racism

enar shadow report 2007

in europe

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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. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

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 offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes 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 the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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Table of contents

Message from the President

While 2007 was meant to be the "European Year of Equal Opportunities for All" the 2007 European Network Against Racism (ENAR) Shadow Report on Racism in Europe demonstrates that many barriers still persist in European society.

This edition, based on 25 country-specific Shadow Reports produced by ENAR members, presents the trends and patterns concerning the phenomenon of racism in the EU during 2007. It draws comparisons between the situation in 2006 and 2007, and underlines the many faces of racism and discrimination in Europe at both legislative and local level, from policy to practice. The ENAR Shadow Report also identifies examples of good practices by civil society in various areas where discrimination is manifest, and where NGOs have had a leading role in getting positive results.

Unfortunately, there is very little improvement in the situation of racism in Europe. 2007 has demonstrated the significance and persistence of racism in the European Union and highlights the need to retain a focus on racism and promote equality of treatment between European Union citizens and third country nationals.

Situations vary from country to country - some have a long tradition of living with ethnic minorities and have effective anti-discrimination legislation in place, while others have only very recent experience and are still hesitant to implement legislation. Despite the fact that almost all Member States have transposed the Race Directive, in many countries the resulting legislation has not been sufficient to transpose all aspects of the directive, and has had little impact. Furthermore, the context of intra-EU migration has changed since the accession of "new" Member States in 2004 and in 2007, and there is worrying evidence of manifestations of racism and xenophobia against EU citizens - particularly against nationals of Bulgaria and Romania. Another distressing trend is the increase in incidents of racially motivated crime against visible minorities, including against people of African descent, across Europe. In addition, the particular situation of the Roma across Europe urgently needs to be addressed. Indeed, the difficulties that the Roma face in all areas of life, coupled with a widespread negative attitude and prejudice from the general population, makes this community extremely vulnerable and leaves them at the margins of society.

In Europe, there is clear evidence of the need to fight religious discrimination. Among those religious minorities experiencing racism, the 2007 ENAR Shadow report has paid particular emphasis to the experiences of the Muslim and Jewish communities who are reported consistently as the religious minorities most vulnerable to racism in the EU.

It is vital that civil society raises its concerns and demonstrates that manifestations of racism continue today and that some extreme forms of racism are still persisting. NGOs need to be supported to ensure that their work can reach its full potential and have the greatest impact.

While problems continue, there is evidence in the 2007 national reports to show that ethnic minorities are increasingly being considered in national social inclusion strategies. However, ensuring that these policies are being delivered is the main challenge - social inclusion of ethnic minorities and adequate funding is necessary to ensure that this becomes a reality.

The persistent pattern of racial discrimination and xenophobia, evident throughout the report, demonstrates the importance of the role of ENAR in monitoring these developments from a civil society perspective. We are therefore very grateful to all the dedicated people who have contributed in producing this very useful and valuable monitoring instrument, and very thankful for the support of the Compagnia di San Paolo and the Open Society Institute (OSI) in enabling this report to be published.

Mohammed Aziz
ENAR President

Executive summary

Racism is a phenomenon that is contrary to the values of the European Union and threatens social cohesion. The European Network Against Racism (ENAR) Shadow Report for Europe is a unique mechanism that presents the views of NGOs and civil society on the current state of racism across the EU and in Member States. The findings from the national shadow reports demonstrate the significance of the issue of racism in the European context and highlight the need to retain a focus on racism and a collaborative European approach to addressing the issue.

The report identifies communities that are vulnerable to racism. It presents an overview of the manifestations of racism evident in 2007. It also provides an NGO assessment of the legal and political context and responses by governments. The report is based on 25 national reports and refers to 2006 shadow reports in order to draw comparisons and identify trends.

Communities vulnerable to racism

Europe is a diverse society; however, ethnic and religious diversity is not always recognised or valued. Communities in Europe that are vulnerable to racism include amongst others Roma, Sinti and Travellers; migrants including EU nationals and third country nationals, particularly undocumented migrants and asylum seekers; the Jewish community and the Muslim community. Long-standing ethnic minority communities and "national minorities"[1] as well as more recent migrants experience racism and discrimination. Issues for EU citizens in the context of intra-EU migration are also emerging.

Manifestations of racism

The report considers manifestations of racism in eight key areas, namely employment, housing, education, health, policing and racial profiling, racist violence and crime, access to goods and services and the media including the internet.

A number of **cross-cutting issues** are highlighted in the report. While the report examines each key area separately, it is important to recognise that **issues intersect**. For example, access to employment impacts on access to healthcare, including where the type of care available is linked to social insurance contributions. All national shadow reports also recognise the phenomenon of **multiple discrimination**. Another cross-cutting issue is the need for accurate, accessible and effective **data collection**. Data collection is an important tool to help identify issues of racism, measure the extent of the problem and develop appropriate, effective solutions.

In **employment**, racism is a phenomenon that continues to prevail, despite the existence of legislation in most EU Member States that outlaws discrimination in employment including on the basis of ethnicity and religion. The emergence of positive outcomes from such legislation is noted in some reports but a number of reports note barriers to the effectiveness of the legislation. The development of infrastructure to monitor developments with regard to anti-discrimination and workplace exploitation is highlighted in a minority of reports. However, it is usually remarked that the extent of the need requires that such institutions have a much greater capacity.

Ethnic and religious minorities are discriminated against in all areas of **housing**, with the result that they are more likely to be homeless, to live in poor quality housing, to have limited choice with regard to their place and type of residence. Groups including Roma and Travellers, asylum seekers and other migrants are at a particular risk in the housing market. It is emerging in the context of intra-EU migration that EU citizens particularly from EU12 countries[2] are at risk of homelessness.

In **education**, a range of issues are present for ethnic and religious minorities, from unequal access to unequal outcomes and educational attainment. Some of the issues named in national shadow reports include difficulties with regard to access to

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[1] Including those protected under the Council of Europe's Framework Convention on National Minorities (FCNM). Examples include the Russian minority communities in the Btaltic states.

[2] Countries concerned include Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia.

education both in terms of lack of rights and indirect barriers; segregation within educational provision; differences between the type and quality of education accessed by ethnic minorities and majority populations; unequal levels of participation in education; lower levels of literacy of ethnic minorities and lower educational outcomes.

In the area of **health**, access to healthcare is a question of grave concern for ethnic minorities and NGOs working in this area. The right and capacity to access available healthcare is affected clearly by legal status but also other indirectly discriminatory factors such as where one lives, access to employment, capacity to make social insurance contributions and poverty.

With regard to **policing and racial profiling**, it is a matter of grave concern that reports continue to highlight instances where police do not respond appropriately to racist crime and furthermore, are in fact perpetrators of racist practices and abuse against ethnic and religious minorities. The increasing evidence of public acceptance of racist crime and mistreatment of ethnic and religious minorities, from which police and other relevant authorities are not immune, sends a clear warning and is a situation that requires careful monitoring and action. In isolated cases, some improvements have been noted in terms of monitoring and complaints procedures.

With regard to **racism as a crime**, what remains clear and of serious concern is the continuing increase in extremism and the level of violence that has become associated with racist violence and crime. Reports from a number of countries report an increase in racist violence and crime including Bulgaria, Cyprus, the Czech Republic, Estonia, Finland, Greece, Ireland, Italy, Lithuania, Luxembourg and the UK. The report from Poland estimates that there has been little change in the situation since 2006. A decrease is noted in Belgium, France, Germany and Slovenia. However reports, including those where a reduction in the extent of racist crime is noted, highlight the increased level of violence associated with racist crime.

Access to goods and services is an area where discrimination is clearly outlawed through the transposition of the EU Racial Equality Directive 2000/43/EC

(hereinafter referred to as the "Race Directive") in most countries. While the legislation has certainly had an impact, discrimination remains. One of the difficulties is with regard to limitations in the legislation itself and weakness in the transposition of the Directive. Areas where access difficulties were highlighted included the judicial system, finance, entertainment, provision of information with regard to goods, services, rights and responsibilities, language and communication.

In relation to the **media**, **including the internet**, some improvements were recorded in some reports. However, other reports highlight a notable increase in racism in the media. This is somewhat counterbalanced by improvements regarding redress. Exceptions to this however are in relation to the internet where the majority of reports note their concern at the proliferation of racism including extremism on the internet, which is exacerbated by the lack of effective mechanisms for control of use of the internet and the extent to which information can be distributed via this medium. One of the key difficulties in the area of the media are the philosophical and practical problems around monitoring.

Legal and political context

In the area of **anti-discrimination**, almost all Member States have passed legislation in order to transpose the "Race Directive". Malta has transposed the "Race Directive" through two pieces of legislation, the second part coming into effect in 2007. As indicated in previous reports, the "Race Directive" has played a critically important role in ensuring that discrimination on the basis of "race" and ethnicity is outlawed across the Union. However, in many countries the resulting legislation has not been sufficient to transpose all aspects of the "Race Directive", as evident in the fact that in 2007 the European Commission wrote to 14 Member States[3] indicating its dissatisfaction and repercussions at the lack of sufficient transposition.

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[3] *Countries concerned were Spain, Sweden, the Czech Republic, Estonia, France, Ireland, United Kingdom, Greece, Italy, Latvia, Poland, Portugal, Slovenia and Slovakia.*

In the context of **migration and integration**, previous reports have confirmed that the Member States of the European Union face a variety of different situations with regard to the situation of third country nationals and mobile European Union nationals and that there is an increasingly visible negative public perception of migration and migrants across Europe. 2007 saw this situation continue. It also saw a number of policies and actions taken by governments that negatively impact on the lives of migrants in Member States and suggest an acceptance of migrants as second-class citizens.

In the area of **criminal justice**, an assessment of responses by governments in the area of criminal justice reveals that progress in this area has been limited. There are a few positive initiatives responding to racist crime but little progress has been made by governments in responding to issues faced by ethnic and religious minority groups as a result of counter terrorism measures and racial profiling. Indeed, government responses in the area of counter terrorism and racial profiling arguably cause problems for ethnic and religious minorities.

The extent to which ethnic and religious minorities are taken into account in national **social inclusion** strategies differs across the European Union, particularly in relation to the inclusion of migrants. A comprehensive policy and approach towards the social inclusion of ethnic minorities is lacking in many Member States. There is evidence in the 2007 national reports to show that ethnic minorities are increasingly being considered in national social inclusion strategies. However, there remains a need to ensure that these policies are delivered, that there continues to be a focus on the social inclusion of ethnic minorities and adequate funding to ensure that this becomes a reality. Unfortunately as there are gaps in policies and implementation, the impact of social inclusion measures are unlikely to reach their full potential. An examination of child poverty reminds us that certain groups of children may be discriminated against or at risk of poverty but may get lost in policy formation.

Recommendations

A number of general recommendations were made by ENAR members in the national shadow reports including specific recommendations on the four key policy areas. Overarching recommendations call on governments to ensure that action is taken to:

- Adopt a comprehensive and holistic approach to address racism that is underpinned by human rights and anti-discrimination.
- Achieve equality between EU citizens, in the context of intra-EU migration.
- Mainstream anti-discrimination principles into all policy areas.
- Recognise the role of the whole of society in addressing racism.
- Recognise the specific roles and responsibilities of certain stakeholder groups including politicians and the media.
- Ensure that the role of equality bodies is recognised and enabled through strengthening their powers where these have been limited; ensuring their independence and allocating sufficient resources for them to carry out their work.
- Recognise and support the important role that NGOs play in this area.
- Develop adequate systems to collect and disseminate relevant data.
- Effective implementation of existing legislation and policies, e.g. in the area of anti-discrimination, racist crime and social inclusion.
- Ratification of relevant UN and Council of Europe Conventions.

1. Introduction

Racism is a phenomenon that is contrary to the values of the European Union, threatens social cohesion and is a significant barrier to the realisation of fundamental rights. The findings from the 2007 national shadow reports demonstrate the significance of the issue of racism in the European context and highlight the need to retain a focus on racism and a collaborative European approach to addressing the issue. The European Network Against Racism (ENAR) Shadow Report for Europe is a unique mechanism that presents the views of NGOs and civil society on the current state of racism across the EU and in Member States. The objectives of the Shadow Report are to:

- Bring together facts and developments from across the EU on matters pertaining to racism and anti-racism and to build a perspective on racism that reflects the views of NGOs and vulnerable communities.
- To be a major and recurrent tool of the network for communication and advocacy purposes towards relevant stakeholders including policy makers and the media.
- To build a documented starting point for future and coordinated action.

The shadow report presents a snapshot with regard to the state of racism in Europe at a particular point in time from the perspective of civil society and anti-racist NGOs. It provides an update on the issues pertaining to racism and religious discrimination across Europe in 2007, although it does not attempt to present a comprehensive or scientific analysis of racism in Europe. It identifies commonalities in the experience of racism and religious discrimination across Member States, demonstrating the importance of a European approach to racism. The European legal framework has contributed to continuing improvement in this area and evidence demonstrates that a comprehensive legal framework covering all grounds in all areas of life, as well as progressive social inclusion policies that take account of the needs and experiences of ethnic minorities and migrants are crucial. Cognisant of the fact that racism may manifest itself differently in different contexts, the report gives due regard to the differences within and between national contexts.

This 2007 Shadow Report for Europe is based on a comparison of national shadow reports from 25 of the 27 EU Member States, namely Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Slovakia, Spain, Sweden and the United Kingdom. It also makes references to 2006 shadow reports, highlighting trends and making comparisons between the situation in 2006 and 2007.

Section two of this report provides information and data on communities which were vulnerable to racism in 2007. Section three outlines manifestations of racism and religious discrimination. It identifies issues in eight key areas, namely employment, housing, education, health, policing and racial profiling, racist violence and crime, access to goods and services and the media including the internet. Examples of good practice by NGOs are presented under each of the key areas, demonstrating the important role NGOs play in developing creative and innovative strategies to addressing racism.

The report proceeds in section four, presenting an overview of the political and legal developments in the key areas of anti-discrimination; migration and integration; criminal justice; and social inclusion. This section provides an assessment of the developments and responses in these policy areas from the perspective of NGOs and civil society, in light of developments in 2007 and European and international commitments.

Section five provides a synopsis of key recommendations contained in national shadow reports overall in relation to anti-discrimination; migration and integration; criminal justice including the areas of racism as a crime, counter terrorism and racial profiling; and social inclusion. Section six concludes the report.

With regard to terminology, the report generally refers to the experiences of "ethnic and religious minority groups/minorities". However, at times it may be necessary to use other terms to reflect the different contexts of racism between Member States and legal terminology. The annex provides further explanation on terminology used in the report.

2. Communities vulnerable to racism

Europe is an ethnically and religiously diverse society; ethnic and religious minority groups are part of European diversity. However, this diversity is not always recognised or valued across Europe. Racism is a persistent and damaging experience, manifesting itself in the daily, lived realities of communities vulnerable to racism. Racism undermines the values that underpin the concept of the European Union, namely social cohesion and human rights.

The 2007 ENAR shadow reports from across Europe identify particularly vulnerable communities as including Roma, Sinti and Travellers; migrants including EU citizens and third country nationals (TCNs), particularly undocumented migrants and asylum seekers; the Jewish community and the Muslim community amongst others. The particular concern noted in the 2006 report on the racism experienced by the Muslim and Jewish communities remains a very significant issue. Long-standing ethnic minority communities as well as "national minorities"[4] also experience racism and discrimination.

Residential status and citizenship impact on the vulnerability of particular communities in the European Union. Third country nationals, undocumented migrants and asylum seekers in particular are vulnerable. Vulnerability to racism can vary according to generations and there are both similarities and differences between the experiences of first, second and third generations, established minorities and new minorities.

Racism and discrimination can also be experienced by EU nationals when they migrate to another Member State. The 2006 report on Europe also highlighted these groups. Compared with previous years, the 2006 reports noted more substantial reference to the negative experiences of EU citizens in the context of intra-EU migration in national reports. This continues to be the case in the 2007 reports; particularly noteworthy is the experience of accession countries. The experiences of Bulgarian and Romanian nationals including Roma are identified as of emerging concern.

The context of intra-EU migration has changed somewhat since the accession of "new" Member States in 2004 and in 2007. A8[5] nationals are excluded from accessing the labour market in all but three Member States. In Ireland, Sweden and the UK where the labour market is open to all EU nationals except nationals of Bulgaria and Romania, there is evidence to suggest that nationals of EU12 Member States[6] face barriers that have not affected nationals of EU15 Member States[7] to the same extent.

While three EU15 Member States granted equal rights to the new Member States in 2004, no Member State granted the same rights to nationals of Bulgaria and Romania upon their accession to the EU. While nationals of EU12 Member States have particular experiences, all nationals of EU Member States, new and old, can be at risk of discrimination in other Member States, as demonstrated through the profile of people seeking redress through anti-discrimination legislation.

Religious minorities are also vulnerable to racism and the intersection between racism and religious discrimination is a complex one. Among those religious minorities experiencing racism, particular emphasis was paid in the 2007 national reports to the experiences of the Muslim and Jewish communities who are reported consistently as the religious minorities most vulnerable to racism in the EU. The largest minority religion in the European context is Islam. Jews are also a significant religious minority in this context[8]. The 2006 report made reference to a rise in the incidence and acceptability of Islamophobia. Reports from 2007 provide no evidence to suggest that this trend has been alleviated. Rather, it remains a very significant issue.

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[4] Including those protected under the Council of Europe's Framework Convention on National Minorities (FCNM). Examples include the Russian minority communities in the Baltic states.

[5] 12 of the EU15 Member States put in place travel restrictions for nationals of EU10 Member States, with the exception of citizens of Malta and Cyprus. These eight countries are commonly referred to as A8 countries.

[6] Countries concerned include Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia.

[7] Countries concerned include Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

[8] It is worthwhile acknowledging that the components of Jewish identity are complex and cannot be reduced to religious belonging only. Similarly, the nature of anti-Semitism is multifaceted as pointed out by the EUMC in its report "Manifestations of Anti-Semitism in the EU 2002-2003" (2004), available at: www.fra.europa.eu.

Ethnic and religious minorities are not homogenous groups and minorities within minorities are considered particularly vulnerable groups. Members of ethnic and religious minority groups may experience other forms of discrimination as well as racism such as sexism, ageism, heterosexism and ableism. All national reports acknowledged the phenomenon of "multiple discrimination". However, the extent and exact nature of the phenomenon is difficult to assess due to a limited availability of disaggregated data.

Roma, Sinti and Travellers have consistently experienced discrimination in Europe over centuries. They share a common tradition of nomadism but also a common experience of racism. Depending on the context, they may be described as national minorities, established minorities or new minorities. Compared to 2006, there is no notable improvement in relation to the situation of Roma, Sinti and Travellers. There are some new initiatives to address their experience of racism but on the whole respon-

ses need to be enhanced. In some Member States, there has been a significant deterioration of the position of Roma including for example, in Italy.

In some instances, Roma do not have a nationality and are amongst the group of "stateless persons". Roma have been part of society of some of EU15 states as well as EU12 Member States for centuries and still experience discrimination. In some Member States Roma have come through, or are currently in, the asylum process. Where this is the case, the vulnerable position of Roma is compounded by the precarious status of "asylum seeker".

Children from ethnic minority groups are also at risk and reports describe the vulnerable position certain groups of children find themselves in including undocumented children and children who have been trafficked. Although they may have equal rights to other children, internationally adopted children and children from intercultural families also experience racism and discrimination.

3. Manifestations of racism and religious discrimination

This section provides an overview of the situation of racism and discrimination across Europe, drawing on examples from Member States. It presents information on eight key areas, namely employment, housing, education, health, policing and racial profiling, racist violence and crime, access to goods and services in the public and private sectors and the media including the internet. An overview of the key problems in each of these areas is identified, supported by relevant facts and figures demonstrating discrimination during 2007. Developments in each area are also highlighted; good practice is identified and presented in text boxes in each sub-section. Good practice examples include initiatives reflecting amongst others stakeholder empowerment and capacity-building, impact, participation and innovation, and highlight the important contribution NGOs make to addressing racism and supporting equality.

A number of cross-cutting issues are relevant to all subtopics. Three are highlighted here, namely the intersectionality of issues, multiple discrimination and data collection. While the report examines each key area separately, the intersectionality of issues is recognised. Developments in one area may impact on another. For example, access to employment may impact on access to healthcare, including where the type of healthcare available is linked to social insurance contributions.

The phenomenon of multiple discrimination is recognised and illustrated in national shadow reports. However, identification of multiple discrimination through official data can be made difficult due to the limited availability of disaggregated data, although some small improvements in this area have been made. For example, many of the data collection systems in the UK disaggregate data on the basis of ethnicity, gender and age. Also, challenges arise in the legal context where discrimination is outlawed on a number of grounds but may be limited in its ability to address intersecting and multiple forms of discrimination. Another issue with regard to access to data can be found with regard to data on racial profiling. Challenges accessing data in this area are compounded by the fact that some racial profiling is conducted as a counter terrorism measure. As information gathe-

red through counter terrorism measures is often classified, data on the practice of racial profiling is difficult to access.

Data is an important tool to comprehensively identify issues of racism and problem areas as well as to measure the extent of the problem. This is necessary to enhance the development of appropriate, effective solutions. Difficulties regarding the collection and availability of data on racism and the experience of ethnic and religious minority groups across all areas were highlighted consistently in national shadow reports. A number of factors impinge on the accuracy of sensitive data including trust between communities vulnerable to racism and authorities, awareness of authorities as to what racism is and the availability of resources to ensure effectiveness of data collection systems.

3.1 Employment

Racism is a phenomenon that continues to prevail in the area of employment, despite the existence of legislation in most EU Member States that outlaws discrimination in employment including on the basis of ethnicity and religion. The emergence of positive outcomes from such legislation is noted in some reports but a number of reports note barriers to the effectiveness of the legislation (see also section 4.1 on anti-discrimination). The development of infrastructure to monitor developments with regard to anti-discrimination and workplace exploitation is highlighted in a minority of reports. However, it is usually remarked that the extent of the need requires that such institutions have a much greater capacity.

In **Finland**, SAK, the **Central Organisation of Finnish Trade Unions**, initiated and implemented a project called Petmo, which was intended to give all new workers multicultural orientation. The project's broad aim was to promote the acceptance of cultural and ethnic differences at the workplace by reducing or eliminating prejudices, stereotypes and racism. This was achieved by bringing together immigrants and Finnish workers. Petmo was part of the EQUAL project; 17 different companies were included and more than 10 NGOs were partners of the project.

The 2006 report identified a number of these multi-layered issues that continue to exist. These include discrimination in the areas of access and progression; underemployment and the non-recognition of foreign qualifications; poorer and sometimes dangerous working conditions and exploitation. Institutional barriers such as language proficiency and citizenship requirements also affect ethnic minorities' employment opportunities. Issues in relation to self-employment opportunities and barriers for ethnic minorities, specifically TCNs, were highlighted. The reports also noted segregation in the labour market. Some groups are particularly vulnerable to racism in employment or face specific issues, depending for example on age, gender and legal status. Trafficking was highlighted as an emerging trend of serious concern in the 2006 report and this continues, having a particularly severe impact on already vulnerable groups.

> In **Belgium** in 2005, the federal employment and equality ministers decided to develop a preventive approach towards discrimination. A new label was created for enterprises: the "**Label Egalité Diversité**" (Equality and Diversity Label) to stimulate employers to foster diversity. Since September 2006, 15 organisations are actively engaged in strengthening diversity and equality in order to be granted the label.

Ethnic and religious minorities are disproportionately affected by unemployment. This is clearly evident in reports, for example from Denmark. While rates of unemployment are higher amongst ethnic groups overall, some groups including TCNs may actually have higher rates of employment than the indigenous population as their residency rights are tied to employment. On the other hand, discrimination in employment affects different groups differently. In Finland, those most affected by unemployment are migrants from predominantly Muslim countries[9], which are on average five times higher than those from countries whose nationals enjoy highest levels of employment. In the UK where data collection is quite comprehensive and broken down by ethnic group, we see that certain groups fare better in employment than others, e.g. among ethnic minority groups Indians have the highest rate of

employment whereas Pakistani groups have the highest rate of unemployment.

Across the EU, we see persistent discrimination against Roma in the area of employment. Poor educational outcomes of Roma impact significantly on both access to employment and level of income. In some countries, the disparity between employment rates between Roma and the general population is striking. For example, in Slovakia unemployment amongst Roma is estimated[10] at 79.8% compared with the national average of 11.8%; Roma long-term unemployment was at 62.8% compared with the 11.4% national average. In Romania, only 33.5% of Roma have professional skills. 73% of Roma are employed in positions that require little or no qualifications whereas 33% of the general population in Romania are employed in similar activities. Discrimination in the area of employment is cited in national reports as one of the key reasons that Roma are particularly affected by intra-EU migration and are leaving their own EU Member State to seek employment elsewhere in the EU.

In relation to segregation in the labour market, reports noted that for example, migrants may be employed in certain types of employment or different groups may be more inclined to be working in certain sectors. Findings in national reports reveal a clear link between segregation in the labour market and immigration policy, particularly where policies and systems are developed to meet national labour market needs, and visas are issued only to those with a particular skill set. However, there are other factors at play that can also contribute to such segregation, evident for example through research from Hungary which demonstrates that different ethnic groups are more likely to be working in different sectors.

Ethnic minorities are more likely to be working where they have less access to employment rights and protection. Domestic workers and carers are particularly vulnerable. The report from Ireland notes improvements in this area but raises concerns that while a code of practice is now in place, there continues to be limited legal protection for domestic

9 This list of countries is composed of: Iraq 65,2 %, Iran 50,2 % Sudan 61,1 % and Somali 55,9%.

10 There is no official statistical data on rates of unemployment of Roma. The data cited in the national report from Slovakia is based on relevant estimates of the Institute for Public Affairs for 2005.

workers. The report from Spain notes that research conducted in the Basque country found that only 10% of domestic workers from ethnic minorities receive a decent salary. Where there is less protection, employees are always more open to exploitation. Discrimination in the formal economy has forced ethnic minorities into the informal economy, e.g. Roma in Romania, where they are paid less. Undocumented migrants are also vulnerable with little legal protection. The national reports consistently highlight undocumented workers as facing exploitation.

In **Lithuania**, and in response to an incident where a Roma woman was denied a job that had been advertised, the representative of the Human Rights Monitoring Institute (HRMI), a Vilnius-based human rights advocacy non-governmental organisation, decided to exercise a **situation testing method**[11] to identify possible discrimination that same day. This was the first attempt to use this well-known anti-discrimination case law method in Lithuania. HRMI sent a Lithuanian woman to apply for the job on the same day. The Lithuanian woman was immediately accepted and was also told in a derisive manner by the administrator of the café about a previous visit of a Roma woman. The results of the situation testing were recorded by the bailiff and later used in court.

The 2006 report also identified trafficking for forced labour and prostitution as an emerging trend of serious concern. It is disturbing to note in the 2007 national reports that concerns with regard to trafficking were increasingly to the fore. It is also of serious concern to note that the problem is often not recognised; and that where there is legislation, implementation is an issue. The limited protection offered to victims of trafficking in some contexts is worrying. This is an area where there is extreme vulnerability, including for already vulnerable groups - children and women. Indeed, it is this vulnerability that may leave them more open to such exploitation (see also section 4.2 on migration and integration).

The effects of discrimination in employment are not easily or quickly overcome, even where the intention

and commitment exist. Both indirect and direct forms of discrimination need to be addressed and a small but significant number of reports noted with concern continuing evidence of direct discrimination and acceptance of it. For example, in Hungary it was noted that an advert was placed for a position that stated that foreigners need not apply and in Lithuania in the context of situation testing, an employer openly made a derogatory remark to one applicant about a Roma applicant.

Employment is a very important area and discrimination in this area impacts on many other areas of interest that are examined further in the report, including poverty, social inclusion and access to family reunification rights.

3.2 Housing

Ethnic and religious minorities are discriminated against in all areas of housing, with the result that they are more likely to be homeless, to live in poor quality housing, to have limited choice with regard to their place and type of residence. Discrimination in the area of housing impacts on other areas including access to education, healthcare, employment and access to other goods and services.

Groups including Roma and Travellers, asylum seekers and other migrants are at a particular risk in the housing market. It is emerging in the context of intra-EU migration that EU citizens particularly from EU12 Member States[12] are at risk of homelessness. It is of concern that there are various legislative limitations with regard to discrimination in housing, including in the transposition of the EU "Race Directive" (see also section 4.1 on anti-discrimination).

In **Romania**, the NGO Human Association "God is Love", from Curtea de Arges, is currently launching a **campaign of petitions and memoirs** to the Local Council, in order to get a piece of land where they can build social apartments for approximately 140 persons including Roma.

As in other areas, collection and availability of data is an issue, noted for example in reports from Estonia, Hungary, Latvia and Luxembourg.

[11] *The situation testing method is used to collect evidence in cases of direct discrimination. The method might be used to prove discrimination on various grounds, but it is mostly applied in cases of discrimination on the grounds of race and ethnicity. However, the method is not aknowledged in all EU Member States.*

[12] *Countries concerned include Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia.*

Issues for asylum seekers are for the most part institutional and derive from a lack of choice in their accommodation, poor quality of provision in reception centres and the use of detention on some Member States. In Austria, the national report notes that asylum seekers are not allowed to rent apartments. The reports from a number of Member States, including Cyprus and Ireland, point to the inadequate provision of accommodation in reception centres. The use of detention for asylum seekers and irregular migrants has been criticised by NGOs and international bodies alike. Furthermore, the conditions within detention centres are inappropriate. For example, the UN Committee for the Prevention of Torture (CPT) has expressed its concern at the conditions of detention for asylum seekers and irregular migrants in Malta. However, once their refugee status is recognised, further problems in the area of housing may arise. For example, the report from Poland demonstrates that refugees are living in cheaper housing due to income poverty.

In **Ireland**, an organisation, **Threshold**, has been awarded funding under the Integration Fund for a project which aims to improve EU10 nationals[13] access to Threshold support services through the development of an advice service for EU10 communities living in Ireland available in their own language. The project comprises three key areas of action: capacity building, information provision and service provision. Threshold is an NGO whose overall aim is to secure a right to housing, particularly for households experiencing problems of poverty and exclusion, through campaigning, research, information and support service provision.

Segregated housing and ghettos exist across the European Union. Roma and Travellers are particularly affected by this practice (see below). In Bulgaria for example, the relevant authorities have not assisted Roma in the process of the regularisation of ghettos, the national report notes. The report from Cyprus identifies 12 shanty towns where migrant workers reside. In France, segregated accommodation is evident in the suburbs and also within the Roma community settlements.

Reports from Hungary, Lithuania, Romania and Slovakia also discuss the segregated settlements of Roma. It is of interest to note that a study conducted in Denmark debunks the notion that ethnic minorities wish to live in segregated accommodation, a myth that prevails in many places.

As noted above, Roma and Travellers are particularly disadvantaged and discriminated against in the area of housing. Examples drawn across the EU illustrate this reality, including in reports from Bulgaria, the Czech Republic, France, Greece, Hungary, Ireland, Italy, Lithuania, Poland, Romania, Slovakia, Sweden and the UK.

Migrant workers including seasonal and guest workers also experience particular problems with regard to housing. The report from Cyprus highlights the poor living conditions of seasonal workers and the report from Latvia also highlights the housing issues of guest workers. Furthermore, seasonal workers may have their accommodation provided to them by their employer which limits their choice. Deductions from their payment for accommodation provided by the employer are not always controlled and can be disproportionately high, as noted in the report from Cyprus. The UN Rapporteur on Adequate Housing visited Spain during 2007 and expressed in his report his concern regarding the discrimination of foreign citizens in the access to housing in "El Ejido" and "Roquetas de Mar" (Andalucía) as well as in the housing conditions.

Poverty impacts on housing and the cost of housing impacts on poverty for ethnic minorities. For example, it is noted that in Germany, ethnic minorities spend 40% of their income on housing whereas the majority population spends 20%. In Spain it is noted that discrimination in the private rental market means that ethnic minorities may only access poorer quality housing and the rents they pay are higher.

Discrimination in the private rental market needs to be addressed, especially in light of the dependency of ethnic minorities - particularly migrants - as they are more likely to rent. Reports from Denmark, Finland and the UK are amongst those that report ethnic minorities are more likely to rent. In the UK for example, it was found that 90% of migrants who migrated to the UK between 2005 and 2007 were

13 *Countries concerned include Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.*

living in rented accommodation. There are many reasons across Member States which may explain why ethnic minorities are more likely to rent including for example, insecure legal status of migrants, insecure employment, higher rates of unemployment, lower income and also discrimination within financial services and in access to credit including mortgages (see also section 3.7 on access to goods and services). It is positive to note that there has been some improvement in home ownership with the report from Greece explaining that migrants who have resided in Greece for more than ten years are more likely to own their home. The report from Italy also reports a growing number of people from ethnic minorities who own their home.

Homelessness among ethnic minorities and EU12 nationals was noted in the 2006 reports as an emerging issue of concern. This problem was again identified in the 2007 reports, including in the reports from Denmark and Ireland.

> In **Bulgaria**, an example of a good NGO practice are the **collective complaints** filed by the European Roma Rights Centre with the European Committee of Social Rights against Italy, Greece and Bulgaria. All cases were won. The Committee found that Bulgaria, in particular, had violated the right of the family to social, legal and economic protection by discriminating Roma communities in their access to housing.

3.3 Education

A range of issues are present for ethnic and religious minorities in the area of education, from unequal access to unequal outcomes and educational attainment. Some of the issues named in national shadow reports include difficulties with regard to access to education both in terms of lack of rights and indirect barriers; segregation within educational provision; differences between the type and quality of education accessed by ethnic minorities and majority populations; unequal levels of participation in education; lower levels of literacy of ethnic minorities and lower educational outcomes. Other issues such as language, recognition of international qualifications and religion also present barriers to equality in education for ethnic and religious minorities. Lack of access to data constrains the ability of relevant stakeholders including NGOs to determine the extent

of educational inequalities or to address them adequately.

In terms of access to education, the report from Slovakia points, as others, to difficulties faced by Roma. The report from Cyprus highlights the decision by the ECHR on a case regarding educational tests and indirect discrimination against Roma. In France, Travellers experience access difficulties, resulting from the fact that they reside far away from schools.

A factor impacting on access is the residency and legal status of migrants. In many Member States, the right to access education is linked to residency. While not necessarily required formally, it was found in Cyprus that in practice some schools insisted on seeing residence permits for pupils before allowing them to enrol in the school. In Germany, the situation varies somewhat across federal states with some states denying access to education on the basis of residency. In Estonia and Latvia, the question of residency also arises.

Segregation within education remains a pervasive phenomenon. Housing impacts on this, which may contribute to the pervasive nature of the problem. In Bulgaria and Romania for example, segregation of Roma in education is particularly noted. On the other hand, in Estonia, it is found that some Russian schools are closing down. The report from France highlights certain concerns that are emerging following the government's promise to end the mandatory rule that children have to go to their local schools which has been in preparation since 2007 by the ministry of Education. The fear is that this may result in school segregation. In the Netherlands, the report highlights the impact of segregated housing on education; segregation in education is largely attributed to the housing situation. The report from Latvia attributes low levels of enrolment and higher rates of early school leaving by Roma to a failure of mainstream education to integrate Roma.

A linked question is that of the type and quality of education available to and accessed by ethnic minorities. In a number of Member States, it is found in the national reports that a disproportionate number of ethnic minorities, particularly Roma pupils, are attending schools for those with "special needs".

This is noted for example, in the reports from Austria, Cyprus and Hungary.

In this context, it is important to make reference to a landmark ruling of the ECHR in D.H. and others v. the Czech Republic in 2007. The case represents a major step forward in the shifting of the burden of proof for alleged discrimination. The Grand Chamber noted that "the tests used to assess the children's learning abilities or difficulties have given rise to controversy", concluding that "at the very least, there is a danger that the tests were biased… the results… were not capable of constituting objective and reasonable justification for the purposes of Article 14 of the Convention"; in other words, the indirect discrimination of Romani children within the Czech educational system was not occurring for a purpose that had any objective, reasonable, legitimate or proportional justification[14]. In response to the Czech Government's claim that responsibility for school assignment lies with parents, the Grand Chamber found that "no waiver of the right not to be subjected to racial discrimination can be accepted, as it would be counter to an important public interest"[15] - in other words, no one can deprive another of these rights, not even a parent in relation to their child.

In **Latvia**, eight **Roma were trained as teacher assistants**. Three of them were working in the 2007/2008 academic year - two as teacher assistants in kindergartens, while one became a kindergarten teacher. Other Roma teacher assistants do not work, due to lack of funding. In 2006/2007 eight Roma teacher assistants were employed in seven general education establishments[16]. The National Programme "Roma in Latvia" envisages that until 2009, 12 Roma teacher assistants will be trained for kindergarten.

In the Netherlands it is found that a minority of ethnic minority pupils are attending mainstream secondary schools and that 80% are undertaking technical education. The report from Latvia notes that there has been a decrease in quality of education in mathematics and history in Russian language schools. The report from Germany highlights a decrease in participation in vocational training by ethnic minorities. Reports also note that migrants in particular are limited in their choice of higher education as their international qualifications may not be recognised. It is of concern here to note that the primary education of Roma pupils from a fellow Member State (Ireland) could not be measured by authorities in Romania and the pupils were effectively excluded from primary education when they returned to their home country (see below).

In **Malta**, as part of its 8th Campaign Against Racism, the **Malta Football Association** took its campaign into local schools encouraging youngsters to fight racism at every opportunity. The president of MFA, the Minister responsible for Education and Sport and members of the National Football Team visited a number of schools to promote the message "No to Racism - One Community One Sport".

Educational attainment tends to be lower for ethnic and religious minorities across the EU, with some notable exceptions. In Denmark for example, it is noted that a higher proportion of ethnic minorities are proceeding to higher education than their Danish counterparts. In the UK, there has been a positive increase for ethnic minorities and there has been some positive uptake of secondary education among non-Italian pupils in Italy. The report from Italy also presents research findings that suggest some inter-generational improvement with second generation immigrants less likely to have to repeat a school year. In Cyprus however, the national report notes that educational attainment for Roma remains low; while ethnic minorities are more likely to proceed to higher education in Denmark, early school leaving is also a problem with only 33% of 16-19 year olds from a migrant background attending secondary school; in Luxembourg the gap in educational outcomes between the ethnic minority population and general population is also striking. Literacy is also an issue for Roma across the EU, as evident in the literacy rates of Roma in for example Germany and Lithuania.

Language is a key factor in the area of education, manifesting itself in terms of fluency and literacy in the national language, national language require-

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14 p. 66 ECHR Grand Chamber Judgment: www.justiceinitiative.org/db /resource2/fs/?file_id=19120, accessed 26 May 2008.
15 p. 68 ECHR Grand Chamber Judgment.
16 Information provided by the Centre for Education Initiatives on 29.09.2007.

ments, tuition in minority language and language supports. The report from Denmark suggests that language testing of children born in Denmark but of migrant parents may be discriminatory. The report from Cyprus is among those highlighting the lack of support in the national language; here there is no provision for tuition of Greek language for migrant pupils at secondary level. In Latvia, there has been a shift where Russian schools are required to provide tuition through the national language, Latvian.

In **Germany**, the Roma e.V. in Frankfurt am Main and the Rom e.V. in Cologne run projects to enable the participation of Roma children with insecure residential status in school and vocational education. The projects prepare and support the children in joining mainstream schools. Those children who for any reason are excluded from this possibility receive alternative education from projects such as "**Schaworalle**" (**Hallo Kids**) and **Amaro Kher** (**Our House**)[17]. Schaworalle exists since 1996 and is oriented towards the identity, culture, history and tradition of Roma. In cooperation with a teacher's cooperative they prepare 40 children for entering school. "Amaro Kher" works with newly arriving Roma children in refugee homes as well as with well established Roma with housing problems. It tries to empower Roma communities to help themselves.

Religion in the context of education is highlighted as impacting indirectly on religious minorities and those of no religious affiliation in for example, the reports from Greece, Ireland, Poland and Cyprus.

As in other areas, lack of availability of data remains an issue. The report from Estonia highlights where lack of access to data on discrimination is an issue while reports from Malta and Latvia for example highlight the lack of data and information with regard to educational attainment of ethnic and religious minorities.

An emerging issue that deserves attention in light of the right to freedom of movement in the EU and intra-EU migration is equivalence and recognition of primary education in other Member States. This issue arose in Romania where Roma pupils were not allowed access to primary education as they had been educated within the primary education system in another Member State[18]. It was argued that equivalence could not be ascertained.

3.4 Health

The health status of ethnic minorities is generally poorer than that of majority populations. Access to healthcare is a key concern. Health is an area that intersects with other areas. For example, ethnic minorities are employees within the healthcare sector and may experience discrimination in employment. Poverty, employment and legal status are also factors that impact on the health and mental health of ethnic minorities as well as their right to access quality healthcare.

In the **Netherlands**, in 2007 a **new professional code** was drawn up **for psychologists**, in which a specific article on discrimination has been included. The article states that unjustified discrimination is prohibited and that psychologists should take into account individual characteristics and circumstances of each patient, as well as cultural differences that exist between patients. Despite these differences, psychologists should make an effort to ensure that people in the same situation are treated equally. A number of expertise centres argue that the anti-discrimination article is not complete as no attention has been paid to the consequences of how cultural diversity influences professional standards.

Access to healthcare is a question of grave concern for ethnic minorities and NGOs working in this area. The right and capacity to access available healthcare is affected clearly by legal status but also other indirectly discriminatory factors such as where one lives, access to employment, capacity to make social insurance contributions and poverty. Research shows that in general ethnic minorities earn less than their counterparts and also experience discrimination in accessing employment.

We see increasingly across Europe that access to healthcare - other than the most basic of services such as emergency services - are becoming tied to legal status and employment. Poverty and its impact on healthcare are highlighted by e.g. Bulgaria where

[17] Roma e.V. http://www.schaworalle.de/, accessed 09.06.2008 and Rom e.V. http://www.romev.de/index.php?option=com_content&view=article&id=9:amaro-kher&catid=1:paedagogische-projekte&Itemid=7, accessed 09.6.2008.

[18] In this case, the pupils had been participating in primary school education in Ireland.

Roma are at particular risk and Greece where access is highly dependent on social insurance contributions. Factors such as where one lives also impact. For example, Roma in Poland are more likely to be living in rural settlements where access to healthcare is already an issue. Employment impacts on health in ways other than income. For example in Italy employment is recognised as a health risk where migrants are at a particular risk of accidents at work.

Language as a barrier to accessing healthcare is named in many reports including the reports from Cyprus, Denmark, Estonia, Ireland and Malta. In Estonia for example, it is highlighted that Russian speakers, who represent a large minority in Estonia, are deprived proper access to healthcare as doctors are not required to speak Russian. This impacts particularly on older Russian patients.

Concern with regard to the mental health of ethnic minorities and specifically with regard to mental health services is highlighted in national reports. Discrimination within mental health services or lack of culturally appropriate mental health services is highlighted in reports from the Czech Republic, Denmark, Germany, Ireland and the Netherlands. A lack of other specialised services, e.g. for asylum seekers, is noted in reports from Hungary, Ireland and Malta.

Drug use within ethnic minority communities and migrant communities was named as an emerging concern in the 2006 report. 2007 national reports continue to highlight this issue with reports from the Czech Republic and Italy pointing to drug use within the Roma community.

In **Finland** in recent years, genital mutilation has received a lot of international attention. In 2002, the Finnish League for Human Rights (Ihmisoikeusliitto) launched the **KoKonainen-projekti (Full Woman Project)**, which was intended to prevent genital mutilation on immigrant girls in Finland. The project also aimed at providing support and assistance to circumcised girls and women. Apart from that, there have also been research projects, as well as training for immigrant and health workers to recognise and prevent female circumcision. The project also produced training and publicity materials. An international seminar was held in Helsinki, Finland, in September 2007.

Women experience specific problems in the area of health where not only do they not enjoy a right to healthcare but within the healthcare services other rights have been abused. The issue of the sterilisation of Roma women in the Czech Republic, it is reported, has not yet been resolved. In Italy a study found that 65% of ethnic minority women received caesareans compared with 30% of their Italian counterparts.[19]

NGOs highlight the experience of children in accessing healthcare, where their legal status is a key factor.

In **Italy**, the **project "Foreign seasonal workers in the agricultural sector in Italy"**, carried out by Medici Senza Frontiere (MSF), is addressed to the migrant seasonal workers in the Southern regions of Italy. Through a mobile clinic, MSF doctors and nurses provided migrants and refugees with medical assistance and legal advice. This experience is described in the research report "I frutti dell'ipocrisia" (The fruits of hypocrisy), which analyses, through hundreds of interviews, the working conditions and the state of health of these workers.

3.5 Policing and racial profiling

The 2006 report noted a number of issues with regard to policing and racial profiling including over-policing, poor responses to racist crime, violence, the role of police in the area of immigration and concerns with regard to the extent and nature of racial profiling as well as denial by officials that racial profiling was practised. It is a matter of grave concern that the 2007 national reports reflect similar concerns. 2007 reports continue to highlight instances where police do not respond appropriately to racist crime and furthermore are in fact perpetrators of racist practices and abuse against ethnic and religious minorities.

The increasing evidence of public acceptance of racist crime and mistreatment of ethnic and religious minorities, from which police and other relevant authorities are not immune, sends a clear warning and is a situation that requires careful monitoring and action. In isolated cases, some improvements have been noted, for example posi-

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19 According to the authors of the research, this difference can be attributed, among other things, to cultural and linguistic difficulties encountered in health services and the lack of therapeutic assistance.

tive legislative amendments in the area of monitoring the police have taken place in Poland. On the other hand, the report from Estonia notes a drastic change in the situation with regard to racial profiling in comparison with 2006 and reports from Denmark and the UK[20] report a negative decline over recent years.

Inappropriate responses to racist incidents have been highlighted in many reports. Some illustrative examples are found in the report from Belgium where there was evidence of racism within the police, violent treatment of a person who had been targeted by racism and a refusal to register a complaint of racism. The report from the Czech Republic, where it was noted that the policing system to respond to racist crime is not sufficiently robust, offers further evidence of the problem. In Denmark, the report notes that while face-to-face communication can be polite, attitudes of some police are racist and racist language is used in police stations. In Finland there are some difficulties with regard to crime coding and low numbers of crimes coded as racist. In Slovakia, a woman was accused of false testimony after making a complaint about a racist attack. After other interventions including her filing a complaint with the European Court of Human Rights, the chief of police acknowledged that the woman had been attacked.

> In **Estonia**, the Legal Information Centre for Human Rights oversees a **hotline for victims of police actions**. The project is aimed at any individual who has been unlawfully detained or against whom the police used excess power during the Bronze Night events. Project activities include: telephone and internet consultations, in-house provision of legal aid for those who wish to take legal action and support by addressing enquiries and complaints to various state institutions where necessary.

Racism within the police force and other relevant authorities is identified as an issue of serious concern in a number of reports including from Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, Germany, Italy, Poland and the UK. Manifestations of

racism in the area of policing identified in the reports range from racist attitudes and name-calling, racist discussions on internal websites, lack of reporting, racial profiling to more physical forms of police brutality and degrading treatment that has in some instances resulted in a disproportionate number of ethnic minorities dying in police custody. The CPT has raised issues of concern with regard to the treatment of ethnic minorities in police custody in a number of Member States.

Racial profiling is named as a significant issue in reports from Cyprus, Denmark, Estonia, Finland, France, Italy, Luxembourg, Slovakia and Sweden. Difficulties accessing data with regard to racial profiling is named in reports from e.g. Ireland, Lithuania and France. Difficulties accessing data are compounded by the fact that some racial profiling is conducted as a counter-terrorism measure and such measures are often classified, as is the case in Lithuania for example.

Policing in the area of migration requires a particular focus. The use of detention including of asylum seekers and irregular migrants is a cause of concern in Cyprus, Greece and Spain. Racial profiling of migrants is named in reports from e.g. Cyprus and France.

Lack of awareness and inadequate training are issues within police forces. In Cyprus it is noted for example that the police are unaware of the rights of Unaccompanied Minors. In Malta, it is noted that only one hour of training is provided to police on racial inequality and is deemed inadequate. On the other hand, in Malta as in Ireland, reports note the introduction of training for police on the issue of trafficking. Again however, this could be enhanced and both reports highlight a limited capacity within police in this area.

One of the core difficulties in this area is the lack of effective legislation and mechanisms by which to monitor the actions of the police. Difficulties with regard to monitoring are noted in a large number of reports including from Belgium, Cyprus, Denmark, Germany, Greece, Ireland, Luxembourg, the Netherlands, Spain and Sweden.

Racism in policing is clearly manifested through racial profiling where in some countries it is an

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20 In the UK for example, a survey found that 23% of ethnic minorities consider the police to be the organisation most likely to be discriminatory on the ground of "race". This represents a 7% increase compared to the situation in 2001.

accepted practice and in others it a common occurrence although it may be denied. Examples of racial profiling were recorded in reports from Cyprus, Denmark, Estonia, Finland France, Italy, Luxembourg, Slovakia, Sweden and the UK. Indeed, other reports such as the report from Bulgaria point to the impunity held by the police. They also highlight underreporting and lack of trust as issues, especially where there is no independent monitoring procedure as seen in for example Denmark and Estonia.

Lack of official data impacts negatively on NGOs' capacity to measure the extent of racial profiling and to identify those most affected. While anecdotal evidence is available, the lack of official data or access to official data limits corroboration of the sources of informal data collected. Other reports, including from Ireland and Lithuania, also highlight the fact that it is difficult to access data which confirms the practice of racial profiling. Some of the racial profiling is understood to be carried out in an effort to counter terrorism. Lithuania represents an example of a Member State where this is the situation. However, the classified nature of some anti-terror measures limits NGOs' access to data and here again, racial profiling, while likely, cannot be confirmed through official means.

In **Denmark**, the Copenhagen Municipality has established a **website**, where victims of discrimination can get guidance as to where to go and what to do as well as information about their rights and possibilities to complain if they feel discriminated on the grounds of age, disability, gender, religion, ethnicity or sexual orientation. The municipality of Copenhagen is also launching a web campaign to inform citizens of their rights and complaint possibilities.

3.6 Racist violence and crime

What remains notable and of serious concern is the continuing increase in extremism and the level of violence that has become associated with racist violence and crime.

Reports from a number of countries report an increase in racist violence and crime including Bulgaria, Cyprus, the Czech Republic, Estonia, Finland, Greece, Ireland, Italy, Lithuania, Luxembourg and the UK. The report from Poland

estimates that there has been little change in the situation since 2006. A decrease is noted in Belgium, France, Germany and Slovenia. However, it should be noted that while the report from France reports a decrease in overall figures, it highlighted the level of violence of crimes that have taken place. The report from Italy is also amongst those that also point to the level of violence that has emerged or dominates now in the area of racist violence and crime. Data collection and underreporting continue to be issues that impact on the capacity to accurately measure the extent of racist violence and crime.

In **Italy**, the **Observatory on anti-Semitism**, created by CDEC, the Contemporary Jewish Documentation Centre, is a website on anti-Jewish prejudice and anti-Semitism. It contains information, studies, publications and research on anti-Jewish prejudice in Italy and Europe, presents the new manifestations of anti-Semitism and initiatives aimed at countering it.

Perpetrators of racist violence and crime vary. Some of those identified include police (in reports from Germany, Greece and Romania for example), Neo-Nazi groups and members (including Bulgaria, Cyprus, the Czech Republic and Denmark), men (e.g. Finland), youth (e.g. Germany and Latvia) and young men (e.g. Finland). Another group of offenders included private security personnel, notably those employed in the entertainment industry.

An increase in extremism and the visibility of extremist groups is highlighted in reports from Bulgaria, Cyprus, the Czech Republic, Denmark, Hungary, Italy, Lithuania and Spain.

In **Poland**, the association **Otwarta Rzeczpospolita** (Open Rzeczpospolita) is engaged in regular surveys of efficiency of Polish legislation and adequacy of justice agencies in fighting anti-Semitism, xenophobia and discrimination.

Lack of effective legislation and mechanisms are highlighted for example in the report from Cyprus where the police have not yet activated the system; in the report from Denmark where hate crime may not be registered; and in the report from Latvia where there is no Victims Register. On a positive note, the report from Sweden explains that a rapid

response mechanism has been established to respond to instances of hate crime. During 2007 the Swedish police force in Stockholm created a special force charged with the investigation of hate crime and the development of investigation mechanisms for hate crimes in order to solve more of these cases.

In the **United Kingdom**, a **DVD tackling the issue of racism** in Northern Ireland was produced in a partnership between Craigavon police, Craigavon Community Safety Partnership, the Director of Public Prosecutions and Craigavon Borough Council. The DVD helps police officers and professionals in community safety and youth services, by educating and informing young people and community groups in an effective manner about hate crime. The initiative was developed to help reduce the number of victims of racist incidents through education and discussion. The DVD features local actors, locations and bands throughout the production. It also comes with an additional resource of key messages for debate in the classroom in order to challenge attitudes in a safe environment and discuss potential positive options.

3.7 Access to goods and services in the public and private sectors

Access to goods and services is an area where discrimination is clearly outlawed through the transposition of the "Race Directive" in most countries. While the legislation has certainly had an impact, discrimination remains. One of the difficulties is with regard to limitations in the legislation itself and weakness in the transposition of the "Race Directive" (see also section 4.1 on anti-discrimination).

Areas where access difficulties were highlighted included the judicial system, finance, entertainment, provision of information with regard to goods, services, rights and responsibilities, language and communication. It should be noted that some improvements were noted including in the area of segregated service provision and through the impact of equality legislation. Particular groups were also named as experiencing specific difficulties including children, youth, Romanian and Bulgarian nationals, undocumented migrants, asylum seekers and Roma. In some countries, the experience between the public and the private sectors can be quite different. Some of the specific problems with regard to access to goods and services are expanded upon in the paragraphs below.

Discrimination against Roma is reported across the EU. However, in certain Eastern European countries, Roma are named as the main target of discrimination and constitute one of the largest ethnic minority groups.

Access to finance and financial services was noted in a number of reports. In France, difficulties with banks were highlighted. The report from Germany identifies the use of "scoring" as discriminating against ethnic minorities in terms of accessing credit. There is official recognition in the UK that ethnic minorities have experienced discrimination when trying to access business loans. Access to voluntary insurance was highlighted in the report from Finland while in the Netherlands, pensions policies indirectly discriminate against migrants who have not been living in the country continuously between the ages of 15 and 65.

Unequal treatment of children from ethnic minorities is emerging. In Greece, delays and difficulties in getting birth certificates for the children of migrants is impacting on their access to other services including education. In Ireland, the Habitual Residency Condition has resulted in a situation where children including children of asylum seekers do not receive child benefit. In Spain, a new payment to mothers paid on the basis of having a newborn child is not paid to migrant women who have not been resident in the country for over three years.

In the **Czech Republic**, the civic association **Český západ** assisted the Roma community in the "settlement" of Dobrá Voda near Toužim in creating their own administration in order to further their participation in public life. The Roma want to negotiate with Toužim regarding better public transportation services to their part of town.

Discrimination within the judicial system was confirmed through research conducted in Denmark. In Latvia, the application of the State Language Act has meant that in practice, Russian speaking prisoners cannot make complaints as the complaints will only

be received in the official State language, Latvian. This has been the practice despite exemptions in the legislation that would suggest that complaints could be accepted in e.g. the Russian language. A case taken in Italy provided a positive outcome as it was determined that a person could choose an interpreter when appearing in court and the costs of the interpreter of choice could be covered by the State.

The question of access to services in specific areas, e.g. education, housing and health are dealt with further in relevant sections above. It should be noted that there are a number of overarching issues of concern with regard to access to goods and services. One example that must be highlighted is that of data collection. The collection of and access to data is important if stakeholders are to measure the extent of discrimination and identify the areas which need attention. However, reports from NGOs continue to find that there are gaps and limitations, particularly with respect to official data collection.

> In **Ireland**, **a brochure on services to the Roma community** has been developed through collaboration between Pavee Point, St. Vincent de Paul Society and Crosscare. Aimed at the Roma community in Ireland, the purpose of the leaflet is to inform the Roma community of where they can go to get information and support from the community/voluntary sector. The leaflet also encourages more engagement by the community/voluntary sector with the Roma community.

3.8 Media, including the internet

The media can play a positive and negative role in the struggle against racism. In fact, the media is a key mechanism for bringing our attention to racist incidents and crime. It is also a powerful mechanism for the promotion of positive images of ethnic minority groups. The internet has been very useful to under-resourced NGOs who can use it relatively inexpensively to disseminate information. However, it can also play a negative role. The 2006 report highlighted a number of issues including lack of representation of ethnic minorities in media content and in related employment, the problematic relationship in places between the media and politicians, the rise in racism on the internet, limitations with regard to adequate legal frameworks to address racism in the media particularly with regard to the

internet. For the most part, these issues remained relevant in 2007.

Some improvements overall were recorded in the reports from Greece and Lithuania and in isolated instances improvements on specific issues are noted, such as commitment to greater representation of ethnic minorities in media-related employment in the UK. The report from Belgium, however, reported a notable increase in racism in the media describing the situation currently as "explosive". At the same time, there have been improvements regarding redress mechanisms. Bulgaria was one of a number of countries that pointed to the persistence of racism in the media, although not noting a particular increase or decrease. Exceptions to this however are in relation to the internet where the majority of reports note their concern at the proliferation of racism including extremism on the internet which is exacerbated by the lack of effective mechanisms for control of use of the internet and the extent to which information can be distributed via this medium.

One of the key difficulties in the area of the media are the philosophical and practical problems around monitoring. A number of reports make reference to debates and questions around freedom of expression that arose in 2007, including Bulgaria, Denmark and Spain.

> In **Greece**, the Greek Forum of Migrants (GFM) is taking part in the celebration of International Migrants' Day on 18 December every year. Through this programme they also participate in the project **Radio 18/12** which links community radios all around the world. In 2007 the Greek Forum of Migrants managed to persuade more than 12 broadcasters from radio stations throughout Greece to participate in the event and for 24 hours most of the public and private radio stations of the country were speaking about migration issues. Moreover GFM is operating a web page **www.migrant.gr** which informs the public on issues that concern migrant communities in English and Greek and they are in the process of translating the page in Arabic, Albanian, Bulgarian and Russian.

There is a lack of effective legislation and mechanisms to monitor the media, prosecute or

provide redress. While the report from Belgium makes reference to some improvement with regard to monitoring racism in the media, the reports from for example Cyprus, Bulgaria, Finland and Ireland all highlight deficiencies in this area.

Certain ethnic and religious minority groups continue to be targeted in a negative way in the media including Roma and Travellers and migrants, particularly undocumented migrants and asylum seekers. Both Muslims and Jews have been represented in a negative way in different Member States. Reports from Austria, Denmark, France, Germany, Italy and the UK are amongst those that highlight in particular disproportionately negative representations of Islam in the media. Similarly reports from Bulgaria, France, Greece, Hungary and Poland express concern at the anti-Semitic content in the media.

It is observed that the invisibility of minorities generally in the media are a contributory factor in the skewing of media representations. Because ethnic minorities are invisible in mainstream media except where the report is of a negative nature and ethnic minorities are underrepresented in media staff, the negative representations are disproportionate. Furthermore, sensationalist reporting continues.

In **Hungary**, every year for the past 10 years, the Independent Journalism Centre in Budapest holds special **journalism training courses for Roma students**. On successful completion of the training, the participants have always managed (with the help of the Centre) to get jobs either in television stations and/or newspapers.

Another point worthy of monitoring is the use of media by and relationship between the media, politicians and the police. The report from Denmark asserts that the police facilitate the media's negative reporting by providing sensational and discriminatory headline material. The Czech Republic is one of a number of reports that note the use of the internet for political means, highlighting the posting of anti-Roma material on websites by politicians. The same report also points out that police did not respond adequately to an anonymous anti-Roma SMS message circula-

ted at Christmas time which legal experts consider illegal, stating that such an incident was a first. Indeed, the Czech Supreme State prosecutor's office has found that police officers lack the necessary technology and knowledge needed to investigate racist crimes committed via the internet. In this regard also, it should be noted that the situation highlighted in the 2006 report regarding the anti-Semitic content in Polish media that are supported by the ruling coalition continues. The report from Poland attributes the lack of legal consequences for Radio Maryja, Nasz Cziennik and Telewizja Trwam, despite their anti-Semitic content, at least in part to the support they receive from the ruling coalition.

In **Slovakia**, the project "**Slovak Node for Internet Safety Awareness and Helpline**" is coordinated by the NGO eSlovensko. The official partners of the project are the Slovak Council of UNICEF, who is going to run the Helpline, and the Slovak Ministry of Interior who intends to implement the findings into national legislation. The project started in August 2007 and is planned until April 2009. The plan of action raises awareness amongst children, teenagers, parents and teachers about the safer use of the Internet. The project is targeted against paedophilia, dependency, discrimination, racism, violence, internet fraud and similar threats.

With regard to minority media and inclusion of minorities within mainstream media, there are some positive and negative examples. In Austria, the national shadow report highlighted institutional barriers to the establishment of minority media. In Estonia, there has been some support for the establishment of minority media and Russian language media is progressing well. Examples were highlighted in both Cyprus and Estonia where mainstream print and broadcast media are including slots that focus on issues relating to and of interest to ethnic minority communities.

Specific incidents of concern highlighted in individual national reports included an incident regarding scientists' exploration of historical symbolism in Bulgaria; media reporting on Bronze night in Estonia; rise in anti-Roma sentiment expressed in e.g. schools that was attributed to the broadcast of Manne TV in Finland; reporting on the Conference

on Islam in Germany; a racist advert in Latvia; the continuing ban on media entering detention centres in Malta and the campaign in Romania that has been described as endeavouring to disassociate Romanians from Roma, after Roma were targeted in Italy following the murder of an Italian woman by a Roma man.

Racism on the internet remains a pervasive phenomenon that has been difficult to control. Reports from Ireland, the Netherlands and Sweden note that they are among the countries that have not yet signed the Additional Protocol to the Convention on Cyber-Crime[21].

In **Sweden**, in 2007 the national NGO Thema launched an **internet database on situation testing**. Thema is a non-governmental organisation which aims to increase the rule of law in the areas of discrimination and human rights. The situation testing database includes information on the situation testing method, Swedish case law and articles and is available in both Swedish and English.

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[21] *Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.*

4. Political and legal context

2007 was the European Year of Equal Opportunities for All. This Year provided the impetus for a number of governments and NGOs to focus on anti-discrimination and to develop initiatives to address racism. On the other hand, 2007 saw the European Commission write to 14 Member States[22] with regard to their failure to fully transpose the "Race Directive"[23]. This section presents an overview of the political and legal developments in the key areas of anti-discrimination; migration and integration; criminal justice; and social inclusion. It provides an assessment of the developments and responses in these policy areas, from the perspective of NGOs and civil society. The section also identifies gaps in existing protections in order to inform future and ongoing advocacy as well as policy and legal developments.

While this section notes some assurances in the legal context and some of the positive contributions through the European Year of Equal Opportunities, the existence of equality legislation has not prevented the use of racist political discourse or indeed, the introduction of laws that discriminate against particular groups including ethnic minorities.

Of particular and critical concern are the racist sentiments expressed by the President of Romania in 2007 in reference to a female Roma journalist which were criticised by the national equality body. Also of concern is the legislation brought in by the Italian government targeting Romanians and Roma - reportedly in response to the murder of an Italian woman by a person of Roma origin - which has drawn significant attention from international bodies and is described in the report from Italy as racist. Previous reports have cautioned that there is a clear trend and increase of extremism. This continues to manifest itself in worrying ways across the EU, including for example through the rise in right-wing extremist, semi-military organisations in the Czech Republic, Hungary and Slovakia.

This section in particular highlights the importance of a European approach to addressing racism and all forms of discrimination. The European legal framework has contributed to continuing improvement in this area but evidence demonstrates that a comprehensive legal framework covering all grounds in all areas of life must be developed, supplemented and strengthened by progressive social inclusion policies that take account of the needs and experiences of ethnic minorities and migrants in order to fight racism and contribute to an inclusive Europe.

4.1 Anti-discrimination

As indicated in previous reports, the "Race Directive" has played a critically important role in ensuring that discrimination on the basis of "race" and ethnicity is outlawed across the Union. Member States were required to introduce legislation at the national level in order to transpose the "Race Directive". Malta has transposed the "Race Directive" through two pieces of legislation, the second part coming into effect in 2007. However, in many countries the resulting legislation has not been sufficient to transpose all aspects of the "Race Directive", as evident in the fact that in 2007 the European Commission wrote to 14 Member States indicating its dissatisfaction and repercussions at the lack of sufficient transposition.

In practice, NGOs have noted a number of difficulties in the implementation of the legislation both where on paper the scope of the legislation is sufficient and where there are gaps in the legislation. There is a broad range of limitations noted in the 2007 reports. Common problems include incorrect definition of discrimination including indirect discrimination, lack of protection against victimisation, lack of scope or capacity for representation, ineffective sanctions, and lack of regard given to the shift in the burden of proof.

Problems with the definition of discrimination are noted in the reports from Cyprus, Ireland, Lithuania and Sweden. The report from Sweden, for example, reports that the European Commission has concluded that the definition of discrimination contained in the national legislation is incorrect and that the exceptions to the prohibition of direct discrimination were broader than allowed by the

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[22] Countries concerned were Spain, Sweden, the Czech Republic, Estonia, France, Ireland, the United Kingdom, Greece, Italy, Latvia, Poland, Portugal, Slovenia and Slovakia.

[23] EU Racial Equality Directive 2000/43/EC.

"Race Directive". The report from Lithuania explains that discrimination by association is not covered within the legislation. In Cyprus, the burden of proof remains with the victim. In Lithuania it is noted that while the legislation allows for a shift in the burden of proof, in practice this does not happen and the burden rests with the victim.

A number of reports express concern with regard to the limited scope of and exemptions within legislation that transposes the "Race Directive" in the national context. Housing is an area highlighted in the reports from Finland, Germany and Spain. The report from Spain explains that there is no legal instrument to denounce discrimination in housing. The report from Germany notes that an exemption clause in the context of private law provides legitimate grounds for discrimination in the area of housing. In the private sector a number of human rights NGOs have called for a cancellation of the clause. The reports from Luxembourg, Ireland, the UK and Spain highlight problematic exemptions. The exemptions are wide-ranging and include for example exemptions in relation to housing, public service, religious grounds, and certain areas of policing. The report from Luxembourg notes for example that civil servants are not covered within the national legislation.

It should be noted that the "Race Directive" does not require Member States to outlaw discrimination on the basis of nationality, which provides difficulties for TCNs who in many cases are not covered by the legislation and so have no access to redress.

Most Member States have equality bodies in place, with the exception of Luxembourg, where it is noted than an equality body is not yet operational, and Spain. In general, NGOs are supportive of equality bodies where they exist. Disappointment and concern were expressed in the report from Latvia where it is noted that the equality body has yet to take advantage of its right to represent. The report from Lithuania explains that while there are provisions within the law regarding sanctions, they have not been implemented. According to the report from Germany, the lack of publicly available information on cases has raised questions about transparency. On the other hand, the report from Hungary notes the proactive role that the equality body has played there.

Most reports note that even where equality bodies are committed to fulfilling their key role in the area of equality, there are a number of obstacles impeding their capacity. These include for example limitations in their mandate (e.g. Poland and Estonia), lack of resources (e.g. Ireland, the Netherlands and Spain), lack of awareness about their role (e.g. Austria although this is improving; the Czech Republic and Malta), limitations with regard to sanctions allowed (e.g. Ireland) or awarded (e.g. Lithuania) and in a minority of cases, concerns regarding independence and transparency.

A number of reports refer to the need to raise awareness about anti-discrimination legislation both among those experiencing discrimination and those who perpetrate it. Reports from Poland, Hungary and Ireland are among those that report a lack of awareness of rights amongst those experiencing discrimination.

Governments and relevant agencies in some Member States have made efforts to raise awareness about racism and also rights under anti-discrimination legislation. The European Year of Equal Opportunities provided a useful platform in order to raise awareness. For example, the UK used this opportunity to raise awareness of the new equality body. The European Year also provided a platform for governments to initiate or enhance co-operation with NGOs. For example, the report from Cyprus reports that for the first time the government developed an initiative that brought together state and NGO actors to draw up a plan for the year. On the other hand, it is noted with regret that a leading NGO in Sweden had its funding from government cut in 2007 and has been informed that funding from the government shall cease in 2008.

As noted at the beginning of this section, data collection is an important tool for ensuring the identification of areas where discrimination is occurring and to help monitor progress and effectiveness of legislation in addressing this. However, data collection continues to be a challenge for a number of Member States, albeit for different reasons.

4.2 Migration and integration

Previous reports have confirmed that the Member States of the European Union face a variety of different situations with regard to the situation of third country nationals and mobile European Union nationals and that there is an increasingly visible

negative public perception of migration and migrants across Europe. 2007 saw this situation continue. It also saw a number of policies and actions taken by governments that negatively impact on the lives of migrants in Member States and suggest an acceptance of migrants as second-class citizens.

Migration (and integration to a lesser extent) is a regularly debated question in many Member States by a range of actors including the media and politicians. There is evidence of contradictory statements and practices within Member States; furthermore, the migration context differs somewhat between states although a basic legislative framework is provided through EU law. In Latvia for example, it is noted that the migration debate has come to the fore and that it is widely recognised at the political level that immigration is necessary for economic reasons. However, this conclusion is not reflected in migration policy or in public attitudes towards migration.

Migration policy varies across EU Member States; but on the whole, immigration laws and policies have been described as increasingly restrictive, short-term and focusing only on the economic contribution of migrants and less on human rights. A range of factors have contributed to the regressive trend in migration policy; of particular significance have been the externalisation of the EU borders, impacting severely on those attempting to gain access to Spain and Bulgaria, and measures to counter terrorism.

While EU nationals are in a better position than third country nationals, particularly in terms of the legal framework to protect them, experiences in 2007 revealed that all migrants are at risk of discrimination regardless of their legal status. Given the previously noted concern with regard to public perception of migrants, it is particularly worrying when a negative approach is taken to the development of migration policy and a rights-based approach is ignored.

While many Member States are keen to restrict immigration (e.g. Germany, France), other Member States have been affected by emigration, particularly in the context of intra-EU migration. For example, nationals of Latvia, Lithuania and Poland have migrated to EU15 Member States. The effect of emigration and at the same time, economic growth, has created a higher economic dependency of these Member States on TCNs. Despite these different needs, TCNs continue to experience fewer rights than EU citizens and hostility against migrants persists.

Attention is given in most national reports to a number of particularly vulnerable groups. These include asylum seekers; undocumented workers; victims of trafficking including for forced labour, debt bondage and prostitution; and domestic workers. In the area of asylum, Member States have a responsibility to protect asylum seekers. However, national reports highlight a range of obstacles asylum seekers face including slow legal processes, unsatisfactory outcomes particularly at initial stages and the use of reception centres. In some countries, the use of detention is highlighted in national reports and has also been raised as an area of concern by international bodies (for further information on trafficking and experiences of domestic workers, see also section on employment above).

In most Member States, migration policies exist. However, a number of reports point to a lack of policy development in this area. Where there are policies, national reports note a clear shift in migration policy to a focus on economic migration and greater restrictions in the area of asylum and family reunion. NGOs have been highlighting the diminishing consideration by governments of human rights in the context of migration policy for a number of years. Developments in 2007 have proven them correct and some national reports point to concerns that certain aspects may be unconstitutional.

With the entry into force of the Amsterdam Treaty, most[24] Member States committed to working together to develop a common immigration and asylum policy. In order to achieve this, two key directives were adopted in 2003 in relation to long-term residency[25] (hereinafter referred to as the long-term residency Directive) and family reunion[26] (hereinaf-

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[24] A number of Member States that are not party to the Schengen Agreement have also opted out of the development of a harmonised immigration and asylum system, e.g. Ireland and the UK.

[25] Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

[26] Council Directive 2003/86/EC on the right to family reunification.

ter referred to as the family reunion Directive). The long-term residency Directive is designed to give rights to TCNs who have legally resided in the territory of an EU Member State for five years. It is anticipated that the impact of the transposition of the long-term residency Directive shall be seen in coming years. Already we see for example in Italy that the transposition of the Directive has reduced the number of years a person must be resident in the country before qualifying for long-term residency. On the other hand, the report from Cyprus notes both that the transposition of the long-term residency Directive was delayed until 2007 and that since transposition, implementation has been delayed. The family reunion Directive assures family reunification rights of TCNs legally established in an EU Member State. However, despite the spirit of the family reunion Directive and the recognition of the European Commission regarding the importance of family reunion in the area of integration, 2007 reports provide evidence of increasingly restrictive family reunion policies coming to the fore in 2007 (see below).

While some improvements in access to long-term residency have been noted and attributed to the transposition of the EU Directive, access to citizenship seems to be becoming more restricted in a number of Member States. The report from the Czech Republic explains that only long-term residents can apply for citizenship. It notes that while officially length of residence and knowledge of the Czech language are the key criteria, in practice income and level of integration are also considered. The report from Denmark highlights a dramatic decrease in the number of people granted citizenship in 2007 compared with 2006. In 2007 only 290 people were granted citizenship as compared with 10 261 persons in 2006. The author attributes this to the role of the Danish People's Party and notes that the current language test is of such a high standard that it is proving a very significant barrier to the acquisition of and applications for citizenship. The new immigration and asylum law in Germany is considered to further restrict residency and citizenship. The report from the UK draws attention to the discourse at a political level on "earned citizenship" commenting that this marks a shift towards an emphasis on duties of citizens and away from discourse on rights.

In terms of integration, three issues are key. Firstly, racism is an obstacle to integration and unless racism is acknowledged and addressed in the context of developing integration policy, integration simply cannot be achieved. Secondly, how integration is understood is of critical importance, with some Member States acknowledging integration as a two-way process that facilitates ethnic minorities to retain their distinct cultural identity and works towards eliminating discrimination. However, the implementation of integration policy in other places reveals an understanding and desire for an integration policy that is underpinned by an assimilationist approach[27]. Thirdly, the role of the family in the integration policy is vital and this is recognised by the European Commission. However, across Europe we see migration policies move more towards economic migration and away from family reunification. There is a contradictory movement between development of integration policy on the one hand and restrictions being placed on family reunion on the other. Among the reports highlighting new restrictions in the area of family reunion are the reports from Austria, France and Germany. The report from Austria highlights cutbacks in family reunion and a move towards a quota system; the report from France notes that immigration policy is developing more towards skilled workers and the right to family reunion is linked to income. Poor working conditions for migrants in the area of employment impacts on their access to family reunion. In Germany the report explains that spouses of migrants must pass a language test in order to qualify for family reunion and to join their spouse in Germany.

Some Member States have introduced integration measures but this remains a relatively weak area across the EU. Concerns are expressed in the reports with regard to the impact of asylum policy and the use of detention and reception centres on integration; the impact of restricted family reunion rights and difficulties in gaining citizenship.

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[27] *Assimilationist approaches tend to expect minorities to assimilate into the dominant society, through a one-way process of change, thereby placing the responsibility with the minority group. This compares with the idea of integration as a two-way process which includes a responsibility of the dominant society and values diversity. For a definition and further description of an assimilationist approach, see for example http://books.google.ie/books?id=wjy02V19UwMC &pg=PA160&lpg=PA160&dq=assimilationist+approach&sourc e=web&ots=r6Vb3voZMh&sig=ug_-PpMAgKwgPCMdBAls E7TMzsk&hl=en&sa=X&oi=book_result&resnum=10&ct= result.*

Reports also indicate an emphasis on the responsibility of the minority to integrate and a further emphasis on language. However, there continues to be a lack of integration policy and measures developed in a holistic and comprehensive fashion that have the potential to realise integration as a two-way process. An analysis of the 2007 national reports suggests a need for greater awareness of the EU Common Basic Principles (CBPs)[28].

4.3 Criminal justice

An assessment of responses by governments in the area of criminal justice reveals that progress in this area has been limited. There are a few positive initiatives responding to racist crime but little progress has been made by governments in responding to issues faced by ethnic and religious minority groups as a result of counter terrorism measures and racial profiling. Indeed, government responses in the area of counter terrorism and racial profiling arguably cause problems for ethnic and religious minorities.

Responses with regard to data collection have the potential to impact positively on all areas of criminal justice. Current issues regarding data collection limit the assessment of the extent of problems in this area, the impact of legislation and the effective identification of key problematic areas and appropriate responses. The existence and capacity of relevant data collection systems as well as the availability of data varies considerably. The accuracy of data also needs to be considered given the general problem of underreporting. Underreporting occurs for a number of reasons, including the vulnerability of the victims or a lack of faith in the system. There has not been a consistent or comprehensive approach to addressing this issue across Member States. The recording process is also problematic due to a lack of awareness of some police as to what is racism and an unwillingness sometimes to record a crime as racist. Similarly, it can be difficult to ascertain the extent of racial profiling as little official data exists.

Concerns with regard to criminal justice have been expressed by a number of international and European bodies including for example, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)[29]. However, national reports note that recommendations by such bodies are not always recognised or implemented by national governments. For example, the report from Belgium notes that a CPT report of 2006 made recommendations with regard to detention but these have not been taken into account by the relevant authorities. A Czech Minister is said to have responded that a CERD recommendation regarding the need for independent monitoring of police was unnecessary and counterproductive.

The sections below consider responses to the specific areas of criminal justice, namely racism as a crime, counter terrorism and racial profiling.

4.3.1 Racism as a crime

There are a range of laws designed to combat at least some aspects of racist crime in most EU Member States. However, it should be noted that there are very different approaches to recognising racism as a crime and the scope of national legislation varies greatly. In some Member States for example, legislation refers only to extremism, e.g. in Germany, while in the UK for example, police use the following definition of a racist incident: "A racist incident is any incident which is perceived to be racist by the victim or any other person"[30]. Regretfully, the effectiveness of most laws to address racist crime comes into question and the ineffectiveness of legislation is the common factor across EU Member States. Where a law might exist, the infrastructure and political will to enable and ensure effective implementation of the law does not necessarily exist. Unfortunately, legislation reform has in some cases meant that legislation is becoming less effective. For example, the report from Italy explains that a new law came into force that reduced penalties for incitement to racial hatred and violence, making them more lenient.

[28] See Council document on the 11 CBPs, available at http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0389en01.pdf.

[29] See for example, report to the authorities of the Kingdom of the Netherlands on the visits carried out to the Kingdom in Europe, Aruba, and the Netherlands Antilles by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in June 2007, available at www.unhcr.org/refworld/category,COI,,,ABW,47a86f912,0.html(accessed 1 October 2008).

[30] Crown Prosecution Service, Racist and Religious Monitoring, Annual Report 2006-2007, Management Information Branch, December 2007.

There is increasing recognition given to racism as an aggravated circumstance with a number of countries' legislation now allowing for aggravated sentencing, including for example in the Czech Republic, Finland and Latvia. However, while legislation may include aggravated sentencing, this is not always applied which can undermine the effectiveness of the measure. Despite the definition within the Czech Criminal code of racist motive as an aggravating circumstance, the report from the Czech Republic concludes that current legislation is not effective. ECRI noted in its report on Finland that aggravated sentencing was implemented in only a few cases annually. Indeed, the Ombudsman for Minorities in Finland has noted that the legislation concerning racist or discriminatory crimes is weak and that punishment is not strong enough.

The response from police to racism as a crime varies within and between countries. In some instances, there has been a positive response including the development of measures at an institutional level to develop organisational capacity to measure and combat racism as a crime through data collection, awareness raising and police training programmes. Police training programmes have been developed for example in Germany, Greece and Ireland amongst others.

In other instances, however, underreporting remains an issue and often police may not record or recognise the racist aspect of a crime. Indeed, reports make reference to situations where the police themselves or others in authority may be guilty of racism. The report from Italy for example highlights a case in April 2007, when the Court of Appeal of Venice issued a sentence on a case of incitement to racial hatred involving a prominent politician.

The vast majority of national shadow reports in 2006 noted that there was little or no debate at the national level with regard to the EU Framework Decision on Racism and Xenophobia[31]. It is regrettable that 2007 national reports reveal that this continues to be the case.

4.3.2 Counter terrorism
There is a degree of variance between Member States in terms of their perceived vulnerability and response to terrorism. Some Member States have developed

and implemented counter terrorism measures while other Member States may consider that they might be targets of terrorism and have not developed counter terrorism measures in recent years. The lack of access to data makes it difficult to impossible to measure or assess the extent of the impact on ethnic and religious minorities.

In Member States where counter terrorism measures exist and have been implemented, reports note that it is difficult to identify or document precise details as data collected under such measures may be classified. Reports also explain that the secrecy surrounding counter terrorism measures mean that it is difficult to say conclusively that measures have not been implemented. That said, there are some instances where the negative impact of counter terrorism measures on civil rights is clear and visible. Commenting on two trials held on the basis of anti-terrorist legislation, the report from Belgium concludes that both trials present evidence of political issues and underline the risks induced by the fight against terrorism in terms of its impact on civil rights. The report from Denmark notes that a number of arrests have been made but highlights that many were also released due to weak or circumstantial evidence.

In some countries where there are counter terrorism measures in place, reports note that these were not implemented in 2007 as terrorism did not arise as an issue in the national context. Where Member States have not developed specific counter terrorism measures, some national reports note that the environment has impacted on legislation and policies in other areas. There can be something of a grey area where there are no anti-terrorism measures in place, yet people are arrested on the basis of the police having information or suspicions that they had been involved in terrorist activities, as is reported in the report from Cyprus where this was the situation for two Muslim migrants.

A key area where the impact of the current counter terrorism environment can be seen is the area of migration (see also section above). Reports have noted that some of the increased restrictions in immigration policies have been legitimised through arguments that link this development to countering terrorism. Generally it is noted that this climate impacts on Muslims; for example the report from Austria explains that discrimination

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[31] *Framework Decision on combating racism and xenophobia, COM(2001) 664.*

against Muslims is set against a background of counter terrorism.

A clear link has been drawn between counter terrorism and racial profiling. This link is clearly demonstrated by the establishment of the "anti-terror data set" which came into practice in March in Germany. Critics point to a threat emerging out of the storage techniques and to the fact that in some precarious cases, the system enables all authorised sectors to release the data set to unauthorised individuals and groups. In Sweden, 2007 saw the preparation of a Bill which was later adopted in 2008, allowing for electronic surveillance of all phone calls and emails crossing the border without the need for any suspicion of criminal activity.

4.3.3 Racial profiling

Racial profiling is understood as "the use by police, with no objective and reasonable justification, of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities", as defined by ECRI[32].

The 2006 report highlighted racial profiling as an issue of concern, including but not exclusively in the context of the development and implementation of counter terrorism measures. It also referred to the challenges facing NGOs in accessing data or official acknowledgement of the practice. NGOs continue to face this difficulty, as highlighted elsewhere in the report. Due to the lack of data, it is difficult to assess in a definitive manner whether or not there has been a significant change in the extent of the use of racial profiling.

A clear link is drawn by national reports between counter terrorism measures and racial profiling, including racial profiling at borders and points of entry. However, it should be remembered that racial profiling is not a new phenomenon. While often employed in counter terrorism, it is a broader and general phenomenon that has been utilised to monitor and police ethnic and religious minorities in many contexts. For example, it is argued that racial profiling has been used against Roma in a

number of Member States and in the UK - where extensive data is collected - it is shown that ethnic and religious minorities are more likely to be affected by "stop and search" practices.

NGOs report some evidence of racial profiling of ethnic and religious minorities in a majority of Member States. However, due to a denial of the use of racial profiling at an official level in many contexts, it is difficult to corroborate their findings through official data. Indeed, data on racial profiling is rarely collected. The UK is one of the few countries that collects data in this area, e.g. in relation to "stop and search" and there is general recognition and concern that this data reveals a greater impact on ethnic and religious minorities. The report from the UK expresses concern that moves to reduce bureaucracy within the police could potentially lead to a reduction in the recording of "stop and search" practices and outcomes.

4.4 Social inclusion

The European Commission currently defines social inclusion as "a process which ensures that those at risk of poverty and social exclusion gain the opportunities and resources necessary to participate fully in economic, social, and cultural life and to enjoy a standard of living and well-being that is considered normal in the society in which they live. It ensures that they have a greater participation in decision making which affects their lives and access to their fundamental rights"[33].

The extent to which ethnic and religious minorities are taken into account in national social inclusion strategies differs across the European Union, particularly in relation to the inclusion of migrants. As noted in the 2006 report, a comprehensive policy and approach towards the social inclusion of ethnic minorities is lacking in many Member States. The report also noted that there is increased recognition of the need to adopt a targeted approach and there is evidence in the 2007 national reports to show that ethnic minorities are increasingly being considered in national social inclusion strategies. However, there remains a

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[32] *ECRI General Policy Recommendation No. 11 on Combating Racism and Racial Discrimination in Policing, adopted on 29 June 2007.*

[33] *Joint report by the Commission and the Council on Social Inclusion (2003). Available to download from: http://ec.europa.eu/employment_social/soc-prot/soc-incl/final_joint_inclusion_report_2003_en.pdf.*

need to ensure that these policies are delivered, that there continues to be a focus on the social inclusion of ethnic minorities and adequate funding to ensure that this becomes a reality. Unfortunately as there are gaps in policies and implementation, the impact of social inclusion measures are unlikely to reach their full potential. Furthermore, in a small number of countries it is noted that the focus on social inclusion which was present just prior to joining the EU has slipped. The report from Bulgaria notes in particular that there is a sense that policies were developed prior to accession but since accession, little progress has been made.

One of the problems with existing social inclusion measures is that they may make reference to ethnic minorities but exclude certain groups including migrants. For example, reports from Bulgaria, Cyprus and Greece point to a lack of inclusion or inconsistencies with regard to the inclusion of migrants in social inclusion measures. On the other hand, there may be a focus on recent migrants but with little cognisance of intergenerational issues. Furthermore, many policies exclude asylum seekers. We also see a lack of communication and consistency between ministries where for example migrants may be included in one plan but excluded in another plan.

Bulgaria, Cyprus and Slovakia are amongst the countries that have developed targeted initiatives towards the social inclusion of Roma. Early 2007 also saw potentially promising policies being developed in Italy with regard to the inclusion of Roma. However, these policies did not come to fruition due to the change of government in June 2007. On the contrary, international concern has been widely expressed at negative measures targeted at Roma and Romanians in particular in late 2007.

Where minorities and/or migrants are included, in places there may be a particular emphasis on e.g. employment or on cultural activities but a holistic approach in social inclusion measures may be lacking. The report from Cyprus points out that while there has been some progress in the area of civic and cultural participation, political participation and representation is low, with only one public representative coming from an ethnic minority background. The report from Lithuania points out

that most measures are aimed at encouraging preservation of cultural identity of Roma but do not focus on tackling the poverty they experience.

Where policies may be in place and Member States may aspire to addressing social exclusion, this aspiration is often not matched with appropriate funding schemes. The report from Sweden notes that there is a specific social inclusion fund provided by Government and that this can also be accessed by NGOs. On the other hand, a number of other reports noted that there is insufficient funding in place and that this is a barrier to implementation or any real change. For example, the report from the Czech Republic notes that the Ministry of Labour received no budget in 2007 for targeted programmes and the report from Estonia also points out that no separate funding was available for programmes targeting ethnic minorities. As noted elsewhere in the report, this is an area where NGOs struggle for funding. EU funding measures have provided an important source of funding for the inclusion of ethnic minorities in social inclusion measures and reports highlight in particular the European Social Fund, the European Refugee Fund and European Integration Fund.

An area that requires specific focus is that of political participation. The lack of political participation or right to political participation of ethnic minorities undermines democracy and excludes ethnic minorities. Political participation can be limited by issues related to long-term residency, nationality and access to citizenship. The 2006 report noted concern in Latvia that migrants did not have the right to vote. This situation continued in 2007, although debate had been initiated on the subject. Debate on the question of access to the right to vote was also seen in 2007 in Spain and Greece. Where progress on this issue was noted to some extent was in Bulgaria where migrants achieved the right to vote in local elections in 2007. In the Czech Republic also, for the first time migrants were allowed to vote in the local elections. The report, however, points to the relatively low turnout providing evidence again of the need to develop initiatives to ensure that migrants are informed about their rights.

Child poverty is a key theme that has emerged in policies on social exclusion at a European level.

Member States are required to undertake efforts to reduce child poverty by "addressing the issue on all fronts and striking an appropriate balance between targeting the family and targeting the child in its own right"[34]. Reports from Member States consistently underline that children from ethnic minorities are found to be at a higher risk of experiencing poverty than children in general. The statistics provided in national reports are striking. In Finland, up to 60% of children whose mother tongue is neither Finnish nor Swedish belong to the lowest income group. This compares with 18% for their native Finnish counterparts. In Sweden, children from ethnic minorities are four times more likely to experience poverty than their Swedish counterparts.

A number of reports point to a further disadvantaged group, i.e. children of people parenting alone. For example, in Sweden and in Finland, half the children of ethnic minorities parenting alone experience poverty, and the impact of emigration on children and families is highlighted in the report from Romania where it is noted that children whose parents have had to emigrate for work are at a higher risk of institutionalisation. In the Czech Republic, it was revealed that 50% of former wards of the state commit crimes after leaving the institutions; this is of concern for ethnic minorities given that it is considered that Roma children in the Czech Republic are systematically removed from the care of the parents and placed into institutional care, on the ground that their parents are poor.

Regrettably it is noted in a number of reports that while there may be social inclusion policies in place, other government policies actually contribute in practice to the social exclusion of ethnic minorities. This is often highlighted in relation to migrants where immigration policy does not afford migrants the same benefits or access to services as other residents.

Children are not protected from the negative impact of targeted policies. In Ireland it is noted that people must be resident in Ireland for two years before they can access certain benefits including child benefit, i.e. they must be "habitually resident". This excludes asylum seekers although they may be in the country for more than two years. The report from Spain reveals that a similar condition exists, noting that recent social legislation that has established some social benefits to parents of new born babies can only be accessed by migrants who have been legally resident for more than three years. Furthermore, children of asylum seekers or children seeking asylum often live in inappropriate accommodation, e.g. in camps in Denmark.

An examination of child poverty reminds us that certain groups of children may be discriminated against or at risk of poverty but may get lost in policy formation. A number of policies are developing with regard to migrant children (see section on integration). The focus may be on first generation or on second generation but ignoring integration or social inclusion for recent migrant children. The report from Finland points to the experiences of another group, i.e. children in intercultural families. Where a focus of integration may be on language, other experiences of exclusion may not be acknowledged.

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[34] See http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri= COM:2008:0042:FIN:EN:PDF , accessed 1 October 2008.

5. Summary of recommendations from national shadow reports

In the 2007 national shadow reports, ENAR members made targeted recommendations for policy and actions at the national level on the four policy areas covered in section four on "political and legal context" as well as a number of general recommendations. This section provides a brief synopsis of the focus of the recommendations made which highlight trends in the NGO identification of areas of concern across Europe. While some progress has been noted between 2006 and 2007, a number of the recommendations made in the 2006 report remain relevant and are included below.

5.1 General

National shadow reports recommend that policy and actions be taken to ensure:
- A comprehensive and holistic approach is adopted to address racism that is underpinned by human rights and anti-discrimination and enables the development of public education, policy and legislative measures.
- Equality between EU citizens, in the context of intra-EU migration.
- Anti-discrimination principles are mainstreamed into all policy areas.
- Recognition of the role of the whole of society in addressing racism.
- Recognition of the specific roles and responsibilities of certain stakeholder groups including politicians and the media.
- Ensure that the role of equality bodies is recognised and enabled through strengthening their powers where these have been limited; ensuring their independence and allocating sufficient resources for them to carry out their work.
- Recognition and support for the important role that NGOs play in this area.
- The development of adequate systems to collect and disseminate relevant data including on population demographics, experiences of racism, complaints. Disaggregated data is necessary to take account of minorities within minorities and multiple discrimination.
- Existing legislation and policies are implemented, e.g. in the area of anti-discrimination, racist crime and social inclusion. The effectiveness of legislation and policies should also be monitored.
- The ratification of relevant UN and Council of Europe Conventions.

5.2 Anti-discrimination

- Ensure that EU Directives are fully transposed at the national level and that weaknesses in the national legislation - as highlighted by the European Commission in 2007 - are addressed.
- The effectiveness and efficiency of the legislation is improved.
- Equality bodies are given adequate, independent resources to carry out their work.
- Independent and financial support are provided to those experiencing discrimination to utilise the legislation.
- Complementary information and awareness raising campaigns are carried out to inform communities vulnerable to racism of their rights.
- NGOs are resourced to support victims of racism to bring forward legal cases.
- Legal infrastructure is developed to deal more effectively with cases of multiple discrimination.

5.3 Migration and integration

The overarching recommendation with regard to migration and integration is that related policy and actions be underpinned by human rights and anti-discrimination and that migration policy be developed to enhance rather than reduce the opportunities for integration. Other recommendations include:
- Member States should ratify the International Convention on the Rights of Migrant Workers and their Families. No Member States have ratified the Convention.
- Evidence from reports suggests that there is a need for greater awareness raising on and consideration of the EU Common Basic Principles on integration, particularly with regard to the development of integration policy.
- Monitor the situation with regard to intra-EU migration to ensure equality between EU citizens.
- The roles and powers of responsible authorities should be clearly defined.
- The use of detention in the context of asylum and irregular migration should be avoided.
- Conditions in reception and detention centres should be of an appropriate standard, in line at least with international standards, and monitored.
- Long term policies should be developed to allow migration to take place legally. In the interim, other

measures such as regularisation are necessary to protect undocumented migrants.

- Improve the right to family reunification. Also, the definition of the family should be more inclusive; in particular it should not discriminate on the basis of sexual orientation.
- All migrants need to be given consideration in the development of integration policy and actions. Furthermore, integration measures should also be made accessible to established minorities.
- Integration policy development should be cognisant of CBPs and should not be divorced from social inclusion measures.
- The rights of the child must be paramount in the development of migration and integration policy and actions.

5.4 Criminal justice

Recommendations that apply to the area of criminal justice overall include:

- Independent, effective monitoring and complaints procedures need to be put in place, with regard to the work of relevant authorities including the police.
- Training in anti-discrimination and relevant legislation should be provided to all relevant authorities including the police and the judiciary.
- A holistic approach to ensuring the effective and transparent collection of relevant data should be adopted.
- Efforts should be made to support collaboration between NGOs and authorities.

A number of recommendations were made in relation to racism as a crime, counter terrorism and racial profiling as outlined below.

5.4.1 Racism as a crime
- Where comprehensive legislation is not in place to address racism as a crime, it should be developed.
- All efforts should be taken to ensure greater effectiveness of legislation on racist crime, including effective and comprehensive collection of data.
- Aggravated sentencing on the basis of racist motive, which is the practice in some Member States, should be introduced.
- Encourage debate on the EU Framework Decision on combating racism and xenophobia.
- Special attention should be paid to efforts to counter racism on the internet.

5.4.2 Counter terrorism
- While it is recognised that terrorism is a threat to human rights, recommendations point to the need to ensure that counter terrorism measures are developed and carried out in a way that protects fundamental rights. Specifically:
- Counter terrorism measures should be reviewed to ensure that they comply with international law.
- Discourse, policies and actions that link terrorism with ethnic and religious minorities need to be challenged.
- Actions to counter terrorism need to be monitored and proofed to ensure they are not targeting ethnic and religious minority groups or members of these groups in a discriminatory and unjustified manner.

5.4.3 Racial profiling
- Procedural safeguards need to be put in place to ensure that the fundamental rights of ethnic and religious minorities are protected and that relevant authorities do not discriminate against them through the use of racial profiling, without justification.
- As outlined above, it is imperative that relevant authorities including police and immigration officers receive adequate training to ensure that they do not use racial profiling as a discriminatory measure, without justification.
- The use of racial profiling needs to be monitored closely.

5.5 Social inclusion

- Social inclusion measures need to be inclusive of all ethnic and religious minorities. They should apply to all ethnic minority and religious groups, including those from a migrant background.
- Broad awareness programmes are necessary to address the role that majority society plays in overcoming social exclusion.
- Political participation and the right to vote should be supported and encouraged to enhance social inclusion.
- A comprehensive approach needs to be adopted to ensure that social inclusion measures also address discrimination. Discrimination in areas such as employment, education and housing has resulted in the social exclusion of ethnic and religious minorities.
- Collaboration between NGOs and governments should be encouraged and facilitated.

6. Conclusion

By presenting a comparative analysis of 25 national shadow reports produced by ENAR members, this report demonstrates that racism is a pervasive, persistent phenomenon which continues to manifest itself throughout the EU, impacting negatively on all aspects of the lives of ethnic and religious minorities. It should be noted, however, that there has been some progress.

It is acknowledged that the EU has played an important and sometimes catalytic role in the development of positive policies and legislation, as is evident in relation to anti-discrimination. However, the effectiveness of positive policy and legal developments where they exist needs to be significantly enhanced through careful monitoring and sanctions at the level of the individual and institution. Furthermore, new manifestations of racism continue to emerge. These need to be monitored to ensure that existing measures have the capacity to address them; where they do not have the capacity, new initiatives and responses need to be developed. There is a continued need for open and collaborative approaches to the development of data collection and dissemination.

While problems continue, we are beginning to see some progress in for example the area of education where a number of reports indicate some improvement in educational attainment of ethnic minorities. In some Member States, improvements have been noted with regard to the media where there has been greater recognition of the need to employ a diverse staff and initiatives are being developed in that regard.

A key concern is the fact that reports demonstrate that extremism is no longer unusual; it has seen a rise in recent years and there is no indication from 2007 that this trend has subsided or that there has been significant progress in redressing the growth. This situation is exacerbated by evidence of increased intolerance of ethnic minorities and also increased tolerance of mistreatment and harassment of ethnic and religious minorities.

Increasingly, reports demonstrate evidence of manifestations of racism and xenophobia against EU citizens in the context of intra-EU migration. EU12 nationals are at risk and nationals of Bulgaria and Romania have been particularly targeted. The experiences of Roma from Romania in EU15 countries demonstrate their particular vulnerability in this context. Responses are somewhat unclear, given the different rights afforded to citizens of EU12 countries in different Member States. This is an emerging concern and a situation that requires careful monitoring and both rapid and considered responses.

This report concludes by acknowledging the significance of the civil society response and contribution to addressing racism and promoting equality for ethnic and religious minorities within Europe. NGOs can play a very particular and expert role in this regard and need to be supported to ensure that their work can reach its full potential and have greatest impact.

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Annex: List of abbreviations and terminology

Abbreviations

CERD	UN Committee on the Elimination of All Forms of Racial Discrimination
CBPs	Common Basic Principles on Integration
CPT	UN Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECHR	European Court of Human Rights
ECJ	European Court of Justice
ECRI	European Commission against Racism and Intolerance
ENAR	European Network Against Racism
EP	European Parliament
EU	European Union
EUMC	European Monitoring Centre on Racism and Xenophobia (now the EU Fundamental Rights Agency)
FCNM	Framework Convention on National Minorities
HBC	Habitual Residence Condition (Ireland)
NAP	National Action Plan (on social inclusion)
NGO	Non-governmental organisation
TCHRF	Turkish Cypriot Human Rights Foundation
NPAR	National Action Plan Against Racism
TCN	Third Country Nationals
UK	United Kingdom
UN	United Nations

Terminology

"Ethnic and religious minority groups/minorities": The term "ethnic and religious minorities" is used throughout the report. However, in some instances it has been necessary to use other terms such as "foreigner" or "foreign citizen" where this is deemed necessary in the particular national context or when referring to specific legal instruments. There is no universally accepted and binding definition of a minority in international law, however one definition has been proposed by Jules Deschênes within the framework of Article 27 of the United Nations International Covenant on Civil and Political Rights: "A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law"[35].

EU12 Member States: Countries concerned include Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia.
EU15 Member States: Countries concerned include Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

"Migrant": Where used in this report, the term "migrant" may include long-term and short-term migrant workers, students, asylum seekers and refugees, stateless persons, spousal and family dependants, women migrants and children, and undocumented migrants.

"Racial profiling": The definition of racial profiling used in this report is "the use by police, with no objective and reasonable justification of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities" as defined by ECRI in its General Recommendation No. 11 on Combating Racism and Racial Discrimination in Policing.

"Third Country Nationals (TCNs)": A person who is not a national of an EU Member State.

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[35] *Proposal concerning a definition of the term "minority", UN document E/CN.4/Sub.2/1985/31 (1985).*

racism in europe
enar shadow report 2007

Racism is a phenomenon that is contrary to the values of the European Union, threatens social cohesion and is a significant barrier to the realisation of fundamental rights. The findings from the 2007 shadow report demonstrate the significance of the issue of racism in the European context and highlight the need to retain a focus on racism and a collaborative European approach to addressing the issue.

ENAR's Shadow Report on Racism in Europe presents a snapshot with regard to the state of racism in Europe in 2007 from the perspective of civil society and anti-racist NGOs. The report draws on 25 national shadow reports prepared by ENAR members across the European Union.

The report identifies communities that are vulnerable to racism and presents an overview of the manifestations of racism evident in 2007 in employment, housing, education, health, policing, racist violence, access to goods and services, and the media. It also provides an NGO assessment of the legal and political context with regard to anti-discrimination, migration and integration, criminal justice and social inclusion, and responses by governments.

The report demonstrates that racism is a pervasive, persistent phenomenon which continues to manifest itself throughout the EU, impacting negatively on all aspects of the lives of ethnic and religious minorities, despite some progress, e.g. in the area of education and the media. It also acknowledges the significance of the civil society response and contribution to addressing racism and promoting equality for ethnic and religious minorities within Europe.

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

The European Network Against Racism (ENAR) is a network of European NGOs working to combat racism in all EU member states and represents more than 600 NGOs across the European Union. ENAR aims to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local, regional and national initiatives with European initiatives.