-web_03.pdf?1320601634.

²²⁶ ENAR 2011/12 Shadow Report: Italy.

²²⁷ ENAR 2011/12 Shadow Report: The Netherlands.

²²⁸ ENAR 2011/12 Shadow Report: Greece.

²²⁹ ENAR 2011/12 Shadow Report: Ireland.

²³⁰ See, for example, ENAR 2011/12 Shadow Reports: Ireland, Estonia and Italy.

²³¹ ENAR 2011/12 Shadow Report: Cyprus.

²¹⁶ ENAR 2011/12 Shadow Report: United Kingdom, p. 41.

²¹⁷ ENAR 2011/12 Shadow Report: Slovakia.

²¹⁸ ENAR 2011/12 Shadow report: Spain.

²¹⁹ ENAR 2011/12 Shadow Report: Greece.

Ireland's Press Complaints Commission and the Office of Press Ombudsman found that 23.5% of complaints received related to prejudice (an increase from 9.6% in 2010).²³² Poland highlighted some of the difficulties of tackling racist material on the internet, such as gathering the necessary evidence to identify the perpetrator and determining whether the matter falls within the public or private sphere.²³³

The **New German Media Makers** (Neue Deutsche Medienmacher) are an affiliation of German journalists with and without a migration background. These journalists promote diversity in the media and oppose discriminatory coverage. Additionally, they purposely encourage and recruit staff with different cultural backgrounds to become involved in discussion panels, leading positions, directing boards and in other journalism positions. In addition, the affiliation provides workshops and training on diversity.

See: www.neuemedienmacher.de

Under-representation of ethnic minorities working within the media industry was also highlighted as an issue. In the UK, for example, there are no ethnic minority national newspaper editors and only five ethnic minority journalists write regular columns in British broadsheets.²³⁴ A further on-going concern is the lack of representation of ethnic minorities' views or opinions on issues affecting them. For example, the Italian report noted that immigrants have no voice because their opinions are not respected by the media, which never consult the institutional representatives.²³⁵

4.7.2 Facilitating factors or protective measures in the media

Civil society, media agencies and government have all taken various actions to promote better reporting by media and to improve the participation of ethnic minority groups in the media. The Austrian Broadcasting Corporation set up weekly local news programmes that are aired in Turkish and German. BVM-Media also set up an Austrian Migrant Media Press Agency.²³⁶ Germany has the Inter-Cultural Network of the Association of Journalists in Berlin-Brandenburg, which gives journalists from different cultural backgrounds a platform to talk about their experiences.²³⁷ Muslim communities in Finland have produced media and publications that aim to raise awareness of their culture.²³⁸ The UK's 'Creativity Diversity Network' is a forum established to share best practices on promoting diversity in the media.²³⁹ A positive development

in Slovakia is the introduction of 'The Communication Strategy of the Roma: Integration through Communication', which forms part of the National Roma Integration Strategy. Under this strategy a joint initiative has been implemented aimed at improving the quality of media reporting on the Roma.²⁴⁰ The Greek media have adopted a code of conduct and the National Radio and Television Council can impose sanctions in cases where racist material is published.²⁴¹ In Malta, 'Media InterAct' had a one year project that aimed to establish an avenue for mainstreaming the diversity and integration of migrants in the media.²⁴² In Slovenia eight of the biggest internet media portals have accepted a Code to regulate hate speech (and in February 2012, agreed on sanctions for portals which do not respect the rules). This has led to a 350% increase (2,835) in notifications of hate speech to the internet portal 'Spletno oko' (the web eye) for regulation.²⁴³

Although most national reports identified positive initiatives for promoting diversity in media, some were less optimistic. Ireland reported that existing measures aimed at producing outcomes for ethnic minorities were not delivering and that more protective measures would be needed.²⁴⁴ It also noted that the review of the Incitement to Hatred Act had not produced any substantial results. Poland does not have legal provisions to tackle discrimination in the media but its Civil Code (Article 24) allows claims for discrimination.²⁴⁵

SOS Racismo Portugal is an NGO that intervenes in the media when news and headlines incite racism and discrimination. For example, when a headline appearing in the national daily 'Diário de Notícias' stated: 'Woman from the East are the best pick pocketers', the NGO immediately sent a letter to the newspaper pointing out that statements like this incite discrimination and violate the law, namely the Code of Ethics of Journalists.

See: www.sosracismo.pt

Ireland has an Office for Internet Safety that promotes self-regulation of the internet and includes a provision that aims to ensure services do not contain material likely to incite violence, racial hatred or discrimination.²⁴⁶ It also has a working group on cyber-bullying. The Spanish 'Comprehensive Strategy Against Racism' has proposed 'investigating discriminatory motivated crime committed through the Internet and social networks.'²⁴⁷ The Anders Breivik affair in Norway resulted in greater

232 ENAR 2011/12 Shadow Report: Ireland.

233 ENAR 2011/12 Shadow Report: Poland.

234 ENAR 2011/12 Shadow Report: United Kingdom.

235 ENAR 2011/12: Shadow Report: Italy.

236 ENAR 2011/12 Shadow Report: Austria.

237 ENAR 2011/12 Shadow Report: Germany.

238 ENAR 2011/12 Shadow Report: Finland.

239 ENAR 2011/12 Shadow Report: United Kingdom.

240 ENAR 2011/12 Shadow Report: Slovakia.

241 ENAR 2011/12 Shadow Report: Greece.

242 ENAR 2011/12 Shadow Report: Malta.

243 ENAR 2011/12 Shadow Report: Slovenia.

244 ENAR 2011/12 Shadow Report: Ireland.

245 ENAR 2011/12 Shadow Report: Poland.

246 ENAR 2011/12 Shadow Report: Ireland.

247 ENAR 2011/12 Shadow Report: Spain.

scrutiny of online fora and calls to tighten up the law on firearms in Austria.²⁴⁸ Italy's Minister for Integration, in collaboration with the Ministers of Justice and the Interior, has committed to introducing legislation to prohibit the spread of racism through the Internet.²⁴⁹ In Finland, the police have increased monitoring of the internet and citizens are encouraged to report incidents of hate crime and other online offences. Its Cybercrime law enables the police to have a strong presence in social media and local police are present online as virtual officers.²⁵⁰

4.8 Racism and related discrimination in criminal justice

4.8.1 Policing and ethnic profiling

Ethnic profiling in the criminal justice system refers to reliance by police, security immigration or customs officials on generalisations based on race, ethnicity, colour, religion or national origin rather than individual behaviour or objective evidence as the basis for suspicion in directing discretionary law enforcement actions. It continues to be a priority issue of concern amongst ethnic minority communities and NGOs; particularly given that it can lead to disproportionate use by police of their powers. However, lack of data on the use of police powers means that it is difficult to capture the full picture. Some countries may collect data on some groups but not others, for instance, on ethnic minority groups but not Muslims as a religious group; or on the use of some powers but not others. Ethnic profiling can take a number of forms; although its main manifestation is in the form of stops as well as 'stop and search'. While hard data is lacking in most countries, anecdotal evidence suggests that this is a widespread problem. There is also evidence that those who complain about individual instances or who oppose the practice of ethnic profiling are not dealt with properly and can become subject to complaints themselves.

Details of research and surveys referred to in the last ENAR Shadow Report highlighting disproportionality are still relevant. The EU Fundamental Rights Agency's European Union Minorities and Discrimination Survey regarding policing and ethnic profiling, as well as research carried out by the Open Society Justice Initiative on France is useful as background information on this issue.²⁵¹ In many countries, Roma and migrants are disproportionately stopped while in some other countries, the Black and Asian communities are more frequently targeted. The UK is reported as having the worst rate of disproportionality internationally in the use of stop and search.²⁵² Their Shadow Report highlights the various

powers of stop and search that are available to the police, in particular the power to stop and search without reasonable suspicion in a designated area (known as authorised stops and searches). The Metropolitan Police have stated that they will reduce the number of authorisations they issue for stop and search without reasonable suspicion, although the report states that the announcement did not specifically mention tactics to reduce the disproportionate impact on ethnic minorities. NGOs are concerned that disproportionate use may constitute racial discrimination and ethnic profiling and it is suggested that this was one of the underlying reasons for the August 2011 riots. In December 2011, the Home Secretary asked the Association of Chief Police Officers for a review of the use of stop and search in light of the evidence that police tactics and procedures in particular were a significant contributing factor in the riots.

In Spain, there are reports of widespread use of stop and search against ethnic minority groups in a variety of places including the streets, metro, bus stops and parks, bars, restaurants, telephone booths as well as immigration centres. There is evidence that some migrants are stopped four times a day. These continue in spite of requests from NGOs and the UN Committee on the Elimination of Racial Discrimination (CERD) to stop such practices.²⁵³ In Greece, ethnic profiling has taken the form of targeting immigrants who do not have residence permits; this has led to mass arrests of people who are innocent; mainly young Asian Muslim men.²⁵⁴ A court ruling legitimised racial profiling as a legal (forensic) method in Koblenz, Germany in February 2012. The case involved a man being checked on a train with no reasonable suspicion. This led to outrage amongst human rights organisations as well as others representing the interests of minority groups in Germany. According to the report, critics saw this as a step towards extremism and violation of anti-discrimination legislation. Sometimes in Germany, those who complain of racial discrimination by police officers can end up arrested and ultimately convicted for insulting a police officer.²⁵⁵

Although no data is collected in Austria, NGOs have expressed concern about attitudes of the police towards ethnic minorities. Despite this concern the Federal Agency for Foreigners and Asylum (BFA), which should be in operation in 2014, will have increased powers to stop and search asylum seekers, e.g. without prior notice. The UNHCR considers this development to be highly questionable in terms of human rights standards.²⁵⁶ Although there is no data in Estonia, ethnic profiling is not considered to be a problem, not even among Muslims.²⁵⁷

248 ENAR 2011/12 Shadow Report: Austria.

249 ENAR 2011/12 Shadow Report: Italy.

250 ENAR 2011/12 Shadow Report: Finland.

251 See ENAR 2010/11 Shadow Report: Racism in Europe.

252 ENAR 2011/12 Shadow Report: United Kingdom. This may appear to be so partly because they have the most detailed system for monitoring statistics disaggregated by race and ethnicity on who is stopped by the police.

253 ENAR 2011/12 Shadow Report: Spain.

254 ENAR 2011/12 Shadow Report: Greece.

255 ENAR 2011/12 Shadow Report: Germany. On 29 October 2012, the Appeals Court (OVG) Rheinland Pfalz in Koblenz declared the February 2012 court ruling void.

256 ENAR 2011/12 Shadow Report: Austria.

257 ENAR 2011/12 Shadow Report: Estonia.

4.8.2 Racist violence and crime

According to reports there has been an increase in racist violence and crime in many European countries in recent years. Individual Shadow Reports provide evidence of such crimes occurring during the reporting period although it can be difficult to capture fully the picture on the ground, particularly given the under-reporting in many cases and the fact that a lot of such crime is often not considered as racist by the authorities.

Although there is an EU Framework Decision on Racism and Xenophobia²⁵⁸ relating to the use of criminal law to deal with these issues, the law regarding racist violence and crime varies between the countries; with only some making racial motivation in any crime a particular offence. There is evidence too that the police do not always respond properly to violence and crime with a racial motivation; so such crimes can often go undetected if the racial element is not taken into account or if victims do not report such crime. Furthermore, the judicial system itself can be ineffective in handling such cases.

In Greece, it was reported that racist violence had escalated in the last year. The UN High Commissioner for Refugees, together with other NGOs and migrant organisations, sent an official letter to the Prime Minister and relevant Ministers, highlighting that ‘... criminal attacks occur solely on the basis of skin colour or country of origin.’²⁵⁹ The letter requested that the relevant authorities take all necessary measures to bring perpetrators to justice and to prevent similar incidents in the future. In Bulgaria, 2011 saw a dramatic increase in mass manifestations of hate speech as well as violence against ethnic and religious groups, including Roma and Muslims. The report refers to the systemic attacks by activists of the political party ATAKA on Muslims in Sofia. Neo-Nazi graffiti could be seen in the major cities in Bulgaria. Jewish public buildings and private houses were vandalised in several towns. Anti-Semitic groups became popular on social networking sites as well.²⁶⁰ In the Czech Republic, anti-Roma sentiment has been revived by far-right parties and organisations.²⁶¹

A report by the Greek National Commission of Human Rights (NCHR)²⁶² stated that racist violence cannot be dealt with effectively without a complete change in the way that the police handle such cases. Reform is especially important in cases involving police officers as such cases generally result in an acquittal, if they are investigated at all. This

failure to investigate complaints properly contributes to reluctance among victims to report crimes. The police are accused of remaining a neutral observer of the attacks by right-wing groups. At worst, they perpetuate racist violence. They are reported as sometimes refusing to proceed with investigations, even where there is considerable evidence. This sends out a message that such violence is acceptable. In Lithuania, Roma fear reporting because of violence by police and in Luxembourg, there is evidence that the police fail to act upon complaints. Furthermore, it is claimed that in Lithuania, prosecutors are not sufficiently trained to investigate allegations of incitement to hatred and do not recognise the seriousness of the crime when political parties and/or organisations incite hatred. They will not carry out pre-trial investigations unless they receive a written complaint from the victim.²⁶³ People are also reluctant to report in Malta and Portugal as there is evidence of racial bias in the judicial system,²⁶⁴ and in Poland incidents are often not treated as racial crimes.²⁶⁵

The **Police and African People Association** (Fair und Sensibel - Polizei und AfrikanerInnen) was established in **Austria** in 2000. Its membership includes police officers, persons with and without a migration background and asylum seekers. The association works to eliminate prejudice, promote intercultural dialogue and communication and to foster positive public attitudes regarding people of African origin. Its activities include mediating between the police, migrants and the public; providing information and advice to persons who feel discriminated against by the police; and training for police and prison officers to raise awareness and promote cultural sensitivity. The association also runs cultural and sports projects.

See: www.fairundsensibel.at

In Ireland, the UN Committee on the Elimination of Racial Discrimination (CERD) has noted that racist motivation is not consistently taken into account by judges in sentencing,²⁶⁶ while in Luxembourg, the Council of Europe’s European Commission against Racism and Intolerance (ECRI) mentioned that the penal code does not allow judges to use the charge of aggravated circumstances when sentencing a case of racism.²⁶⁷ In Slovakia, the term ‘hate crime’ is not used in the Penal Code rather ‘extremism’ is, which is more difficult to define and apply.²⁶⁸ While racial and xenophobic motivated propaganda and physical crime in Bulgaria is prohibited in its own right these provisions have had little impact, and punishment envisaged under this law is less severe than that under the more general terms.²⁶⁹ In Ireland,

258 Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law.

259 ENAR 2011/12 Shadow Report: Greece, p.29.

260 ENAR 2011/12 Shadow Report: Bulgaria.

261 ENAR 2011/12 Shadow Report: Czech Republic.

262 ENAR 2011/12 Shadow Report: Greece.

263 ENAR 2011/12 Shadow Report: Lithuania.

264 ENAR 2011/12 Shadow Reports: Malta and Portugal.

265 ENAR 2011/12 Shadow Report: Poland.

266 ENAR 2011/12 Shadow Report: Ireland.

267 ENAR 2011/12 Shadow Report: Luxembourg.

268 ENAR 2011/12 Shadow Report: Slovakia.

269 ENAR 2011/12 Shadow Report: Bulgaria.

there has been no provision for aggravated sentencing on the ground of racism, and racist crime does not exist in the legislation, although the Central Statistics Office compiles statistics on the basis of such a category.²⁷⁰

4.8.3 Hate speech

Politicians continue to be involved in hate speech and increasingly social media is a forum for hate speech, which also manifests itself on football pitches and terraces. Most countries have legislative provisions to deal with hate speech, although these vary and in some cases are not sufficient or are ineffective in practice. In some cases measures still need to be brought in. Racist statements by politicians were reported in many countries including in Finland, Ireland, Italy, Slovakia, Austria and Spain. In Finland, several members of the True Finns party have recently been found guilty of committing acts of hate speech and have subsequently been fined.²⁷¹ In Italy, the current Secretary General of Lega Nord and former Minister of Interior, Mr. Maroni, admitted in March 2012 that his party used racism instrumentally to gain consensus.²⁷² The Hate Crime Prosecutor of Barcelona is currently investigating incidents of alleged hate speech made by political parties, including those made through leaflets and on Facebook against immigrants, Romanians, Roma, Muslims, and Moroccans.²⁷³

Politicians in Austria, particularly from far-right parties, are regular perpetrators of hate speech. In 2011, the chairman of the Freedom Party in Styria was accused of sedition/hate speech and religious discrimination after the party published on its website a 'game' which intended to 'stop' the building of minarets and mosques by clicking on them. In October 2011 the court acquitted the chairman on the reasoning that the 'game' could be interpreted in different ways and it was doubtful that he had the intention of which he was accused. This demonstrates the difficulty in successfully prosecuting hate speech in Austria, especially when the perpetrator is a public figure.²⁷⁴

There were several references to racism at football matches and no evidence that education provision was targeting football supporters. For instance, racist chants went unchallenged at football matches in Croatia,²⁷⁵ while Poland also reported a number of racist and xenophobic incidents in football stadiums.²⁷⁶ In 2011 there were 22 such cases investigated by prosecutors. Black players were called 'niggers', 'monkeys', and 'gorillas'. Spectators also chanted anti-Semitic slogans, and a racist banner was displayed

in a football stadium. There was no prosecution because no crime had been committed; instead UEFA imposed a fine on the club. In the UK, there were two cases of racist language used in football in 2011 by high profile football players. Liverpool player Luis Suarez was banned for eight games and fined £40,000 by the Football Association for racially abusing Manchester United's Patrice Evra. In 2012, John Terry, then England Captain, faced a criminal charge for allegedly abusing Queen Park Rangers' Anton Ferdinand during a Premier League Game (although he was later acquitted). Footballers and sports commentators in the UK have also received racist messages on their twitter accounts which have led to a few prosecutions for racially aggravated comments.²⁷⁷

In Estonia, hate speech in the form of a blog was not treated as a serious crime but as a misdemeanour, and the perpetrator was fined. The UN Human Rights Council in its report on Estonia states that the requirement in its legal framework to prove a causal link between hate speech and the resulting damaging consequences is impossible in most cases and recommends that incitement to hatred should not be linked to the requirement of damaging consequences.²⁷⁸

While Ireland has legislation on incitement to hatred, it is ineffective for dealing with incidences of hate speech and in particular cannot deal with hate speech on the internet. It has been under review for many years, but this has generated no results. Irish anti-racism NGOs, including ENAR Ireland, have called for the legislation to be strengthened and amended in light of challenges posed by hate speech on the internet. In addition, they want the introduction of racially aggravated offences.²⁷⁹

4.8.4 Counter-terrorism

The importance given to counter-terrorism measures in European countries varies; where it is treated as a priority it is often associated with xenophobia and in particular Islamophobia; although in some cases, there are also efforts to promote community cohesion. Measures to combat terrorism often raise serious human rights issues. These can impact on equality given the frequent focus of any counter-terrorist powers on Muslims and migrant communities. In Germany, the focus is shifting from the traditional extremist groups to the radicalisation of Muslims,²⁸⁰ whereas in Finland, there has been a shift towards extremist groups away from Islamic groups.²⁸¹ In Estonia, although there is no history of counter-terrorism measures although there is some indication that the security police are now focusing on the

²⁷⁰ ENAR 2011/12 Shadow Report: Ireland.

²⁷¹ ENAR 2011/12 Shadow Report: Finland.

²⁷² ENAR 2011/12 Shadow Report: Italy.

²⁷³ ENAR 2011/12 Shadow Report: Spain.

²⁷⁴ ENAR 2011/12 Shadow Report: Austria.

²⁷⁵ ENAR 2011/12 Shadow Report: Croatia.

²⁷⁶ ENAR 2011/12 Shadow Report: Poland.

²⁷⁷ ENAR 2011/12 Shadow Report: United Kingdom.

²⁷⁸ ENAR 2011/12 Shadow Report: Estonia.

²⁷⁹ ENAR 2011/12 Shadow Report: Ireland.

²⁸⁰ ENAR 2011/12 Shadow Report: Germany.

²⁸¹ ENAR 2011/12 Shadow Report: Finland.

Muslim community.²⁸² Although the terrorism threat in Latvia is low, the Security Police are also monitoring developments taking place in the Muslim community in order to identify possible trends towards radicalisation and limit its spread.²⁸³

There have been concerns in the form of legal challenges about the use of counter-terrorism measures. For instance, the Council of Europe's European Commission against Racism and Intolerance (ECRI) has highlighted concerns over expulsions carried out in Italy by virtue of the fight against terrorism. On several occasions, the European Court of Human Rights has found a violation of Article 3 of the European Convention on Human Rights (prohibition against torture and inhumane or degrading treatment or punishment).²⁸⁴ Control orders were replaced by Terrorism Prevention and Investigatory Measures (TPIMs) in the UK in January 2012, but TPIMs have been severely criticized by NGOs and human rights activists for retaining the most discriminatory and undemocratic features of control orders. In the UK, there is also a power of stop and search without reasonable suspicion at ports and airports which has also been criticized for its adverse impact on Muslims.²⁸⁵ In some instances preventative measures are implemented which focus on targeting young people to deter them from becoming involved in terrorism; for instance, in the Netherlands, there are municipal projects aimed at preventing the radicalisation of young people.²⁸⁶

4.8.5 Facilitating factors or protective measures in criminal justice

There have been efforts by some countries to tackle hate speech and hate crime targeted at ethnic minority communities by the introduction of new laws; harsher sentences for crimes motivated by racial or religious bias; as well as training, campaigning and other measures. There are also some attempts to address the issue of ethnic profiling.

In Bulgaria, for instance, there have been amendments to the Criminal Code aimed at harmonising the law with the EU Framework Decision on Racism and Xenophobia, which includes minimum sentences for hate crimes motivated by prejudice. The Chief Prosecutor has advised the criminal law to be applied swiftly in cases where there is ethnic or racial hatred. A number of research institutions and human rights organisations used the occasion to publicise the issue and to provoke discussions in society on the topic.²⁸⁷ Croatia has also amended legislation so that the hate element of a crime is taken into account in sentencing as an aggravating factor, also that such crimes should be prosecuted by the state and not by private prosecution.²⁸⁸

In Poland, the Government Plenipotentiary for Equal Treatment in March 2012 called on the Prosecutor General to take necessary actions to investigate and prosecute the growing number of crimes motivated by racism and xenophobia. She argued that investigations are discontinued because the social harm caused by such offences is considered to be low. According to her, this situation has a negative influence on the situation of national, ethnic and religious minorities in Poland.²⁸⁹

In the Czech Republic, the Government adopted the Social Exclusion Combating Strategy and identified the most serious problems associated with socially excluded localities and their causes and further proposed a list of measures to address the situation. It included the provision of legal services for socially marginalised victims of hate crime.²⁹⁰ The UK has published an action plan to address hate crime, which will have a role in addressing under-reporting, particularly amongst Roma and Irish Travellers. As part of its Integration Strategy published in February 2012, it is supporting a community-led initiative to encourage the reporting of anti-Muslim crime in particular.²⁹¹ In Slovakia, little concrete action has followed the Strategy of Combating Extremism since it was introduced in 2011 because the Ministry of Interior was apparently preoccupied with combating 'Roma criminality'.²⁹²

Other measures being used by countries include training programmes. For instance, the National Expertise Diversity Centre of the Dutch police (LECD-police) offers training courses for officers in discrimination cases which include improving the filing of discrimination complaints in their police region.²⁹³ The Finnish Ombudsman for Minorities has been in discussion with the Finnish Border Guard to work out guidelines and training for the future handling of suspected cases of ethnic profiling.²⁹⁴ In Romania, the police co-operate with Roma mediators; the Institute for Public Order Studies conducted six training sessions for more than 300 police officers to promote human rights legislation and the prevention of torture and other forms of mistreatment.²⁹⁵ Accordingly, the inclusion of national minorities in the police force was extended in 2011-15. In Italy, the Observatory for Security Against Acts of Discrimination (OSCAD) signed a protocol with the National Office against Racial Discrimination (UNAR) in April 2011 to accelerate police interventions after a complaint of discrimination; provide training and refresher courses for law enforcement officers; and provide legal and sociological tools to detect discriminatory behaviour.²⁹⁶

282 ENAR 2011/12 Shadow Report: Estonia.

283 ENAR 2011/12 Shadow Report: Latvia.

284 ENAR 2011/12 Shadow Report: Italy.

285 ENAR 2011/12 Shadow Report: United Kingdom.

286 ENAR 2011/12 Shadow Report: The Netherlands.

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288 ENAR 2011/12 Shadow Report: Croatia.

289 ENAR 2011/12 Shadow Report: Poland.

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292 ENAR 2011/2012 Shadow Report: Slovakia.

293 ENAR 2011/2012 Shadow Report: The Netherlands.

294 ENAR 2011/2012 Shadow Report: Finland.

295 ENAR 2011/2012 Shadow Report: Romania.

296 ENAR 2011/12 Shadow Report: Italy.

5. CIVIL SOCIETY ASSESSMENT AND CRITIQUE IN ENSURING PROTECTION OF FUNDAMENTAL RIGHTS

This section looks at what civil society considers to be some of the pressing issues in ensuring protection of fundamental rights. The primary concerns expressed in most of the Shadow Reports are the effect of the economic crisis on the equality agenda and the rising levels of racism and xenophobia. Consequently, there is a general perception that national governments have given a low priority to tackling inequality, exclusion and discrimination. This is captured by the observation in the Irish report that: 'Equality has been presented as a luxury that we can no longer afford'.²⁹⁷ In fact, the period under review could be described as one where civil society has had to fill the gap left by national governments, as NGOs are much better at engaging with the issues and are working more closely with state actors and victims to achieve equality.

Various reports expressed concerns that austerity measures disproportionately impact on programmes designed to improve the situation of vulnerable ethnic minority groups. NGOs in the UK involved in promoting equality in education noted that the cuts have 'hit support aimed at enabling teachers to teach more effectively in multi-ethnic classrooms'.²⁹⁸ In Spain, cuts in healthcare services will lead to around 500,000 undocumented migrants (or possibly up to 700,000) losing their rights to access to healthcare.²⁹⁹ Hence, Spanish NGOs are especially concerned about the consequences of the healthcare policy for undocumented migrants, especially those with chronic illnesses.

Some Shadow Reports argue that the failure of national governments to make people aware of their rights and weak enforcement models constitute an inadequate transposition of the Race Equality Directive (RED). For example, the Ombudsperson in Poland may only deal with cases between a complainant and a public body; where a complainant alleges discrimination by a private party then the Ombudsperson may only offer advice.³⁰⁰ NGOs in Estonia and Lithuania have raised similar concerns about the powers of their enforcement bodies. The lack of an effective sanction may constitute a breach of the RED, which requires that sanctions be 'effective, proportionate and dissuasive'. The Estonian Shadow Report also highlights a failure to promote the RED as well as a low number of complaints being lodged with equality bodies or the labour inspectorate, which is viewed as an example of poor transposition.³⁰¹ The effective implementation of the RED has been a particular challenge for the new EU Member States.

A worrying trend highlighted in the Shadow Reports of Bulgaria, Italy, Ireland, the UK and Spain is cuts to state

funding of equality bodies and NGOs and the attacks on equality legislation by some governments. In the second half of 2012, the Italian government confirmed severe cuts to the National Office Against Racial Discrimination (UNAR) which stands to lose nine of its thirteen staff and have its director replaced by someone 'internal'.³⁰² In Spain, despite the welcome creation of the Spanish Race and Ethnic Equality Council there are fears that '[it] will not have enough resources to continue working properly'.³⁰³ Poland raises a similar concern, noting the 'pressing issue' of the lack of funds provided to the Ombudsperson to carry out anti-discrimination related work.³⁰⁴ Italy and the Netherlands also remarked on the threat to the independence of national equality bodies as a result of government action. The Greek report sums up the situation for many NGOs across the reporting countries: 'NGOs are currently facing serious funding difficulties and some may be unable to continue their very important work'.³⁰⁵ The attitude of state actors to equality bodies was remarked upon by some Shadow Reports. Bulgaria commented on 'the negative institutional attitude towards [its] Commission for Protection against Discrimination (CPD)'.³⁰⁶ Since the mandate of the CPD coming to an end in 2009, there have been no efforts to appoint new members and the Parliament has suggested reducing the number of CPD members.

Integration strategies aimed at ethnic minority groups, including migrants and asylum seekers, are generally regarded as a positive step but NGOs have questioned the commitment to successful integration. In Italy, for example, the 'Responsible Authority for the European Fund for the Integration of Third Country Nationals' has consulted on the 'needs of integration'. It has also started to assess the relevance of action areas specified in policy documents of the European Integration Fund.³⁰⁷ Some Shadow Reports raise concerns about the underlying 'assimilationist' approach of such integration strategies.³⁰⁸

In general, NGOs have welcomed the publication of their National Roma Integration Strategies (NRIS), although some, such as Italy, Lithuania, Ireland, Bulgaria, Romania and the Czech Republic, noted that the quality and implementation were disappointing. NGOs in Italy, Bulgaria and Lithuania point to lack of resources as the primary reason for the poor implementation of their NRIS. In Slovakia, NGOs have criticised their NRIS for not being more 'ambitious' in the formulation of the 'recommended measures'. Although ministerial departments are obliged to implement the NRIS and action plan, according to the NGOs, some ministries

297 ENAR 2011/12 Shadow Report: Ireland, p. 38.

298 ENAR 2011/12 Shadow Report: United Kingdom.

299 ENAR 2011/12 Shadow Report: Spain.

300 ENAR 2011/12 Shadow Report: Poland.

301 ENAR 2011/12 Shadow Report: Estonia.

302 ENAR 2011/12 Shadow Report: Italy.

303 ENAR 2011/12 Shadow Report: Spain, p. 37.

304 ENAR 2011/12 Shadow Report: Poland, p. 36.

305 ENAR 2011/12 Shadow Report: Greece, p. 34.

306 ENAR 2011/12 Shadow Report: Bulgaria, p. 48.

307 ENAR 2011/12 Shadow Report: Italy.

308 See, for example, ENAR 2011/12 Shadow Reports: Austria and Slovakia.

have chosen to pursue their own policies of tackling social exclusion through restriction and repression and 'that stand no chance of improving the status quo'.³⁰⁹ The National Set of Policy Measures for Roma Integration in Estonia is considered by NGOs to be an important step in finally acknowledging that this particular ethnic group requires specific attention, despite its limited number of targeted actions. This marks a step forward from earlier statements that Estonia sees no need for policies for the Roma due to the small size of this ethnic group in Estonia.³¹⁰ In 2009, the Czech Republic adopted the 'Concept for Roma Integration for 2010-2013' with the aim of improving the 'social, economic and political' position of the Roma. One aspect of the policy was the introduction of Roma consultants for towns, but there has been no take-up.³¹¹ The Irish Shadow Report highlights the concerns of Roma activists regarding inadequate implementation of the NRIS.³¹²

NGOs in Ireland, Lithuania and Romania were also critical of the failure to consult properly with Roma communities in the design of the NRIS. According to the NGOs, the action plan was presented to the Roma community but without the possibility to influence the content. By way of contrast, in preparing the Dutch strategy the government consulted with the Dutch Sinti and Roma Institute and the Roma community.³¹³

Politicians, government officials and the media have been blamed for the continuing rise of discrimination, racism, xenophobia and Islamophobia.³¹⁴ For example, the Greek report suggested that civil society perceives the government as being tolerant of and/or colluding with far-right groups.³¹⁵ Moreover, there remains a great deal of scepticism about the political commitment of most reporting countries to ensuring sustainable protection of fundamental rights.

309 ENAR 2011/12 Shadow Report: Slovakia, p. 43.

310 ENAR 2011/12 Shadow Report: Estonia.

311 ENAR 2011/12 Shadow Report: Czech Republic.

312 ENAR 2011/12 Shadow Report: Ireland.

313 ENAR 2011/12 Shadow Report: The Netherlands.

314 See, for example, ENAR 2011/12 Shadow Report: Poland.

315 ENAR 2011/12 Shadow Report: Greece.

6. CONCLUSION

This comparative report is based on the evidence from civil society of discriminatory practices in 26 European countries during the period March 2011 to March 2012. The civil society organisations were also asked to include a special focus on Muslims and Islamophobia.

The evidence shows that racism and prejudice are still deeply rooted in European societies and that racial discrimination remains structural and institutional, making it difficult for victims to obtain justice and effective remedies. A common complaint in many countries was the absence of advice and information on anti-discrimination laws. Legislation can be a powerful lever for change but it is of little value if the law is not known or properly understood by duty bearers and the wider public, or if there are no effective sanctions.

Another common trend has been the de-prioritisation of equality and integration issues across Europe and even a regression in some countries. The economic crisis is largely responsible for this as national governments focus on anti-recessionary policies. However, the economy alone cannot be blamed for such apathy: the lack of commitment to equality is a long-standing problem. Arguably, an indicator of a healthy society is one where minority communities do not become scapegoats in times of political and economic uncertainty: we have not reached that stage.

Many countries also complained that a racist public discourse, fuelled by political leaders and the media, undermines anti-discrimination laws and integration policies. As a consequence, civil society organisations are filling the vacuum left by governments and politicians in terms of leadership, demonstrating yet again their value and importance. While an active civil society is welcome and necessary, it is not the responsibility of civil society alone to uphold equality and human rights, but of all actors.

The special focus on Muslims has revealed that there is no such thing as 'the Muslim community' as populations are heterogeneous, a factor that policy makers need to bear in mind when developing policies. There is also a rise in Islamophobia, in violence to individuals and criminal damage to Islamic buildings. A common observation was that Muslim women and girls are the most affected by discrimination and Islamophobia and their particular vulnerability has been exacerbated by the Eurocentric politicisation of the headscarf and veil in a number of countries.

In conclusion, as observed in one report, the coming years will be crucial for European democracy and human rights: equality should not be sacrificed in times of economic crisis, but protected as a fundamental human right and an essential component of democracy.

7. TERMINOLOGY

Ethnic and religious minorities

Throughout the report the term ethnic and religious minorities is used to define the broad category to which the report refers. Whilst no universally accepted definition of 'minority' exists, the definition used by the International Organisation for Migration will be used. This provides: 'a minority may be considered to be a group which is numerically inferior to the rest of the population of a State and in a non-dominant position whose members possess ethnic, religious or linguistic characteristics which differ from the rest of the population and who if only implicitly, maintain a sense of solidarity directed towards preserving their culture, traditions, religion or language'.³¹⁶ Specific terminology is used when necessary.

Migrant

The term migrant, as used for the purposes of this report, may include long-term and short-term migrant workers, students, asylum seekers and refugees, stateless persons, spousal and family dependants, migrant women and children, and undocumented migrants.

Third country national

A person who is not a national of an EU Member State.

316 *International Organisation for Migration, International Migration Law, Glossary on Migration, p. 42.*

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RACISM IN EUROPE

ENAR Shadow Report 2011-2012

ENAR's Shadow Report on racism in Europe provides a unique monitoring tool bringing together facts and developments from across Europe on racism and related discrimination. The 2011-2012 report draws on 26 national Shadow Reports presenting an NGO perspective on the current situation of racism in Europe. The report does not base itself solely on hard data but builds on the compilation of the experiences and analysis of those experiencing racism and discrimination on the ground.

The report identifies communities that are vulnerable to racism and presents an overview of the manifestations of racism evident in 2011-2012 in employment, housing, education, health, access to goods and services, criminal justice, and the media, as well as legal and political developments.

The findings in this report indicate that racial and religious discrimination continue to affect the lives of many ethnic and religious minorities throughout Europe in various ways and across all areas of life. This year's report also includes a focus on the experiences of Muslim communities in Europe.

The commonalities in the experience of racism and discrimination which are evident in the report demonstrate the importance of a European approach to racism and the role of ENAR in monitoring these developments from a civil society perspective.

The European Network Against Racism (ENAR) stands up against racism and discrimination and advocates for equality and solidarity for all in Europe. We connect local and national anti-racist NGOs throughout Europe and act as an interface between our member organisations and the European institutions. We voice the concerns of ethnic and religious minorities in European and national policy debates.



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