

European Union Agency for Fundamental Rights

ANNUAL REPORT



2008

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Foreword

This Annual Report 2008 is the first Annual Report to be produced under the legal basis and mandate of the European Union Agency for Fundamental Rights (FRA), and the first to be published under the directorship of Morten Kjærsum, who joined the FRA as Director on 1 June 2008.

The EU Agency for Fundamental Rights was built on the former European Monitoring Centre on Racism and Xenophobia (EUMC). It continues the work of the EUMC in the area of racism, xenophobia and related intolerances, but in the context of the much broader mandate of the FRA. The new thematic areas of operation of the FRA have been set out in the Agency's Multi-annual Framework (MAF), adopted by the Justice and Home Affairs Council of the European Union on 28 February 2008. The Council's Decision means that the Agency will now work in the following areas:

- a) racism, xenophobia and related intolerance;
- b) discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination);
- c) compensation of victims;
- d) the rights of the child, including the protection of children;
- e) asylum, immigration and integration of migrants;
- f) visa and border control;
- g) participation of the EU citizens in the Union's democratic functioning;
- h) information society and, in particular, respect for private life and protection of personal data; and
- i) access to efficient and independent justice.

Therefore, this is the last Annual Report which will focus only on the thematic area of racism, xenophobia and related intolerance, drawing on information provided by the reporting structures set up by the EUMC. Next years' Annual Report will have a much broader scope, drawing on new reporting structures and covering the range of fundamental rights issues which fall into the various areas of activity of the FRA.

At the same time the FRA will continue the work of the EUMC in providing support to the European Union and its Member States in their efforts to fight racism, xenophobia and discrimination.

This years' Annual Report first examines legal developments and institutional initiatives against racism and discrimination in Europe, focussing on the application in practice of the Racial Equality Directive. Next it covers developments in the area of racist violence and crime in the EU Member States, and

this is followed by a focus on racism and discrimination issues in four areas of social life: employment, housing, education and health care. The final thematic chapter covers developments at an EU level relevant to combating racism, xenophobia and discrimination in the Member States of the EU.

We would like to thank the Management Board of the FRA for their support in the production of this Annual Report, and the staff of the FRA and the Acting Director for the past year, Constantinos Manolopoulos, for their commitment and their hard work over a difficult year of transition.

Anastasia Crickley
Chairperson of the
Management Board

Morten Kjærum
Director of the FRA

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Executive Summary

Legal and institutional initiatives against racism and discrimination

The full implementation of the Racial Equality Directive in the Member States has still not been completed. In June 2007, the European Commission announced that it had sent formal requests to 14 Member States to fully implement the directive.¹ The countries concerned had two months to respond, failing which the Commission could take them to the European Court of Justice.

The Racial Equality Directive makes effective, dissuasive and proportionate sanctions as a response to ethnic or racial discrimination mandatory. Sanctions and/or awards related to cases of ethnic or racial discrimination could be detected during 2006-2007 in 15 Member States. The United Kingdom has the most effectively applied legislation fighting ethnic discrimination in the EU. Available statistics demonstrate that the United Kingdom leads both regarding the annual amount of sanctions and the range of sanctions issued in racial or ethnic discrimination cases. The United Kingdom has issued more sanctions in the relevant time period than all other Member States together. Other EU Member States which have more effectively applied their legislation fighting ethnic discrimination in the EU are: Bulgaria, France, Ireland, Italy, Hungary, Romania, Finland and Sweden. In these countries, sanctions are more frequent and/or dissuasive than in the rest of the EU, even though they remain relatively scarce compared to the United Kingdom.

No sanctions and/or awards related to cases of ethnic or racial discrimination could be detected during 2006-2007 in 12 Member States (Czech Republic, Denmark, Germany, Estonia, Greece, Spain, Cyprus, Lithuania, Luxembourg, Poland, Portugal, Slovenia). The absence of sanctions coincides in most cases with the absence of an effective equality body. Another reason for the absence of sanctions lies in the particular role of the equality bodies. Sanctions are absent or rare in countries in which the equality bodies do not support victims of discrimination in proceedings which lead to sanctions, or do not have the power to issue sanctions themselves, or do not use this power for some reason.

It is true that a low level of sanctions being applied does not necessarily reflect the fact that problems are not being addressed. For example, where there is more of a consensus tradition in industrial relations, cases might be more likely to be resolved before getting to the stage of a court case. However, one drawback with this approach is that the threat of sanctions is diminished, and these are normally seen as crucial to improve the bargaining position of victims of discrimination. There is also a loss of the educative function of awareness-raising in the general public and amongst employers that stems from the threat and application of credible and dissuasive sanctions.

¹ Press release IP/07/928 of 27 June 2007, http://ec.europa.eu/employment_social/fundamental_rights/pdf/news/ip07_928_en.pdf (12.11.2007).

In some countries, the relative scarcity of sanctions has structural reasons. This is often related to the limited role of the equality body in assisting and supporting victims in procedures which lead to sanctions. Another structural reason for the relative scarcity of sanctions is the role of criminal law in the fight against ethnic discrimination. Symbolically, criminal law is the most important instrument any state can use in the fight against ethnic discrimination. However, in practice, criminal law leads to less sanctions being applied: the shift of the burden of proof foreseen by the Racial Equality Directive does not apply, criminal responsibility in cases of discrimination mostly is dependent on discriminatory intention and the victim of discrimination has limited control over the criminal procedure, which usually lies in the hands of the prosecution services. Thus, states which rely mainly or exclusively on criminal law, in general, are characterised by no or few sanctions, even though these sanctions may be dissuasive.

In the following countries, the available evidence suggests that some equality bodies in the area of ethnic or racial discrimination do not have the desired effectiveness: Estonia, Poland, Portugal and Slovenia. In the Czech Republic, Spain and Luxembourg no operative equality body in the area of ethnic or racial discrimination could be detected.

Racist violence and crime

This year's report paints a similar picture to previous years of an overall increasing trend in criminal justice recorded racist crime; namely:

- Of 11 Member States that collect sufficient data on racist crime to conduct a trend analysis,² the majority experienced a general upward trend in recorded racist crime in the period 2000-2006 (Denmark, Germany, France, Ireland, Austria [very slight], Slovakia, Finland, UK), and also between 2005 and 2006 (Germany, Ireland, Austria, Slovakia, Finland, Sweden, UK).
- Of four Member States that collect sufficient data on anti-Semitic crime to conduct a trend analysis (France, Germany, Sweden and UK), three experienced a general upward trend (France, Sweden and the UK) between 2001 and 2006.
- Of four Member States (Austria, France, Germany and Sweden) that collect sufficient data on crime with an extremist right-wing motive to conduct a trend analysis, two experienced a general upward trend (France and Germany) between 2000 and 2006.

By acknowledging and effectively addressing the problem of racist crime, EU Member States can demonstrate their condemnation of these acts and their solidarity with victims. However, it remains the case that there has been very little improvement in Member States' mechanisms for recording racist crime; namely:

- In 16 of the EU's 27 Member States there is simply a rather limited reporting on a few court cases, or there are general figures on discrimination that may contain

² Czech Republic, Denmark, Germany, France, Ireland, Austria, Poland, Slovakia, Finland, Sweden, UK.

incidents of racist crime within them, or there is a total absence of any publicly available official criminal justice data on racist crime. These Member States are: Belgium, Bulgaria, Estonia, Greece, Spain, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Portugal, Romania and Slovenia.

- The UK has the most comprehensive system for recording racist crime in the EU. It records more publicly reported incidents and criminal offences than the other 26 Member States combined in any 12-month period.

As a result of the continued lack of good data collection on racist crime in the majority of Member States, this year's report concludes that:

- Member States with either limited official reporting or no official reporting on racist crime are not in the best position to develop evidence-based policy responses to the problem.

Against this backdrop there are some encouraging developments with respect to Member States beginning to acknowledge the significance of racist crime as a social ill. To this end, the political agreement under the German EU-presidency concerning the Council Framework Decision on Combating Racism and Xenophobia is a positive development, which in turn needs to be complemented by improvements in data collection for evidence-based policy.

As in previous years, there is the continuing problem of reports of law enforcement abuses and violence against vulnerable minorities. The report highlights the fact that the majority of Member States have no specific independent police complaints authority for registering and responding to these abuses, other than offices that are directly connected to ministries or normal channels for registering complaints through the police or ombudsman offices. To this end there is considerable scope for developing police complaints mechanisms.

In a context of increasing trends in recorded crime, the report is able to highlight a number of new initiatives in some Member States with respect to multi-agency partnerships, involving the police and communities, which attempt to address the problem. Notable among these are initiatives that focus on racist crime within the broader scope of 'hate crime'.

Racism and discrimination in areas of social life and initiatives on how to prevent it

Employment

As with previous years, the data and information provided in 2007 demonstrated the operation of direct and indirect racial/ethnic discrimination in various arenas of employment, and indicated the various manifestations that it

can take, such as discrimination in recruitment and redundancy practices, insults and physical harassment at the workplace, or incitement to discrimination by third parties. Whilst most discrimination operates invisibly and is only brought to light by investigation or research, in a few Member States some remains surprisingly open, such as discriminatory job advertisements stating, for example, that foreigners need not apply.

There were more developments in the issue of religious clothing or symbols at work, which were generally restrictive, including bans of the wearing of such items by civil servants in several cities in Belgium, and the refusal of the national police force in Ireland to allow Sikhs to wear turbans as part of the police uniform. However, there remains a wide variety in practice in this issue across Member States.

Previous FRA/EUMC reports had noted that an increasing number of research studies were being published which focused on the subjective experiences of discrimination of members of groups within minority populations. This year, in addition, there were several instances of research on groups within the *majority* population – such as employers – which focused on their attitudes and potential practices of discrimination against minorities.

Preventive initiatives covering a broad range of types were reported. There were programmes for training and counselling of excluded minorities to help them in the labour market, programmes for the majority population to combat discrimination or to raise cultural awareness, some examples of mentoring and of positive action in recruitment, and some more experiments with contract compliance and anonymous job applications. Finally there was again evidence that relatively ambitious diversity management policies were taking root, or being encouraged, in more Member States.

Housing

Most Member States still do not collect disaggregated data according to ethnicity in the area of housing. However, discrimination testing, which has been conducted in several EU countries, is a method which can provide data on discrimination in housing.

The disadvantageous position of immigrants and ethnic minorities regarding access to good quality, affordable housing accentuates their social exclusion. Public low-rent housing is one way to reverse this situation. However, the criteria used, at national, regional and local level, for the allocation of public housing can still contain provisions which discriminate against immigrants and ethnic minorities.

Roma, Sinti and Travellers are among the most vulnerable groups regarding housing conditions. Despite the measures taken to improve these

conditions, overt discrimination, substandard housing and forced evictions are the salient characteristics of their situation across the EU. In addition, refusal or avoidance by state and other authorities to provide facilities to Roma settlements, a less direct form of discrimination, have been reported in several Member States.

Finally, some good practices are highlighted. In particular, policies to increase the stock of affordable housing for immigrants, Roma and other vulnerable groups through public funding constitute especially positive initiatives. Although anti-discrimination legislation is in place across the EU, a consistent effort to raise awareness of this legislation among tenants and market agents is needed. Such awareness-raising efforts are reflected in the examples of codes of conduct and information campaigns that are mentioned at the end of the housing section.

Education

Previous FRA/EUMC reports have pointed to the fact that the availability of reliable information is an indispensable prerequisite for improving the situation of vulnerable and disadvantaged groups in education. This has recently been reconfirmed by the PISA 2006 education performance study. According to PISA 2006, there is a significant positive association between schools who monitor and evaluate achievement and make achievement data public, and students having better test performance. However, there are in most Member States insufficient or no monitoring and evaluation systems in place. It will be a major challenge for the future to overcome this obstacle that restrains the effective countering of inequality and discrimination.

Vulnerable groups face many difficulties in accessing quality education. The main reasons are discriminatory enrolment procedures and access testing, unavailability or inaccessibility of pre-school facilities, long distances to schools, and fear of disclosing the non-legal status of residence. Particularly affected by practical barriers to education are children of Roma, Sinti and Travellers as well as children of asylum seekers and irregular migrants.

Available data points to the fact that across the European Union minority groups and third-country nationals are overrepresented in primary and secondary education special schooling, while they are underrepresented in higher education. In addition, minority groups and foreign nationals are in general more likely to repeat classes and to drop-out from school early. Differences between migrants and minorities, on the one hand, and the majority population, on the other hand, are particularly striking in those countries where there is an early tracking school system in place. An explanation for this is provided in the PISA 2006 performance study. According to PISA 2006, early stratifying of students into separate institutions or programmes has a particular negative impact on the performance of socioeconomically or linguistically disadvantaged students. Such education systems contribute to widening the education gap between more privileged and less privileged population groups.

In 2007, the implementation of a number of programmes for improving the education of Roma children has continued. At the same time, however, discriminatory policies and practices against Roma remained at a very high level in the EU. Roma, Sinti and Travellers are still confronted with unfit education systems that cause segregation and unequal opportunities. However, in November 2007 the European Court of Human Rights delivered an important judgement condemning the Czech Republic for discrimination in its educational segregation of Roma children.

Despite laws granting the right to education, in practice, asylum seekers and irregular migrants are in many Member States at risk of being excluded from education. Yet most Member States lack initiatives to monitor and evaluate the situation of children of asylum seekers with regard to access to adequate education.

Health

Few Member States have relevant official or unofficial complaints data regarding racial/ethnic discrimination in the area of health, and even in those, very few complaints have been recorded. The main issue is indirect rather than direct discrimination, as medical staff applying professional codes and duties are less likely to discriminate or openly deny health care, whereas administrations are more likely to insist on strict adherence to formal complicated procedures that could hinder access to health care.

Problems of access to health services affect particularly illegally-resident third-country nationals, rejected asylum seekers, and members of Roma communities. Roma risk being excluded from public health insurance if they are long term unemployed, like in Bulgaria and Romania, or, if they lack the necessary identity papers, as in Romania and Slovenia. In many cases Roma also have problems accessing health care when they live in isolated rural areas, as is the case in Greece, Spain and Hungary or in encampments on the outskirts of cities with limited or non-existent public transport facilities, as in Greece, Spain, Italy and Hungary.

Illegally-resident immigrants and rejected asylum seekers often have access to emergency health care only, defined differently across the EU. They are also often unwilling to seek medical assistance if they fear that they might be reported to the police and consequently deported.

However, legally-resident immigrants could also be discouraged by cultural barriers, such as language or religion, from using health services. For example, Muslim women may not wish to allow physical examination by male medical staff; hospital food may not cater to the Muslim religious requirements, and so on.

A number of major transnational reports have provided additional information regarding the situation of immigrants, asylum seekers and minorities in EU health care systems, for example: identifying legal and practical barriers

encountered by irregular immigrants trying to access health care; showing how migration can result in vulnerability to physical, mental and social health problems; documenting discrimination against Roma in health care and noting lack of rights awareness, or cases of refusal of treatment for irregular migrants. Other reports highlighted a lack of awareness of anti-discrimination legislation among health professionals, administrative staff, and patients, and noted the paucity of systematically collected data in this field.

Positive initiatives to improve the situation regarding inequalities in health care for migrants and minorities by both government and civil society are noted, with some important policies implemented by Member States throughout the EU.

1. Introduction

This Annual Report of the European Union Agency for Fundamental Rights (FRA) covers information, events and developments in issues of racism and xenophobia in the EU for the year 2007. The Council Regulation establishing the Fundamental Rights Agency as successor to the European Monitoring Centre on Racism and Xenophobia (EUMC) came into effect on 1 March 2007. Therefore, this Annual Report is the first to be produced on the basis of the FRA legal base and mandate.³ The report covers similar areas as earlier EUMC Annual Reports, but with a slightly different structure, and with one new thematic area, health care.

The report begins with an overview of legal and institutional initiatives against racism and discrimination. The next chapter covers racist violence and crime, and this is followed by four chapters covering different areas of social life – employment, housing, education, and health care. The final thematic chapter looks at developments in policy and legislation relevant to combating racism and xenophobia at the level of the European Union rather than at Member State level.

During the reporting period, no Multi-annual Framework⁴ for the Agency was adopted by the Council of the European Union. Therefore, according to Article 29/5 of Council Regulation 168/2007 of 15 February 2007, the Agency continued to carry out its tasks in the thematic areas of the fight against racism, xenophobia and related intolerance, until the adoption of the first Multi-annual Framework of the FRA in February 2008.

The main EU legislation addressing discrimination on the grounds of racism and xenophobia is the Racial Equality Directive. Thus, the application in practice of the Racial Equality Directive on the ground forms one of the main themes for the whole Annual Report, with various chapters providing details of its impact, information on how and why it is used or not used, as well as new examples and cases of problems of discrimination in various areas of social life which serve to demonstrate the continuing need for the directive.

Beyond the areas specified by the Multi-annual Framework, according to Article 5.3 of the Regulation, the Agency is also required to respond to: ‘requests from the European Parliament, the Council or the Commission under Article 4(1)(c) and (d) outside these thematic areas, provided its financial and human resources so permit.’ In reference to this article the European Parliament asked the Agency in June 2007 to develop a comprehensive report on homophobia and discrimination based on sexual orientation in the Member States of the European Union. Furthermore, the European Commission asked the Agency in July 2007 to develop indicators for measuring how the rights of the child are implemented, protected, respected and promoted in the Member States of the EU, and to map the available data resources at national and EU level. Both of these projects began at the end of 2007 and will be reported on in future FRA reports.

³ The 2007 FRA report, although published towards the end of 2007 under the logo of the FRA, was in fact was not an FRA Annual Report but was produced on the basis of the EUMC legal base and mandate.

⁴ The Multi-annual Framework specifies the work areas of the FRA for the next five years.

The inclusion of health care

This is the first time that the subject of health care has been included in an Annual Report. Following information provided by the Agency's RAXEN National Focal Points, as well as from reports by international organisations, and from scientific research on discrimination on the grounds of race, ethnicity and religion in accessing and using health care facilities in the Member States, the Agency decided in 2007 to include this important area of social life in its data collection and reporting structures. Since this is the first time that this area has been examined, data and information from previous years has been included to allow a better context for understanding the information.

Article 152 (4) of the treaty establishing the European Communities declares that a high level of health protection shall be ensured in the definition and implementation of all Community policies and activities. The European Union has shared competence in the area of health. This means that while the EU can establish common objectives, Member States are free to achieve these objectives through policies of their own choice. In this respect a key value and goal of the EU is the reduction of health inequalities and, consequently, Member States are expected to introduce the necessary policies and measures to achieve this, on the basis of the principle of subsidiarity. In June 2006, the Ministers of Health of the EU Member States adopted common values and principles to guide EU health systems, emphasising that the reduction of health inequalities must be one of the aims of health systems.⁵

Consistent with the above, the FRA does not take a broad approach in covering the range of issues which relate to health, ethnicity and migration, but concentrates primarily on the problem of discrimination and exclusion, as part of its general mandate to focus on issues of racial and ethnic discrimination in EU Member States. In line with this, the new health care section in this Annual Report concerns itself mainly with issues such as barriers in access to health care for migrants and minorities, or discrimination in aspects of treatment. It also looks at examples of positive initiatives which aim to combat discrimination in access to and delivery of health care, including policies targeted at health care providers to actively promote cultural sensitivity in health service delivery.

Clarification of terms

There is no official common definition for migrants or ethnic/national minorities in the European Union. Therefore, the term 'migrants and minorities' is used throughout this report as a short-hand term to refer to those social groups in the EU who are potentially vulnerable to experiences of racism, xenophobia, and racial/ethnic discrimination. In this context the term most commonly covers first-generation immigrants and refugees, as well as people of immigrant origin in subsequent generations, even if they hold the citizenship of their country of residence (also covered in some countries by the term 'ethnic minorities'), and groups such as Roma, Sinti and Travellers.

⁵ Council of the European Union (2006) *Conclusions on Common values and principles in European Union Health Systems* (2006/C 146/01), available at http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/c_146/c_14620060622en00010003.pdf (06.01.2008).

2. Legal issues and institutional initiatives against racism and discrimination

The Racial Equality Directive⁶ forms the main context for the data and information set out in this chapter. The EU-15 were obliged to complete transposition of the Racial Equality Directive by 19.07.2003. The new Member States had a later transposition deadline than the EU-15. The European Commission announced in June 2007 that it had sent formal requests to 14 Member States to fully implement the Racial Equality Directive.⁷ The countries concerned – **Czech Republic, Estonia, Greece,⁸ Spain, France, Ireland, Italy, Latvia, Poland, Portugal, Slovenia, Slovakia, Sweden and United Kingdom** – had two months to respond, failing which the Commission could take them to the European Court of Justice. The European Court of Justice did not pass any judgment in which the Racial Equality Directive was interpreted by the end of 2007.

In November 2007, the Grand Chamber of the European Court of Human Rights delivered a ground-breaking judgment in the case of **D.H. v. the Czech Republic.**⁹ The court held that there had been a violation of Article 14 (prohibition of discrimination) read in conjunction with Article 2 of Protocol No. 1 (right to education) of the European Convention on Human Rights on account of the fact that the applicants had been assigned to special schools as a result of their Roma origin. The court judgement referred also to data and statistics collected by the predecessor of FRA, the EUMC, which demonstrated that more than half of the Roma children studied in special schools and that only a very small percentage of Roma youth entered secondary schools.¹⁰ The Grand Chamber of the European Court of Human Rights pointed to the Racial Equality Directive as relevant Community law and practice and referred in detail to the case law of the European Court of Justice which elaborated the concepts of indirect discrimination and the use of statistics in discrimination cases.¹¹

This year's report follows on from last year's report which focused on the application of the legislation implementing the Racial Equality Directive in the Member States. This chapter offers further information on how the legislation is actually applied in the Member States and, in addition, on how the specialised bodies use their powers. Finally, the chapter highlights a number of legislative and other initiatives of relevance for policy makers and legal practitioners as good practices that could be useful in reducing the phenomena of racism and xenophobia.

6 Directive 2000/43/EC.

7 Press release IP/07/928 of 27 June 2007, http://ec.europa.eu/employment_social/fundamental_rights/pdf/news/ip07_928_en.pdf (12.11.2007).

8 In Greece, Law No. 3625/2007 (FEK A290/24.12.2007) improved the definition of harassment, as requested by the European Commission, by eliminating a clause regarding accordance to the accepted principles of morality, customs and common practice in transactions.

9 ECHR, Grand Chamber Judgment D.H. v. the Czech Republic, application no. 57325/00, 13 November 2007.

10 ECHR, Grand Chamber Judgment D.H. v. the Czech Republic, application no. 57325/00, 13 November 2007, para 103.

11 ECHR, Grand Chamber Judgment D.H. v. the Czech Republic, application no. 57325/00, 13 November 2007, para 81-91.

The FRA has developed a searchable case law collection concerning the Racial Equality Directive which can be found on the website of FRA: <http://www.raxen.fra.europa.eu>. This case law collection is intended to facilitate cross country comparisons of cases and aid knowledge transfer regarding the interpretation of the Racial Equality Directive in the Member States.

2.1. The impact of the Racial Equality Directive

Information on the application of the Racial Equality Directive has been collected covering 2006 and 2007. It must be underlined that the data provided are not directly comparable, due to the fact that the reference timeframe for the complaints data varies, because the various Member States have different reporting periods. It is also clear that differences between Member States reflect the different standards concerning the competences of specialised bodies, the methods for recording and reporting complaints, the powers of specialised bodies and the sanctions for racial/ethnic discrimination actually issued. While the Racial Equality Directive establishes minimum standards, it does not fully harmonise relevant legislation.

2.1.1. The absence of sanctions and/or awards in ethnic or racial discrimination cases 2006-2007

No application of sanctions and/or awards related to cases of ethnic or racial discrimination could be detected during 2006-2007 in the following countries:

Czech Republic	Cyprus
Denmark	Lithuania
Germany	Luxembourg
Estonia	Poland
Greece	Portugal
Spain	Slovenia

The absence of sanctions coincides in most cases with the absence of an effective equality body. The **Czech Republic, Estonia, Spain, Luxembourg, Slovenia, Poland** and **Portugal** either have no equality body or an ineffective one. In **Germany** and **Malta**, the equality bodies started to work during 2007 and are still in the process of developing their operations.

Another reason for the absence of sanctions lies in the specific role of the equality bodies. Sanctions are absent or rare in countries in which the equality bodies do not have the power to support victims of discrimination in proceedings which lead to sanctions, or to issue sanctions themselves, or, if they have these powers, do not use them for whatever reason. These aspects can be observed in **Denmark, Greece, Cyprus** and **Lithuania** (where sanctions are absent) and in **Latvia** (where they are rare) as will be explained briefly.

In **Greece**, the absence of sanctions is related to the limited powers of the only effective equality body in Greece, the Greek Ombudsman. The Greek Ombudsman is only competent for complaints against public bodies and authorities. It does not have the power to issue sanctions or to support victims of discrimination in court proceedings, but can only issue recommendations. The recommendations of the ombudsman are not binding for the administrative authorities. A similar observation can be made in **Lithuania**.

The **Cypriot** equality body has the power to issue sanctions, but as a matter of general policy, the equality body does not use this power, preferring to limit itself to recommendations and to offering mediation services. The equality body does not have the power to refer the guilty party to court, nor does the body have the authority to decide on and award compensation for damages. Where such a case arises, the equality body simply advises the victim to take the matter to court. A similar situation exists in **Latvia**, where the Law on the Ombudsman's Office provides for the right of the office to file civil and administrative complaints in court and to represent interests of victims of discrimination in civil court proceedings, but these rights have not been exercised in 2007.

In **Denmark**, the *Complaints Committee for Ethnic Equal Treatment*, the equality body in Denmark, is the main forum for the investigation of discrimination complaints on the grounds of race or ethnic origin. However, the Danish equality body has no power to issue sanctions. The most important power of the Danish equality body is the power to grant free legal aid for a subsequent court procedure. This power was used only once in 2007, even though the *Complaints Committee for Ethnic Equal Treatment* had confirmed discrimination in at least four cases in 2007.

In **Denmark**, the *Complaints Committee for Ethnic Equal Treatment* decided a case concerning the check-in procedures at a Danish airport.¹² Passengers who did not have British or Scandinavian names were prevented on instruction of an airline from using self-service check-in counters in the airport and were singled out for visa control at the ordinary check-in counters. According to the committee the practice discriminated against passengers based on their names and constituted direct discrimination on the grounds of race or ethnic origin.

¹² Case No. 740.25, 10 October 2007.

2.1.2. Sanctions and/or awards in ethnic or racial discrimination cases 2006-2007

Annual sanctions and/or awards related to cases of ethnic or racial discrimination could be detected in the following countries (latest available data¹³):

Table 2.1: Sanctions and/or awards in procedures of ethnic or racial discrimination (latest available data)

Country	Time	Number of times sanctions and/or awards have been applied	Range/amount of sanctions actually issued
Belgium	2007	2	€ 1000-order of publication of court decision
Bulgaria	2007	4	in average BGN 250 (~ € 128)
France	2006	4	€ 1.000-30.000
Ireland	2007	24	€ 200-20,000
Italy	2005	18	Unknown
Latvia	2007	2	LVL 1500 (~€ 2134)-5000 (~€ 7144)
Hungary	2007	6	Fines of HUF 500,000 to 3 million (~ € 2,000-12,000), publication of order, prohibition of continuation of discrimination
Malta	2007	1	MTL 25 (~ € 58)
Netherlands	2006	1	Fine of € 500 and immaterial damages for the victim of € 250
Austria	2007	1	€ 800
Romania	2006	9	Fines of RON 400-8000 (~ € 114 to 2285)
Slovakia	2007	2	SKK 5000 (~€ 151) – court ordered apology
Finland	2007	16	15-40 day fines and damages to the victim from € 100-1000, average amount of damages per victim € 222
Sweden	2007	4	15.000 -40.000 SEK (~ € 1616-4309)
United Kingdom	2006-07	95 (only employment related statistics available)	Maximum award: £ 123.898 Median award: £ 7.000 Average award: £ 14.049

Table 2.1 sets out Member States and the number of sanctions applied. (It should be remembered that 12 Member States do not show in the table because they are at the level of ‘zero’, with no sanctions applied at all.) These numbers are not directly comparable because of the variations in the relevant time periods between Member States, as well as a range of other factors that reduce the significance of direct comparison, such as the great difference in population size between Member States. Nevertheless, it is clear that there is extreme variation between Member States in both the size of sanctions and the number of times they have been applied. This difference is significant because the application and severity of sanctions are an indicator of the importance placed on anti-discrimination within a Member State.

¹³ For Italy the latest available information on sanctions is from 2005.

The amount of sanctions produced by an anti-discrimination system is one indicator of the effectiveness of the system. Based on this indicator, the **United Kingdom** has the most effectively applied legislation fighting ethnic discrimination in the EU. Only statistics related to employment are available, but these statistics demonstrate that the United Kingdom leads both regarding annual amount of sanctions and the severity of sanctions issued in racial or ethnic discrimination cases. The United Kingdom has issued more sanctions in the relevant time period than all other Member States together. Other countries in the EU which have implemented a relatively effective legislation fighting ethnic discrimination in the EU are **Bulgaria, France, Ireland, Italy, Hungary, Romania, Finland** and **Sweden**. In these countries, sanctions are relatively more frequent and/or dissuasive than in the rest of the EU, even though they remain few and small compared to the United Kingdom.

In **Bulgaria**, the Municipal Council of Sofia¹⁴ amended the municipal regulation governing the traffic in the capital city, introducing a ban for carts in certain areas and along certain streets. This amendment was challenged before the *Commission for Protection against Discrimination* by the *Romani Baht Foundation* because the ban was creating unequal treatment on the grounds of ethnicity, since most of the cart drivers were Roma. The commission concluded that the ban for driving carts along roads which represent the borders of Roma neighbourhoods was equal to a ban for the drivers of such vehicles to leave the respective neighbourhoods, and qualified the case as segregation through indirect discrimination.¹⁵

In some countries, the relative scarcity of sanctions in practice has structural reasons. This is often related to the role of the equality body in assisting and supporting victims in procedures which lead to sanctions. A prime example for this is the **Netherlands**. The Dutch Equal Treatment Act provides for a free, easily accessible, semi-judicial procedure for victims of (racial) discrimination in the civil law area. It has the statutory power to assist victims in court procedures, but so far has never applied this provision. The existence of this low cost procedure at the *Equal Treatment Commission (CGB)* means that most cases are dealt with by the commission; very few cases are brought in first instance before a court of law. Although the rulings of the commission are non-binding, very few people bring a case before a court after a CGB ruling. As a consequence, civil sanctions including compensation payments are rare in the Netherlands. However, research conducted by the CGB indicates that more than two thirds of the referring parties follow the recommendations the CGB included in its rulings.¹⁶

Similarly in **Austria**, the equality body, the *Ombudsperson for Equal Treatment*, can represent victims of ethnic discrimination free of charge in front of the *Equal Treatment Commission*, but not in front of court. However, the *Equal Treatment Commission* can only issue non-binding recommendations. Effective and dissuasive sanctions can only be issued by courts, not by the equal treatment

¹⁴ Decision No 48/19.05.2005.

¹⁵ Decision No 42/10.05.2007, Case file No 143/2006, Alert No 1550241006, 10.5.2007.

¹⁶ Commissie Gelijke Behandeling (2006) *Het verschil gemaakt: evaluatie AWGB en werkzaamheden CGB 1999-2004*.

commission, but free representation is only offered for the equal treatment commission, not for courts.

Another structural reason for the relative scarcity of sanctions is the role of criminal law in the fight against ethnic discrimination. Symbolically, criminal law is the most important instrument any state can use in the fight against ethnic discrimination. However, in practice, criminal law leads to less sanctions being applied: the shift of the burden of proof foreseen by the Racial Equality Directive does not apply, criminal responsibility in cases of discrimination mostly is dependent on discriminatory intention and the victim of discrimination has limited control of the criminal procedure which usually lies in the hands of the prosecution services. Thus, states which rely mainly or exclusively on criminal law, in general, are characterised by no or few sanctions, even though these sanctions may be dissuasive in theory. This aspect can be observed in **Belgium, France, and the Netherlands.**

In **France**, the owner of a bed and breakfast refused to rent a room to a young Muslim woman and her family, because she did not want to remove her headscarf. The complaint was supported by various NGOs (LDH, LICRA, Mrap) and led to criminal proceedings at the criminal court in Vosges. The court established discrimination on the grounds of religion and stated that the principle of secularism ('laïcité') only applies to public authorities. The principle of secularism cannot be put forward in a case of provision of services by a private company or individual. An appeal has been lodged against this decision.¹⁷

2.1.3. Ineffective equality bodies 2006-2007

In the following countries, the available evidence suggests that whilst equality bodies exist, they are not effective:

Estonia	Poland
Portugal	Slovenia

The *Chancellor of Justice*, the equality body in **Estonia**, reported that in the frame of a special conciliation procedure it received only two applications regarding ethnic discrimination in 2007, of which one procedure was discontinued and one application was withdrawn.¹⁸ There are also other bodies and procedures for dealing with complaints, but none of these received complaints regarding unequal treatment on the grounds of race, ethnicity or religion. This exceptionally low level of complaints does not necessarily indicate a low level of discrimination in Estonia; it could also indicate a low level of awareness or trust amongst the victim population.¹⁹

¹⁷ Tribunal correctionnel d'Epinal (Vosges), case Demiate vs. Truchulet, 09.10.2007.

¹⁸ Estonia/Chancellor of Justice; Written Communication No. 5-3/0706293 of 19 September 2007 and No. 5-3/080063 of 10 January 2008.

¹⁹ According to the Special Eurobarometer survey published in January 2007, only one third of EU citizens claimed to know their rights should they be the victim of discrimination or harassment: see FRA (2007) *Report on Racism and Xenophobia in the Member States of the EU*, p. 38.

In **Poland**, complaints that relate to ethnic discrimination are received by *Rzecznik Praw Obywatelskich* (RPO) [The Commissioner for Civil Rights Protection (CCRP)], *Państwowa Inspekcja Pracy* (PIP) [National Labour Inspectorate (NLI)], *Departament ds. Kobiet, Rodziny i Przeciwdziałania Dyskryminacji w Ministerstwie Pracy i Polityki Społecznej* [Department of Women, Family and Counteracting Discrimination at the Ministry of Labour and Social Policy], and *Zespół do spraw Monitorowania Rasizmu i Ksenofobii w Ministerstwie Spraw Wewnętrznych i Administracji* [Monitoring Team on Racism and Xenophobia in the Ministry of Interior and Administration]. The number of these complaints is very small, in fact, there are only isolated cases (the precise amount of complaints is not known). Moreover, none of the above institutions made a clear judgement that discrimination actually occurred in any of the cases.²⁰

In general, competent bodies in **Slovenia** receive a low number of complaints claiming racially-motivated discrimination. In the whole of 2007, four complaints were lodged with the Slovenian equality body, *Zagovornica načela enakosti* [the Advocate of the Principle of Equality], a specialised body dealing with complaints claiming discrimination, two on the grounds of ethnic origin and two on the grounds of religion. In two cases discrimination was not established, while two cases were still pending. In a much publicised case of the forcible removal of a Roma family in October 2006, which dominated the social and political arena in 2006 and 2007, the *Advocate of the Principle of Equality* failed to produce its opinion on the matter by 31 December 2007. In January 2007, two NGOs lodged a complaint with the Advocate stating that the Roma family had been subject to direct discrimination on the grounds of ethnic origin.

In July 2007, *Varuh človekovih pravic Republike Slovenije* [the Human Rights Ombudsman of the Republic of **Slovenia**] launched its regular annual report, covering the year 2006. According to the ombudsman, the current lack of case law and related practices is not the consequence of the absence of the instances of discrimination, but rather points to certain systemic inconsistencies. In the opinion of the ombudsman, it is questionable whether the anti-discrimination legislation currently in force is written in clear and accurate wording, and whether an average individual can, without special legal expertise, fully assess his or her legal position (e.g. the whole scope of granted rights and duties) and the combined effect of relevant pieces of legislation.²¹ On 13 February 2007 the European Commission against Racism and Intolerance (ECRI) made public its third report on the situation of racism and related intolerance in Slovenia. In the report, ECRI noted a very limited number of cases of racial discrimination brought to the attention of the Advocate of the Principle of Equality. As the institution of the Advocate has been established within a government body, namely *Urad za enake možnosti* [the Office for Equal Opportunities], ECRI emphasised the need that such bodies be fully independent in order to exercise their activities effectively.²²

20 Letters to the NFP Poland from the National Labour Inspectorate, No. GNP-306-079-16 (18.09.2007); from the Ministry of Interior and Administration (10.10.2007); from the Department of Women, Family and Counteracting Discrimination at the Ministry of Labour and Social Policy, No. DKR-07800-21/GW/07 (04.09.2007); from CCRP, No. BRPO-X-013-20/07.

21 Slovenia/Varuh človekovih pravic, *Letno poročilo 2006*, p. 34, available at: http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Varuh_LP_2006_SLO.pdf (15.10.2007).

22 ECRI (2007) *Third Report on Slovenia*, pp. 11, 13, available at: http://www.coe.int/t/e/human_rights/ecri/1%2DDecri/2%2Dcountry%2Dby%2Dcountry_approach/slovenia/Slovenia%20third%20report%20-%20cri07-5.pdf (15.10.2007).

In **Portugal**, the complaints presented to the *High Commission (ACIME)* or the *Commission for Equality and Against Racial Discrimination (CICDR)* or situations reported to them by the injured party or associations go through a complex and slow procedure that ends up causing very significant delays in the appraisal of complaints and decisions regarding the same. Even though complaints are documented (CICDR received 83 complaints in 2007²³), FRA could not detect any outcomes of these complaints procedures in the form of decisions or sanctions. However, three cases were successfully mediated in 2007.

The **Greek** implementing legislation provides for three specialised administrative bodies as equality bodies: the *Greek Ombudsman for Discrimination by Public Bodies and Authorities*, the *Equal Treatment Committee and Equal Treatment Service* annexed to the Ministry of Justice dealing with discrimination by private and legal entities, and the *Labour Inspection Service (SEPE)* dealing with discrimination cases in the sphere of employment. This makes the Greek case more difficult to categorise as only one of the three equality bodies can be judged as active in the fight against ethnic discrimination. In the reporting period there could be detected no noteworthy activity in the fight against ethnic or racial discrimination by the *Labour Inspection Service* and the *Equal Treatment Committee* (together with the *Equal Treatment Service*), two of the three equality bodies in Greece. The only equality body actively and noticeably engaged in the fight against ethnic or racial discrimination in Greece is the ombudsman. During 2007, the ombudsman received nine complaints under the Racial Equality Directive and found racial or ethnic discrimination in six cases.

In **Germany** and **Malta**, equality bodies started to work during 2007 and require some more time to develop their operations.

2.1.4. Lack of equality bodies 2006-2007

There is an absence of equality bodies in the following countries:

Czech Republic	Luxembourg
Spain	

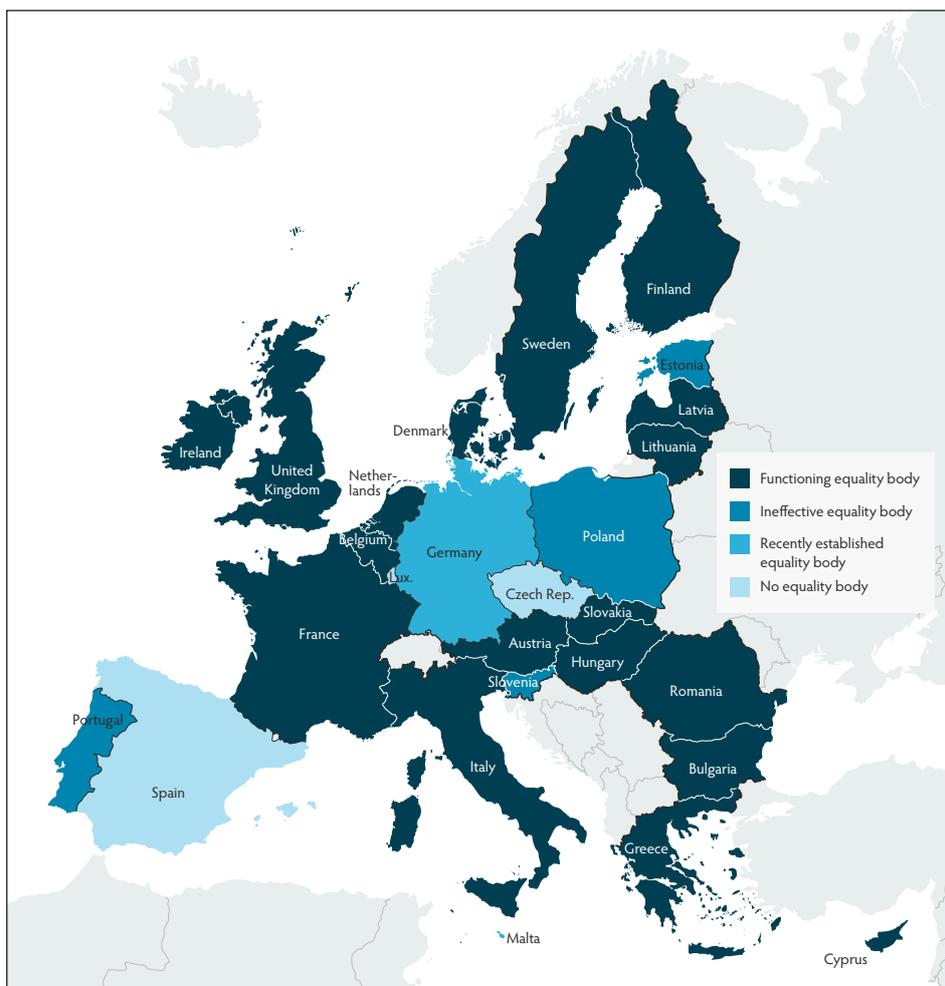
By the end of 2007, the **Czech Republic** had not created an equality body in the area of the Racial Equality Directive and generally lagged behind in the implementation of the directive.

In **Spain**, an equality body in the field of the Racial Equality Directive did not exist in practice by the end of 2007. The council of ministers of Spain reached agreement regarding membership, functions and structure of an equality body, the *Council for the Promotion of the Equality of Treatment and Non-discrimination*, and the decree was published in the official journal of Spain in October 2007.²⁴ In **Luxembourg**, the equality body was not operational by the end of 2007.

²³ Unpublished information supplied to the National Focal Point by the Comissão para a Igualdade e Contra a Discriminação Racial [Commission for Equality and Against Racial Discrimination] (CICDR).

²⁴ Spain/Real Decreto 1262/2007 por el que se regula la composición, competencias y régimen de funcionamiento del Consejo para la promoción de la igualdad de trato y la no discriminación de las personas por el origen racial o étnico (21.09.2007), available at: <http://www.boe.es/boe/dias/2007/10/03/pdfs/A40190-40195.pdf> (15.10.2007).

Figure 2.1: Status of equality bodies in EU Member States by end of 2007



2.2. Good practices

In **Belgium**, the circular letter OOP 40²⁵ issued by Federal Minister of Home affairs on 14.12.2006 was sent to all first league football clubs, to all Belgian mayors and chiefs of police, and to the Belgian Football Association in January 2007. The circular letter clarifies provisions of the 1998 Football Law, and aims to tackle racist chanting in football stadiums, as well as racist, xenophobic, anti-Semitic and homophobic insults. The policy is one of low tolerance towards all symbols, denigrating chanting and hateful or offensive words targeting specific population

groups such as Jews, Muslims, gays and lesbians, disabled people, AIDS patients, which are all explicitly described in the circular.

²⁵ Circulaire OOP 40, 14 décembre 2006, portant des directives à l'encontre des propos et slogans blessants, racistes et discriminatoires scandés en chœur à l'occasion des match de football. Moniteur belge 02 juillet 2007. Omzendbrief OOP 40 houdende richtlijnen aangedaande kwetsende, racistische en discriminerende uitspraken en spreekwoorden naar aanleiding van voetbalwedstrijden, Belgisch Staatsblad 02 juli 2007. The circular is available in Dutch and French at <http://reflex.raadvst-consetat.be/reflex/pdf/Mbbs/2007/07/02/105597.pdf> (14.10.2007).

In **France**, in 2006 and 2007, the *High Authority against Discrimination and for Equality* (HALDE) gained momentum, as can be seen from the number of complaints received. In 2006, the HALDE received 4,058 complaints: employment was the most important field of complaints (42.87 per cent) and origin was the most important reason for being discriminated (35.04 per cent). In 2007, the number of received complaints increased: the HALDE registered 6,222 complaints, i.e. an increase of 53 per cent. Employment is still the most important field of complaints, with more than 50 per cent of complaints (in increase), followed by public services (20.35 per cent, decreased by 2 percentage points), goods and services (13.26 per cent, increased by 4 percentage points), housing (6.11 per cent, increased by 2 percentage points) and education (4.57 per cent, decreased by 1 percentage point). Origin is still the most important reason for being discriminated. The HALDE has received 11,689 complaints since its creation in 2005.²⁶ Moreover, an opinion poll conducted by CAS Institute shows that French people are more and more concerned by the question of discrimination; this demonstrates that communication and information campaigns conducted by the HALDE had an impact on the French public. Indeed, the HALDE developed a strong strategy of communication and it is very visible in the public scene: Thirty-six per cent of the French people know the HALDE and its missions. Ninety-five per cent of French people consider that it is important to fight against discrimination and 84 per cent think that the HALDE is useful to fight against discrimination.²⁷

In **Italy**, UNAR, the Italian equality body, signed agreements with two associations of lawyers for the provision of free legal assistance to victims of discrimination, in particular those seeking redress according to Art. 4 of Legislative Decree 215/2003. Although the procedure can be accessed personally by the victim without recourse to legal counsel, or by seeking support from anti-discrimination organisations, UNAR's experience shows that in-depth legal expertise is necessary for effective protection.²⁸

In **Romania**, the Executive Board of Federația Română de Fotbal (FRF) [Romanian Soccer Federation] issued a decision stating that 'any player, official or spectator who publicly discriminates or defames another person on account of that person's race, colour, language, religion or ethnic origin shall be subject to sanctions. The organising club, the perpetrator's home club or supporter club shall bear sanctions also.'²⁹

In **Slovenia**, the Slovenian Parliament passed the Roma Community Act. The act entered into force on 28 April 2007, and represents an umbrella act concerning the Roma population living in Slovenia.³⁰ The act obliges the Republic of Slovenia to create conditions for the inclusion of the Roma in the Slovenian education system and for the improvement of their educational achievements, and to devote special attention to the employment, vocational education and training of

26 <http://www.halde.fr/actualite-18/agenda-haute-autorite-38/50-reclamations-10995.html> (09.04.2008).

27 <http://www.halde.fr/actualite-18/agenda-haute-autorite-38/comment-les-10994.html> (09.04.2008).

28 UNAR (2007) *Siglati i protocolli d'intesa tra l'UNAR e l'Associazione Italiana Giovani Avvocati (AIGA) e con l'Onlus Avvocati per Niente*, Press Release (18.05.2007), available at: <http://www.pariopportunita.gov.it/DefaultDesktop.aspx?doc=1180> (26.02.2008).

29 Federația Română de Fotbal, Romanian Football Federation (2006) *Decision No. 2/2006 to supplement the existing Disciplinary Regulation of the FRF*, which is in compliance with FIFA Circular No. 1026/23.06.2006 on combating discrimination.

30 Slovenia/SOP: 2007-01-1762, (30.03.2007), available at: <http://www.uradni-list.si/1/objava.jsp?urlid=200733&stevilka=1762> (15.10.2007).

the Roma. According to this act, both the state and local authorities shall provide for the improvement of the housing situation of the Roma, and the state authorities also encourage the preservation and development of the Romani language as well as cultural, informational and publishing activities of the Roma community. The act also stipulates the establishment of a specialised body, namely the *Council of the Roma Community of the Republic of Slovenia*, which represents interests of the Slovenian Roma in relation to state bodies. According to available information, this is one of the first systemic acts addressing the Roma in the EU Member States. Its implementation, however, is subject to further observation as it defines the state responsibilities in rather general terms. According to the act, the government is obliged to report to the parliament on the implementation of the law on an annual basis.

In the **Netherlands**, the government ordered a group of independent experts to carry out an evaluation of the *Equal Treatment Act and the Equal Treatment Commission*. The researchers were asked to look into legal issues and to make an assessment of the impact of the commission's opinions and other tasks. Their report was presented to parliament on 21 December 2006.³¹ As part of the impact assessment, a survey among the population about personal experiences of discrimination was carried out. Of the non-western ethnic minorities, 45 per cent had experienced some form of discrimination. The researchers concluded that more effort should be made to increase the knowledge and awareness about the law, for example by advertising in the media. They also concluded that professionals, such as staff of anti-discrimination agencies and lawyers, were reasonably able to use the law for enforcement of the non-discrimination principle, but that if the *Equal Treatment Commission's* opinions were to be delivered within a shorter timeframe, more victims would be inclined to submit a request. The fact that such an evaluation was carried out constitutes a good practice.

31 M.L.M. Hertogh, P.J.J. Zoontjens (ed.) (2006) *Gelijke behandeling: principes en praktijken. Evaluatieonderzoek Algemene wet gelijke behandeling*, Nijmegen: Wolf Legal Publishers.

3. Racist violence and crime

Over a three-year period (mid-year 2003 - mid-year 2006) the police in England and Wales recorded 23 homicides with a known racial motivation.

Ministry of Justice Report on Statistics on Race and the Criminal Justice System, 2006 (England and Wales)

A man met a neighbour in the lift. They went down to the entrance of their building, and the neighbour started to say 'You bloody nigger, bloody immigrant. I hate sharing the lift with a bloody nigger'. The man left and the neighbour shouted after him 'I will get you later. We'll meet again!'

Swedish National Council for Crime Prevention Report, 2006

The collection and publication of comprehensive and reliable data on racist crime is a means by which Member States can show their serious commitment to monitor and address the problem. Good quality data on the phenomenon of racist crime is essential for the development of policing, criminal justice and social policies in this area.

3.1. Criminal justice data – limitations

Because of differences in data collection, direct comparisons of absolute criminal justice data on racist crime cannot be made between Member States. With this in mind, Table 3.1 takes the highest publicly available figures on 'racist crime' for each Member State to illustrate what we do and, importantly, what we don't know about the extent of racist crime in the EU in 2006 (most complete and latest available figures at the time of writing – December 2007).

Table 3.1: Data on racist violence/crime, and related activities, reported by official criminal justice sources at national level in the EU-27 for the year 2006 (most complete year for data comparison)³²

MEMBER STATE	Official National Data Source	Data for 2006 (most complete year for comparison)
Belgium	Belgian Federal Police	2006 – 1,355 incidents under general ‘racism and xenophobia’ discrimination, of which 54 specifically criminal offences (incitement to hatred, violence or discrimination towards a person or a group; giving publicity to one’s intention to discriminate, hatred or violence; denial of the genocide committed by the nazis). DATA AVAILABLE ONLY ON REQUEST
Bulgaria	Supreme Prosecution Office	2006 – 10 pre-trial proceedings instigated for incitement of racial or national hostility, hatred or racial discrimination DATA AVAILABLE ONLY ON REQUEST
Czech Republic	Ministry of Interior	2006 – 248 crimes recorded with extremist background, and/or motivated by racial, national or other social hatred
Denmark	PET (Civil Security Service)	2006 – 85 criminal incidents with suspected racial/religious motive
Germany	Federal Ministry of Interior	2006 – 18,142 crimes registered under general heading ‘politically motivated – right wing’; 3,294 right-wing crimes registered as ‘xenophobic’.
Estonia	Police Board Security Police	2006 – 0 offences reported under legal articles relating to incitement of social hatred, violation of equality or violation of freedom of religion 2006 – 1 investigation re incitement of social hatred
Greece		NO data available
Spain		NO data available
France	Ministry of the Interior	2006 – 923 racist, xenophobic and anti-Semitic acts and threats reported ³³
Ireland	Police – Annual Report	2006 – 174 racially motivated incidents
Italy	Ministry of Interior, Public Security Department	2006 – 144 ‘episodes’ of intolerance recorded relating to attacks and damage to property, crimes against persons, and ‘other’ DATA AVAILABLE ONLY ON REQUEST
Cyprus		NO data available
Latvia	Security Police Ministry of Interior	2006 – 14 criminal cases initiated for incitement to ethnic and racial hatred 2006 – 10 criminal cases initiated
Lithuania	Ministry of Interior, Centre for Crime Prevention and National Courts Administration	2006 – 17 crimes registered relating to incitement to hatred national, racial, ethnic or religious or any other groups of persons
Luxembourg	Ministry of Justice	2006 – 14 complaints to police re racial ‘discrimination’, which may include violence/
Hungary	Chief Prosecutor’s Office	2006 – 13 cases identified re violence against a ‘member of a national, ethnic, racial or religious group’ or ‘incitement against a community’
Malta	Police	2006 – 3 offences recorded by police re incitement to racial hatred DATA AVAILABLE ONLY ON REQUEST

³² Note – direct comparisons between Member States of absolute figures should not be undertaken because of different data collection procedures. A handful of Member States, at the time of writing, had partial or complete information available for 2007. Data for 2007 will be reported in full, when it becomes available, through the FRA’s online InfoBase.

³³ Revised figures from the Ministry of Interior.

MEMBER STATE	Official National Data Source	Data for 2006 (most complete year for comparison)
Netherlands	National Discrimination Expertise Centre (LECD) – Public Prosecution Service	2006 – 246 criminal discriminatory offences recorded by the Public Prosecution Service, which might include incidents of racist violence and crime
	Police (Office of National Statistics)	2006 – 525 criminal discriminatory offences recorded by the police, which might include incidents of racist violence and crime
Austria	Ministry of the Interior	2006 – 419 complaints against individuals related to a range of prohibited racist/xenophobic acts 2006 – 240 incidents recorded with extremist right-wing, xenophobic or anti-Semitic motivation. (Note – incidents can contain several complaints/offences)
Poland	Police Headquarters Office, ‘Temida’ statistical computer service	2006 – 150 racist or xenophobic crimes reported under different legal articles
Portugal	Directorate General for Justice Policy	2006 – 12 police enquiries opened relating to racial or religious discrimination DATA AVAILABLE ONLY ON REQUEST
Romania	Police	NO data available for 2006 (2005 – Police data on 1,261 cases of ‘abuse in the exercise of authority against rights of the person’ (but includes gender as well as other grounds for discrimination); also data from 2005 from the Superior Council of Magistrates in relation to trials concerning racist and related offences).
Slovenia	Police	2006 – 6 cases investigated concerning alleged violation of prohibition of incitement to ethnic, racial or religious hate, discord or intolerance
Slovakia	Police	2006 – 188 criminal offences registered motivated by racial, ethnic or other intolerance
Finland	Police	2006 – 748 incidents of racist crime reported to police
Sweden	Swedish National Council for Crime Prevention	2006 – 2,575 hate crimes with xenophobic, anti-Semitic or Islamophobic motive recorded
UK	England and Wales Police data	April 2005-March 2006 – 60,407 ‘racist’ incidents recorded April 2005-March 2006 – 41,382 racially or religiously aggravated offences recorded
	England and Wales Crown Prosecution Service data	April 2005-March 2006 – 7,430 defendant cases received and 6,123 prosecuted for racist incidents; 41 defendants prosecuted for religiously aggravated incidents
	Scotland	April 2005-March 2006 – 4,294 racially aggravated offences recorded
	Northern Ireland Police Service NI	April 2005-March 2006 936 racist incidents recorded; 746 racist crimes recorded; 70 faith/religion incidents recorded; 78 faith/religion crimes recorded; 1,701 sectarian incidents recorded; 1,470 sectarian crimes recorded April 2006-March 2007 1,047 racist incidents recorded; 861 racist crimes recorded; 136 faith/religion incidents recorded; 120 faith/religion crimes recorded; 1,695 sectarian incidents recorded; 1,217 sectarian crimes recorded.

Working with available criminal justice data on racist crimes, the FRA assesses the quality of Member States’ data collection mechanisms and places each state into one of four categories, or tiers; with Tier 1 indicating comprehensive data collection and Tier 4 indicating the unavailability of data. This categorisation is not based simply on the volume of recorded crimes (which might distort the ranking of large Member States), but reflects the overall quality and functioning of data collection mechanisms.³⁴

Table 3.2: Quality of official criminal justice data collection mechanisms on racist crime/violence in EU-27 – based on 2006 data (most complete year for comparison) and indicating changes from previous years

TIER 1 Comprehensive Extensive data collection, with detail about victim and offender characteristics, place of victimisation etc.	TIER 2 Good A system exists to register incidents/ crimes, and/or system focuses on right-wing extremism(*)	TIER 3 Limited Limited reporting on investigations and court cases (sometimes available only on request), or focus on general discrimination(*)	TIER 4 No official data available No official data collected or readily available in the public domain (at time of reporting)
Finland Sweden UK	Austria* Czech Republic Denmark France Germany* Ireland Poland Slovakia	Belgium Bulgaria Estonia Hungary Italy Latvia Lithuania Luxembourg* Malta Netherlands* Portugal Slovenia	Cyprus Greece Romania Spain

Information supplied by FRA RAXEN National Focal Points

In 2006, in 16 of the EU’s 27 Member States – the majority – there is either a total absence of any publicly available official criminal justice data on racist crime (Tier 4), or there is limited reporting on a few court cases or general figures on ‘discrimination’, which cannot be easily disaggregated to identify racist criminal offences (Tier 3).

In 2006, in eight Member States a ‘good’ data collection mechanism exists to register racist crimes (Tier 2); but in only three Member States can their systems be categorised as ‘comprehensive’ (Tier 1) – though there is still scope for improvement in these countries.

Comparing findings from the Agency’s 2007 report on racism and xenophobia with the current report, five countries have changed their tier placement; namely:

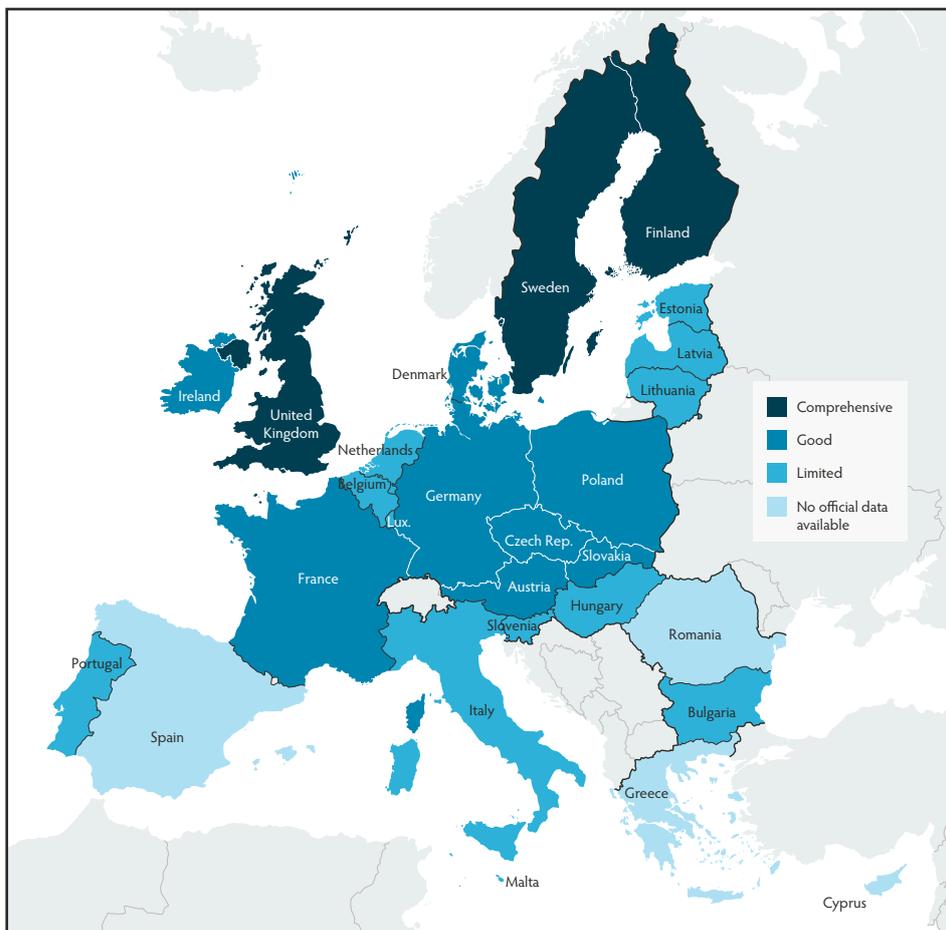
Sweden has moved up a tier – Tier 2 to Tier 1. This change reflects the improved recognition and categorisation of ‘hate crimes’, which the *Swedish National Council* for Crime Prevention has developed since taking over the role of

³⁴ For information on tier categorisation and Member States’ data collection see the FRA Infobase – <http://www.fra.europa.eu/factsheets/front/factSheetPage.php> (15.01.2008).

data analysis from the security police in 2006. **Italy** has moved up a tier, from Tier 4 to Tier 3, as a reflection of data received from a government office in response to a request for information from the Agency's NFP. **Portugal** has also moved up a tier, from Tier 4 to Tier 3, as a reflection of the fact that limited data is sporadically available from year to year.

Belgium has moved down a tier – from Tier 2 to Tier 3. Although Belgium can be praised for enhancement of the collection system on 'hate' crimes,³⁵ which came into force in 2006, the country has dropped a tier in the light of the fact that information from criminal justice sources about racist crime is not readily available in the public domain but only on request. This new categorisation reflects lack of transparency with respect to data availability in Belgium, and is also applied to other Member States that fall within this tier (such as Bulgaria). Similarly, **Romania** has been re-classified from Tier 3 to Tier 4, as no information is forthcoming for 2006 concerning relevant legal articles; namely 'abuse in the exercise of authority against the rights of a person'.

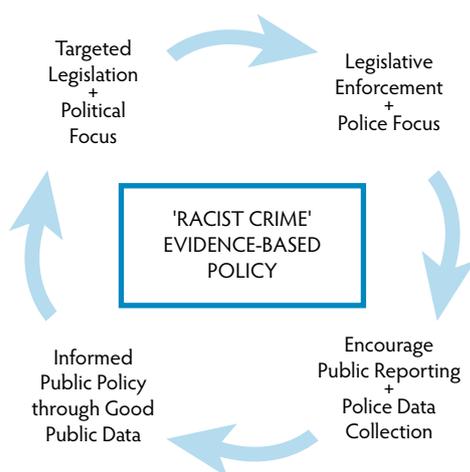
Figure 3.1: Quality of official criminal justice data collection mechanisms on racist violence/crime based on 2006 data



35 Code 7511 'Incitement to discrimination, hate or violence against a person'; Code 7512 'Incitement to discrimination, hate or violence against a group or community'; Code 7513 'Giving publicity to one's intention to discriminate, hate or violence' (all came into force 1.10.2006). In addition, the Circular Letter COL 6 that came into force in April 2006 gives visibility to possible racist or xenophobic motives behind charges that are not registered in the category 'racism and xenophobia' (e.g. assault and battery).

3.1.1. Lack of data and policy Implications

Figure 3.2: Racist Crime – Policy Development



As Figure 3.2 illustrates – given that most racist incidents are not reported to the police or, if they are, do not go on to be prosecuted, it is essential that data collection mechanisms encourage public reporting and have in place a system for comprehensive and accurate recording at each stage of the criminal justice system. Without good data about the extent and nature of racist crime, a Member State cannot accurately address the problem, and cannot state with any certainty whether racist crime is getting worse or better over time.

Also, the effectiveness of criminal justice and crime prevention responses to racist crime cannot be measured if data is only available on a few court cases.

Member States falling under Tiers 3 and 4 in Table 3.2 do not have criminal justice data collection mechanisms in place that allow them to formulate comprehensive evidence-based policy responses to racist crime.

3.2. Trends – mapping a problem

3.2.1. General trends

Eleven EU Member States collect sufficiently robust criminal justice data on racist violence and crime to allow for a trend analysis of the problem over time. However, data are not comparable between countries (Table 3.3).

Large fluctuations in recorded crime can reflect a number of factors alongside the problem of racism itself, such as changes in the public’s willingness to report crime, and changes in the system for recording crime. It should also be noted that Member States with low absolute figures in recorded crime (such as Ireland and Denmark) will show more dramatic percentage increases and decreases from one year to the next than countries with much higher absolute figures (such as Germany and the UK). As each Member State records different kinds of data, direct comparisons of trends based on raw data should not be made between countries. In this regard, Table 3.3 should be read with respect to trends *within* individual Member States.

Table 3.3: Trends in officially recorded racist crime

	2000	2001	2002	2003	2004	2005	2006	% change 2005-06	Avg % change 2000-06
Czech Republic crimes	364	452	473	335	364	253	248	-2.0 %	-4.0 %
Denmark incidents	28	116	68	52	36	85	85	0.0 %	+59.1 %
Germany crimes		14,725	12,933	11,576	12,553	15,914	18,142	+14.0 %	+5.3 % (01-06)
France reports	903	424	1317	833	1574	979	923	-5.7 %	+27.7 %
Ireland reports	72	42	100	62	84	94	174	+85.1 %	+31.8 %
Austria complaints	450	528	465	436	322	406	419	+3.2 %	+0.4 %
Poland crimes	215	103	94	111	113	172	150	-12.8 %	-0.3 %
Slovakia crimes	35	40	109	119	79	121	188	+55.4 %	+45.1 %
Finland incidents	495	448	364	522	558	669	748	+11.8 %	+9.0 %
Sweden crimes	2703	2785	2391	2436	2414	2383	2575	+8.1 %	-0.6 %
England & Wales incidents	47,701	53,121	54,858	49,344	54,284	57,978	60,407	+4.2 %	+4.3 %
Scotland offences			1699	2673	3097	3856	4294	+11.4 %	+27.3 % (02-06)

Looking at Table 3.3, based on percentage changes, the following can be noted:

- Between 2005 and 2006: Seven of the 11 Member States experienced an upward trend in recorded racist crime: **Germany, Ireland, Austria, Slovakia, Finland, Sweden, UK** (England and Wales and Scotland); **Denmark** experienced no change; **Czech Republic, France** and **Poland** experienced a downward trend in recorded racist crime.
- During the period 2000-2006: Eight of the 11 Member States experienced a general upward trend in recorded racist crime: **Denmark, Germany, France, Ireland, Slovakia, Finland, UK** (England and Wales and Scotland); **Austria**

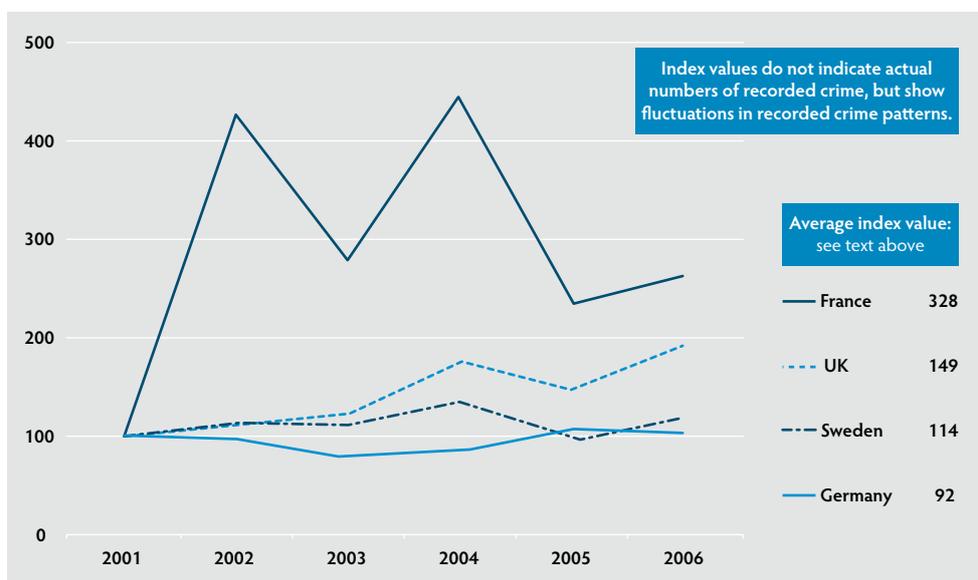
experienced a very slight upward trend; **Czech Republic** experienced a general downward trend, and **Poland** and **Sweden** experienced a very slight downward trend.

3.2.2. Specific trends in anti-Semitism and extreme right-wing crime

Trends in recorded crime can be noted specifically for those few Member States that collect official data on anti-Semitic crime and crime with an extremist right-wing motive.³⁶ Figures 3.3 and 3.4 indicate general trends in recorded crime patterns for anti-Semitic crime and crime with an extremist right-wing motive, which are based on index value calculations.

Index values transform data for each Member State to start at the same point on the same scale – at 100 – which allows for direct comparisons of recorded crime fluctuations. The index values **do not** indicate the **actual** number of recorded crimes, but show yearly fluctuations in recorded crime. For example: the Member State with the highest peaks has had a larger relative increase in recorded crime than other countries, but might not have the highest numbers of recorded crimes.

Figure 3.3: Recorded anti-Semitic crime index trend 2001-2006 and index average (number indicated) – comparative overview for four Member States³⁷



With this in mind, the average index values in Figures 3.3 and 3.4 (given as a number next to each Member State’s colour-code listing)³⁸ should be interpreted as follows: values significantly higher than 100 indicate a general upward trend in recorded crime; values slightly over 100 indicate a moderate upward trend; values

³⁶ Note: UK figures are based on unofficial data. See FRA InfoBase (<http://www.fra.europa.eu/factsheets/front/factSheetPage.php>) for full data set for all countries.

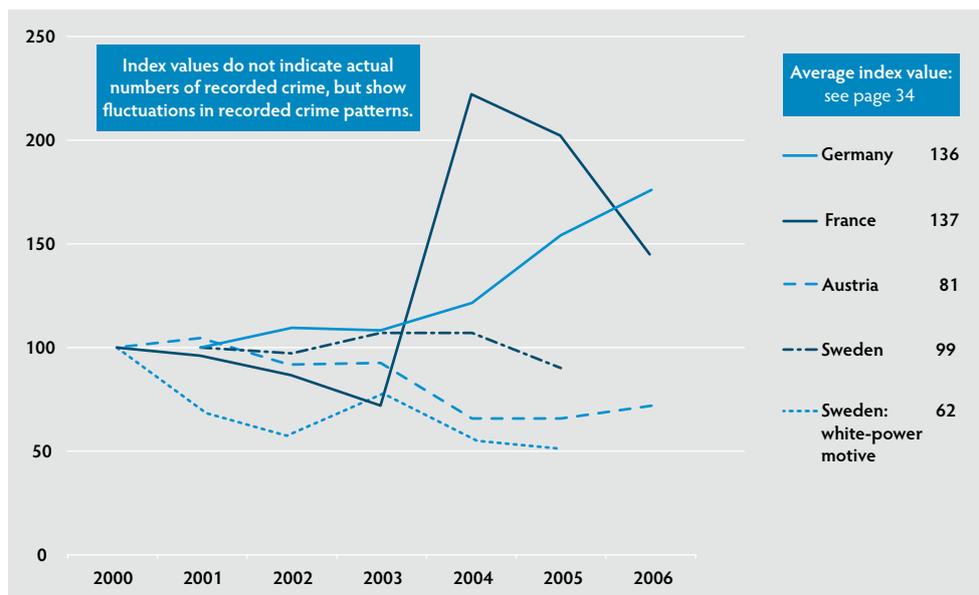
³⁷ See InfoBase (<http://www.fra.europa.eu/factsheets/front/factSheetPage.php>) for full data.

³⁸ The trend line is correspondingly shorter for countries where data is not available for the whole period.

slightly below 100 indicate a moderate downward trend; values significantly lower than 100 indicate a general downward trend.³⁹

Looking at the index values, a mixed picture emerges with respect to trends in recorded anti-Semitic crime and crime with an ‘extremist right-wing motive’. These fluctuations can be explained by actual changes in the crime rate, which can reflect ‘trigger’ events at the local, national or international level. At the same time, fluctuations can also reflect changes in the public’s willingness to report crime as well as changes in recording practices from year to year.

Figure 3.4: Recorded crime with an extremist right-wing motive index trend 2000-2006 and index average (number indicated) – comparative overview for four Member States⁴⁰



Between 2001-2006, as indicated by the average index value numbers in Figure 3.3, the following general trends can be noted for this period (as below):

- **France** and the **UK** experienced a general upward trend in recorded anti-Semitic crime (with average index values exceeding 100). France experienced peaks in recorded anti-Semitic crime in 2002 and 2004 at the same time as conflicts escalated in the Middle East. The UK’s figures are collected by the NGO the *Community Security Trust*, which indicated in its Annual Report for 2007 that ‘In 2006 there was a significant trigger event, the war between Israel and Hizbollah in Lebanon, which led to a large rise in anti-Semitic incidents in the UK.’⁴¹

³⁹ Although an index value reading allows for direct comparisons between Member States, it, together with the mean average percentage change calculation in Table 3.3, cannot alleviate the problem that countries with small absolute recorded crime figures (e.g. Ireland and Denmark) tend to show more dramatic increases or decreases in trends than countries with higher figures (e.g. Germany and the UK).

⁴⁰ See InfoBase (<http://www.fra.europa.eu/factsheets/front/factSheetPage.php>) for full data.

⁴¹ Community Security Trust (2008) ‘Antisemitic Incidents Report 2007’, p. 4, available at <http://www.thecst.org.uk/docs/Incidents%5FReport%5F07.pdf> (28.02.2008).

- **Sweden** experienced a moderate increase (average index value slightly above 100);
- **Germany** experienced a general downward trend (average index value slightly below 100), which results from an average index calculation based on a downward trend between 2001 and 2003 and an upward trend with a peak in 2005.

Between 2000-2006, as indicated by the average index value numbers in Figure 3.4, the following general trends can be noted for this period (as below):

- **Germany** and **France** experienced a general upward trend in recorded crime with an extremist right-wing motive (with average index values exceeding 100). In 2006, Germany recorded its highest figure since the introduction of a new registration system in 2001.
- **Sweden** experienced no real change with respect to recorded White-Power ‘hate crimes’ (average index value at 99), but experienced a general downward trend in recorded White-Power ‘hate crime’ specifically related to xenophobia and anti-Semitic crime (average index value at 62).
- **Austria** experienced a general downward trend in recorded crime with an extremist right-wing motive (average index value at 62).

3.3. Alternative data sources

3.3.1. NGO reports

Given the unavailability or inadequacy of official criminal justice data on racist crime in the mainstay of EU Member States, alternative data sources at the Member State level play a vital role in collecting and bringing to public attention information about racist crime. For example, in the **Netherlands** the ‘Monitor Racism and Extremism’ initiative, which is run by Leiden University and the NGO *Anne Frank House*, provides the most comprehensive data on racist violence and extreme right activities in the country.⁴²

As in previous years, the FRA’s RAXEN reports, drawing on alternative sources, continue to indicate that visible minorities in Europe, such as Black Africans, the Roma, or Muslim women wearing headscarves, are disproportionately vulnerable to racist victimisation (given their low numbers in the population).⁴³ For example, in **Austria**, the ‘Racism Report 2006’ by the NGO ZARA indicates that the majority of racist graffiti they documented (70 per cent) was directed against Africans.⁴⁴

⁴² <http://www.monitorracisme.nl> (28.01.2008).

⁴³ Previous Annual Report chapters include information and examples of racist incidents experienced by specific groups such as the Roma and asylum seekers and refugees.

⁴⁴ ZARA, *Racism Report 2006*, p. 22, available at: <http://www.zara.or.at/materialien/rassismus-report/racism-report-2006.pdf> (05.10.2007).

Based on RAXEN NFP reports, the FRA's online InfoBase presents an overview of alternative or 'unofficial' national data collection sources on racist violence and crime in the EU, which range from comprehensive listings of incidents recorded by specialist NGOs in some Member States (such as SOS Racismo in **Spain** and MRAX in **Belgium**), through to reliance on newspaper reports in other Member States (which is the case in **Greece** and **Italy**).⁴⁵

In the majority of EU Member States there are either no or few unofficial sources of data on racist violence and crime.

3.3.2. Employment, housing and education

Racist violence and related crimes are not confined to the streets, but occur in a variety of settings where people interact on a daily basis – for example: places of employment, housing, schools and sporting events. Information on racist crime can be extracted from official and non-governmental reports that look at discrimination in these settings. Such reports regularly refer to the **repeat** nature of racist victimisation as it is experienced by victims, something which is neglected in criminal justice reporting. While many racist incidents constitute minor nuisances and harassment, their regular and long-term occurrence causes victims a great deal of stress; as an illustration:

- **Employment:** In the **UK**, in 2007, an employment tribunal awarded 34,000 pounds in compensation to a woman who, as the only ethnic minority employee at a small firm, was subjected to eight years of racial abuse including racist name calling and the distribution of racist literature (see also section 4.1.3.).⁴⁶
- **Housing:** In **Belgium**, the 2006 Annual Report by the NGO MRAX refers to the case of Mrs A. who, living on a public housing estate with her two children, contacted MRAX because she had experienced racist insults and abuse (including spitting and nightly nuisance) on a daily basis for two years.⁴⁷

In **France**, towards the end of 2007, the government introduced the 'SIVIS' computer system for registering violent incidents in schools. This was done in an effort to improve registrations under the previous 'SIGNA' system, which included racist and religious incidents. However, it is too early yet to indicate whether the new registration system has resulted in an improvement in recording.

3.3.3. The Internet

The Internet is increasingly used as a tool for the wide dissemination of racist material. In response, some Member States have recently established platforms by Internet user groups, service providers and other concerned bodies that set out to identify and report hate material on the web. In the **UK**, the *Scottish Borders Council* probed allegations that racist and other hate material was posted

⁴⁵ <http://infobase.fra.europa.eu/> (28.01.2008).

⁴⁶ The case is described at: www.personneltoday.com/Articles/2007/07/18/41568/pauline+taylor+wins+34000+compensation+after+suffering+eight+years+of+racial+abuse.html (15.01.2008).

⁴⁷ MRAX (mouvement contre le racisme, l'antisémitisme et la xénophobie) Annual Report 2006, p.41.

on the Wikipedia site, between 2005 and January 2007, from computers based in Scottish schools.⁴⁸ In **Lithuania**, the *Ethics Commission of Journalists and Publishers* receives complaints concerning racist content on the Internet, which is then passed on to *General Prosecutor's Office*.⁴⁹ In **Belgium**, the autonomous public service *Centre for Equal Opportunities and Opposition to Racism* (CEOOR) established an Internet site in March 2006 for registering racism on the web;⁵⁰ on average the site receives 28 complaints a month related to racism and xenophobia on the Internet.⁵¹ However, as with other reporting systems, the success of these public reporting platforms depends very much on the resources available to them and what uses their data collection is put to.

3.4. Law enforcement and racist crime

3.4.1. Encouraging developments

The police are often referred to as the 'gatekeepers' of the criminal justice system. In other words, they are usually the first point of contact for reporting crime, and their interpretation of incidents determines the kind of information that gets included or left out of a case file. As indicated in Tables 3.1 and 3.2, the continued low number or absence of investigations into racist violence and crime in many Member States might suggest that the police are still not prioritising racist crime as a core area for policing, or that people are not reporting to the police because they do not think that their cases will be followed up. However, there are encouraging signs in some Member States that this is changing: for example,

- **Portugal:** The 2006 Criminal Policy Framework Law⁵² established that the judicial system has to define priorities with respect to the prevention and investigation of crime, and, to this end, racist and religiously motivated crimes were identified as a priority area.
- **Lithuania:** In 2007 the police department, under the Ministry of Interior, instructed territorial police institutions to collect and provide information on legal violations against foreigners because of their ethnicity, nationality or race.⁵³

In addition, some Member States have recently begun targeting the recruitment of people from minority backgrounds into the police force. This is being done in an effort to build police-community relations, and in the long-term may encourage more effective responses to racist victimisation; for example:

- **Bulgaria:** The NGO *Non-governmental Organisations Center Razgrad*, with the support of the Dutch Embassy, has initiated a training project involving

48 http://news.bbc.co.uk/1/hi/scotland/south_of_scotland/7039911.stm (15.01.2008).

49 Decision of the Ethics Commission of Journalists and Publishers, made on 02.07.2007 and 27.08.2007 – <http://www.lzlek.lt/index.php?lang=1&sid=371&tid=376> (15.01.2008).

50 <http://www.cyberhate.be> (28.01.2008).

51 Centre for Equal Opportunities and Opposition to Racism (scheduled for publishing in June 2008) *Annual Report 2007*; to be available at <http://www.diversite.be>.

52 Law No.17/2006.

53 Note to the chiefs of the territorial police institutions, No 5-1-6001 (09.08.2007), issued by the Police Department under the Ministry of Interior.

40 young men and women from different minority backgrounds in an effort to improve their chances of joining the police.⁵⁴

- **Czech Republic:** As part of the 2006-2007 national strategy for policing minorities, the police training college in Holesov is encouraging minority students to apply.⁵⁵

3.4.2. Law enforcement abuses – addressing the problem

This year, as in others, a number of reports refer to abusive acts against minority groups by law enforcement officers – including the police, immigration and border control officers, and staff working in asylum seeker detention centres: for example,

- **Greece:** In June 2007 a video clip showing police officers physically abusing two young immigrants was published on the web. The officers faced criminal charges and were suspended from their posts. In the following days other video clips showing police brutality were shown on the web.⁵⁶
- **Hungary:** In its conclusions on Hungary, the 2007 report by the United Nations Committee against Torture referred to ‘ill-treatment of and discrimination against the Roma by law enforcement officials, especially the police.’⁵⁷

For this year’s FRA Annual Report, information was sought about official (non-NGO) mechanisms for registering complaints about police abuses of power related to racism and xenophobia. Specifically, one aim was to identify whether an independent complaints mechanism exists; that is, a complaints mechanism that is operationally external to the police, the established criminal justice system and government ministries, and therefore can be said to be free of influence from these bodies. The results indicate the following:

In the majority of Member States there is no specific complaints mechanism for reporting police abuses, including abuses of a racist or xenophobic nature.

In most Member States complaints about police abuses can be registered with the police department involved, directly with the prosecutor’s office, and/or complaints can be registered with an ombudsman or some other office dealing with general complaints of discriminatory or abusive treatment.

In seven Member States specific complaints mechanisms exist, but these are embedded within the police or a ministry, and therefore their independence can be questioned.

In only five Member States is there a complaints mechanism that appears to be operationally *external to and independent of* the police or government ministries:

54 http://ngo-rz.org/realize/prj_40police_bg.pdf (28.01.2008).

55 http://www.spschol.cz/Policie_pro_vsechny/Policie%20pro%20vsechny.pdf (28.01.2008).

56 <http://athens.indymedia.org/features.php3?id=477> (15.01.2008).

57 United Nations Committee Against Torture (2007) Consideration of reports submitted by states parties under Article 19 of the Convention, available at: http://nemzetijogvedo.hu/sajtotaj/cat_c_hun_co_4.pdf (15.01.2008).

Examples of independent police complaints authorities:

- In **Cyprus**, an *Independent Authority for the Investigation of Allegations and Complaints against the Police* was established in 2006 (Law No.9 (1)/2006). However, as of 30.09.2007 the authority had received no complaints directly related to racism.⁵⁸
- In **France**, the *National Commission for a Security Code of Conduct*, which is an independent administrative authority established by law in 2000, includes investigations of complaints relating to racism, anti-Semitism and xenophobia concerning the police.⁵⁹
- In **Hungary**, in 2007 the Hungarian Parliament amended the Act on Police to establish an *Independent Law Enforcement Complaints Board*.⁶⁰
- In **Ireland**, in May 2007 the *Police Ombudsman Commission* was established, replacing the Police Complaints Board. The new commission is an independent body.⁶¹
- In the **UK (specifically England and Wales)**, the *Independent Police Complaints Commission* was established in 2004, replacing the Police Complaints Authority.⁶²

The existence of an independent complaints mechanism is, in principle, a good means of ensuring that police abuses are registered and responded to without prejudice. To this end, the recent establishment of independent complaints mechanisms in Ireland, Cyprus and Hungary are noteworthy. However, the existence of these mechanisms is no guarantee that they are working in practice. In some countries, more general complaints mechanisms also perform an important task with respect to complaint registration and action taken. In **Spain**, whereas there is no specific body or office dealing with complaints concerning the police, the regional ombudsman offices play a vital role in registering complaints; for example, the 2006 Annual Report of the Andalusian ombudsman refers to seven cases of racist violence involving the police.⁶³

Where official independent complaints mechanisms for reporting police abuses have not been established by the State, or where they are considered ineffectual, NGOs play an essential role in registering complaints. In **Germany**, three Berlin-based NGOs launched the 'KOP initiative in 2007 – Campaign for Victims of Police Racist Violence'. The initiative has included the production of brochures in eight languages, as well as a website listing complaints.⁶⁴ Also in Berlin, the police-based 'Clearing House for "Foreigners and Police"', established in 1993, receives

58 Independent Authority for the Investigation of Allegations and Complaints against the Police (2007) Letter to the Cyprus NFP, 15.10.2007.

59 <http://www.cnds.fr/> (28.01.2008).

60 <http://www.parlament.hu/irom38/02916/02916.pdf>; <http://nol.hu/cikk/447534/> (06.07.2007)

61 <http://www.gardaombudsman.ie/>; for legal basis see: <http://www.gardaombudsman.ie/gsoc-garda-ombudsman-legislation.htm> (28.01.2008).

62 http://www.ipcc.gov.uk/index/about_ipcc.htm (28.01.2008).

63 Defensor del Pueblo Andaluz, Informe al Parlamento 2006, available at: http://www.defensor-and.es/informes/ftp/info_06/Info-06.pdf (21.08.2007).

64 <http://www.kop-berlin.de> (15.01.2008).

complaints about discriminatory treatment, and, in its response to complaints, cooperates with NGOs and the Berlin State Commissioner for Integration.

3.5. Other developments

3.5.1. Hate crime, crime prevention and multi-agency responses

Hate crime has long been recognised in Member States' legislation as referring to 'hate speech' and 'incitement to hatred'. Recently, a few Member States have begun to recognise 'hate crime' as a wider concept, which effects a range of potentially vulnerable groups, and which is in need of multi-agency responses to both prevent and respond to the problem. In **Latvia**, the *Latvian Centre for Human Rights* started a two-year project in December 2006 entitled 'Combating Hate Crime in Latvia and the Czech Republic: legislation, police practice and the role of NGOs', which is an initiative aimed at developing NGO-police partnerships in two Member States with the participation of experts from the Netherlands and the UK.⁶⁵ In **Belgium**, in response to an incident of racist violence against an African student in 2004, the city of Leuven developed a multi-agency initiative between the town authorities, the police and the hospitality industry to combat racist acts by doormen at entertainment venues. In 2007, the success of the initiative has resulted in the city of Ghent announcing its intention to adopt a similar scheme.⁶⁶

At present, **Sweden** seems to have the most progressive data collection system in place that is able to record incidents of hate crime under different categories, with, since 2006, 'Islamophobia' counted as a separate category alongside others such as 'homophobia'.⁶⁷ In 2007, the *Swedish Police Service* initiated a project to combat hate crime in the city of Stockholm.⁶⁸ The **UK** has also recognised the wider concept of hate crime for a number of years, with several publications and initiatives addressing the problem at a practical level; notable among these is the *London Hate Crime Forum*, which is an inter-agency group.⁶⁹

65 <http://www.humanrights.org.lv/html/news/projects/29048.html?yr=2007> (28.01.2008).

66 Belgium/Stad Leuven (2004) *Politierglement op het uitoefenen van van portiersactiviteiten*, available at <http://www.leuven.be/doc/Uitoeefenen%20van%20portiersactiviteiten.pdf> (28.01.2008); Belgium/Stad Gent (2007) *Europese Coalitie van steden tegen racisme (UNESCO) Toetredingsverklaring Stad Gent. 10-punten actieplan*, available at <http://www.gent.be/docs/Departement%20Stafdiensten/Europese%20coalitie%20van%20steden%20tegen%20racisme.pdf> (28.01.2008).

67 Sweden/Brottsförebyggande rådet (2007) *Hatbrott 2006 – En sammanställning av polisanmälningar med främingsfientliga, islamofobiska, antisemitiska och homofobiska motiv*.

68 Sweden/Polisen (2007) *Polisens hatbrottsprojekt – ett utvecklingsprojekt i city polismästarområdet*, available at: http://www.polisen.se/mediaarchive/1690/9449/6991859/1_hatbrottwebb.pdf (15.10.2007).

69 <http://www.mpa.gov.uk/partnerships/rhcf/default.htm> (28.01.2008).

3.5.2. European developments

Finally, a number of developments in the EU should be mentioned that directly address the problem of racist crime and policing responses to minority communities, notably:

- Council Framework Decision on Combating Racism and Xenophobia (COM (2001) 664 final)⁷⁰ – In April 2007 political agreement was reached concerning this legal instrument, which will ensure approximation of criminal law offence definitions and penalties in Member States concerning key aspects of racism and xenophobia.⁷¹ The FRA reports on racist crime, anti-Semitism and Islamophobia were used by the European Parliament in support of the need for the framework decision. Final adoption of the framework decision is pending.
- In 2007 the FRA undertook pilot survey research in six EU Member States to test the sampling and methodological approach for a questionnaire survey on immigrant and minority groups' experiences of criminal victimisation. The technical findings of this pilot exercise have served to inform the Agency's development of a full-scale survey on immigrants' and minorities' experiences of discrimination, criminal victimisation and policing in the EU. The survey will be the first of its kind to collect comparative data specifically on selected immigrant and minority groups' experiences in all EU Member States. The survey will be completed during 2008 and the first results are expected at the beginning of 2009. The results will provide EU policy makers and practitioners will valuable evidence for informing policy.
- In 2007 the *Open Society Justice Initiative*, an NGO, launched its STEPSS ('Strategies for Effective Police Stop and Search') study tour on ethnic profiling practices. The study tour was a multi-agency initiative involving the police, minority community representatives and advocates from Bulgaria, Hungary, Spain and the UK, which set out to address police profiling practices and their disproportionate impact on minority communities.⁷² In 2007, the FRA contracted the *Open Society Justice Initiative*, together with the University of Warwick (UK), to develop a handbook on good practices addressing negative profiling practices in the EU.

⁷⁰ http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2001&nu_doc=664 (28.01.2008).

⁷¹ <http://www.futurdeleurope.parlament.gv.at/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2007-0151+0+DOC+PDF+V0//EN> (28.01.2008).

⁷² http://www.justiceinitiative.org/db/resource2?res_id=103751 (28.01.2008).

4. Racism and discrimination in areas of social life and preventive initiatives

4.1. Racism and discrimination in the employment sector, and preventive initiatives

4.1.1. Patterns of inequality

In previous years FRA/EUMC reports have described the labour market inequality experienced by immigrants and minorities in the EU. The most common indicator has been their rates of unemployment, often several times higher than those of the majority population.⁷³ This year, where statistics are available in Member States, patterns are largely similar to previous years, and so this chapter will emphasise areas where there are relatively new kinds of data or research, or developments which add something new to our information in this area.

As with previous years, there are studies from 2006/2007 which suggest that different rates of unemployment at least partly reflect forces of discrimination, rather than simply reflecting factors such as differences in education or skill levels. For example, studies comparing access to employment of equally qualified minority and majority populations in **Belgium**,⁷⁴ **Germany**,⁷⁵ the **Netherlands**⁷⁶ and the **UK**⁷⁷ found that after correcting for other variables – e.g. age, gender, education – there were still differences between majority and minorities in accessing jobs at various levels.

In the **Netherlands** in November 2007, the *Social and Cultural Planning Office* and *Art. 1*, the Dutch Association against Discrimination, published a research report on labour market discrimination against non-Western ethnic minorities, based on quantitative analyses of the labour market position, interviews with ethnic minorities, and filed complaints. The research shows that discrimination limits the access to the labour market, and that higher unemployment figures for non-Western ethnic minorities can only partly be attributed to labour market-relevant characteristics. (However, discrimination seems to have less influence on the position of ethnic minorities who are already in employment.) It appears that Moroccans are confronted most with discrimination, whereas second-generation Antilleans have virtually the same opportunities for (permanent) employment as the indigenous population.⁷⁸

73 FRA (2007) *Report on Racism and Xenophobia in the Member States of the EU*, p. 44.

74 VDAB (2007) *VDAB ontcijfert nummer 3*, available at <http://www.vdab.be/trends/ontcijfert/ontcijfert2007nr3.pdf> (15.01.2008).

75 C. Burkert; H. Seibert (2007) 'Labour market outcomes after vocational training in Germany. Equal opportunities for migrants and natives?', in: *IAB Discussion Paper*, No. 31/2007.

76 H. Langenberg, H. Lautenbach (2007) 'Beroepsniveau niet-westerse allochtonen lager', in: *Socialeconomische trends*, 1 kwartaal, pp. 37-45.

77 Botcherby, S. (2006) *Pakistani, Bangladeshi and Black Caribbean women and employment survey: aspirations, experiences and choices*, Manchester: Equal Opportunities Commission. ISBN: 1 84206 196 8. http://83.137.212.42/sitearchive/eoc/PDF/bme_gfi_women_employment_survey.pdf?page=19471 (17.10.2007).

78 I. Andriessen, J. Dagevos et.al. (2007) *Discriminatiemonitor niet-westerse allochtonen op de arbeidsmarkt 2007*, Den Haag/Rotterdam: Sociaal en Cultureel Planbureau/Art.1, <http://www.scp.nl/publicaties/boeken/9789037703313.shtml>.

4.1.2. Statistics on ethnic and national origin

Previous FRA/EUMC reports have described the tremendous variety in national practices in the collection of population statistics which indicate variables which can be of use for indicating the levels of inclusion or exclusion of population groups vulnerable to racial discrimination. In some Member States the use of data on ethnic origin is encouraged and even forms part of the national census; in many other Member States there is a reluctance to gather such data, and in a few the gathering of such statistics is prohibited by national law. Last year's FRA report⁷⁹ highlighted the absence of or weaknesses in such statistics in **Bulgaria**, the **Czech Republic**, **Lithuania**, **Slovenia**, **Slovakia** and **Finland**. During 2007 the **Czech Republic**,⁸⁰ **Romania**⁸¹ and **Finland**⁸² were criticised by one or another international body for their lack of statistical data which could give a true picture of the circumstances of ethnic minorities.

Last year's FRA report also described some new developments regarding the introduction or improvement of statistics of ethnic/national origin in **Belgium**, **France**, **Ireland** and the **UK**. Since then, in **Germany** the *Statistisches Bundesamt* (DESTATIS) [Federal Statistical Office] released in 2007 a comprehensive set of statistics on the situation of migrants in employment and other areas based on the findings of the 2005 micro-census which for the first time applied a complex indicator of the respondents' migration backgrounds taking into consideration the variables of nationality, naturalisation and the migration history of the respondent and his/her parents.⁸³

Such developments are not without controversy. Previous Annual Reports noted the initiative now known as 'socio-economic monitoring' which started in 2006 in **Belgium**, based on data on nationality across several generations. In 2007 this provoked arguments between advocates and opponents of the practice, with some political and economical actors expressing reservations with respect to the use of such statistics both on macro level and on the level of organisations that are involved in a diversity plan. Nevertheless, micro analysis has entered a pilot phase in Flanders, whilst agreement on macro analysis is furthering in all regions.⁸⁴

In **France**, the controversy over 'ethnic statistics' hardened in 2007. In May 2007 the French data protection authority, the CNIL, urged public authorities to elaborate an ethnic and racial statistical standard to monitor diversity and thus aid the fight against discrimination, making ten specific recommendations.⁸⁵ The EUMC's Annual Report 2006 had described how, for the first time in France,

79 FRA (2007) *Report on Racism and Xenophobia in the Member States of the EU*.

80 OSN – Committee on the Elimination of Racial Discrimination (2007) *Report of the Committee on the Elimination of Racial Discrimination of the UN*, available at <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.CZE.CO.7.doc> (10.10.2007).

81 [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/7a0261ea8f5ffd59c125723d0059a29a/\\$FILE/N0638379.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/7a0261ea8f5ffd59c125723d0059a29a/$FILE/N0638379.pdf) (15.10.2007).

82 CoE doc. CRI(2007)23.

83 Statistisches Bundesamt Deutschland (2007) *Bevölkerung mit Migrationshintergrund – Ergebniss des Mikrozensus 2005 (Fachserie 1 Reihe 2.2, Bevölkerung und Erwerbstätigkeit)*.

84 Information by the Centre for Equal Opportunities and Opposition to Racism, which coordinates the work group on socio-economic monitoring.

85 <http://www.cnil.fr/fileadmin/documents/approfondir/dossier/diversite/RapportdiversiteVD.pdf>; http://www.cnil.fr/fileadmin/documents/approfondir/dossier/diversite/communicationVD15.052_vu_pa-raDEBET.pdf (15.05.2008).

research at the National Institute of Statistics and Economic Studies [*Institut national de la statistique et des études économiques* (INSEE)] included variables which would permit the identification of the children of immigrants and therefore allow the analysis of second-generation immigrants in the labour market.⁸⁶ However, the NGO *SOS Racisme* organised a petition denouncing the intention to measure such variables in research,⁸⁷ arguing that currently available information in France was already enough to enable the evaluation of discrimination. Other researchers signed a counter petition in favour of the principle of such data.⁸⁸ Following this, in November 2007 the French Constitutional Court struck down an article which had allowed the identification of ethnic origin for research purposes as long as anonymity was guaranteed, and instead ruled that studies using the variable of ‘race’ and ethnic origin were unconstitutional, and violated Article 1 of the constitution on equal rights.⁸⁹ This interpretation, and its impact on social surveys, has refuelled the debate on ethnic statistics.

4.1.3. Incidents, complaints and court cases

As with previous years, the incidents and cases notified this year illustrate the ways in which racism and discrimination can be manifested in the labour market and at the workplace: for example, racial discrimination in recruitment practices (**Belgium**,⁹⁰ **Ireland**,⁹¹) racist insults and harassment at the workplace (**Belgium**,⁹² **Ireland**,⁹³ **Austria**,⁹⁴ **Slovenia**,⁹⁵ **Sweden**⁹⁶) discrimination in wages and conditions of work (**Romania**,⁹⁷ **Finland**⁹⁸) discrimination in being selected for dismissal (**Hungary**,⁹⁹ the **Netherlands**¹⁰⁰) or third parties inciting an employer (or agency) to cooperate in discriminatory recruitment policies (**Denmark**,¹⁰¹ **France**¹⁰²).

86 EUMC Annual Report 2006 on the Situation regarding Racism and Xenophobia in the Member States of the EU, p. 43.

87 ‘Engagement républicain contre les discriminations’, 23.02.07, <http://www.engagement-republicain.org/> (15.01.2008).

88 ‘Pour combattre les inégalités ‘ethniques’, les chercheurs ont besoin d’instruments de mesure fiables’, *Le Monde*, 13.03.07.

89 Article 63 of ‘Loi n° 2007-1631 du 20 novembre 2007 relative à la maîtrise de l’immigration, à l’intégration et à l’asile’ was declared unconstitutional on 15.11.2007. <http://www.conseil-constitutionnel.fr/decision/2007/2007557/2007557dc.htm> (28.01.2008), <http://www.legifrance.gouv.fr/WAspad/Visu?cid=823974&indice=1&table=JORF&ligneDeb=1> (30.11.2007).

90 S.V.D (2007) ‘Werkgever met racistische hond neemt nu toch zwart personeel aan’. in: *Het Laatste Nieuws*, 4.10.2007, p. 13; http://www.associatedcontent.com/article/276082/nigerian_man_denied_job_over_racist.html(28.01.2008).

91 *Mey -v- St. James Hospital* (DEC-E2007-016).

92 *Mouvement contre le Racisme et la Xénophobie Rapport annuel 2006*.

93 *NCCRI Reported Incidents Related to Racism January-June 2007*.

94 *Austria/Gleichbehandlungskommission/GBK II/11* (2007), available at: <http://www.frauen.bka.gv.at/DocView.axd?CobId=24554> (03.10.2007).

95 *Slovenia/Varuh človekovih pravic Letno poročilo 2006*, pp. 171-173, available at: http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Varuh_LP_2006_SLO.pdf (15.10.2007).

96 *Sweden/Ombudsmannen mot etnisk diskriminering* (2007) DO stämmer Torsås kommun för etniska trakasserier mot romsk kvinna, available at: http://www.do.se/t/Page_1420.aspx (08.01.2008).

97 *Alin Bratu, Ziarul de Sibiu, Conflictul indo-pakistanez mutat la Marsa*, 8.10.2007, [The Indian-Pakistani Conflict Moved to Marsa], available at http://www.sibuijobs.ro/06utile_stire.php?news_id=6557 (18.01.2008).

98 *Finland/Turun käräjäoikeus/R 07/1602* (18.10.2007).

99 <http://www.egyenlobanasmod.hu/zanza/346-2007.pdf> (25.01.2008); *Roma származásuk miatt rúgtak ki takarítókat*, available at: <http://www.origo.hu/itthon/20071203-hatranynos-megkulonboztetes-miatt-marasztalt-el-az-ebh-egy-orzagos-takaritoceget.html> (25.01.2008).

100 *The Netherlands/Local court Rotterdam/JAR 2007*, 42 (29.11.2006, published 06.12.2007).

101 SA1305 Technical School Case. CERD decision No. 40/2006 – ‘Murat Er against Denmark’.

102 *France/11ème chambre de la Cour d’appel de Paris – chambre correctionnelle/ SOS Racisme vs. Garnier, Adecco* (06.07.2006).

In **Austria** the problem of job (and flat) advertisements which state that ‘only Austrians need apply’ remains. Although the NGO ZARA filed 112 complaints with the Viennese municipal district offices over this practice,¹⁰³ no action was taken. Similarly in **Denmark** a company published a number of newspaper job advertisements requesting only Danish or Swedish job applicants.¹⁰⁴

In the **UK** a woman who suffered eight years of racial abuse at a small electronics company in Essex (where she was the only ethnic minority employee) was awarded GBP 34,000 in compensation by an employment tribunal.¹⁰⁵ The tribunal heard she was referred to as ‘nigger’, that literature from the *British National Party* was placed on her workstation, and colleagues openly discussed the extreme right-wing party’s policies in her presence. The company was fined a further GBP 5,000 after claiming that she had tried to make herself look ‘more black’ for the tribunal. The tribunal ordered the company to work with the *Commission for Racial Equality* to provide diversity training for all directors and managers.

There were several cases of companies ending up in court for direct and blatant discrimination in recruitment against Roma, one in the **Czech Republic**,¹⁰⁶ and several in **Hungary** including two private companies,¹⁰⁷ a supermarket,¹⁰⁸ and a local government.¹⁰⁹ Also, the *Hungarian National Railway Company* was fined for discrimination after dismissing all Roma employees whilst renewing the contracts of non-Roma employees who were less qualified.¹¹⁰

In **Belgium** in 2007, Turkish workers at an automobile components company in Flanders protested at the internal rule stating that workers using other languages than Dutch on three consecutive occasions are punishable with dismissal. Workers were told to speak Dutch at all times on its premises, for ‘security reasons’ and out of ‘respect for other workers’. Seventy per cent of the company’s employees are of foreign origin. Some Turkish workers complained against these regulations and advocated that limited use of Turkish should be allowed.¹¹¹

103 Austria/Volksanwaltschaft (2007) *Missstandsfeststellung und Empfehlung: Antidiskriminierung – Vollziehung des Artikel IX Abs. 3 EGVG*, available at: <http://www.volksanwaltschaft.at/missstaende/W-536-LAD-06.pdf> (03.10.2007).

104 DACoRD database (SA2145); letter by the Public Prosecutor to DACoRD (Journal. Nr. SA1-2007-41-1254).

105 The case is described at: <http://www.personneltoday.com/Articles/2007/07/18/41568/pauline+taylor+wins+34000+compensation+after+suffering+eight+years+of+racial+abuse.html> (16.10.07).

106 http://www.romea.cz/index.php?id=detail&detail=2007_3174 (28.01.2008).

107 <http://www.egyenlobanasmod.hu/index.php?g=cases.htm> (11.10.2007);

<http://www.egyenlobanasmod.hu/index.php?g=hirarch.htm> (11.10.2007);

<http://www.egyenlobanasmod.hu/zanza/271-2007.pdf> (11.10.2007).

108 Supreme Court, *Zala Megyei Bíróság*, Case No: 4.Mf.20.245/2006.

109 http://www.neki.hu/index.php?option=com_content&task=view&id=311&Itemid=1 (11.10.2007); http://neki.hu/index.php?option=com_content&task=view&id=20&Itemid=1 (11.10.2007).

110 NEKI (2007) *Fehér Fűzet* 2006, available at: http://www.neki.hu/index.php?option=com_docman&task=cat_view&gid=32&Itemid=45 (11.10.2007); http://www.neki.hu/index.php?option=com_content&task=view&id=311&Itemid=1 (11.10.2007), http://neki.hu/index.php?option=com_content&task=view&id=20&Itemid=1 (11.10.2007).

111 http://acv-limburg.acv-online.be/actueel/nieuwsarchief_acv_limburg/2006_2007/detail/talenkwestie_pelzer.asp (28.01.2008).

4.1.3.1. Religious Symbols

There were a number of developments in the area of religious symbols and clothing. In **Belgium**, Antwerp city council approved the introduction of a new dress code banning religious symbols and any visible sign of political or philosophical beliefs for civil servants who are visible to the general public.¹¹² Similarly, in the administration of the region Brussels Capital all signs of religious or philosophical conviction were prohibited for civil servants during the exercise of their civil service mission, whether or not personnel are in contact with the general public. In Ghent, a dress code similar to the one enforced in Antwerp was approved by majority voting in Ghent city council on 26.11.2007.

In **Ireland** the national police force *An Garda Siochana* refused permission for a Sikh volunteer to the Garda Reserve to wear a turban as part of his uniform. The Garda asserted that a standard uniform requirement was necessary to 'retain an image of impartiality while providing a State service to all citizens'.¹¹³ In 2007 it was reported that a Sikh in **France** had appealed to the European Court in Strasbourg over a French Ministry of Transport ban on turbans in driving licence photographs.¹¹⁴

In the **Netherlands** in 2006, many of the complaints about (alleged) ethnic discrimination in employment recorded by anti-discrimination agencies concerned Muslim women wearing a headscarf,¹¹⁵ including one complaint about an employment agency, and two private sector employers.¹¹⁶

4.1.3.2. Migrant women and domestic work

In **Austria**, home health care is a rapidly growing area of employment for women of the new EU Member States of southern and eastern Europe, who have now been granted easier access to the labour market by the Aliens' Employment Regulation.¹¹⁷ A number of administrative penal provisions have been suspended temporarily¹¹⁸ (until June 2008) in order to give individual employers the chance of legalising the employment relationship. However, commentators argued that the public debate focuses on the necessity of affordable home health care rather than on the risks and stress the women are exposed to in this highly precarious field of work.¹¹⁹ Working in private households is not covered by adequate legislation protecting employees from abuse and exploitation.¹²⁰

112 Ethnic minority councillors and opponents to the dress code created a platform organisation campaigning to cancel the code, see: <http://www.baasovereigenhoofd.be> (15.01.2008). Later the city agreed to make an exception for crèche personnel, allowing Muslim women to wear a more 'neutral' bandana instead of the traditional Islamic headscarf.

113 C.O'Brien (2007) 'Gardaí deny turban ban is based on race or religion', in: *The Irish Times* (24.08.2007), available at: <http://www.ireland.com/newspaper/ireland/2007/0824/1187332461120.html>. See editorial note in issue 15 of *Spectrum*, the NCCRI journal, available at: <http://www.nccri.ie/spectrum.html> (21.10.2007).

114 <http://www.neurope.eu/print.php?id=77708> (28.01.2008).

115 I. Boog, M. Coenders (2007) *Kerncijfers 2006*. Rotterdam: Art.1.

116 The Netherlands/Equal Treatment Commission/2006-213 (24.10.2006); The Netherlands/Equal Treatment Commission/2006-63 (10.04.2006).

117 *Ausländerbeschäftigungsverordnung*, Austria/BGBl II 405/2006 (25.10.2006)

118 Nursing Care Transition Act / *Pflege-Übergangsgesetz*, Austria/BGBl I 164/2006 (22.12.2006).

119 I. Moritz (2007) 'Vom Dienstmädchen zur ausländischen Pflegerin: Kontinuitäten der Rechtlosigkeit', in: *juridikum* 2007/3, p. 151.

120 B. Grubner (2007) 'Institutionalisierte Gewaltverhältnisse', in: *frauensolidarität* 4/2007, p. 9, available at: http://www.frauensolidaritaet.org/zeitschrift/fs_102grubner.pdf (19.01.2008).

In **Spain**, organisations in Navarre¹²¹ and in the Basque country¹²² drew attention to complaints of exploitation of migrant women in the home help sector, with, for example, extreme hours of work, sexual harassment and little (or no) payment. Recognising the problem, the Spanish government in 2007 announced reforms of the home help sector, intended to gradually close the differences with other economic sectors.¹²³ In contrast, in **Cyprus**, in June 2007, the Ministry of the Interior announced a new policy¹²⁴ which constitutes a worsening in the terms of employment of female migrant domestic workers, which will constrain their right to change employers even further.¹²⁵ This is despite a study¹²⁶ describing the restrictive conditions and poverty of domestic migrant workers, and the Cyprus equality body decision of 2005 that female migrant domestic workers face direct discrimination on the ground of race/ethnic origin and indirect discrimination manifested in the low salaries paid to them.¹²⁷ In **Greece** the Minister of Employment resigned following revelations about his having employed informally three Indian domestic workers without declaring them to the authorities or paying the necessary social security contributions. These revelations triggered extensive public discussion on the precarious conditions of immigrants in employment.¹²⁸

In 2006, a district court of **Finland** found an employer in the construction work sector guilty of both a working hours offence and work discrimination.¹²⁹ An Estonian employee with limited knowledge of the Finnish language had been unaware of the benefits he was entitled to, had been underpaid, had received no compensation for working overtime, and had to work during sick leave. He had also been subject to bullying and derogatory name-calling at the workplace.¹³⁰

4.1.3.3. The low level of complaints

Despite the evidence for the existence of racial discrimination in employment, there continues to be evidence of generally low rates of complaints of discrimination to official bodies. An insight into some of the reasons why victims

121 SOS Racismo Navarra, Informe anual año 2007 sobre el racismo en Navarra.

122 For more information, consult: <http://www.ath-ele.com> (31.05.2007); UGT-Euskadi, Departamento de Migraciones (2007) Informe sociolaboral de migraciones, available at: http://www.ugteuskadi.org/article.php3?id_article=1812 (11.05.2007).

123 Spain/Ministerio de Trabajo y Asuntos Sociales (2007) *Plan Estratégico de Ciudadanía e Integración 2007-2010*, available at: <http://www.mtas.es/migraciones/Integracion/PlanEstrategico/Docs/PECIDEF180407.pdf> (13.07.2007).

124 Official journal of the employers Association (OEV) Επιχειρηματική [Epixirimatiki], October 2007, pp. 4-6.

125 Under the existing regime, female migrant domestic workers can change employer if they submit a complaint to the Ministry of Labour alleging a labour dispute, in which case they are deemed as released from their contract and are granted a short period of time to seek another employer.

126 Mediterranean Institute of Gender Studies (MIGS – <http://www.medinstgenderstudies.org>), project 'Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation', (see <http://www.medinstgenderstudies.org/wp/wp-content/uploads/inti-results-leaflet-english.pdf> [15.01.2008]).

127 In the ombudsman report their income was calculated at CYP 0.82 per hour, contrasted with CYP 4-5 per hour for Cypriots carrying out the same work (Cyprus Ombudsman Report File No. A.K.I 2/2005, dated 4.11.2005, p. 4). In February 2008 there was a salary increase by 10% on the net salary of domestic workers (Circular 1/108 of 21.1.2008, referring to the Council of Ministers' decision 24.10.2007).

128 M. Kagkelidou (2007) 'Scandalous tide claims minister', in: Athens News (21.12.2007), http://www.athensnews.gr/athweb/nathens.print_unique?e=C&f=13266&m=A05&aa=3&eid=21.12.2007.

129 Finland/39/1889 (12.07.2007).

130 Finland/Lahden käräjäoikeus/R 06/975 (30.08.2006). See also Finland/Kouvolan hovioikeus/R 06/1042 (12.07.2007).

fail to make complaints came from a number of reports during the past year. For example, in **Belgium** during the first six months of 2007, the only complaint of racial discrimination lodged with the Walloon Region was investigated by the Inspection service of the Walloon Region. The reason put forward to explain the low level of complaints was that no service is clearly mandated or trained to process complaints of discrimination, a situation which might change when a new mediation service becomes operational.¹³¹ In the **Czech Republic** employees of the anti-discrimination hotline pointed out that whilst dozens of complaints of racial discrimination were received, they remained unofficial, and were not dealt with due to a lack of evidence, or concerns of the injured parties about the high financial costs of the court case.¹³²

In **Spain** the annual report of the *Commission for Refugees' Support*¹³³ suggests that the number of complaints is rather low partly because the battle against discrimination has never been subjected to major public debate, so that victims are poorly informed about their rights. And in **Romania** a 2007 report by the *European Roma Rights Centre (ERRC)*¹³⁴ points out that there is little incentive to make a complaint when 'employers in the public and private sector alike are not under serious threat of financial loss in case of discrimination, because sanctions imposed by anti-discrimination laws are usually not dissuasive, especially for larger companies.'¹³⁵

Finally, in **Cyprus** the new trade union organisation for handling complaints of employment discrimination¹³⁶ actually operates a policy of *not* referring cases to the Equality Authority because of the belief that nothing will be achieved by this, and also from a motive of not wanting to 'expose' the Republic of Cyprus on issues of discrimination, preferring mediation and alternative solutions.¹³⁷ As for domestic workers in Cyprus, NGOs reported that many do not complain to the authorities out of fear of deportation.¹³⁸

4.1.4. Research evidence for discrimination

In the **UK**, research funded by the government Department for Work and Pensions has demonstrated that people from minority ethnic groups are at a disadvantage in job interviews. Their linguistic penalty arises not from a lack of fluency in English, but from the largely hidden demands on candidates to talk in institutionally credible ways and from a mismatch of implicit cultural expectations.¹³⁹

131 Answer from the Cell Employment of the cabinet of Jean-Claude Marcourt, Minister of Economy and Employment of the Walloon Region, to the Belgian NFP's request for information.

132 People can file their complaints regarding infringement of labour law regulations (in the areas defined in Provision 1 Paragraph 4, Act No. 253/2005) by employers at the *Oblastní inspektorát práce* [Regional Labour Inspectorates].

133 J.J. Rodríguez Ugarte (Dir.) (2007) *La situación de los refugiados en España. Informe 2007*, Madrid: Comisión Española de Ayuda al Refugiado (CEAR); Entinema, available at: http://www.cear.es/upload/informe_2007.pdf (25.06.2007).

134 European Roma Rights Centre (2007) *The Glassbox: Exclusion of Roma from Employment*, available at: <http://www.errc.org/db/02/14/m00000214.pdf> (10.10.2007).

135 S. Danova-Russinova, ERRC *Tackling the Systemic Exclusion of Roma from Employment*, available at: <http://www.errc.org/cikk.php?cikk=2534> (08.08.2007).

136 Interview with director of PROSOPO, 24.10.2007.

137 Interview with director of PROSOPO, 24.10.2007.

138 Mediterranean Institute of Gender Studies (2007) *Mapping the Realities of Trafficking in Women for the Purpose of Sexual Exploitation in Cyprus*, available at: <http://www.medinstgenderstudies.org/wp/?p=322> (22.10.2007).

139 Roberts, C. and Campbell, C. (2007) Talk on Trial: Job interviews, language and ethnicity, DWP Research Report No 344 <http://www.dwp.gov.uk/asd/asd5/rports2005-2006/rrep344.pdf> (25.01.08).

4.1.4.1. Discrimination testing

As with previous years, much information on the operation of discrimination in employment has come from the explorations of research. For example, in **Sweden** in 2007 a new research method to test discrimination was used by the *Institute for Labour Market Policy Evaluation*, using data from an Internet-based CV database. Even after controlling for all other differences, the researchers found that jobseekers with non-Nordic names were contacted significantly fewer times by companies.¹⁴⁰

Discrimination testing on access to employment was again one of the methods drawn on in several Member States. (The method is also increasingly used to test access to housing – see section 4.2.1.) In **Greece**, for example, matched pair experiments based on the ILO model of testing showed that Albanian applicants have a much lower chance of employment than Greeks, and that when they are offered a job, they are offered greatly inferior terms and conditions of employment.¹⁴¹

In **Hungary** the research centre TÁRKI tested discrimination in different recruitment situations, concluding that discrimination against Roma applicants was significant, especially in ‘front-desk’ jobs.¹⁴² A regional Hungarian newspaper sent applications twice in response to ten advertisements for jobs, the first time the applicant introducing him/herself under a typical Roma surname, the second time under a non-Roma name. In three out of the ten cases the ‘Roma’ applicant was refused while the Hungarian was invited to a personal interview for the same job. According to a representative of the *Equal Treatment Authority* (ETA) this proportion is about ‘average’.¹⁴³ Also in Hungary NEKI was approached by a complainant who applied for a vacancy by phone, and although he met the job requirements, he was refused because he revealed his Roma origin. NEKI carried out a testing in the case and found that the tester who used a Roma family name was not given any information about the job while the other one got a full job description. *The Equal Treatment Authority* stated that the company violated the principle of equal treatment and imposed a fine of HUF 700,000 (approx. EUR 2,700).¹⁴⁴

In **France** in 2007 a report was published on the testing carried out by the ILO in conjunction with the *Direction de l’Animation de la Recherche, des Etudes et des Statistiques* (DARES) in several major cities.¹⁴⁵ It identified significant discrimination against test candidates of non-European origin, indicating that only 11 per cent of the employers responded equally to the candidates without taking into account their origin or supposed origin.¹⁴⁶

140 Sweden/IFAU (2007) *Diskriminering i anställningsprocessen: resultat från en Internetbaserad sökkanal* (Detecting Discrimination in the Hiring Process: Evidence from an Internet-based Search Channel), p. 1, available at: <http://www.ifau.se/upload/pdf/se/2007/wp07-19.pdf> (10.10.2007).

141 N. Drydakakis and M Vlassis (2007) *Ethnic Discrimination in the Greek Labour Market: Occupational Access, Insurance Coverage, and Wage Offers*, University of Crete Working Paper; <http://econpapers.repec.org/paper/crtwpaper/0715.htm> (30.11.07).

142 <http://www.tarki.hu/hu/news/2007/kitekint/20070612.html> (10.15.2007).

143 Nem baj, hogy cigány vagyok?, in: *Zalai hírlap* (03.10.2007).

144 EBH/180/1/2006; see <http://www.egyenlobanasmod.hu/index.php?g=cases.htm> (11.10.2007), (Egyenlő Bánásmód Hatóság, case 29).

145 BIT/Darés (2007) *Les discriminations à raison de “l’origine” dans les embauches en France. Une enquête nationale par tests de discrimination selon la methode du bureau international du travail.*

146 ‘La France épinglée pour ses discriminations à l’embauche’, in: *Le Monde*, 17.03.07.

4.1.4.2. Research on the experiences of victims

In recent years a growing number of cases of research into the subjective experiences of victims of discrimination have been reported, either indicating the proportion of survey respondents who feel that they have experienced discrimination when applying for jobs, or asking victims to describe their tangible experiences of discrimination more qualitatively. Evidence of this nature came from several Member States. In **Austria** it came from Vienna employment service interviews with 265 migrant young people who were looking for a job¹⁴⁷ and in Graz from an NGO survey among 75 migrants,¹⁴⁸ whilst in **Italy** the findings came from a survey of foreign workers in the Trentino region.¹⁴⁹ In the **Czech Republic** evidence came from a qualitative survey of Roma unemployment,¹⁵⁰ and in **Hungary** from a survey of Roma, both carried out by the *European Roma Rights Centre*.¹⁵¹

In **Estonia** evidence came from a survey of Estonians and ethnic minorities commissioned by the Office of the Minister for Population Affairs (which asked respondents whether they had witnessed ethnic/linguistic discrimination in access to work and in distribution of benefits).¹⁵² In **Slovenia** the government's Office for Equal Opportunities conducted a survey reporting *inter alia* experiences of racial and sexual harassment at the workplace, which also confirmed that a majority of victims did not report the incident to anyone.¹⁵³ In the **Netherlands**, in focus group interviews, as part of a discrimination monitor commissioned by the Ministry of Social Affairs and Employment, it was found that ethnic minority respondents adopt 'coping strategies' in the face of discrimination, such as not sending a picture with their CV or not mentioning their country of birth.¹⁵⁴

In **France** a survey organised by the Representative Council of Black Organisations (*le Conseil représentatif des associations noires*) recorded the experiences of discrimination of black people in France,¹⁵⁵ and subjective evidence on discrimination experienced by young people of migrant origin came from the study of two school-leaving cohorts.¹⁵⁶ In **Sweden** the *Ombudsman against Ethnic Discrimination* published a report describing experiences of racism and discrimination among youths and young adults of African origin in Sweden.¹⁵⁷

147 G. Challupner, C. Felix, A. Ordubadi, E. Heckl (2007) *Analyse der KundInnengruppe Jugendliche mit Migrationshintergrund am Wiener AMS Jugendliche*, Wien: Arbeitsmarktservice Wien, KMU Forschung Austria, available at: http://www.kmuforschung.ac.at/de/Projekte/AMS%20Jugendliche/Endbericht_AMSBeratung.pdf (05.10.2007).

148 Helping Hands Graz, *Jahresbericht 2006*, p. 12, available at: <http://helpinghands.htu.tugraz.at/2006.pdf> (02.10.2007).

149 MIGRA – Osservatorio sulla discriminazione degli immigrati nel lavoro (2007) *La discriminazione degli immigrati nel mercato del lavoro trentino. Una Ricerca sul campo*, Trento: Provincia Autonoma di Trento.

150 European Roma Rights Centre (2007) *The Glass Box: Exclusion of Roma from Employment*, available in English at http://www.errc.org/Archivum_index.php (08.10.2007).

151 European Roma Rights Centre (2007) *Written Comments of the European Roma Rights Centre Concerning Hungary for the consideration by the United Nations Committee of the Elimination of Discrimination against Women at its 39th Session*, available at: <http://www.errc.org/db/02/55/m00000255.pdf> (11.10.2007). Results are based on interviews with 124 Roma women.

152 Office of the Minister for Population Affairs (2007) *Interethnic Relations and the Challenges of Integration after the 'Bronze Soldier' Crisis*.

153 Slovenia/Vlada Republike Slovenije, Urad za enake možnosti (2007) *Sexual and other harassment at the workplace*, available at: <http://www.uem.gov.si/fileadmin/uem.gov.si/pageuploads/RaziskavaNadlegovanje.pdf> (15.10.2007)

154 I. Andriessen, J. Dagevos et.al. (2007) *Discriminatiemonitor niet-westerse alloctonen op de arbeidsmarkt 2007*, Den Haag/Rotterdam: Sociaal en Cultureel Planbureau/Art.1.

155 'Plus d'un noir sur deux se dit discriminé en France', in: *Le Monde* (01.02.2007)

156 Centre d'analyse stratégique, Rapport annuel 2006. *"La société française : entre convergences et nouveaux clivages"*, p. 59.

157 Sweden/Ombudsmannen mot etnisk diskriminering (2007) *Att färgas av Sverige: Upplevelser av diskriminering och rasism bland ungdomar med afrikansk bakgrund i Sverige* (To be Coloured by Sweden: Experiences Regarding Discrimination and Racism among Young People of African Background in Sweden), available at: http://www.do.se/upload/Ladda%20ner/fargas_av_sv_del_1_07.pdf (28.02.2008).

When such surveys have been repeated over time in a Member State it is possible to gain an insight into trends over time. In the **UK** the Citizenship Survey for April to June 2007 revealed that 24 per cent of people from minority ethnic groups who had been refused a job felt that it was for reasons of 'race', a percentage which has remained stable since 2003.¹⁵⁸ In **Denmark**, since 2000 *Catinét Research* has recorded data about self-experienced discrimination of immigrants, with the latest findings showing an overall decline in self-experienced discrimination within the employment sector from first half-year 2006 until first half-year 2007.¹⁵⁹

A survey on differential treatment of a more unusual kind was carried out in **Sweden** by *Svenskt Näringsliv*, the Confederation of Swedish Enterprise, investigating the opportunities for entrepreneurs with an immigrant background to receive financing. Of the 45 who were interviewed, only five had received financing from a bank when starting up their businesses. The report concludes that ethnic discrimination was just one of several factors which explained this.¹⁶⁰

4.1.4.3. Research on the majority

Studies of the majority population can throw light on factors behind employment discrimination. In **Belgium** a survey of 688 members of an organisation of self-employed, covering mainly small companies with five to ten workers, found that eight out of ten respondents would not consider hiring a person of foreign nationality, even for occupations where there are labour shortages.¹⁶¹ In **Bulgaria** the 'Annual Report for the Youth of the Republic of Bulgaria 2005' found that that 77 per cent of employers would refuse to hire Roma people in construction, agriculture, and other activities requiring low qualifications. Surveys also revealed the hostility of majority Bulgarians to the idea that representatives of minorities could be employed as government and municipal officials.¹⁶² And in **Romania**, according to a study carried out by the *Max Weber Sociology Professional College and Research Centre on Inter-ethnic Relations*, 60 per cent of respondents gave a positive answer to the statement: 'If I had my own business, I would not hire Roma because most of them are lazy and steal.'¹⁶³

158 Department of Communities and Local Government (2007) Citizenship Survey: April-June 2007, England and Wales, Statistical Release; <http://www.communities.gov.uk/documents/corporate/pdf/citizenshipsurvey-aprjun2007> (08.10.07).

159 Catinét (2007) Catinéts IntegrationsStatus 2. halvår 2006; Catinét (2007) Integration Status. Data for the first half year 2007 made available by Catinét Research upon request of the NFP Denmark.

160 Svenskt Näringsliv (2007) Kusinen eller banken, available at: http://www.svensktnaringsliv.se/multimedia/archive/00010/Kusinen_eller_banken_10814a.pdf (07.01.2007).

161 Sybille Decoo (2007) 'Zelfstanidgen zien allochtone werknemers niet graag komen', in: *De Morgen* (17.03.2007), p. 3.

162 Bulgaria/Министерски съвет (2005) *Годишен доклад за младежта на Република България за 2005 г. (12 април 2006 г.)*, available at: <http://www.youthdep.bg/base/d2005.pdf> (12.10.2007).

163 'Max Weber' Sociology Professional College and Research Center on Inter-ethnic Relations (2006) *Relații interetnice în pragul integrării europene. Câteva tendințe comentate / Interethnic Relations before the European Integration. A Few Tendencies Interpreted*, Cluj Napoca, available at: http://www.edrc.ro/docs/docs/Relatii_interetnice_integrare.doc (11.11.2006).

4.1.5. Preventing employment discrimination

The evidence quoted in this chapter confirms from a range of sources the existence of racial/ethnic discrimination in employment. The final section of this chapter looks at examples of various kinds of policies to prevent and combat this kind of discrimination, over and above those actions required by law. These positive initiatives come from national or local governments, employers, trade unions or NGOs. The examples are categorised under a number of headings.

4.1.5.1. Training and counselling of migrants and minorities

New programmes for training, counselling and assistance for minorities to succeed in the labour market could be found in the **Czech Republic** primarily for Roma,¹⁶⁴ in **Estonia** for the non-Estonian speaking unemployed,¹⁶⁵ and in **Hungary** for refugees.¹⁶⁶

4.1.5.2. Cultural awareness/anti-discrimination training of the majority

In 2007 programmes to raise the awareness within the majority population included network projects in **Bulgaria** aiming to increase the society's sensitivity to discrimination issues and encourage social debate,¹⁶⁷ and a programme in **Romania** for NGOs and trade unions providing training on combating discrimination, and on anti-discrimination litigation.¹⁶⁸

In **Poland** the *Krajowy Ośrodek Wspierania Edukacji Zawodowej i Ustawicznej* [National Centre for Professional and Continuing Education] organised training¹⁶⁹ on multiculturalism for counsellors in Labour Offices, and in **Ireland** the *National Consultative Committee on Racism and Interculturalism* (NCCRI) organised training sessions on promoting interculturalism in the workplace for members of the taxi industry as part of a drive to combat racist comments made towards black taxi drivers.¹⁷⁰

4.1.5.3. Combating discrimination

In **Belgium**, Federgon, the federation organisation of interim agencies, has adopted measures to reinforce anti-discrimination policy in the sector, after finding that interim consultants were regularly confronted with employers who specifically asked them not to send them ethnic minority workers.¹⁷¹ Henceforth,

164 See <http://www.iqrs.cz> (15.01.2008).

165 Estonia/Non-Estonians' Integration Foundation, available at <http://www.meis.ee> (10.10.2007).

166 <http://menedek.ispman.hu/en/node/446> (11.10.2007).

167 Национална стратегия за равните възможности по инициативата "Европейска година за равни възможности за всички – 2007", see <http://www.europe.bg/htmls/page.php?category=7&id=7342> (28.01.2008).

168 See: <http://www.crj.ro> (05.10.2007).

169 See: <http://www.mcaz.org.pl/?s=2:95> (29.10.2007).

170 As announced in the NCCRI Reported Incidents Related to Racism January-June 2007, available at: <http://www.nccri.ie/pdf/RacistIncidentsJan-June07.pdf> (05.03.2008).

171 See <http://www.minderhedenforum.be/2discriminatie/200710MailProfs.htm>; <http://www.vlaamsparlement.be/Proteus5/showJournaalLijn.action?id=501320>; http://www.federgon.be/Nieuwsbericht.168.0.html?&tx_ttnews%5Btt_news%5D=155&tx_ttnews%5BbackPid%5D=315&cHash=387104331b (30.01.2008)

when confronted with such employers, interim agencies are requested to contact Federgon, which will keep a register of these companies. Ombudsmen trained in discrimination issues will be designated by Federgon in each agency, in order to assist staff who face pressure from clients inciting agencies to carry out discriminatory practices.

In the **UK**, the Southern and Eastern Trades Union Congress and Unionlearn have produced a pamphlet to assist in campaigning against racism. It provides information on ethnic minority discrimination and disadvantage in the labour market and provides practical advice to union organisers for identifying and combating racist behaviour and practices in the workplace.¹⁷²

4.1.5.4. Positive action in recruitment

Several cases of positive action in recruitment came to notice in 2007. In **Romania** the Ministry of Internal Affairs and Administrative Reform continued to allocate special places in the police forces for Roma and other national minorities.¹⁷³ In **Bulgaria** and the **Czech Republic**, measures were introduced to encourage minorities to join the police force (see section 3.4.1.). In **France** the state transportation company, SNCF, announced it was seeking applications from low-income neighbourhoods principally inhabited by immigrants,¹⁷⁴ and the Defence Minister unveiled an action plan to give priority to the entry of working-class young people, therefore including young people of immigrant descent, into the military academies.¹⁷⁵ In **Germany** the North-Rhine Westphalia (NRW) State Ministry of Education developed a policy consisting of a range of awareness-raising and encouragement measures aiming to increase the number of teachers with a migration background.¹⁷⁶

4.1.5.5. Mentoring

In **Denmark** one mentoring programme is the '*Kvinfol mentorship programme*' to bring immigrant women, in particular refugees, together with native-born women who have experiences in the labour market. Since the programme started in 2003, in total 235 women have gained employment or traineeships through the network.¹⁷⁷

172 Unionlearn with the Southern and Eastern Region TUC (2007) Defeating racism: unions working together for a racism-free London, South East and East of England <http://www.tuc.org.uk/extras/equal1se.pdf> (25.01.08).

173 Interview with Ms Rodica Precupețu and Monica Andriescu, Department on Inter-ethnic Relations, 28.09.2007.

174 'La banlieue, nouveau terrain de chasse des recruteurs', in: *Liaisons sociales* (09/2007), p. 38.

175 C. Glock (2007/2008) 'La Défense active le Plan égalité des chances', in: *Armeés d'aujourd'hui*, No. 328, 12/2007-01/2008, pp 14-16, available at: http://www.defense.gouv.fr/defense/content/download/104751/920306/file/ADA326_%C3%A9galit%C3%A9_chances.pdf (28.01.2008).

176 With this concept the NRW state government aims to realise an important element of the State Action Plan on Integration passed in June 2006 (Ministerium für Schule und Weiterbildung des Landes Nordrhein-Westfalen, press release 09.11.2007).

177 Figures communicated by the Danish government. See also: T. Liebig (2007) *The Labour Market Integration of Immigrants in Denmark* (OECD Social, Employment and Migration Working Papers No. 50), p. 44, available at: <http://www.oecd.org/dataoecd/8/28/38195773.pdf> (28.0.2008).

4.1.5.6. Contract compliance

Last year's FRA report on racism and xenophobia reported experiments with contract compliance in Austria, Finland, Sweden and the UK.¹⁷⁸ In 2007 it was reported that in **Germany**, the independent *European Anti-Discrimination Council* (EAC) and the *German Anti-Discrimination Association* (DADV) had started to lobby that public procurement and subsidies should be given only to discrimination-free companies. To prove freedom from discrimination companies should have to comply with the newly developed quality management norm EAC-30000, which demands full proof of discrimination-free business conduct and workplace practices; the norm can be integrated into common quality management systems (e.g. ISO 9000; ISO 14011). The certificate is valid for a period of three years; annual check-ups are mandatory. The first certification in compliance with the EAC 30000 norm was granted in August 2007 to the association A-BIS.¹⁷⁹

4.1.5.7. Anonymous applications

In 2007, in Nijmegen, the **Netherlands**, an experiment started with anonymous job applications to counter discrimination in recruitment and encourage a more diverse workforce.¹⁸⁰ *The Sociaal Economische Raad (SER)* [The Social and Economic Council of the Netherlands (SER)], an independent advisory council on social economical issues for the government, recommends employers to try the system, but advises against their compulsory use.¹⁸¹ Also in **Sweden** the government initiated a trial project with unidentified job applications in seven government authorities, with an evaluation that was to be carried out by the end of 2007.¹⁸² In the **Netherlands** a trial with anonymous job applications was completed by the employment agency *Manpower* in 2007. The outcome of the test was in fact that there was no significant difference between the chances for job applicants whose name was known and those whose name had been left out of the CV,¹⁸³ whereas at the beginning of the test, Manpower had expected there to be a difference. The company decided not include this strategy in its recruitment and selection policy.¹⁸⁴ (An example of the kinds of problems such strategies are trying to avoid came in 2007 from the **Czech Republic**, where a chain store which asked for photographs to be attached to CVs rejected ten out of ten applications from Roma, Roma ethnicity being obvious from the photographs.¹⁸⁵)

178 *Report on Racism and Xenophobia in the Member States of the EU* FRA, Vienna 2007, p.68-69

179 see http://www.dadv.de/1_europaeische_zerti.html (28.01.2008).

180 Gemeente Nijmegen (2007) *Evaluatie 'anomisieren van sollicitatiebrieven'*, Nijmegen: Gemeente Nijmegen/ Directie Concernstaf/Afdeling P&O beleid.

181 'SER-voorzitter wil proef met anoniem solliciteren', in: *NRC-Handelsblad* (17.10.2006).

182 Sweden/Finansdepartementet (2006) *Uppdrag att delta i en studie om rekrytering med mångfaldsperspektiv*, Fi2006/227 (delvis), available at: <http://www.folkhalsa.com/upload/ar2006/Uppdrag/rekrytering%20med%20mangfaldsperspektiv.pdf> (10.10.2007).

183 http://www.nrc.nl/binnenland/article892348.ece/Anoniem_solliciteren_maakt_geen_verschil (28.01.2008).

184 Manpower (2007) *Anoniem solliciteren: zinvol of wenselijk? Onderzoek onder werkgevers en consumenten*, available at: <http://www.manpower.nl> (20.08.2007).

185 Association of Civic Counselling Centres (2007) *Analýza projevů diskriminace v ČR z pohledu občanského poradenství*, available at http://www.obcanskeporadny.cz/images/stories/dokumenty/10_statistika_a_analyzy/analiza_diskriminace.pdf (04.10.08).

4.1.5.8. Diversity polices

In the area of diversity management, a greater variety of information and encouragement measures, as well as awards, prizes and certificates of achievement are reported each year. For example, in **Belgium**, a federal project was started to encourage employers in diversity practices,¹⁸⁶ with a certificate of achievement awarded to ten companies in March 2007. Also the Flemish government implements guidelines which include the implementation of diversity plans,¹⁸⁷ and in Wallonia, an annual prize of 25,000 euros rewarding initiatives in diversity management has been created by the Walloon Minister of Economy and Employment.¹⁸⁸ Five companies were awarded a prize, in four different categories, in autumn 2007.¹⁸⁹ In Flanders, the results of agreements signed by the Flemish authorities and 24 economic sectors one year earlier in 2006 were published by the Flemish Minister of Employment.¹⁹⁰ The results were deemed to be encouraging, in that 83 new diversity plans were signed during the first year of the agreements.

In **Cyprus** the *Employers and Industrialists Federation*¹⁹¹ (OEV) has published a 'Guide to employers for the promotion of equality and diversity at the workplace'. In **Germany** the campaign 'Diversity as an Opportunity' was launched by the *Beauftragte für Migration, Flüchtlinge und Integration* [Federal Government Commissioner for Migration, Refugees and Integration].¹⁹² At the end of 2007, one year after it had been launched, the Charter had been signed by 212 companies¹⁹³ and 22 public institutions and administrations, among those the municipal administrations of Frankfurt/Main, Augsburg, Cologne, Munich, Stuttgart and Berlin.

In **Ireland** a joint venture between the *Irish Management Institute* (IMI), National Action Plan Against Racism (NPAR), and the Equality Authority offers diversity training for managers, and in **Romania** two NGOs¹⁹⁴ developed a guide of good practices for companies and organised pilot training for 20 human resources managers on diversity management.¹⁹⁵

186 More information on the label can be found on the website of the FPS Employment, in Dutch (<http://www.werk.belgie.be/publicationDefault.aspx?id=7972>); or in French (<http://www.emploi.belgique.be/publication-Default.aspx?id=7972>).

187 Belgium/Vlaamse Regering (2007) *Besluit van de Vlaamse Regering van 19 juli 2007 tot vaststelling van de criteria, de voorwaarden en de nadere regels voor het verlenen van subsidies ter ondersteuning en uitvoering van het beleid van evenredige arbeidsdeelname en diversiteit*.

188 More information on the call for projects is available at http://rse.wallonie.be/apps/spip/article.php3?id_article=178 (15.01.2008).

189 Etablissements J.Wust, Repass Drive In, Promotion et Culture asbl, Entreprise de travail adapté Village N°1 Reine Fabiola, TEC Hainaut. Cf. http://marcourt.wallonie.be/apps/spip2_wolwin/spip.php?article778 (30.01.2008).

190 In these agreements signed by the Flemish authorities and 24 economic sectors, companies committed to undertaking concrete actions with regard to training and recruitment of target groups, with the collaboration of VDAB, Syntra and education institutions. Foreign workers and workers of foreign origin are one of the targeted groups. See <http://www.ond.vlaanderen.be/geletterdheid/sectorconvenanten/tabel-sectorconvenanten.htm> (04.03.2008).

191 Ομοσπονδία Εργοδοτών και Βιομηχάνων (OEV).

192 Germany/Presse- und Informationsamt der Bundesregierung (2007) *Press release No. 308*, available at: http://www.bundesregierung.de/nn_56680/Content/DE/Pressemitteilungen/BPA/2007/08/2007-08-23-ib-vielfalt-als-chance.html (15.10.2007).

193 Among these companies there are 89 large enterprises (more than 500 employees), 48 SMEs (between 51 and 500 employees) and 75 small businesses (up to 50 employees).

194 Center for Legal Resources and Center Partnership for Equality run the Phare 2004 project called 'European Employee=Equal Employee!'

195 <http://www.crj.ro> (01.10.2007).

In **France** in 2007, there was a significant increase in the numbers of companies signing up to the Diversity Charter,¹⁹⁶ mentioned in earlier Annual Reports. *L'Oréal*, one of the early signatories of the Charter, in 2007 funded the first Diversity and Performance Chair at the ESSEC (*École Supérieure des Sciences Économiques et Commerciales*) in partnership with AirFrance and Deloitte.¹⁹⁷ Also in France in March 2007 an agreement was signed in the Nord Pas de Calais region between the trade union CFDT and the CGPME (General Confederation of the Leaders of Small and Medium-Sized Companies) to put in place concrete actions fighting against discrimination and promoting diversity in small and medium-sized companies.¹⁹⁸

In **Malta**, as part of the 'Mosaic – One in Diversity' project, the Mosaic Network, led by the *National Commission for the Promotion of Equality* [NCPE] organised training sessions on diversity to human resources managers. Workshops were held covering all six grounds of discrimination (race or ethnicity, sexual orientation, gender, age, religion or belief, and disability), and also the positive role of diversity.¹⁹⁹ In **Portugal** the seminar 'O Papel de Responsabilidade Social das Empresas na Integração dos Imigrantes'²⁰⁰ (The Role of Social Responsibility of Companies in the Integration of Immigrants), organised by a partnership between ACIDI²⁰¹ and GRACE²⁰², was held in Lisbon in December 2007. The seminar gathered representatives of companies, immigrants' associations and public organisations to discuss immigrants' integration in the labour market and, particularly, diversity management in the Portuguese entrepreneurial context.

In **Sweden** the project 'Mångfald.nu' [Diversity.now], started during 2006 with six government authorities and companies, and aims to help organisations to develop their awareness of diversity and anti-discrimination.²⁰³ Also in Sweden the project 'Samspela – om mångfald i arbetslivet' [Work Together – About Diversity in the Work Place] is run by *Svenskt Näringsliv* [the Confederation of Swedish Enterprise], the *Swedish Trade Union Confederation and Förhandlings- och samverkansrådet* (PTK) [the Council for Negotiation and Co-operation]. It consists of an Internet site which aims to highlight issues of diversity in the work place.²⁰⁴ In the **UK**, during 2007 the various departments within the British Civil Service have been implementing a number of diversity initiatives to increase the representation of people from minority ethnic groups within their workforces.²⁰⁵

196 'Diversité. Les entreprises entrouvrent la porte de la différence', 20 minutes, 21.03.07. <http://www.charte-diversite.com> (28.01.2008).

197 ESSEC (2007) *Creation of the ESSEC Diversity and Performance Chair, in partnership with Air France, Deloitte and L'Oréal* (Press Release), available at: http://econtent.essec.fr/mediabanks/ESSEC-PDF/Actualites/CP_2007/CP_diversity_performance_chair_ang.pdf (28.01.2008).

198 This was a regional application of the national accord on diversity: Accord national interprofessionnel relatif à la diversité dans l'entreprise signé par les différents syndicats le 12 octobre 2006.

199 National Commission for the Promotion of Equality (NCPE) (2007) 'Diversity Training for Human Resources Managers MOSAIC – ONE IN DIVERSITY', available at: <http://www.equality.gov.mt/filebank/documents/Tra in%20the%20Trainers%20program.pdf> (30.01.2008).

200 Programme available at http://www.aimigrantes.org/content/pdf/Convite_Programa_14Dez07.pdf (30.01.2008).

201 *Alto-Comissariado para a Imigração e Diálogo Intercultural* [High-Commissioner for Immigration and Intercultural Dialogue].

202 *Grupo de Reflexão e Apoio à Cidadania Empresarial* [Group for Reflection and Support to Entrepreneurial Citizenship], a non-profit association formed by a group of companies to promote corporate social responsibility.

203 <http://www.mangfald.nu> (10.10.2007).

204 <http://www.prevent.se/samspela/default.asp> (10.10.2007).

205 http://www.civilservice.gov.uk/diversity/race/good_practice/index.asp (15.01.2008).

4.2. Racism and discrimination in the area of housing and preventive initiatives

4.2.1. New data sources

Most Member States still do not collect disaggregated data according to ethnicity. However, alternative methods for identifying discrimination in housing that do not involve the collection of ethnic data are being developed. For example, the **Swedish Union of Tenants** has developed a new method of data collection in the first of a planned series of surveys using discrimination testing in both public and private housing sectors.²⁰⁶ In **Germany**, the Dortmund-based NGO *Planerladen* also released a report on unequal treatment of migrants on the housing market, which focuses on discrimination testing programmes, including recommendations on the implementation of such testing.²⁰⁷ The use of systematic discrimination testing could prove to be an effective method for identifying discrimination in housing. For example, in **Greece**, field research based on testing has shown that owners discriminate significantly against prospective renters of Albanian ethnic origin, refusing in several cases to show a flat to Albanian seekers, as well as demanding higher rent from them.²⁰⁸

In **Ireland**,²⁰⁹ **Italy**²¹⁰ and **Cyprus**,²¹¹ NGOs and a university research institute published qualitative research reports in 2007 based on interviews with migrants, analysing the housing conditions of migrants.

4.2.2. Barriers preventing access to housing

Social housing for immigrants is still subject to restrictions in some Member States. In **Italy**, although the Consolidated Text on Immigration provides for the right of foreign citizens to have access to low rent public housing (ERP) under the same conditions as Italian citizens,²¹² some regional laws and municipal regulations still contain discriminatory provisions in the criteria used to determine those eligible for public housing. For example, the regulations of the Lombardy Region²¹³ which require at least five years residence for a person to qualify for public housing are still in use despite the fact that they have been declared discriminatory and unconstitutional by the Regional Administrative Court (TAR) of Lombardy.²¹⁴ The Regional Law of

206 Hyresgästföreningen (2007) *Diskrimineringsbarometern. En undersökning om diskriminering på bostadsmarknaden*.

207 Planerladen e.V. (2008) *Ungleichbehandlung von Migranten auf dem Wohnungsmarkt. Testing zum Diskriminierungsnachweis – Erläuterungen und Empfehlungen zur Anwendung der Methode*, Dortmund: Planerladen.

208 N. Drydakakis (2007) *And the House Goes to; Ethnic Discrimination in the Greek Rental Market*, unpublished research conducted at the University of Crete, available at: http://www.antigone.gr/listpage/selected_publications/greece/071128.pdf (09.01.2007).

209 Integrating Ireland (2007) *Looking Forward, Looking back – experiences of Irish citizen child families*; Integrating Ireland (2007) *The Integration Experiences of African Families in Ireland*, both available at: http://www.integratingireland.ie/research_and_policy/research (29.01.2008).

210 Lunaria (2007) *Casa: un diritto di tutti!*, available at: <http://www.lunaria.org> (13.02.2007)

211 For the research project 'Policy and Practice: Ethnicity and "Race" in Contemporary Cyprus' by the Research Unit in Behavior and Social Issues (RUBSI) of the University of Nicosia see <http://www.rubsi.org/projects1.html> (14.02.2008).

212 Italy/Legislative Decree no. 286 (25.07.1998). Art. 38, paragraph 6, states that 'legally resident foreigners have right of access, under the same terms as Italian citizens, to public housing and to support services provided by social agencies established for this purpose'.

213 Regional Regulation No. 5 (27.03.2006).

214 Italy/Tribunale Amministrativo Regionale (TAR) della Lombardia / Ordinanza no. 108 REG. ORD.: 2006 (27.07.2006).

Piedmont provides that foreign citizens applying for low rent public housing must have had a regular work contract for at least three years. This requirement effectively excludes many immigrants from the lists of eligible applicants.²¹⁵

Similarly, in **Slovenia**, the Housing Act²¹⁶ gives the right to non-profit rental housing and rental subsidies only to citizens and EU nationals with permanent residence in Slovenia. Other groups, such as third-country nationals, regardless of the type of their residence permit, are not entitled to these benefits. For example, in October 2007, a third-country national with the long-term resident status lodged a complaint with the Constitutional Court claiming inconsistency of the Housing Act with the provisions of *inter alia* Council Directive 2003/109/EC guaranteeing equal access to housing for long-term residents, and requested the Constitutional Court to rule on the issue.²¹⁷ According to the Committee of Social Rights of the Council of Europe²¹⁸ this situation does not conform to the provisions of the European Social Charter (revised) relating to equality regarding accommodation 'on the ground that equal treatment as regards access to non-profit housing is not secured for all migrant workers who are nationals of states parties to the Charter'. In **Malta**, immigrants are excluded from social housing, which is only available for Maltese citizens and their spouses.

Housing de-segregation policies practised, for example, in the **Netherlands** might have adverse consequences on the equality of housing allocation. The Rotterdam municipality opted for a 'neutral' criterion: new residents should be gainfully employed. This criterion is to be applied temporarily and only to a limited number of streets in certain 'hot spots' in the most deprived areas of Rotterdam. Even though this demand does not result in a direct distinction on any of the discrimination grounds, the *Equal Treatment Commission* argued nevertheless that it did result in indirect discrimination on the grounds of race, nationality and gender. In addition, the commission stated that this indirect criterion cannot be objectively justified as problems (illegal habitation) can also be addressed putting in place other – non-discriminatory – measures.²¹⁹

In the **Netherlands**, the strict, government-regulated system of renting properties leaves landlords little room to reject tenants because of their race or ethnic origin. Most municipalities utilise the 'supply model' when renting properties. The period someone has been registered at the current address is the most important criterion in this model. However, first generation migrants who have not lived for a long time in the Netherlands and immigrants with a temporary residence permit might be adversely affected. In 2006, the *Equal Treatment Commission* started its own investigation into risk assessment by mortgage operators. The commission concluded that risk assessment could in fact lead to discrimination and that distinctions made on this basis are not objectively justifiable.²²⁰

215 Ires Piemonte (2007) *Immigrazione in Piemonte. Rapporto 2006*, Turin: Ires, p. 99.

216 Slovenia/SOP: 2003-01-3312 (19.06.2003).

217 Data submitted to the NFP Slovenia by the Constitutional Court upon request.

218 Council of Europe, European Committee of Social Rights (2006) *Conclusions 2006 (Slovenia)*: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20 of the Revised Charter, available at: http://www.coe.int/t/e/human_rights/esc/3_reporting_procedure/2_recent_conclusions/1_by_state/Slovenia2006_en.pdf (18.10.2007).

219 CGB (2005) *CGB Advice 2005-3 Housing policy Rotterdam municipality*, Utrecht: CGB.

220 CGB (2006) *Risicoselectie op grond van postcode en verblijfsstatus: Een onderzoek uit eigen beweging naar onderscheid door hypothecair financiers*, Utrecht: CGB, pp. 32-33.

In Sweden in November 2007 the *Ombudsman mot etnisk diskriminering* [Ombudsman against Ethnic Discrimination] won a court case regarding housing discrimination in the District Court of Gothenburg. This was the first case of housing discrimination ever won by the ombudsman. The court ruled that the landlord had discriminated against a man of foreign origin when he applied for an apartment at the same time as his two Swedish colleagues. The colleagues were invited to look at the apartment, but not the man. The man was awarded 40,000 Swedish crowns in damages (approximately 4,250 euro).²²¹

In **Germany**, the City of Frankfurt (Main) has introduced policies which seem to be restricting access to housing, but in fact which have been introduced with the aim of overcoming discrimination, and in an effort to avoid ethnic segregation. It assigns council housing to foreigners, ethnic German immigrants and recipients of social welfare benefits according to fixed quotas. According to the 'Frankfurt Contract' (signed by the municipality and housing companies and adopted on 18 March 1999), the proportion of foreign residents should not exceed 30 per cent in any individual city district; the maximum proportion of ethnic German immigrants (Spätaussiedler) is set at 10 per cent.²²² It is noteworthy that the new AGG (*Allgemeines Gleichbehandlungsgesetz* [General Equal Treatment Act]) contains a provision (§19 (3) AGG) that explicitly permits unequal treatment regarding renting out accommodation provided this serves the purpose of 'establishing or maintaining a socially stable housing structure and a balanced mixture concerning the economic, social and cultural composition of a neighbourhood'.

4.2.3. The housing situation of the Roma communities

Roma, Sinti and Travellers are among the most vulnerable groups regarding housing conditions. Across Europe, they are over-represented among those living in sub-standard accommodation. Cases of discrimination, extremely poor housing conditions and forced evictions have been reported in **Bulgaria**, the **Czech Republic**, **Germany**, **Greece**, **Spain**, **France**, **Ireland**, **Italy**, **Lithuania**, **Hungary**, **Poland**, **Portugal**, **Romania**, **Slovenia**, **Slovakia** and the **UK**. The dimensions of Roma exclusion vary according to national contexts. Nevertheless, it seems to be a Europe-wide problem.

The decision of the European Committee of Social Rights (ECSR) on Complaint No 31/2005, *European Roma Rights Centre v. Bulgaria* is an illustrative case. The decision examines the legal guarantees for equal treatment of Roma families in relation to their housing rights, the lack of legal security of tenure and the forced eviction of Roma families from sites unlawfully occupied by them. The *European Roma Rights Centre* claimed that 'Bulgaria discriminates against Roma in the field of housing with the result that Roma families are segregated, lack legal security of tenure, are subject to forced evictions, and live in substandard conditions in breach of Article 16 of the Revised European Social Charter (the Revised Charter), read

²²¹ http://www.do.se/t/Page___1101.aspx; http://www.do.se/t/Page___1470.aspx (15.05.2008).

²²² Frankfurt am Main, Dezernat für Sport und Wohnungswesen (2006) *Abteilung Wohnraumversorgung. Jahresbericht 2004/2005*, p. 10.

alone or in conjunction with Article E.²²³ According to the decision of the ECSR, the government emphasised that Bulgarian legislation provides adequate safeguards for the prevention of discrimination.²²⁴ However, the ECSR found that ‘in the case of Roma families, the simple guarantee of equal treatment as the means of protection against any discrimination does not suffice’. According to the decision: ‘the ECSR considers that Article E imposes an obligation of taking into due consideration the relevant differences and acting accordingly. This means that for the integration of an ethnic minority as Roma into mainstream society measures of positive action are needed.’²²⁵

The ECSR concludes, that the situation in **Bulgaria** ‘constitutes a violation of Article 16 in combination with Article E because Roma families are disproportionately affected by the legislation limiting the possibility of legalising illegal dwellings; and the evictions carried out did not satisfy the conditions required by the Charter, in particular that of ensuring persons evicted are not rendered homeless’. According to the ECSR, ‘the current legislation on the legalisation of dwellings affects Roma families in a disproportionate manner’. The decision explains that by strictly applying the rules on legalisation to Roma, whose situation also differs as a consequence of state non-intervention regarding property documents, or the respect of construction safety and hygiene rules, Bulgaria discriminates against Roma families by failing to take due consideration of the specificity of their living conditions.

The Council of Europe Commissioner for Human Rights addressed a letter in December 2006 (made public in 2007)²²⁶ to the **Greek** government regarding the evictions of Roma in Patras. In the letter he stated: ‘I saw Roma families living in very poor conditions. Also, I met with a family whose simple habitat had been bulldozed away that same morning. It was obvious that the “procedures” for making them homeless were in total contradiction to human rights standards I referred to above. I was also disturbed to notice that non-Roma people appeared on both sites during my visit and behaved in an aggressive, threatening manner to the extent that my interviews with some of the Roma families were disturbed. I had expected that the police would have offered more obvious protection and I did not get the impression of a principled, clear position by the local authorities against such xenophobic, anti-Ziganistic tendencies.’ In response, the Greek government indicated that they had not answered the Commissioner’s letter, because they did not possess ‘adequate information.’²²⁷

223 European Committee of Social Rights with the Council of Europe (2006) *Decision on the merits: European Roma Rights Centre v. Bulgaria (Complaint No 31/2005)*, p. 15, available at: http://www.coe.int/t/e/human_rights/esc/4_collective_complaints/list_of_collective_complaints/CC31Merits_en.pdf (12.10.2007).

224 Article 4 of the Law for Protection against Discrimination prohibits any direct or indirect discrimination on the grounds of race, nationality, ethnic belonging, citizenship, origin, religion or belief. Article 5 explicitly states that racial segregation is to be deemed discrimination.

225 European Committee of Social Rights with the Council of Europe (2006) *Decision on the merits: European Roma Rights Centre v. Bulgaria (Complaint No 31/2005)*, p. 12, available at: http://www.coe.int/t/e/human_rights/esc/4_collective_complaints/list_of_collective_complaints/CC31Merits_en.pdf (12.10.2007).

226 Thomas Hammarberg, Council of Europe Commissioner for Human Rights (2006) *The situation of Roma in Greece*, Letter addressed to Mr Prokopis Pavlopoulos, Hellenic Minister for the Interior, Public Administration & Decentralisation (01.12.2006).

227 As described in the letter of ERRC to the Committee of Ministers, International Helsinki Federation press release (20.04.2007), European Roma Rights Center, ERRC Urges Council of Europe Committee of Ministers to Adopt Roma-Related Recommendations to Greece (17.05.2007) <http://www.errc.org/cikk.php?cikk=2758> (14.12.2007).

The *International Helsinki Federation* (IHF) and the *European Roma Rights Centre* (ERRC) addressed the Committee of Ministers of the Council of Europe, urging them to adopt a recommendation on the continuous violation of Roma rights in **Greece**.²²⁸ The *Centre on Housing Rights and Evictions* (COHRE) pointed out that since December 2006, when Greece won the COHRE's 2006 Housing Rights Violators 'award' for its practice of forced evictions of Roma, no improvement has been documented.

In 2007, a court eviction order of 26 November obliged some 100 Roma families from the Votanikos area to move from a privately-owned area (property of the *VIAMAX* company), where they had settled after having been evicted already from another settlement in the same area in June 2007. The *Greek Ombudsman* and *Greek Helsinki Monitor* repeatedly and widely publicised in the media appealed to the European Court of Human Rights against the Greek government for failure to provide resettlement site to the Roma families.²²⁹

In other Member States, Romanian Roma have allegedly been singled out for eviction. For example, on 14 August 2007, three non-governmental organisations sent a letter to the prime ministers of **Italy** and **Romania** urging them to intervene to stop the forced evictions of Romanian Roma in a number of localities in Italy, as well as the organised expulsion of Romanian Roma from Italy, apparently part of a coordinated action by the Italian and Romanian authorities. The letter expressed particular concern at the eviction of approximately 1,000 Romanian Roma from a settlement in Rome on 19 July 2007.²³⁰

4.2.3.1. Indirect forms of exclusion

It seems that less direct forms of Roma exclusion have also been put into practice. A refusal to provide facilities to Roma settlements was reported in several countries.

In **Poland**, the municipal authorities of the town of Koszary, county of Limanowa, refused to connect the Roma settlement to the main water supply. Previously, this county had received programme funding to connect the Roma settlement in Koszary to the water and sewage system. Although the installations were built, connections were not provided to the Roma homes. As a result, only two families have running water, having installed the connections at their own cost. The remaining families use the wells. In the winter, the wells tend to freeze, compelling the Roma to use a stream.²³¹

228 According to the European Parliamentary Assembly question AS (2007) CR 13 by Mr Cilevics to the Chairperson of the Committee of Ministers, relating to the situation of Roma in Patras, in early 2007 the Deputy Supreme Court Prosecutor allegedly justified the evictions and stated that 'Patras should not be turned into a gypsie-town'. <http://assembly.coe.int/Main.asp?link=/Documents/Records/2007/E/0704171500E.htm> (14.12.2007).

229 The Greek Ombudsman *Letter to the Minister of Interior Mr Prokopis Pavlopoulos* No. 2552/23.1.2007, available at: http://www.synigoros.gr/pdfs/5_11_Epistoli_ROMA.pdf (15.01.2007); Greek Helsinki Monitor Press Release (24.12.2007). *Greece: Chronicle of Votanikos Roma eviction foretold with Council of Europe complicity*, available at: <http://cm.greekhelsinki.gr/index.php?sec=194&cid=3212> (15.01.2007).

230 Centre on Housing Rights and Evictions (COHRE), European Roma Grassroots Organisations (ERGO) and OsservAzione – The Centre for Action Research against Roma and Sinti Discrimination (2007) *Letter to Mr Romano Prodi and Mr Calin Popescu Tariceanu*, available at: <http://www.osservazione.org/> (20.09.2007).

231 Unpublished internal note of the Commissioner for Civil Rights Protection to cases RPO-558281-X/07/MS and RPO-558905-X/07/MS, made available upon request, letter from CCRP to HFHR dated 08.10.2007, p. 2.

In **Bulgaria**, the discrimination against Roma in relation to the supply of electricity was reviewed by the *Commission for Protection against Discrimination* in 2006. The complaint to the commission was lodged against the electricity provider in the city of Lom – Електроразпределение – Плевен АД. The main issue was whether the practice of installing the electricity meters of Roma houses at a height of four to five meters, where they cannot be reached, was discriminatory, when the meters for the rest of the consumers were installed at a height of 1.50-1.80 meters. In its decision of 16.10.2006, the CPD found that there was indirect discrimination on ethnic grounds against the Roma resulting in the supply of electricity under less favourable conditions. The commission ordered the discrimination to cease.²³² However, the commission's decision was entirely repealed by the Supreme Administrative Court, which concluded that the case did not represent indirect discrimination. According to the court, the general conditions applied by the electricity service provider and accepted by the consumers explicitly allowed for the installation of the electric meters at relatively in accessible places, which also had been done in areas with 'Bulgarian' population and mixed population.²³³

The provision of electricity has raised serious concerns in other Roma settlements in **Bulgaria**. Several cases have been reported of whole Roma neighbourhoods being cut off from the electricity grid due to individual unpaid bills. This practice affects Roma families who have no debts with the state-owned provider, and therefore can be considered as a form of collective punishment.²³⁴

In spite of nation-wide programmes to integrate Roma communities, setting out clearly defined housing improvement policies, the situation regarding the exclusion from housing of the Roma does not seem to have improved significantly. In **Hungary**, where the government launched the 'Housing and social integration model programme for residents of Roma colonies'²³⁵ in 2005, a recently published study²³⁶ points to the fact that the number of slum areas in cities and larger villages has increased, and that these areas have a strong ethnic characteristic. Roma are over-represented among those living in unhealthy, sub-standard accommodation with no access to running water and adequate sewage systems, located close to rubbish tips.²³⁷ The report concludes that the already high rate of Roma segregation is on the increase. In **Slovakia**, the government adopted in 2005 'The Long Term Housing Development Strategy for Marginalised Population Groups', yet a report on the housing conditions of Roma in the Banská

232 Bulgaria/Комисия за защита от дискриминация (2006) Решение №44а от 16.10.2006 г.

233 Bulgaria/Върховен административен съд (2007) Административно дело № 5 от 2007 г. по жалба на 'Електроразпределение – Плевен' АД срещу Решение №44А/2006 на Комисията за защита от дискриминация, available at: <http://www.sac.government.bg/court22.nsf/d6397429a99ee2afc225661e00383a86/4aaa1f81d8c4787ec225725800434ebd?OpenDocument> (12.10.2007).

234 European Committee of Social Rights with the Council of Europe (2006) *Decision on the merits: European Roma Rights Centre v. Bulgaria (Complaint No 31/2005)*, p. 15, available at: http://www.coe.int/t/e/human_rights/esc/4_collective_complaints/list_of_collective_complaints/CC31Merits_en.pdf (12.10.2007).

235 See EUMC *The Annual Report 2006 on the Situation regarding Racism and Xenophobia in the Member States of the EU*, p. 69.

236 J. Ladányi (2007) 'Az antiszegregációról', in: *Kritika*, Vol. 36, No. 10, pp. 2-4. See also J. Ladányi (2007) 'A lakóhelyi szegregáció változó formái Budapesten', in: G. Enyedi (ed.) *A történelmi városközpontok átalakulásának társadalmi hatásai*, Budapest: MTA Társadalomkutató Központ, pp. 199-217.

237 United Nations Economic and Social Council Committee on Economic, Social and Cultural Rights (2007) *Consideration of reports submitted by states parties under articles 16 and 17 of the covenant – Hungary*, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=publisher&docid=4798587d2&kip=&publisher=CESCR> (09.04.2008).

Bystrica Self-Governing Region²³⁸ shows that a significant number of houses still do not have access to water lines, sewage systems, gas and electricity. Furthermore, Roma families complain of having their water supply disconnected because of a few who default on their bills.²³⁹

4.2.4. Good practices

4.2.4.1. Policy Initiatives

The lack of affordable housing has often been singled out as one of the most important factors adversely affecting the living standards of immigrants in the EU. The measures, therefore, proposed by the **Italian** government seem to be particularly positive. In 2007, the Minister for Social Solidarity and the Minister for Rights and Equal Opportunities issued a Directive on the Social Inclusion of Immigrants.²⁴⁰ Housing is identified as a priority for integration measures because of the impact it has on other dimensions of integration. Following the directive, the Ministry of Social Solidarity set aside 17 million euros for social housing initiatives for immigrants and three million euros for improving access to housing for the Roma and Sinti populations.²⁴¹ Moreover, parliament passed a law granting an eight-month moratorium on the execution of eviction orders for particularly disadvantaged tenants.²⁴² The law also provides for the drafting of a national programme on low rent social housing, based on suggestions from the consultative group on housing policies. In December 2007, the Italian Minister of Social Solidarity and the Romanian Minister of Labour signed an agreement that provides for activities in both countries to improve social, economic and housing conditions of low-income Romanian families, in particular of Romanian Roma.²⁴³

In May 2007, CNEL (*National Economic and Labour Council*) proposed a bill aimed at creating a national fund to promote, in collaboration with the regions, the creation and/or the strengthening of non-profit agencies for social housing.²⁴⁴ The main objectives of these agencies will be to increase the low rent housing stock, and to promote the housing integration of the most disadvantaged segments of the population.

238 Z. Kusá (2007) 'Podmienky života Rómov v Banskobystrickom samosprávnom kraji', in: Úrad splnomocnenkyne vlády SR pre rómske komunity (2007) *Prílohy k Stratégii sociálnej a ekonomickej integrácie rómskych komunit v Banskobystrickom samosprávnom kraji na obdobie 2007–2013*, p. 92.

239 Hullová, D. (2007) 'Inštitucionálny prieskum' in: Úrad splnomocnenkyne vlády SR pre rómske komunity *Prílohy k stratégii sociálnej a ekonomickej integrácie rómskych komunit v Banskobystrickom samosprávnom kraji na obdobie 2007-2013*, pp. 25-26.

240 Italy/Ministero della Solidarietà Sociale, Ministero per i Diritti e le Pari Opportunità/Directive (09.08.2007).

241 Italy/Ministero della Solidarietà Sociale/Decree (12.09.2007).

242 Italy/Law, no. 9 (08.02.2007), Interventi per la riduzione del disagio abitativo per particolari categorie sociali. See also Ministry of Social Solidarity (2007) *Avvio del processo di programmazione strategica per l'anno 2007 – Individuazione delle priorità politiche* and Presidency of the Council of Ministers/Strategic Analysis Unit for Governmental Policies (2007) *Le politiche abitative in Italia. Ricognizione e ipotesi di intervento*, available at: http://www.attuazione.it/adon/files/politiche_abitative.pdf (15.09.2007).

243 Ministry of Interior (2007) *Firmato a Bucarest dai ministri Ferrero e Pacurar un accordo di collaborazione per ridurre povertà ed emarginazione dei cittadini rumeni, Rom inclusi*, Press release (21.12.2007), available at: http://www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stamp/notizie/minoranze/0895_2007_12_21_accordo_italo-rumeno_su_rom.html_1375993313.html (28.12.2007).

244 National Council for Economy and Employment (2007) *Disegno di legge relativo alla 'Istituzione delle Agenzie territoriali per l'abitare sociale'*, 30.05.2007.

The policies of the Department of the Environment, Heritage and Local Government in **Ireland** should also be highlighted, and particularly its statement on 'Housing Delivering Homes Sustaining Communities'.²⁴⁵ launched in 2007. This statement sets out the government's vision for the Irish housing sector over the next ten years. Specific measures are envisaged such as the development of new procedures to improve the management and maintenance of Traveller specific accommodation. Furthermore, the development of self-supporting ways for the Travellers to meet their own housing needs is set as a priority for the *National Traveller Accommodation Consultative Committee*.

In the **Czech Republic**, the Government Council for Roma Community Issues published a plan setting out the work of the *Agency to Combat and Prevent Social Exclusion in Socially Excluded Roma Localities*. The agency is to operate in ten towns and two micro-regions and will focus, among other things, on providing information and consultation services to municipalities active in dealing with problems of socially excluded localities. The aim of the agency is to use the EU Structural Funds made available for 2007-2013.²⁴⁶

4.2.4.2. Practical initiatives by civil society and government

In **Belgium**, an information leaflet on housing discrimination was published in 2007 by the CEOOR. This covers all grounds of discrimination (disability, sexual orientation, gender, ethnicity). Posters were also produced for this information campaign. The leaflet was disseminated in September 2007 among public organisations (Public Centres for Social Aid, *Centra voor Algemeen Welzijnswerk* [Centres for general welfare aid]), tenants' unions, NGOs working on integration, racism and discrimination issues, and immigrants' organisations. The leaflet targets tenants in the private housing market, and informs them in an accessible language about their rights. It also explains what discrimination is, how it can be proved and what can be done about it. The leaflet includes contact details of tenants' associations and NGOs. Its content is practical: nine typical situations where discrimination is common are presented, from the moment the prospective tenant consults the classified advertisements to the actual relations between tenant and landlord.²⁴⁷

In the **Netherlands**, in January 2007, a new code of conduct²⁴⁸ regarding the granting of mortgage loans came into effect. It is hoped that the code will help prevent the kind of indirect discrimination on the grounds of race and ethnicity which was documented in a recent investigation by the *Equal Treatment Commission*.²⁴⁹

In the **UK**, the *Equality Commission for Northern Ireland* developed a new Draft Code of Practice: Racial Equality in the Provision of Housing and

245 See: <http://www.environ.ie/en/DevelopmentandHousing/Housing/HousingPolicy/#Delivering%20Homes%20Sustaining%20Communities%20-%20Policy%20Statement> (24.09.07).

246 See <http://www.vlada.cz/scripts/detail.php?id=27978> (29.02.2007).

247 Centre for Equal Opportunities and Opposition to Racism (2007) *Discriminatie of de huisvestingsmarkt: hoe kan je reageren? / La discrimination au logement: comment réagir?*, available in Dutch at <http://www.diversiteit.be/NR/rdonlyres/207A69F5-A512-4220-8997-D753809D3E83/0/CECLRLOGEMENTNL.pdf>; available in French at <http://www.diversiteit.be/NR/rdonlyres/D320E120-AD84-4DB8-B7A3-229EDD5129D0/0/CECLRLOGEMENTFR.pdf> (14.11.2007).

248 http://www.ingbank.nl/ownloadables/product_parti/gedragscodehypfin.pdf (16.10.2007).

249 CGB (2006) *Risicoselectie op grond van postcode en verblijfsstatus: Een onderzoek uit eigen beweging naar onderscheid door hypotheccair financiers*, Utrecht: CGB.

Accommodation.²⁵⁰ Additionally, several new good practice guidances were published: the good practice note ‘Equality and Diversity’ for social housing providers²⁵¹ and the ‘Innovation and Good Practice Programme: Prospectus 2008-10’,²⁵² both by the *Housing Corporation*; the *Department for Communities and Local Government’s* national guidance on the assessment of accommodation needs of Gypsies and Travellers;²⁵³ and a new edition of the ‘Community Cohesion and Housing: a good practice guide’²⁵⁴ by the *Chartered Institute of Housing*. In **Ireland**, the Dún Laoghaire-Rathdown and Louth County Councils, for example, have both adopted anti-racism and diversity plans. In particular, the former plan’s objectives include making housing schemes easier to understand, providing housing information and encouraging anti-racist and inclusive strategies. These objectives will be met through housing information days, explanatory leaflets, and the development of a training module on anti-racist practices.²⁵⁵

Regarding civil society initiatives, in **Germany** the non-governmental association Planerladen (Dortmund/NRW) started the project *Brücken bauen zwischen den Welten* [Building Bridges] in cooperation with several regional and local housing companies. The three-year project, which is supported by the Federal Office for Migration and Integration (BAMF), focuses on mediating between members of the migrant and the majority communities in the neighbourhood. *Planerladen* offers assistance in defusing disputes between immigrants and other residents or ‘institutional actors’ (e.g. the municipality); the parties to the dispute are assisted in constructively resolving the problems. They are also encouraged to go beyond ethnic stereotypes and identify the real causes of the dispute. The project pursues a sustainable, long-term effect since it envisages improved communication between all residents and neighbourhood actors and hence a reduction of mutual prejudice. *Planerladen* also offers training courses on intercultural conflict management for employees of local housing companies and residents who volunteer for the project as mediators.²⁵⁶

Also in **Germany**, the City of Oberhausen and the organisation *WohnBund-Beratung NRW* launched the new model project ‘Pro Wohnen – Internationales Wohnen in Oberhausen-Tackenberg’, a neighbourhood with a large migrant population (53 per cent). The project seeks to establish housing structures and to construct new buildings that better suit the special needs of elderly migrants, in particular those who ‘commute’ between Germany and their country of origin. The residents of the neighbourhood have been actively involved in the project (e.g. through neighbourhood workshops). A neighbourhood office which offers professional assistance to the residents was installed. Furthermore, service offers in particular for elderly migrants will be set up.²⁵⁷

250 <http://www.housingrights.org.uk/downloads/ReviewIssue12.pdf> (16.10.2007).

251 http://www.housingcorp.gov.uk/upload/pdf/GPN_8_Equality_and_diversity_20071130140340.pdf (28.01.2008).

252 http://www.housingcorp.gov.uk/upload/pdf/IGP_08-10_prospectus.pdf (28.01.2008).

253 <http://www.communities.gov.uk/publications/housing/accommodationassessments> (28.01.2008).

254 <http://www.cih.org/publications/pub655.htm> (25.03.2008).

255 Dún Laoghaire-Rathdown (2007) *Moving Forward Together: An Anti-Racism and Diversity Plan for the County of Dún Laoghaire-Rathdown*, available at: <http://www.dlrard.ie/> (24.09.07).

256 See <http://www.planerladen.de/97.html> (21.10.2007).

257 B. Karhoff (2007) ‘Neues Siedlungsentwicklungsprojekt: „Pro Wohnen“ – Internationales Wohnen Oberhausen-Tackenberg’, in: *IKOM-Newsletter*, Vol. 6, No. 2-07, pp. 9-10. The model project was awarded the Robert Jungk Prize in 2007 for civil engagement under the category ‘Chances for elderly people with migration history’, see: <http://www.robertjungkpreis.nrw.de> (21.01.2008); http://www.bbr.bund.de/cln_005/nn_21888/DE/Forschungsprogramme/ExperimentellerWohnungsStaedtebau/Forschungsfelder/InnovationenFamilieStadtquartiere/Modellvorhaben/10_MV-C_OberhausenProWohnen.html (21.01.2008).

In **Spain**, the non-profit association *Provivienda*²⁵⁸ has been developing programmes aimed at the social accommodation of youngsters, immigrants and other vulnerable groups. *Provivienda* mediates between people seeking rented accommodation and flat owners. It provides them with a fully comprehensive policy and a payment guarantee. In some cases, mediation is also provided in purchases of houses with the aim of securing advantageous mortgage loans for immigrants. *Provivienda* supplies accommodation with social support, accommodation in transitional housing units and shared flats. It also manages centres for immigrants' social support and has participated in programmes for the rehousing of individuals who had been living in shanty towns. All *Provivienda* programmes are free of charge because they are publicly and privately funded.

4.3. Racism and discrimination in the education sector and preventive initiatives

This chapter examines available indicators and information on racism, discrimination and related inequality in the education sphere. The social groups most affected are addressed and several themes of particular interest are discussed from the perspective of the policies and debates in the 27 EU Member States.

4.3.1. Access to education

While on a legal basis most Member States provide open access to education, in practice, vulnerable groups face many difficulties due to

- discriminatory enrolment procedures and access testing,
- unavailability or inaccessibility of pre-school facilities,
- long distances to schools,
- fear of disclosing the non-legal status of residence.

Particularly affected by practical barriers to education are children of Roma, Sinti and Travellers and children of asylum seekers and irregular migrants.

4.3.1.1. Examples of access problems of refugees and asylum seekers

In **Germany**, in three Federal States (Hessen, Baden-Württemberg, Saarland), children with a refugee background are disadvantaged regarding access to general education since they are not covered by the compulsory school system.²⁵⁹

²⁵⁸ See <http://www.provivienda.org/nosotros.php?idioma=es> (26.06.2007).

²⁵⁹ United Nations (2007) *Report of the Special Rapporteur on the right to education, Vernor Munoz. Mission to Germany*, p. 17, available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G07/117/59/PDF/G0711759.pdf?OpenElement> (08.10.2007); Harmening, B. (2005) 'Schulpflicht ...nur noch 3 Länder ohne' in: *Infodienst des Arbeitskreis Asyl Rheinland-Pfalz*, December 2005, No. 64, p. 28, available at: http://www.asyl-rlp.org/infodienst-online/infodienste/Infodienst64_web.pdf (24.05.2006).

Furthermore, experts have stated that the access to vocational training is limited for people with a continuously prolonged toleration certificate²⁶⁰ due to a restrictive allocation of work permits.²⁶¹ The *European Commission against Racism and Intolerance* (ECRI) expressed serious concern regarding the practice of the Directorate of Immigration in **Finland** of granting asylum seekers residence permits that do not entitle them to a number of basic rights, including the right to education. The Finnish authorities reported to ECRI that, in practice, most children with limited residence permits have been allowed to go to school in municipalities where they reside. However, ECRI noted that in some instances this has not been the case.²⁶²

4.3.1.2. Example of access problems of Roma²⁶³

The report 'Equal Access to Quality Education for Roma'²⁶⁴ identifies the following constraints on access to education for Roma in **Romania**: structural constraints, legal and administrative requirements, costs, residential segregation/geographical isolation, school and class placement procedures, and language. Moreover, in pre-schools with a high proportion of Roma, lack of space, and therefore the inability to enrol all the children from two to six years due to overcrowding, has been reported as a problem.²⁶⁵

4.3.1.3. Example of access problems due to a faith-based school system

In **Ireland**, a number of migrant parents were unable to secure primary school places for their children in 2007. This arose from lack of capacity in local schools, and the prioritising of children on the basis of religion. The majority of primary schools are faith-based schools, and, in a situation where they are over-subscribed, they are entitled to prioritise applicants on the basis of religion. The issue was temporarily resolved with the creation of a multi-faith school.²⁶⁶

260 People with a continuously prolonged toleration certificate are foreigners who have no permission to stay, but who are tolerated, because they can, for certain reasons, not be deported. Toleration has to be renewed at regular intervals.

261 U. Neumann (2007) 'Das Recht auf Bildung für Migranten- und Flüchtlingskinder', in: B. Overwien, A. Prengel (eds.) *Recht auf Bildung. Zum Besuch des Sonderberichterstatters der Vereinten Nationen in Deutschland*, Op-laden & Farmington Hills: Verlag Barbara Budrich, pp. 239-240.

262 CoE doc. CRI(2007)23.

263 See also, later in this chapter – section 4.3.5.1 – the European Court of Human Rights judgement regarding discrimination in education against Roma.

264 Report produced by the Open Society Institute, EU Monitoring and Advocacy Program, Education Support Program, Roma Participation Program, in 2007. According to the report, Roma appear more likely to drop out of school than their non-Roma peers, and a much higher percentage of Roma over the age of ten have not completed any level of schooling. Segregation is a persistent and pervasive issue; the separation of Roma settlements from majority communities has led to the growth of Roma-only schools serving these settlements and neighbourhoods. Available at: <http://www.eumap.org/topics/romaed> (20.10.2007).

265 <http://www.eumap.org/topics/romaed> (20.10.2007).

266 *The Irish Times* (06.09.2007), accessed at: <http://www.ireland.com/newspaper/frontpage/2007/0906/1188603615536.html> (16.10.2007).

4.3.1.4. Efforts for fairer access to education

In order to improve fairness in enrolment, the French Community in **Belgium** adopted a new decree²⁶⁷ that obliges secondary schools to enrol first year's students in the order of incoming enrolment requests. Schools will no longer be allowed to give priority to pupils on the grounds of school results, origin, family environment, previous school, etc. The decree came into force in autumn 2007 (enrolments for the academic year 2008/09). At the end of 2007 the government of the **Czech Republic** passed an Amendment to the Education Act granting people with residency permits valid for over 90 days as well as EU citizens to attend Czech schools. Even children of foreigners residing illegally in the Czech Republic will be able to attend elementary schools.²⁶⁸

4.3.2. Racist incidents and discriminatory practices

As can be seen from Table 4.3.1 below, only **France** has a nationwide system of monitoring racist incidents in education. This system is, however, currently out of function due to transition to a new data collection software. In **Germany**, some Federal States monitor right-wing extremism in schools and in the **UK** all schools have a mandatory obligation to locally collect and keep annual records of racist incidents in schools. In the Netherlands, the *Schools Inspectorate* collects statistical data on discriminatory incidents and right-wing extremism in schools by means of an annual representative survey. All other Member States have currently no systematic monitoring of racist incidents in education in place.

²⁶⁷ Belgium/Décret du 8 mars 2007 portant diverses mesures visant à réguler les inscriptions et les changements d'école dans l'enseignement obligatoire, (M.B 03.07.2007), available at <http://www.contrateducation.be/bdd-cstrateg/documents/fichiers/decretinscriptions.pdf>; and Belgium/Circulaire N°2071 (12.10.2007), available at http://www.adm.cfwb.be/index.php?m=doc_view&do_id=2260 (04.03.2008).

²⁶⁸ Chamber of Deputies (2007) Documents for discussion at a sitting, no. 269, available at: <http://www.psp.cz/sqw/historie.sqw?o=5&T=269> (28.2.2008).

Table 4.3.1: Availability of data on racist incidents in the sphere of education

National monitoring of incidents	Regional monitoring	Schools obliged to collect and keep annual records	Some research data or unsystematic ²⁶⁹ official data available	No data available
France ²⁷⁰	Some German Federal States ²⁷¹	UK ²⁷²	Belgium; Bulgaria; Denmark; Ireland; Italy; Hungary; Netherlands, ²⁷³ Austria; Finland; Slovenia; Sweden	Cyprus; Czech Republic; Estonia; Greece, Spain; Latvia; Lithuania; Luxembourg; Malta; Poland; Portugal; Romania; Slovakia

The **Dutch Schools Inspectorate** report on security at schools in 2005/06 shows that incidents of discriminatory behaviour among students occurred at half to three quarters of all special needs schools, teaching colleges, lower secondary professional education schools and comprehensive schools. Incidents of discriminatory or racist behaviour among pupils were reported at 18 per cent of all primary schools and 28 per cent of all secondary modern schools and grammar schools.²⁷⁴ More than one out of three lower secondary professional education schools and one out of five teaching colleges and comprehensive schools dealt with provocations by right-wing extremist youth. Percentages were lower in primary education.²⁷⁵ The Discrimination and Extremism Complaints Office of the *Schools Inspectorate*, established in 2005, registered 47 discrimination complaints in 2006, 27 of which originated at secondary education institutions, 13 at primary school institutions and the rest at the other school types.²⁷⁶

269 Complaints collected by governmental bodies or NGOs.

270 Currently, there are no data available due to transition from the SIGNA (Signalement des actes de violence par les établissements du second degré) data collection software to SIVIS (Système d’Information et de Vigilance sur la Sécurité scolaire – Vigilance and Information system on school Safety) in 2007.

271 Data are collected on a regular basis in Brandenburg and Berlin. Some other Federal States have in their police statistics a specific category related to politically motivated criminality in schools.

272 In the UK, since 1999, all schools have a mandatory obligation to locally collect and keep annual records of racist incidents in schools. However, there is currently no national data collation initiative regarding such figures.

273 The Netherlands have established in 2005 a new reporting centre for discrimination and extremism in schools. The reporting centre, which is part of the Schools Inspectorate, receives complaints of discrimination as well as signals or concerns about radicalisation of pupils.

274 Schools Inspectorate (2007) *De staat van het onderwijs. Onderwijsverslag 2005/2006*. Utrecht: Schools Inspectorate, p. 96-98.

275 Schools Inspectorate (2007) *De staat van het onderwijs. Onderwijsverslag 2005/2006*. Utrecht: Schools Inspectorate, p. 98.

276 Schools Inspectorate (2007) *Jaarverslag 2006*, Utrecht: Schools Inspectorate, p. 66, available at: <http://www.owinsp.nl/Documents/pdf/jaarverslag2006druk.pdf> (20.09.2007).

In **Austria**, the father of a child turned to an Anti-Discrimination Contact Point in Lower Austria. His son's teacher taught the pupils that 'negro' was a normal term designating dark skinned people. The commissioner arranged a meeting with the teacher and the school principal and pointed out the discriminatory character of the term in present language use. The school principal agreed to inform all teachers accordingly and to call on them to be more careful about the language they use.²⁷⁷

The **German** Federal State of Berlin registered 80 extremist incidents in the school year 2005/06,²⁷⁸ most of them categorised as right-wing extremist; among those were 49 cases of propaganda offences, six cases of bodily harm, four cases of serious bodily harm, six cases of threat and 15 cases of insults. More than half of the incidents were categorised as right-wing extremist, one quarter as racist/xenophobic and less than ten per cent as anti-Semitic.²⁷⁹ In the school year 2006/2007, 51 incidents with a right-wing extremist background were registered at Brandenburg schools.²⁸⁰ This constitutes the lowest number since the beginning of the registration of such crimes at schools in Brandenburg. (2000/01: 257; 2001/02: 179; 2002/03: 117; 2003/04: 62; 2004/05: 80; 2005/06: 53).

In **Germany**, in a grammar school, a German teacher presented, but did not comment on a text that contained the terms 'Nigger' and 'Neger'. A student pointed out that these terms are considered abusive. However, the teacher did not permit any discussion and continued to use the term 'Neger' to describe black people.²⁸¹

4.3.3. Educational opportunities and attainment

Previous reports have pointed to the fact that discrimination manifests itself not only through concrete incidents, but also through provisions and structures that lead to unequal opportunities for pupils of different background in the education system.

4.3.3.1. Monitoring participation and performance

In order to detect and counter discriminatory provisions and structures in education, it is necessary to monitor relevant indicators like participation rates, drop-out rates, performance levels and distribution of children of different background

277 NÖ Antidiskriminierungsstelle (2007) *Bericht der NÖ Antidiskriminierungsstelle Zeitraum Mai 2005 – Dezember 2006*, pp. 11-12, available at: http://www.noel.gv.at/bilder/d10/AD_Taetigkeitsbericht_2005_2006.pdf?4346 (07.10.2007).

278 In 2003/04 there were 39 and in 2004/05 there were 62 incidents.

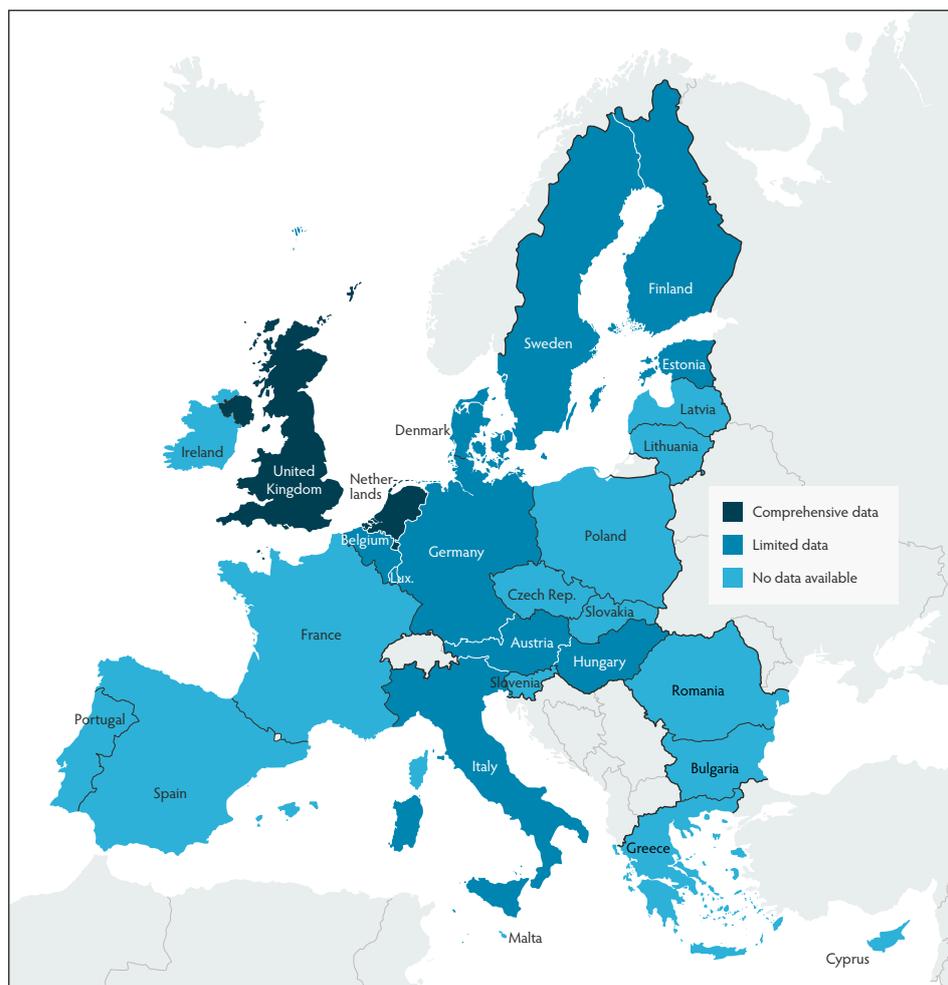
279 According to the Berlin State Senate Administration for Education, Youth and Sport (Senatsverwaltung für Bildung, Jugend und Sport).

280 Response of the Brandenburg Ministry of Education (21.01.2008) to an inquiry by the NFP Germany.

281 Antidiskriminierungsverband Deutschland (2007) *Stellungnahme des Antidiskriminierungsverbandes Deutschland und seiner Mitgliedsorganisationen zum einjährigen Bestehen des Allgemeinen Gleichbehandlungsgesetzes (AGG)*, pp. 6-7, available at: http://www.antidiskriminierung.org/files/Stellungnahme%20des%20advd%20zu%20einem%20Jahr%20AGG_NEU0907.pdf (18.08.2007).

across educational tracks.²⁸² As is shown in Table 4.3.2, currently, only the **UK** and the **Netherlands** have comprehensive monitoring systems registering performance differences in education. Most other Member States collect either very limited data or no data at all on educational attainment of migrants and minorities.

Figure 4.3.1: Availability of data on educational attainment of migrants/minorities



Available data indicate that, in general, minority groups and foreign nationals are overrepresented in primary and secondary education special schooling, while they are underrepresented in higher education. In addition, minority groups and foreign nationals are in general more likely to repeat classes and to drop-out from school early. Moreover, there are disparities in completion rates of vocational training.

²⁸² According to the PISA 2006 performance study, there is a significant positive association between schools making their achievement data public and having better test performance. See OECD (2007) *Programme for International Student Assessment (PISA) 2006*, p. 41.

Table 4.3.2: Availability of data on educational attainment of migrants/minorities

Comprehensive monitoring of achievement of different ethnic groups	Some monitoring of performance within the school system	Proxy data and/or some significant research data available ²⁸³	No monitoring of attainment differences ²⁸⁴
UK; Netherlands	Sweden	Belgium; Denmark; Germany; Estonia; Italy; Luxembourg; Hungary; Austria; Finland	Bulgaria; Czech Republic; Greece; Spain; France; Ireland; Cyprus; Latvia; Lithuania; Malta; Poland; Portugal; Romania; Slovenia; Slovakia

4.3.3.2. PISA 2006 results: Migrants disadvantaged in many education systems

One important finding of the PISA 2006 performance study is that early stratifying of students into separate institutions or programmes has a strong impact on performance differentials related to the socioeconomic background of students.²⁸⁵ In other words, early tracking systems do not facilitate equal opportunities for children of different socioeconomic background. According to an earlier study by the *Danish Technological Institute*, school systems that put children with weak socioeconomic backgrounds into a disadvantaged position operate in **Belgium, the Czech Republic, Germany, Luxembourg, Hungary, the Netherlands, Austria and Slovakia.**²⁸⁶

PISA 2006 found out that, among the EU countries that participated in the study, students with immigrant background experience the most significant performance disadvantages in **Belgium, Denmark, Germany, the Netherlands, Austria, and Sweden.**²⁸⁷ According to the PISA 2006 study, the extent of these performance disadvantages cannot be related to the size of the immigrant student populations.²⁸⁸ In addition, ‘the results suggest that the relative performance levels of students with an immigrant background cannot solely be attributed to the composition of immigrant populations in terms of their educational and socioeconomic background. Nor can they be attributed solely to the country of origin.’²⁸⁹

283 Data on the distribution of students in school systems with different education tracks and stages provides some information on unequal opportunities and attainment.

284 For some of these countries there is limited research data or outdated census data available.

285 OECD (2007) *Programme for International Student Assessment (PISA) 2006*, pp. 169ff.

286 Danish Technological Institute (2005) *Explaining Student Performance*, available at: http://www.danishtechnology.dk/_root/media/19176%5FFinal%20report%20web%20version.pdf (17.01.2006).

287 While in Belgium, Denmark, Germany, the Netherlands and Austria also second generation immigrants show strong performance disadvantages as compared to native students, in Sweden, second generation immigrants perform significantly better than first generation immigrants (but still below the national average). See OECD (2007) *Programme for International Student Assessment (PISA) 2006*, pp. 175ff.

288 See OECD (2007) *Programme for International Student Assessment (PISA) 2006*, p. 176.

289 See OECD (2007) *Programme for International Student Assessment (PISA) 2006*, p. 179.

4.3.4. Social groups most vulnerable to racism and discrimination

Across the Member States, a number of different social, national, ethnic and religious groups are at risk of being directly or indirectly discriminated against. Particularly, but not only, children with a migrant background from (present or former) non-EU countries as well as ethnic and language minorities are reported as being exposed to discriminatory practices and structures. In addition, religious minorities, particularly Muslims and Jews, are subject to discriminatory treatment and/or Islamophobic or anti-Semitic insults. However, the groups most vulnerable in many of the Member States as regards discrimination in education are Roma, Sinti and Travellers as well as children of asylum seekers and irregular migrants.

4.3.4.1. Roma, Sinti and Travellers

In 2007, the implementation of a number of programmes for improving the education of Roma children has continued. At the same time, however, discriminatory policies and practices against Roma remained at a very high level in the EU. Roma, Sinti and Travellers are still confronted with unfit education systems that cause segregation and unequal opportunities.

An important prerequisite for target-oriented positive initiatives is the surveying of reliable data on the situation of Roma, Sinti and Travellers in education. However, as can be seen from table 4.3.3 below, monitoring of the situation of Roma in education is still insufficient in most EU Member States. Only the **UK** has a good monitoring system in place and for further four Member States – **Bulgaria, Spain, Poland,** and **Slovenia**, there is some significant data available.²⁹⁰

Table 4.3.3: Availability of information on the situation of Roma, Sinti and Travellers in education in 2006/07

Good monitoring of the situation of Roma, Sinti or Travellers	Some significant survey data available	Very limited data available	No reliable data available
UK	Bulgaria; Spain; Hungary; Poland; Slovenia	Belgium; Czech Republic; Germany; Ireland; Greece; Slovakia	Denmark; Estonia; France; Italy; Cyprus; Latvia; Lithuania; Luxembourg; Malta; Netherlands; Austria; Portugal; Romania; Finland; Sweden

²⁹⁰ For detailed information on the situation of Roma in EU Member States see the FRA InfoBase, <http://info-base/fra.europa.eu>.

4.3.4.2. Asylum seekers

Despite laws granting the right to education, in practice, asylum seekers and irregular migrants are in many Member States at risk of being excluded from education. Particularly problematic is the situation in those countries where asylum seekers have to live in detention camps and are not offered education in or near these camps. Severe problems also exist for children of irregular migrants in countries where school authorities have to record the legal status of the child and report this information to state authorities.

As can be seen from table 4.3.4 below, there is very little reliable information available on the situation of asylum seekers in education.²⁹¹

Table 4.3.4: Availability of information on participation rates of children of asylum seekers in compulsory education in 2006/07

Limited information available	No information available ²⁹²
Denmark; Poland; Slovenia; Sweden	Belgium; Bulgaria; Czech Republic; Germany; Greece; Spain; France; Ireland; Italy; Cyprus; Latvia; Lithuania; Luxembourg; Hungary; Malta; Netherlands; Austria; Portugal; Romania; Slovakia; Finland; UK

4.3.5. Issues and debates concerning racism and discrimination in 2007

Among the most pressing concerns in EU Member States are the issues of segregation, religious symbols and minority languages, which will be addressed below.

²⁹¹ For more information on the situation of asylum seekers in EU Member States see the FRA InfoBase, <http://infobase.fra.europa.eu>.

²⁹² In some countries, like for example Estonia, there are no asylum seekers in school age registered.

4.3.5.1. The issue of segregation

A phenomenon that is prevalent in large parts of the EU is segregation in education. Research studies have pointed to the fact that segregation produces and reproduces inequality. This is also true for highly differentiated education systems that lead to a high concentration of disadvantaged and/or discriminated pupils in the lowest educational tracks.²⁹³ Another problem area regards special needs schools, where in many cases a high concentration of migrant pupils and/or pupils with a Roma background can be found.

The following table provides an overview of different forms of segregation across EU Member States. However, it has to be taken into account that due to insufficient or complete lack of information from some Member States this is only a partial image:

Table 4.3.5: Different forms of segregated education across Member States²⁹⁴

Roma-only classes or units within schools	Over-representation of migrants and minorities in special needs schools	Over-representation of migrants and minorities in lower educational tracks	Schools with only, or predominantly, migrant or minority pupils due to socio-economic or housing factors, admission policies, discriminatory attitudes and/or language of instruction
Hungary; Romania; Slovenia; Slovakia	Bulgaria; Czech Republic; Luxembourg; Hungary; Austria; Poland; Romania; Slovenia; Slovakia; Finland	Belgium; Denmark; Spain; ²⁹⁵ Germany; Luxembourg; Hungary; Netherlands; Austria	Bulgaria; Czech Republic; Estonia; Greece; France; Ireland; Italy; Latvia; Lithuania; Luxembourg; Hungary; Netherlands; Austria; Romania; Slovenia; Sweden; UK

Examples of cases of segregation

In **Hungary**, the *Chance for Children Foundation* (CFCF) filed in 2006 a claim against the local government of Hajdúhadház for segregating Roma children.²⁹⁶ Both of the city’s schools have a sub-department in a separate building, hosting Roma children (over 90 per cent of students in the sub-department are Roma)

²⁹³ See the 2006 PISA study results: See OECD (2007) *Programme for International Student Assessment (PISA) 2006*, pp. 169ff.

²⁹⁴ Note that one country can appear in more than one group. The FRA did not receive any information regarding segregated forms of education in Cyprus, Malta and Portugal.

²⁹⁵ Spain has not a tracking system, but shows a significant overrepresentation of foreigners and Roma in public schools (compared to relatively high proportions of the majority population visiting private schools).

²⁹⁶ Chance for Children Foundation, Case no: 6P. 20.341/2006/50, available at <http://origo.hu/itthon/20070503elmeszettek.html> (21.05.2007); http://www.cfcf.hu/?folder_id=3 (10.01.2007).

offering a very poor physical environment, inferior equipment and lower quality education (e.g. no language teaching) as compared to the main buildings where non-Roma children are educated. In 2007 the first-instance court not only found segregation based on ethnicity but also ethnic discrimination in access to school facilities. It ordered the defendants to stop discriminatory practices. However, in a binding judgment an appellate court reversed this judgement in part by holding that there was no segregation in the school and the EU Racial Equality Directive and the ECJ-judgments are not binding in the case.

The European Court of Human Rights ruled on 13 November 2007 that the **Czech Republic** had violated the ban on discrimination and the right to education when it sent 18 children of Roma origin from Ostrava region to special schools designed for children with learning difficulties (see Chapter 2). The court allotted 4,000 Euros to each of the 18 complainants as compensation for the moral harm they suffered and a total of 10,000 Euros to all of them as compensation for court expenditures. The Grand Chamber thus overturned last year's lower-level contrary ruling, which the complainants appealed. The verdict was passed by 13 to four votes.²⁹⁷

In **Slovakia**, in a school in the town of Medzev, Roma and non-Roma children attending this school are not only separated in classes but also during breaks that are scheduled at different times for each group. Moreover, non-Roma children receive hot meals in a school canteen, while Romany children only receive food packages.²⁹⁸

4.3.5.2. The issue of religious symbols

The question of permitting or prohibiting the display of religious symbols in education has led to recurring debates and legislative measures in the past years. Current policies range from nationwide prohibition on displaying any religious symbol in public schools to complete freedom of pupils and/or teachers to wearing any religious symbol (see also section 4.1.3.1. for this issue in the area of employment). Below is some information on recent developments:

The issue of the headscarf in **French** schools has been reported in previous Annual Reports. In 2007 it was reported that five Sikh boys had been expelled from their schools in France for wearing turbans since the ban on religious symbols was implemented, and that three Sikh boys were waiting for a decision from the Conseil d'Etat on their cases.²⁹⁹

In the French community in **Belgium**, according to a survey, more than 90 per cent of the 129 secondary schools composing the schools' network of the French community have banned the headscarf.³⁰⁰ This would indicate that the number of

297 ECHR, Grand Chamber Judgment D.H. v. the Czech Republic, application no. 57325/00, 13 November 2007. (See also Chapter 2 of this report.)

298 <http://www.rpa.sk/rpa.php?lang=SK&m=SPR&id=VZDE&show=5995> (11.10.2007).

299 <http://www.neurope.eu/print.php?id=77708> (28.01.2008).

300 V. De Meyer (2007) *La question du voile dans les écoles de la communauté française: règlements d'ordre intérieur, quelle légitimité?*, Bruxelles: CIRAP (Centre d'informations, de recherche et d'archives des politiques belges). Summary of the study is available at http://www.alterechos.be/index.php?art_id=16851&content=article&display=item&lg=1&list_p_num=0&num=232&page=summaryList (15.01.2008).

schools issuing a headscarf ban has doubled in the French community since 2002. In **Bulgaria**, in July 2007, the Medical University of Plovdiv decided to ban headscarves during entry examinations. One girl was not allowed to take the exam for refusing to take off her headscarf. The university authorities explained that during the previous years' exams girls tried to hide cheating devices in their headscarves.³⁰¹ In **Germany**, up to 2007, eight Federal States had banned headscarves or other religious symbols from being displayed by teachers in state schools. In the German Federal State of Baden-Württemberg the ban on teachers wearing headscarves has been extended to educators in kindergartens that are run by public institutions.³⁰² In **Spain**, there were in 2007 some cases where schools prohibited the wearing of headscarves, but were overruled by the Ministry of Education.³⁰³

In Denmark, a case was reported of a school banning clothes covering the face of students (including the burqa).³⁰⁴ Similarly, in the UK, the High Court denied an application for judicial review stemming from a 12-year old Muslim girl's challenge to a school policy that prevented her from wearing her full-face veil at school. The policy was found appropriate, on the grounds that the veil would dampen teacher interaction with students as the teacher would not be able to read facial expressions.³⁰⁵

Examples of cases of religious discrimination

In the **Netherlands**, a Christian comprehensive school was found guilty of religious discrimination by the *Equal Treatment Commission* for rejecting a man's application for the temporary position of mathematics teacher because of his Islamic background. The school referred to the exceptional provision in the Equal Treatment Act (ETA), which stipulates that – under express conditions – denominational schools are allowed to refuse employees and students who do not subscribe to their ideological basis. However, the Commission concluded that the school could not invoke this provision as neither its statutes nor the policy framework on identity mentioned that teachers filling a temporary position should subscribe to its ideological basis.³⁰⁶

301 E. Куманова (2007) 'Забраниха забрадките на изпит', in: в. Стандарт (11.07.2007), p. 3, available at: <http://www.standartnews.com/bg/article.php?d=2007-07-11&article=195492> (12.10.2007).

302 Baden-Württemberg/Gesetz zur Änderung des Kindergartengesetzes (02.02.2006).

303 *El País* (03., 08., 11., 14.10.2007), *La Vanguardia* (03., 04., 05., 10., 11.10.2007).

304 'Gymnasium i Århus forbyder burkaer', in: *DR Nyheder* (08.12.2007).

305 See: <http://jurist.law.pitt.edu/paperchase/2007/02/uk-court-upholds-school-islamic.php>; <http://www.cnn.com/2007/WORLD/europe/03/20/story.veil.ban/index.html> (28.01.2008).

306 The Netherlands/Equal Treatment Commission 2006-93.

In **Poland**, the Minister of National Education decided in 2007 to include grades from religion class into the overall grade point average.³⁰⁷ Religion is not a mandatory subject, and students may take ethics instead of religion classes. In practice, however, few schools organise ethics classes, but nearly all schools organise Roman Catholic religion classes.³⁰⁸ Therefore, children who do not attend religion and have no opportunity to attend ethics or religion classes of another denomination have one subject less on their report card. This could affect their grade point average, which could be decisive for acceptance to successive education levels. As this might be seen as discriminatory to people outside the Catholic mainstream (e.g. the Jewish community), the parliamentary Democratic Left Alliance filed a case against the Minister's decree with the Constitutional Court.

4.3.5.3. Language issues

Policies on minority languages are an important issue in many Member States. Even in those countries where legislation guarantees minority rights, minority pupils often face problems making use of their rights. Other important language related issues concern the availability of mother tongue education for children with migrant background and the question of obligatory language courses for children of migrants.

In **Denmark**, only few local authorities still offer free courses of minority mother tongues, while most other local authorities have abolished the teaching of minority mother tongues.³⁰⁹ In **Estonia**, in September 2007 national authorities started transition to Estonian as the main language of instruction in the publicly funded 'Russian language' upper secondary schools. In **Germany**, the growing availability of German language support³¹⁰ coincides with a continuing reduction of mother tongue language education. For example, in Bavaria, mother tongue education will be stopped in 2009.³¹¹ **Latvia** is still waiting for a comprehensive report on the impact of

307 Decree of the Minister of National Education of 13 July 2007 amending the decree on the conditions and mode of evaluating, classifying and passing students and attendees as well as conducting quizzes and exams in public schools, Poland/Dz.U. 2007/130/906 (13.07.2007).

308 According to the data of the Ministry of Education out of 32,136 schools 27,500 schools organise religious instruction lessons (including all religions) (only 4,636 schools do not organise religious instruction lessons). Ethics is taught in only 334 schools. Data provided on 28 August 2007 by the Information Office of Ministry of Education upon the request to provide access to public information.

309 Denmark/Ministry of Education, Nyheder: Initiativer overfor tosprogede elever (Initiatives towards bilingual students) <http://www.uvm.dk/07/initiativer.htm?menuid=6410> (28.01.2008).

310 Germany/Bundesamt für Migration und Flüchtlinge (2007): *Bundesweites Integrationsprogramm §45 Aufenthaltsgesetz. Feststellung der Förderangebote des Bundes und der Länder*, available at: http://www.integration-in-deutschland.de/cln_006/nn_283346/SharedDocs/Anlagen/DE/Integration/Downloads/Integrationsprogramm/11-sprachfoerderangebot-bund-und-laender-d-ip,templateId=raw,property=publicationFile.pdf/11-sprachfoerderangebot-bund-und-laender-d-ip.pdf (12.10.2007); Germany/Bundesamt für Migration und Flüchtlinge (2007): *Bundesweites Integrationsprogramm §45 Aufenthaltsgesetz. Feststellung der Förderangebote der Kommunen und Landkreise*, available at: http://www.integration-in-deutschland.de/cln_006/nn_283346/SharedDocs/Anlagen/DE/Integration/Downloads/Integrationsprogramm/12-sprachfoerderangebot-kommunen-und-kreise-d-ip,templateId=raw,property=publicationFile.pdf/12-sprachfoerderangebot-kommunen-und-kreise-d-ip.pdf (12.10.2007); Germany/Bundesamt für Migration und Flüchtlinge (2007): *Bundesweites Integrationsprogramm §45 Aufenthaltsgesetz. Feststellung der Förderangebote privater Träger*, available at: http://www.integration-in-deutschland.de/cln_006/nn_283346/SharedDocs/Anlagen/DE/Integration/Downloads/Integrationsprogramm/13-sprachfoerderangebot-private-traeger-d-ip,templateId=raw,property=publicationFile.pdf/13-sprachfoerderangebot-private-traeger-d-ip.pdf (12.10.2007).

311 Germany/Bayerisches Staatsministerium für Unterricht und Kultus, available at: <http://www.km.bayern.de/km/schule/schularten/allgemein/migrantenfoerderung/muetterergaenz/thema/01994/index.shtml> (28.08.2007).

the minority education reform on the quality of minorities' educational attainment. In **Lithuania**, issues related to the reorganisation of the school network and the languages of instruction increasingly re-emerged between the Polish and Lithuanian communities in the Vilnius region.³¹² In **Romania**, the availability of Romani language teaching has improved in 2007. More than 25,000 pupils guided by 460 teachers studied Romani language in 2007/08.³¹³ In **Slovenia**, a telephone survey showed that only a low number of elementary schools in Ljubljana offer any kind of teaching of 'Yugoslav' languages.³¹⁴ On the positive side, the school year 2006/2007 saw a rise in the number of Slovenian elementary schools that offer Croatian language as an optional subject, in comparison to the school year 2005/2006.³¹⁵ In **Finland**, Roma and Sámi consider implementation of mother tongue teaching still as insufficient due to the lack of suitable teaching material, and inadequate funding.³¹⁶

In **Germany**, the daughter of a German couple, who had migrated from the former Soviet Union to Germany more than 10 years ago, passed the 'eligibility test' within the framework of the application procedure at a Catholic primary school in Cologne. In the subsequent conversation between the parents and the headmaster of the school, the latter praised the girl's skills and confirmed orally that the school would accept the girl as a student. However, when the headmaster realised the mother's non-German accent and that the girl (who speaks German without an accent) has been raised bilingually, she urged the parents to enrol their daughter in a German language course. Failing to persuade the parents, the headmaster threatened them that their daughter would not be permitted to enrol in the school. Eventually, during a meeting a mutual consent was reached by the parents and the headmaster and the daughter was accepted at the Catholic school without participating in a German course.³¹⁷

4.3.6. Support measures and good practice activities

In 2007, a range of support measures and good practice activities in the education sector were initiated by governmental institutions and civil society organisations in Member States. However, the impact of policies and measures has in many cases been a limited one, due to the fact that they were not accompanied by broader improvements of the education system as a whole. In addition, many government programmes contain only very general guidelines and are only marginally translated into concrete long-term initiatives. Moreover, many programmes suffer from a lack of adequate funding and in many cases there is no evaluation of effectiveness and impact of measures.

312 D. Sinkevičius (2007) 'Jeruzalės mokyklos bendruomenė laimėjo bylą prieš savivaldybę: lenkiškosios klasės nebus', in DELFI (15.10.2007), available at: <http://www.delfi.lt/archive/article.php?id=14706106> (17.10.2007).

313 Romania/Ministerul Educatiei (2007) *Cercetarii si Tineretului, Starea invatamantului din Romania*, available at: <http://www.edu.ro/index.php/articles/8907> (20.10.2007).

314 M. Komac, M. Medvešek, P. Roter (2007) *Pa mi vi povejte, kaj sem!!!!? Študija o etnični raznolikosti v Mestni občini Ljubljana*, Ljubljana: Fakulteta za družbene vede, p. 229-230.

315 Data submitted by the Ministry of Education and Sport upon request by the Slovenian NFP.

316 ECRI (2007) *Third report on Finland. Adopted on 15. December 2006* (CRI(2007)23) available at http://www.coe.int/t/e/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Finland/Finland_CBC_3.asp#TopOfPage (25.03.2008).

317 The description of this case was provided by the *AntiDiskriminierungsBüro* (ADB) [anti-discrimination office] Köln/ÖgG.

The following are some examples of positive initiatives in EU Member States in 2007:

In the **Czech Republic**, the organisation *People in Need* implemented a project for the support of Roma integration by means of multicultural education courses for elementary and secondary schools teachers. Within the project, courses of multicultural education for teachers and educational workers were conducted, and a teaching manual was written.³¹⁸ In **Hungary**, the government decided to facilitate access to higher education for applicants raised in socially disadvantaged families by adding an extra four to eight points to their university entrance exam points.³¹⁹ In sum, 7,223 applicants were eligible, but only 849 of them made use of this affirmative regulation. In **Latvia**, the NGO *Centre for Education Initiatives* has developed a programme for the professional training of Roma teacher assistants for pre-school education establishments in the framework of the National Action Plan 'Roma in Latvia' 2007-2009.³²⁰

In **Austria**, upon the initiative of the City of Salzburg's commissioner for integration, a Salzburg kindergarten was the first in Austria to take over the model of 'Rucksackeltern' [backpack parents] developed in Germany.³²¹ Parents of kindergarten children with a first language other than German meet once a week with the nursery school staff and discuss the topics that will be on the programme of the week to come. Parents then discuss the same topics at home with their children in their mother tongue that will be discussed in nursery school in German.³²² In the **UK**, in Scotland, a 'Listening to Young Refugees' resource was launched. This aims to recruit and train a group of young people, many from refugee communities, as peer researchers, and to produce a resource to support education professionals and other service providers so that they understand the needs and experiences of young refugees and asylum seekers.³²³

More extensive information on support measures and good practice activities in the EU Member States are available the FRA InfoBase,³²⁴ which is publicly available through the Internet.

318 <http://www.clovekvtisni.cz/index2en.php?parent=503&sid=403&id=504> (28.01.2008).

319 <http://www.romapage.hu> (11.10.2007).

320 http://www.iic.lv/lv/projekti/ciganilatvija_pasakumi.html (08.10.2007).

321 By the *Regionale Arbeitsstelle zur Förderung von Kindern und Jugendlichen aus Zuwandererfamilien* (NRW) [Regional office for the support of children and youth from immigrant families, North Rhine Westfalia].

322 http://www.stadt-salzburg.at/internet/salzburg_fuer/familie/t2_184719/t2_224831/t2_225647/p2_225649.htm (18.10.2007).

323 <http://www.scotland.gov.uk/News/Releases/2007/09/25122238> (14.01.2008), <http://www.hmie.gov.uk/documents/publication/cuipepss.html> (14.01.2008), <http://www.standards.dfes.gov.uk/ethnicminorities/resources/emanewsletterFeb07.pdf> (14.01.2008).

324 <http://infobase/fra.europa.eu>.

4.4. Racism and discrimination in the health care sector and preventive initiatives

4.4.1. Evidence of racial or ethnic discrimination in health care, and exemplary cases

In the area of health care there are few Member States with official or unofficial discrimination complaints data, and even in those, very few complaints have been recorded. In this context the main issue seems to be not so much direct, but indirect discrimination. Medical staff applying professional codes and duties are not likely to discriminate or openly deny health care to anyone. However, hospital administrations, not bound by similar ethical constraints, are more likely to insist on bureaucratic procedures that may effectively hinder access to health care. Therefore, examining administrative and legal structures that could lead to indirect discrimination at national level constitutes an important area of concern. The European Union is increasingly concerned about migration and health. In November 2007 the EU Council in its conclusions³²⁵ on migrants and health stressed that health is a main element of human rights and that health protection and access to care by migrants and their descendants can be critical to promote their integration and the well-being of the whole population.

4.4.1.1. Complaints

In **Austria**, the *Ombud for Equal Treatment* (OET III) reported in 2007 that just five out of 398 counselling sessions concerned health or social services. The equality bodies of four federal provinces (Upper Austria, Salzburg, Styria, and Vienna) reported seven counsellings concerning discrimination on grounds of ethnicity and religion in health and social services. In **Belgium**, the official equality body, CEOOR, includes health related complaints in the 'other/unknown' category. In 2005, this category represented 4 per cent of all complaints of racism and racial/ethnic discrimination, rising to 9 per cent in 2006.³²⁶ From January till August 2007, seven health related complaints against hospitals were recorded.³²⁷

In **Bulgaria** six complaints of discrimination on the grounds of race, nationality or ethnicity were submitted to the Ministry of Health during the period 1.01.2007 to 31.08.2007, but they were subsequently dismissed.³²⁸ Later in the year the *Commission for Protection against Discrimination* initiated two proceedings for ethnic discrimination in healthcare.³²⁹

325 European Council (2007) *Conclusions of 29 November 2007, 'Health and Migration in the EU'*, at <http://register.consilium.europa.eu/pdf/en/07/st15/st15609.en07.pdf> (14.05.2008).

326 Centre for Equal Opportunities and Opposition to Racism *Annual Report 2005*; Centre for Equal Opportunities and Opposition to Racism *Annual Report 2006*.

327 DOLMEN database, i.e. internal database of the Centre for Equal Opportunities and Opposition to Racism (Belgian federal equality body).

328 Bulgaria/Министерство на здравеопазването (2007) *Letter No 74-00-97 of 17.09.2007 to the NFP Bulgaria*.

329 Bulgaria/Комисия за защита от дискриминация (2008) *Letter No 12-20-12 of 01.02.2008 to the NFP Bulgaria*.

In the **Czech Republic**, the Regional Court in Ostrava awarded in a landmark decision in October 2007 CZK 500,000 to a Roma woman for forced sterilisation: In July 1997 the woman had given birth by caesarean section to her second child. She was sterilised during the same operation. Even though it was known in advance that she would have to give birth by caesarean, the doctors did not follow the legal process for acquiring her consent to the sterilisation. The woman said that for seven years she was under the impression that she had merely been given an intra-uterine contraceptive device (IUD). When she visited the doctor to have it removed and told him she wanted another child, she learned the truth. The judge said the surgery performed on the woman, who has since then unsuccessfully attempted artificial insemination four times, was irreversible.³³⁰

In **Cyprus** the ombudsman ruled that ‘health cards’ should be issued regardless of residence certification, following complaints from asylum seekers in 2005, who allegedly had been refused medical treatment, as they lacked documentation.³³¹ In **Italy**, the official equality body, UNAR,³³² recorded in 2005 14 ethnic discrimination cases in health care (5 per cent of all complaints), and in 2006 five (2.2 per cent of all complaints). By September 2007,³³³ UNAR had recorded two health related cases out of a total of 159. Consistent with other findings,³³⁴ UNAR³³⁵ reported in 2007 that in most cases difficulties encountered by foreigners are caused by the bureaucratic nature of the health care system and communication difficulties with medical and paramedical staff.

In **Latvia**, the ombudsman’s office received in 2007 two complaints about unavailability of reimbursable medicines and lack of medical treatment for Roma.³³⁶ In **Lithuania**, the *Office of the Equal Opportunities Ombudsperson* received in 2007 one complaint regarding ethnic discrimination in health.³³⁷ In **Germany**, the anti-discrimination office ADB Köln received between January 2001 and December 2006 12 discrimination complaints referring to unequal treatment of patients with minority or migration background in the health services.³³⁸

330 League for Human Rights (2007) Press release: Financial compensation for awarded for involuntarily sterilization for the first time, available at [http://www.lhp.cz/cz/tiskove-zpravy/tiskova-zprava-za-sterilizaci-bez-souhlasu-poprve-priznani-penezite-odskodneni-z92\(13.10.2007\)](http://www.lhp.cz/cz/tiskove-zpravy/tiskova-zprava-za-sterilizaci-bez-souhlasu-poprve-priznani-penezite-odskodneni-z92(13.10.2007)).

331 Cyprus Ombudsman File No A.K.P 54/2005.

332 UNAR (2005) *Un anno di attività contro la discriminazione razziale – Rapporto 2005*, Rome: Presidency of the Council of Ministers – Equal Opportunities Department; UNAR (2006) *Un anno di attività contro la discriminazione razziale – Rapporto 2006*, Rome: Presidency of the Council of Ministers – Rights and Equal Opportunities Department.

333 UNAR (2007) *Dati parziali e provvisori relativi alle segnalazioni pervenute all’Unar nel periodo fra il 01/01/2007 e il 15/09/2007*.

334 VV.AA. (2001) *Health for All. All in health*, Perugia: ALISEI; VV.AA. (2004) ‘Centro di Osservazione sulla discriminazione della Provincia di Parma. I cittadini stranieri e l’accesso ai servizi’ in: VV.AA. *Gli immigrati nella provincia di Parma*, Parma; Iismas – Istituto Internazionale Scienze Mediche Antropologiche e Sociali (2007) *Servizi sanitari e discriminazione razziale. Strumenti e pratiche di prevenzione e contrasto della discriminazione razziale nell’accesso all’assistenza medica*, Rome.

335 UNAR (2007) *Alcune considerazioni in ordine alle discriminazioni razziali subite dagli stranieri e dagli extracomunitari nell’accesso ai servizi sanitari, al trattamento ed alla cura della salute* (preliminary draft).

336 Information provided by the Office of the Ombudsman to the NFP Latvia on 21.01.2008.

337 Office of the Equal Opportunities Ombudsperson (2007) *Note No (07)-SN-22*, issued on 20.04.2007.

338 Information provided by the ADB upon request by the German NFP.

A woman born in Kosovo, living in Austria, had been suffering from circulation problems and spells of fainting. When visiting her general practitioner in Vienna, she told him that she was unemployed. The doctor refused to examine her and became abusive, telling her to buy a railway ticket and 'go home', and suggesting that she go to work in the fields, adding 'This is not a welfare state here!' The woman left the surgery without having been examined. The anti-racist NGO ZARA intervened on her behalf at the Vienna Area Health Fund and the *Patientenanwaltschaft*, the Patient's Advocate, but the woman stated that she was afraid of the doctor and wished to remain anonymous. Therefore the *Patientenanwaltschaft* could not take up the case.³³⁹

In the Netherlands, anti-discrimination agencies recorded 174 complaints in 2005 concerning 'collective services', which include health services, representing 9 per cent of complaints on all grounds of discrimination. In 2006 six cases dealing with discrimination on the grounds of race or nationality in the care sector were brought before the *Equal Treatment Commission*, against one complaint 2007, up to 1 September.³⁴⁰

In Sweden, the two first health related court proceedings regarding ethnic discrimination were ongoing during 2007, initiated by the *Ombudsman against Ethnic Discrimination*. The two cases concern the use of offensive language and ethnic stereotypes at a psychiatric clinic.³⁴¹ The ombudsman also sued the Uppsala social welfare office for allegedly making a 11-year old girl undergo gynaecological examination based on the suspicion that she had been circumcised during a visit to Kenya.³⁴² The UN Special Rapporteur on the right to the highest attainable standard of health noted in his 2007 report³⁴³ his concern that Sweden lacks a national health policy for the Sámi, but the government has since plans to ameliorate the situation. In Finland the *Office of the Ombudsman for Minorities* handled 30 cases in 2006 pertaining to ethnic discrimination in health services.³⁴⁴

339 ZARA *Rassismus Report 2006*, Vienna p. 50, also quoted in ENAR Shadow Report 2006 *Racism in Austria*, European Network against Racism, Brussels, p.15

340 LBR/LVADB (2006) *Kerncijfers 2005*. Rotterdam: Art.1, available at: <http://www.art1.nl/?node=6888> (29.02.2008); database of rulings of the Equal Treatment Commission, available at: <http://www.cgb.nl/oordeelen.php> (29.02.2008).

341 F. Hultgren (2007) 'Första rättsprocessen om diskriminering i vården: First legal action regarding discrimination in health care', in: *Dagens Medicin* (13.08.2007), available at: <http://www.dagensmedicin.se/nyheter/2007/08/13/forsta-rattsprocessen-om-d/> (14.08.2007); Sweden/Ombudsmannen mot etnisk diskriminering (2008) *Muntlig förberedelse: Diskriminerande utlåtande av läkare – DO stämmer psykiatrisk klinik*, available at: http://www.do.se/t/Page___1229.aspx (26.02.2008)

342 Sweden/Ombudsmannen mot etnisk diskriminering (2007) *11-åring tvingades till gynekologisk undersökning*, available at: http://www.do.se/t/Page___1295.aspx (25.02.2008).

343 Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt (Distr. GENERAL A/HRC/4/28/Add.2 28 February 2007). Available at http://www.manskligarattigheter.gov.se/dynamaster/file_archive/070322/3fe1ef46c61cb395602ae49d6ea27e58/Right%20to%20Health%20rep%20Swe%20Feb%2007.pdf (15.01.2008).

344 Information provided to the NFP Finland by the Office of the Ombudsman for Minorities on 29.10.2007 upon request.

4.4.1.2. Reports

In **Hungary**, reported cases with regard to discrimination in health and social care are almost non-existent, although studies have pointed to the persistence of ethnic discrimination in health care³⁴⁵ in the form of denial of access to care, or segregation and substandard care. Human rights groups³⁴⁶ have argued that in some cases emergency services have refused to respond to calls from Roma neighbourhoods and there is also some evidence of Roma patients being humiliated by medical staff.³⁴⁷ A 2004 survey³⁴⁸ showed that 25 per cent of the Roma respondents experienced direct discrimination by health care institutions, and 44.5 per cent by general practitioners.

In **Denmark** the Unit for Supervision of the *National Health Board* found 29 incidents related to language problems in a 2006 study of the Danish Patient Security Database.³⁴⁹ The National Health Board has recommended that every hospital department develops a manual for interpreters, and instructions for staff to ensure that patients understand the information given to them. The Board also recommended that the need for information material in languages other than Danish is given thorough consideration.

In **France**, the 2007 annual report of the *National Commission for Human Rights* (CNCDH) noted the changes introduced by the system of State Medical Aid,³⁵⁰ since the establishment of the Universal Health Insurance (CMU), which they feared may reduce access to health care for some foreigners. The annual report of the NGO *Médecins du Monde* for France, which showed in 2005 a steep rise in the number of foreigners using its reception centres, noted at the beginning of 2007 that, in some cases, EU citizens, namely Bulgarians and Romanians, still experience difficulties in obtaining health insurance.³⁵¹

In **Ireland**, the *Children's Rights Alliance* in its submission³⁵² to the *Joint Committee on Child Protection* in August 2006, noted its concern about separated children seeking asylum being reported missing from public health care placement. Of approximately 2,000 such children taken into state care since 2000, 316 have been reported missing over the past five years.

345 C. Packer (2007) *Roma nők és a közegészségügyi ellátás*, available at: http://www.szexinfo.hu/upload/novedelem/document/Roma_nok_es_a_kozegeszsegugyi_ellatas.doc (15.10.2007).

346 F. Babusik (2005) *Az esélyegyenlőség korlátai Magyarországon. Státusz, etnicitás, kirekesztődés az egészségügyben és a szociális szférában*, Budapest: L'Harmattan, p. 47.

347 Országos Egészségfejlesztési Intézet (2001) *A romák összegzett élményei, az egészségügyben tapasztalt hátrányos megkülönböztetéséről*, available at: http://www.Romaweb.hu/doc/szociologia/Romak_osszegzett_eum2001.pdf (15.10.2007).

348 Babusik, F (2005) *Az esélyegyenlőség korlátai Magyarországon. Státusz, etnicitás, kirekesztődés az egészségügyben és a szociális szférában*, Budapest: L'Harmattan.

349 Denmark/Sundhedsstyrelsen (2007) *Sprogproblemer mellem sundhedspersonalet og fremmedsprogede patienter*. (Language barriers between health staff and not Danish speaking patients): http://www.dpsd.dk/upload/tema_sprog.pdf (17.01.2008).

350 State Medical Aid, AME, (Aide médicale d'Etat) provides destitute foreigners resident irregularly for at least three months with full free health coverage. Foreigners resident less than three months can only benefit from emergency care. Legally resident destitute persons are covered by the Universal Health Insurance, CMU, (Couverture Maladie Universelle).

351 Community nationals who settle permanently in France but do not satisfy the conditions for normal health insurance are covered by the AME scheme.

352 Available at <http://www.childrensrights.ie/pubs/SubJointOirCommChildProt0806.pdf> (12.01.2008).

The 2006 report³⁵³ by the LIBE Committee of the European Parliament described conditions in administrative detention centres in **Malta** as ‘unacceptable for a civilised country and untenable in Europe.’ The report led to a European Parliament Resolution³⁵⁴ on the ‘Situation with refugee camps in Malta’, which criticises the ‘unacceptable living conditions of the migrants and asylum seekers in Malta’s administrative detention centres’ and calls, among else, on the Council and the Member States to supply practical aid for Malta. However, the JRS Europe 2007 report³⁵⁵ notes some improvement in the health services provided at the largest centres with a doctor and nurse present on a daily basis.

In **Spain**, according to the 2007 report by *SOS – Racismo*³⁵⁶ 25 per cent of the 612 recorded cases of discrimination against migrants and ethnic minorities were committed mostly by civil servants working in the health sector. In the **UK** the *Médecins du Monde* ‘Project London’ found that some pregnant immigrants could be unfairly denied NHS treatment. The UN Special Rapporteur on the right to the highest attainable standard of health noted³⁵⁷ that the rules governing entitlement to public health care in England introduced greater restrictions on access to healthcare for some immigrants.

4.4.2. Reports and research studies on access to health care for immigrants, asylum seekers and minorities

Problems of access to health services particularly affect irregular immigrants, rejected asylum seekers, and members of Roma communities. Roma risk being excluded from public health insurance if they are long term unemployed, like in **Bulgaria** and **Romania**, or, if they lack the necessary identity papers, as in **Romania** and **Slovenia**. In many cases Roma also have problems accessing health care when they live in isolated rural areas (as is the case in **Hungary**, **Spain** and **Greece**), but also in encampments on the outskirts of cities with limited or non-existent public transport facilities (for example, in **Greece**, **Italy**, **Hungary**, **Spain**).³⁵⁸ The overrepresentation of Roma among the unemployed, the poor and the poorly-educated are among the factors that influence their access to health care. It is important, however, not to lose sight of the fact that despite the anecdotal nature of most allegations, direct discrimination seriously affects their access to health care in a number of Member States.

353 G. Catania (2006) *Report By The LIBE Committee Delegation On its Visit to the Administrative Detention Centres in Malta*, Brussels, 30.05.2006, p. 8, available at: http://www.europarl.europa.eu/meetdocs/2004_2009/documents/pv/609/609597/609597en.pdf (24.10.2007).

354 European Parliament Resolution P6_TA(2006)0136, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0136+0+DOC+XML+V0//EN> (21.12.2007).

355 JRS Europe (2007) *Administrative Detention of Asylum Seekers and Illegally Staying Third-country Nationals in the 10 New Member States of the European Union*, p.79, available at: <http://www.jrseurope.org/publications/Final%20Report%2010%20NMS%20Dec%2007.pdf> (15.02.2008).

356 SOS Racismo-Madrid/Women’s Link Worldwide (2007) *Acción contra la Discriminación (ACODI)*, available at: http://www.womenslinkworldwide.org/pub_acodi.html (08.01.2008).

357 Médecins du Monde, (2006) *Project London 2006*, available at <http://www.medecinsdumonde.org.uk/doclib/155511-plartwork.pdf> (23.11.2007).

358 European Roma Rights Centre (2006) *Ambulance not on the way: The disgrace of health care for Roma in Europe*, available at: <http://www.errc.org/db/01/E6/m000001E6.pdf> (28.06.2007).

Illegally-resident immigrants and failed asylum seekers often have access to emergency health care only, which is interpreted differently across the EU.³⁵⁹ They are also often unwilling to seek medical assistance if they fear that they might be reported to the police and consequently deported. As a result, they may not use even emergency medical services, even though they are legally entitled to them. In such cases civil society organisations, like NGOs or religious institutions and charities often provide valuable assistance.

Legally-resident immigrants could also be hampered by barriers such as language, religion or culture from using health services. For example, Muslim women may not wish to allow physical examination by male medical staff, or hospital food may not allow for Muslim religious requirements.

4.4.2.1. Research studies

This section now sets out research studies and reports which have identified ethnic discrimination and related problems of exclusion for migrants and minorities in the area of health care. For example, in **France** in 2006-2007, discrimination testing in six cities in the department of Val-de-Marne funded by the Universal Health Insurance (CMU) showed that some dentists and specialist doctors did not provide free health care to patients covered by CMU (the insurance scheme providing sickness and maternity coverage for the poorest and most vulnerable people, both French and immigrant).³⁶⁰ In response to this kind of problem the French government decided to initiate measures to raise the awareness of health professionals on the health rights of third-country nationals with irregular status as well as CMU beneficiaries. In **Germany** the annual Multi-Topic Survey with a sample of around 1000 Turkish immigrants in the Federal State of Nordrhein-Westfalen noted that in 2006 25.2 per cent of the respondents reported experiencing unequal treatment in hospitals (2005: 26.0 per cent), while 22.6 per cent experienced discrimination by doctors (2005: 25.7 per cent).³⁶¹ Put the other way round, a 2005 survey among 500 immigrants in Berlin showed that 78 per cent of the respondents had not experienced discrimination in hospital or at a medical practice in the past four years.³⁶²

The **German Institute for Human Rights** released in 2007 a report³⁶³ on the health situation of immigrants without legal documents, showing that despite their legal right to health care, access to it is problematic. For example, hospitals can refuse treatment, except in emergencies, until payment can be secured. The

359 See for example the 2007 PICUM report 'Access to Health care for undocumented migrants in Europe' available at [http://www.picum.org/HOMEPAGE/Health%20care/REPORT%20Access%20to%20Health%20Care%20for%20Undocumented%20Migrants%20in%20Europe%20\(17\).pdf](http://www.picum.org/HOMEPAGE/Health%20care/REPORT%20Access%20to%20Health%20Care%20for%20Undocumented%20Migrants%20in%20Europe%20(17).pdf) (14.05.2008).

360 Fonds CMU (2006) *Analyse des attitudes de médecins et de dentistes à l'égard des patients bénéficiant de la Couverture Maladie Universelle complémentaire*, available at: http://www.cmu.fr/userdocs/Refus_Soins_mai2006.pdf (28.01.2008).

361 Stiftung Zentrum für Türkeistudien (2007) *Perspektiven des Zusammenlebens. Die Integration türkischstämmiger Migrantinnen und Migranten in Nordrhein-Westfalen. Ergebnisse der achten Mehrthemenbefragung*, available at: <http://kunde6.juli.bimetal.de/UserFiles/File/NRW-Bericht%202006.pdf> (21.10.2007).

362 Antidiskriminierungsnetzwerk Berlin des Türkischen Bundes Berlin-Brandenburg (2006) *Antidiskriminierungsreport Berlin 2003-2005. Wie steht es mit Diskriminierung in Berlin*, available at: http://www.migration-boell.de/downloads/diversity/Antidiskriminierungsreport_Berlin_2003-2005.pdf (20.10.2007).

363 Deutsches Institut für Menschenrechte (ed.) (2007) *Frauen, Männer und Kinder ohne Papiere in Deutschland. Ihr Recht auf Gesundheit. Bericht der Bundesarbeitsgruppe Gesundheit/Illegalität*, Berlin: DIMR; available at: http://files.institut-fuer-menschenrechte.de/437/IUS-041_B_AG_RZ_WEB_ES.pdf (22.01.2008)

municipal department for social affairs (Sozialamt), that could cover medical costs, requires information on residence status prior to processing an application. However, the department is also obliged to inform the department for foreigners' affairs about the applicant's residence status – which may lead to deportation in the case of an irregular migrant. In this way, according to the report, irregular immigrants are *de facto* hampered from accessing health care.

The *International Institute of Medical, Anthropological and Social Sciences* in collaboration with the *National Office against Racial Discrimination* (UNAR) of **Italy** carried out a survey³⁶⁴ on discrimination in access to health services. They found that 45 per cent of their sample of nurses stated that they had witnessed manifestations of xenophobia by colleagues against migrants. According to the study, direct discrimination affects mostly Muslim women, especially those wearing a headscarf. On the other hand most of the migrant respondents stated that they do not perceive any discrimination against themselves, and explain unequal treatment in terms of their inability to speak Italian or understand the Italian health system.

In a more positive light, in **Denmark** the *Catinét*³⁶⁵ research showed that in a sample of 1,084 refugees, immigrants and their dependants, 87.2 per cent had not experienced discrimination in health due to their ethnicity,

In late 2007, a research report³⁶⁶ on the health status of Gypsies and Travellers in England tried to provide the first valid and reliable estimate of the health status of Gypsies and Travellers in England by using standardised instruments to compare their health with that of a UK resident non-Traveller sample, drawn from different socioeconomic and ethnic groups, matched for age and sex. The study found significant health inequalities between the Gypsy and Traveller population in England and their non-Gypsy counterparts, even when compared with other socially deprived or excluded groups, and with other ethnic minorities.

4.4.2.2. Transnational reports

A number of major transnational reports provided additional information regarding the situation of immigrants, asylum seekers and minorities in EU health care systems.

The 2007 PICUM³⁶⁷ report 'Access to Health care for undocumented migrants in Europe' shows the difference in delivery of health care for irregular immigrants between Member States and identifies legal and practical barriers encountered by irregular immigrants trying to access health care in the Member States of **Belgium, Germany, Spain, France, Italy, Hungary, the Netherlands, Austria, Portugal, Sweden** and the **United Kingdom**. The report highlights the fact that irregular migrants in Europe face serious problems in receiving health care,

364 IISMAS – Istituto Internazionale Scienze Mediche Antropologiche Sociali (2007) *Servizi sanitari e discriminazione razziale. Strumenti e pratiche di prevenzione e contrasto della discriminazione razziale nell'accesso all'assistenza medica*, Rome: IISMAS.

365 Catinét Research *Integrationsstatus 2. halvår 2006*, Copenhagen: Catinét.

366 G. Parry et al. (2007) 'Health Status of Gypsies and Travellers in England', in: *Journal of Epidemiology and Community Health*, No. 61, pp. 198-204; available at: <http://jech.bmj.com/cgi/content/abstract/61/3/198> (21.02.2008).

367 Platform for International Cooperation on Undocumented Migrants, <http://www.picum.org> (15.01.2008).

noting that their fear of discovery deters them from exercising their legal entitlements to health care. Furthermore, many irregular immigrants lack information about their rights and how to access medical services. In addition, irregular immigrants also face language and cultural barriers and tend to favour more frequently NGO clinics and hospital emergency units.

The 2006 *European Roma Rights Centre*³⁶⁸ report 'Ambulance not on the way' examines systemic factors influencing the exclusion of Roma from health care, such as in-built inequalities in laws and policies resulting in the exclusion of Roma from accessing social aid and medical services, such as exclusion from citizenship, lack of personal documents, and physical removal from medical services. According to the ERRC, racial discrimination against Roma in health care is manifested in their disproportionate exclusion from health services, because they are not covered by health insurance, and only have access to health services of inferior quality.

The 2006 *Médecins du Monde*³⁶⁹ survey 'Undocumented migrants' access to health care' developed by its European Observatory for Access to Health Care presents a 'statistical testimonial' based on a non-representative sample of 835 irregular immigrants questioned in **Belgium, Greece, Spain, France, Italy, Portugal** and the **United Kingdom**. The survey found that one-third of the respondents were unaware of their right to health coverage, and particularly their entitlement to free HIV screening, while nearly two-thirds were unaware that HIV treatments are free. Among the respondents two people in ten perceived their health as 'poor' or 'very poor' and nearly half stated that they suffered at least one health problem as a consequence of delay in receiving health care. More significantly, ten per cent of respondents met with a refusal of treatment from health care professionals. The most frequent obstacle to health care access and treatment continuity cited by the respondents was lack of knowledge about their rights, about where to go for treatment, treatment cost, administrative issues, fear of being reported to the authorities, discrimination, and linguistic and cultural barriers.

The 2007 IOM report³⁷⁰ 'Equality in Health' is the result of a project funded by the European Commission's Community Action Programme to Combat Discrimination 2001-2006. The project found that in **Italy** and **Greece** minorities identified a lack of organised information dissemination, and a lack of knowledge and understanding of cultural differences, including language. In **Finland** and in **Italy** high ranking health officials had good knowledge of anti-discrimination legislation, but this is not the case in **Greece**. Structured interviews with health professionals and administrative staff showed that more than half the respondents (just over 50 per cent in Finland, up to more than 80 per cent in Greece) were not aware of anti-discrimination legislation. The project also found that Finland has a range of positive action measures and Italy is moving in this direction, but Greece is lagging behind. Structured interviews with patients showed that although their perceptions regarding the quality of health services seemed to be positive, they do not know what to do when something goes wrong, and consequently they almost never submit a formal written complaint.

368 European Roma Rights Centre, <http://www.errc.org/> (15.01.2008).

369 Médecins du Monde, <http://www.medecinsdumonde.org/> (15.01.2008).

370 Available at: <http://iom.fi/files/Equality%20in%20Health/Comparative%20Report-MAT-final.pdf> (10.01.2008).

The 2007 study by Portugal's Ministry of Health 'Challenges for Health in the Age of Migration: Health and Migration in the European Union'³⁷¹ stresses that caring for immigrants' health is a matter of human rights, and tackling inequalities. The reports stresses ill-health and denial of access to health care increase the likelihood of exclusion and delayed integration. The report also highlights the paucity of systematically collected data.

The 2007 IOM³⁷² report 'Migration and the Right to Health: A Review of European Community Law and Council of Europe Instruments' examines legal instruments and the health implications for persons involved in migration. It shows that the process of migration can result in vulnerability to physical, mental and social health problems, depending on the migration conditions. Similarly, research at the *Psycho-pathological and Psychosocial Assistance Service*³⁷³ (SAPPiR) in Barcelona, Spain, identified the development among immigrants of a progressive condition, the 'Chronic and Multiple Stress Syndrome' or 'Ulysses syndrome' characterised by depressive symptoms mixed with anxious, somatoform and dissociative symptoms, arguing that incidents of this syndrome are on the rise across the EU.

4.4.2.3. Health and safety at work

Inequalities in and barriers to health care are particularly salient given the evidence that migrant workers suffer greater health problems at work than majority workers. Last year's FRA report on racism and xenophobia in the EU referred to reports showing apparently higher work accident rates for migrant workers in several Member States.³⁷⁴ In 2007 the European Agency for Safety and Health at Work produced for the first time a literature study which covered specifically the occupational health and safety of migrant workers. It highlights evidence that in many Member States migrant workers are over-represented in unhealthy and dangerous work environments, and that despite the limited availability of reliable occupational safety and health statistics in this field, existing data does suggest that there exists a generally higher accident rate for migrant workers.³⁷⁵

4.4.2.4. Discrimination against health staff

There were just a few reported surveys of racism against health care *staff*, rather than against patients or potential clients. In the **UK** a survey of nearly 2,000 black and minority ethnic members of the trade union UNISON working in the National Health Service, found that 69 per cent had experienced some form of racism at work. In response UNISON set up a hotline to enable staff to report

371 Available at: <http://www.eu2007.min-saude.pt/PUE/en/conteudos/programa+da+saude/Publications/Relat%C3%B3rio+Sa%C3%BAde+e+Migra%C3%A7ao.htm> (10.01.2008).

372 International Organisation for Migration, www.iom.int (15.01.2008).

373 M.G. Carta, M. Bernal, M.C. Hardoy, J.M. Haro-Abad and the 'Report on the Mental Health in Europe' working group (2005), 'Migration and mental health in Europe (the state of the mental health in Europe working group: appendix 1)'; in: *Clinical Practice and Epidemiology in Mental Health*, 2005, 1:13, available at <http://www.cpementalhealth.com/content/1/1/13> (07.01.2008).

374 FRA (2007) *Report on Racism and Xenophobia in the Member States of the EU*, p. 48-49, available at: http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=46d3ce2da38d9 (28.01.2008).

375 European Agency for Safety and Health at Work (2007) *Literature Study on Migrant Workers.*, available at: http://osha.europa.eu/publications/literature_reviews/migrant_workers (28.01.2008).

incidents and get support. (Patients calling in with relevant complaints will also be directed to a network of self-help organisations and race equality councils.)³⁷⁶

In 2007 the findings of a research study covering the national public health services of **Belgium, France, Italy** and the **UK** were published. In all four countries, during interviews, both majority and minority staff described incidents of racism from patients and their family members experienced by ethnic minority health staff, including verbal and physical violence, questioning the professional credentials of ethnic minority members of staff, and refusing to be treated by them. The researchers found that in many cases ethnic minority staff did not feel able to challenge the racism they experienced, either because of concerns over their immigration status, or the fear of being seen as 'hypersensitive' or as unable to deal with patients. However, in the UK and Belgium there were reported instances where ethnic minority and majority white staff collectively opposed the racist refusals by patients to be treated by ethnic minority staff.³⁷⁷

Following the theme of the Portuguese Presidency of the European Union, 'Health and Migrations', the Nurses Association in **Portugal** conducted an enquiry into the conditions of foreign nurses working in the country. The study involved 276 professionals, 12 per cent of the 2,223 foreign nurses currently practising in the country, and was concluded in December 2007. It revealed that 28 per cent of the respondents experienced discrimination by their work colleagues, with more than a quarter of these stating that this had occurred frequently, or more than ten times. The most common types of discrimination by colleagues and superiors were reported to be racist and xenophobic verbal abuse, mistrust regarding the competences and skills of foreign nurses, and differential treatment by their superiors. Furthermore, one quarter reported that they had been discriminated against by patients, experiencing, for example, a refusal to be treated by foreign professionals, mistrust regarding their competences, and racist and xenophobic insults.³⁷⁸

4.4.3. Good practice examples: policy initiatives

In the area of health care there are many 'good practice' examples of policies that Member States implement throughout the EU.

In **Bulgaria**, the government developed in 2005 the 'Health Strategy Concerning People in Disadvantaged Position, belonging to Ethnic Minorities'³⁷⁹ and a corresponding action plan³⁸⁰ for the period 2005-2007 aiming at the reduction of child

376 UNISON (2007) *UNISON launches hotline to combat racism in the NHS* (Press Release), available at: http://www.unison.org.uk/asppresspack/pressrelease_view.asp?id=1033 (28.01.2008).

377 A. Bernadotti, S. Dhaliwal, F. Perocco (2007) 'Confronting racism in the health services', in: *Transfer*, European Review of Labour and Research, Vol.13 No.3, 2007, p. 413-430.

378 A.M. Silva, R. Fernandes (2008), *Enfermeiros Estrangeiros em Portugal*, Lisboa: Ordem dos Enfermeiros.

379 Bulgaria/Министерски съвет (2005) *Здравна стратегия за лицата в неравностойно положение, принадлежащи към етническите малцинства*, available at: <http://www.ncedi.government.bg/en/Health-StrategyENG.htm> (24.10.2007).

380 Bulgaria/Министерски съвет (2005) *План за действие към Здравната стратегия за лицата в неравностойно положение, принадлежащи към етническите малцинства – 2005-2007 г.*, available at: http://www.ncedi.government.bg/en/Adopted_Action_Plan_Minorities.xls (24.10.2007).

and mother mortality rates, the improvement of national prophylaxis programmes and activities, ensuring equal access to health care, improving knowledge on health issues, overcoming cultural barriers and combating discriminatory attitudes, undertaking legislative initiatives to ensure health insurance coverage for the long-term unemployed, and monitoring the health state of minorities.

In **Germany**, a comprehensive action plan was adopted by the federal government in July 2007 in the framework of the National Integration Plan,³⁸¹ improving the participation of immigrants in the health system with a particular focus on the elderly and disabled by improving access to health services and introducing key structural changes.

In **Spain** the Catalan 'Plan for migration management in the field of health'³⁸² aims for 2005-2007 to study the health of immigrants and their use of health services, and to improve their access to health care by offering mediation services and intercultural training to medical staff. The Plan focuses amongst other things on reproductive and sexual health, as well as children's and mental health. The Autonomous Community of Murcia drafted a 'Bill for the Rights and Duties of Health Users' to allow irregular migrants to access public health services through a 'solidarity-driven' medical card that has been issued in other Autonomous Communities, e.g. Valencia and Extremadura, and is planned to be introduced in Galicia.

In **Hungary** the National Health Decade Programme,³⁸³ launched in 2003, targets particularly the Roma community with measures aimed at developing and supporting health educational programmes; providing better access to qualitative preventive and primary healthcare services; elaborating supportive systems and programmes serving better communication and collaborating between the local health and family care service providers and Roma families. The 2007 Strategic Plan of the Decade of Roma Integration³⁸⁴ aims at improving the health of the Roma population by facilitating access to healthcare facilities through specific measures, such as posting health care practitioners in regions where the Roma population is concentrated; promoting health screening examinations; increasing the number of nurses, district nurses, doctors, social workers of Roma origin; and elaborating local health promotion plans, focusing on needs of Roma.

In **Italy** the Ministry of Health set up in December 2006 a national Commission³⁸⁵ on 'Health and immigration, promoting and safeguarding the health of foreigners present on the national territory, immigrants, refugees, asylum seekers, Roma', with the mandate to monitor, analyse and evaluate the quality and the equity of health care services provided both to legal and irregular immigrants, and to promote the use of intercultural mediators. The National Health Plan 2006-2008³⁸⁶

381 Germany/Bundesregierung (2007) *Der Nationale Integrationsplan. Neue Wege – Neue Chancen.*, available at <http://www.bundesregierung.de/Content/DE/Artikel/2007/07/Anlage/2007-07-12-nationaler-integrationsplan,property=publicationFile.pdf> (04.04.2008).

382 Generalitat de Catalunya/Departament de Salut (2005) *Pla director d'immigració en l'àmbit de la salut*, available at: <http://www.gencat.net/salut/depsan/units/sanitat/pdf/immidefini2006.pdf> (06.07.2007).

383 Hungary/Parliamentary Resolution No. 46/2003 (16.04.2003), details available at: http://www.antsz.hu/portal/portal/nepegeszsegugyiprogram_120.html (11.10.2007).

384 Hungary/Parliamentary Resolution No. 58 of 2007 (28.06.2007), in: Magyar Közlöny No. 82. pp. 6055-6065, also available at: <http://www.magyarokozlony.hu/nkonline/MKPDF/hiteles/mk07082.pdf> (11.10.2007).

385 Italy/Ministry of Health/Ministerial Decree (12.12.2006).

386 See also: Ministry of Employment and Social Services, Ministry of Social Solidarity, Ministry of Health (2006) *Rapporto nazionale sulle strategie per la protezione sociale e l'inclusione sociale*, Rome, Ministry of Social Solidarity.

highlights the persistence of health problems among irregular immigrants indicating the need to evaluate and improve the professional skills of health workers in areas with the highest influx of immigrants; to take note of the critical aspects of the national health service, likely to hamper migrants' access to prevention, diagnosis and cure of infections by HIV/AIDS and other socially transmitted diseases. In line with the plan, a 'National Institute for the promotion of the health of migrant populations and the fight against diseases caused by poverty' was created in 2007.³⁸⁷ The institute will carry out research, diagnosis, cure and training activities to promote suitable activities to combat the health divide between the national and migrant populations. The plan also focuses on the Roma population proposing interventions in key areas related to health, such as housing, drug addiction, and improved access to health services.

Also in **Italy**, the Ministry of Health issued two circulars allowing all Romanian and Bulgarian citizens who had obtained *STP*³⁸⁸ status for irregular migrants access to health assistance in 2006 to continue receiving health care even without the European Card for Health Insurance, which allows EU citizens access to health assistance.³⁸⁹ Furthermore, the Tuscany Region in particular issued a circular³⁹⁰ granting to all EU citizens without legal access to the Regional Health Service, the right to all out-patient and hospital treatments, both urgent and continuative for disease or accident and preventive medicine programmes.

In **Ireland** the National Intercultural Health Strategy, part of the National Action Plan against Racism, is expected to have a positive impact on the health of immigrants and minorities, as it focuses on reducing health inequalities and improving health and social gain for people from diverse ethnic and cultural backgrounds. The strategy is reinforced by other government initiatives, such as the National Action Plan for Social Exclusion 2007-2016 and a range of strategies, overarched by the National Health Strategy: Quality and Fairness, and including, inter alia, the Primary Care Strategy, Traveller Health Strategy, and Vision for Change. In this context the *National Intercultural Health Strategy* was launched on 21 February 2008.³⁹¹

In **Poland** the implementation of the Regional Programme of Health Prophylaxis for the Roma Community³⁹² started in 2007 its pilot phase at the Kujawsko-Pomorskie Voivodship in cooperation with the Roma community,³⁹³ as well as medical institutions,³⁹⁴ with the aim to improve access to medical care, achieve

387 Italy/Ministry of Health/Decree of 3rd August 2007. Additional information at: http://www.governo.it/GovernoInforma/Dossier/istituto_salute_migranti/index.html (20.01.2008).

388 Straniero Temporaneamente Presente/Temporarily Present Foreigner.

389 Italy/Ministry of Health/Circulars of 13.02.2007 and of 03.08.2007.

390 Italy / Regione Toscana / Decision no. 717 (15.10.2007).

391 Available at: <http://www.hse.ie/en/NewsEvents/News/title,9929,en.html> (27.02.2008).

392 Uchwała Nr XLIX/769/06 Sejmiku Województwa Kujawsko-Pomorskiego z dnia 25 września 2006 r. w sprawie przyjęcia programu pn. 'Regionalny Program Profilaktyki Zdrowotnej dla Społeczności Romskiej', [Resolution No. XLIX/769/06 of the Kujawsko-Pomorskie Voivodship Legislature dated 25 September 2006 on adoption of the Regional Programme of Health Prophylaxis for the Roma Community], available at: http://bip.kujawsko-pomorskie.pl/files/zdrowie/20070717_programy/program_4.pdf (29.10.2007).

393 Międzynarodowe Stowarzyszenie Twórców Romskich w Polsce 'ROMA' we Włocławku [International Roma Artists Association in Poland 'ROMA' in Włocławek].

394 Fundacja 'Oddech Nadziei' ['Breath of Hope' Foundation] from Bydgoszcz, Kujawsko-Pomorskie Centrum Pulmonologii, Wojewódzki Szpital Dziecięcy im. Brudzińskiego w Bydgoszczy [Brudziński Voivodship Children's Hospital in Bydgoszcz], oddział kardiologii Wojewódzkiego Szpitala Zespołonego w Toruniu [cardiology ward of the Voivodship Unified Hospital in Toruń], Zakład Organizacji i Zarządzania w Ochronie Zdrowia Collegium Medicum im. L. Rydygiera w Bydgoszczy [Centre for Organisation and Management in Health Care at the L. Rydygier Collegium Medicum in Bydgoszcz].

earlier diagnosis of circulatory and pulmonary diseases and combat tuberculosis. The programme will be evaluated annually by the Health Policy Department of the Marshall's Office.

In **Portugal** the Plan for Immigrant Integration³⁹⁵ contains measures to provide information to immigrants on availability and access to health services, training initiatives for professionals of the National Health System, programmes for socio-cultural mediation and support for data collection on the use of health care services by immigrant groups.

In **Finland** the 'Strategies for Social Protection 2015 – towards a socially and economically sustainable society'³⁹⁶ aim to prevent cultural conflicts and promote the inclusion of ethnic groups stipulating improvements in the availability of services in different languages and access to interpreter services.

In the **UK** under the Race Relations (Amendment) Act (2000),³⁹⁷ all public bodies, including National Health Service organisations, are legally obliged to produce a 'Race Equality Scheme' explaining how they plan to eliminate racial discrimination and promote equal opportunities. The 'Race for Health' programme³⁹⁸ led by Primary Care Trusts (PCT) aims, working in partnership with local black and minority ethnic communities, to enable PCTs to make health services significantly fairer for black and minority ethnic communities improving health, modernising services, and increasing diversity within the health service workforce. The 'Delivering Race Equality in Mental Health Care'³⁹⁹ is a comprehensive five-year action plan developed in 2005 for tackling discrimination and achieving equality in mental health care for all people of black and minority ethnic status in the mental health services.

4.4.4. Good practice examples: Practical initiatives by government and civil society

Examples of European transnational initiatives⁴⁰⁰

The pilot project 'Equality in Health'⁴⁰¹ developed an innovative methodology for monitoring and assessing health care practices which discriminate against immigrants, ethnic minorities and religious population groups in the EU. The Monitoring and Assessment Tool (MAT) consists of four components – an

395 Resolution of the Council of Ministers No. 63-A/2007, DR 85 series I dated 2007-05-03.

396 Finland/Sosiaali- ja terveystieteiden ministeriö (2006) *Strategies for Social Protection 2015 – towards a Socially and Economically Sustainable Society*, available at: <http://www.stm.fi/Resource.phx/publishing/store/2006/06/hm1157626104009/passthru.pdf> (29.10.2007).

397 United Kingdom/Race Relations (Amendment) Act (2000), available at: http://www.opsi.gov.uk/acts/acts2000/ukpga_20000034_en_1 (28.01.2008).

398 <http://www.raceforhealth.org/fm/upload/supportprog.doc>; <http://www.raceforhealth.org/learning.php>; <http://www.raceforhealth.org/fm/upload/News%20Stories/Race%20for%20Health%20Workforce%20Guide.pdf> (28.01.2008).

399 http://www.dh.gov.uk/en/Policyandguidance/Healthandsocialcaretopics/Mentalhealth/BMEmentalhealth/DH_4114938, <http://www.dh.gov.uk/en/Policyandguidance/Healthandsocialcaretopics/Mentalhealth/BMEmentalhealth/index.htm> (28.01.2008).

400 Detailed information and contact details provided at the FRA InfoBase at <http://www.fra.europa.eu> (15.01.2008).

401 More information available at <http://www.uehr.panteion.gr/equality> (03.01.2008).

Observatory of Discriminations with the participation of representatives from public authorities, NGOs, immigrant and religious communities and experts; a qualitative interview survey with key administrators of health institutions to detect institutional discriminatory policies and practices; a quantitative survey intended to measure discriminatory attitudes and behaviour of health professionals and an analysis of patients reports to assess discriminatory practice in the daily operation of the health care system.

The project ‘Migrant Friendly Hospitals’⁴⁰² (MFH) is aimed at developing culturally competent health services which are sensitive to diversity, and which can transcend linguistic and cultural barriers. The project, co-funded by the European Commission, DG Health and Consumer Protection (SANCO), the Austrian Federal Ministry of Science and Education and the project coordinator Ludwig Boltzmann Institute for the Sociology of Health and Medicine brought together hospitals from 12 EU Member States developing three sub-projects: improving interpretation in clinical communication, developing migrant-friendly information in mother and child care, and improving staff cultural competence.

Examples of national initiatives⁴⁰³

In **Austria**, ‘AMBER-MED’ was founded in 2006 in Vienna as an initiative of the *Protestant Refugee Service* (EFDÖ) and the *Austrian Red Cross* offering free medical counselling and treatment, as well as financial support for medicines and social counselling to persons without health insurance, e.g. asylum seekers and irregular immigrants.

In **Denmark**, the government initiated three projects – each with a number of local sub-projects – to facilitate the rehabilitation and integration of traumatised refugees and their families.⁴⁰⁴ Two of the projects aim to assist traumatised refugees in obtaining a job. The third project is designed to support families, and particularly children, affected by traumas after experiences with torture, war etc.

In **Germany**, the project ‘With Migrants for Migrants’ by the *Ethno-Medical Centre* runs under the aegis of the Federal Commissioner for Migration, Refugees and Integration, training immigrants as intercultural mediators. By 2006 the project had expanded to 21 different areas in Germany with four additional Federal States joining in 2007.⁴⁰⁵

In **Greece** the NGO ‘PRAKSIS’ implements health care projects for vulnerable groups, including irregular immigrants, asylum seekers and Roma in its ‘Multi-Medical’ centres.⁴⁰⁶

In **Spain**, a health programme for Roma, running in Navarre since 1987, developed a network of ‘health mediators’ selected by the Roma community. The

402 More information at <http://www.mfh-eu.net/public/home.htm> (12.01.2008).

403 Detailed information and contact details provided at the FRA InfoBase at <http://www.fra.europa.eu> (15.01.2008).

404 <http://www.nyidanmark.dk> (04.04.2008).

405 <http://www.bkk-promig.de/> (04.04.2008).

406 <http://www.praksis.gr/> (04.04.2008).

programme increased the number of Roma families covered by primary care from 50 per cent in 1987, to over 90 per cent in 2006.⁴⁰⁷

In the **Slovak Republic** the government implemented from September 2005 until December 2006 a pilot project introducing 40 ‘field-based health care assistants’ in Romani settlements, mediating with medical staff, participating in vaccination, and monitoring health conditions.⁴⁰⁸ Since September 2007, the project has been continued by the *Office of Public Health Care* with 30 health care assistants in ten regions. The International Organisation for Migration has operated since 2006 the *Migration Information Centre*, funded by the European Social Fund, providing in-person, online and phone consultations to help immigrants with the health and social care system.⁴⁰⁹

In **Finland**, the Sámi organisation ‘Sámi Soster ry’ launched a new project in cooperation with the *Finnish Centre for Health Promotion* in March 2007 with the purpose of improving the supply of health guidance based on the Sámi culture and provided in the Sámi languages.⁴¹⁰

In the **United Kingdom** the government announced in 2007 the launch of the ‘Health Inequalities Intervention Tool’⁴¹¹ that collects valuable health-related ethnic data for England. It is run by the Association of Public Health Observatories and the Department of Health to aid the ‘Spearhead’ Primary Care Trusts and local authorities in their efforts to narrow local inequalities in health. The ‘Spearhead’ group is made up of 70 Local authorities and 88 Primary Care Trusts (based upon the Local Authority areas that are in the bottom fifth nationally for health indicators, such as life expectancy at birth, cancer and cardio vascular disease mortality in under 75s, and the multiple deprivation index).

407 I. Stegeman (2005) Health and social inclusion in the EU: The value of transnational exchange, Brussels: Euro-Healthnet, available at: http://www.eurohealthnet.eu/images/publications/pu_1.pdf (12.07.2007).

408 Slovakia/Slovak Government (2003) *Zlepšenie prístupu rómskej menšiny k zdravotnej starostlivosti v SR*, Project PHARE no. 2003-004-995-01-06.

409 Slovakia/Slovak Government (2007) *Program podpory zdravia znevýhodnených komunit na Slovensku – 1. etapa, Program Podpory zdravia znevýhodnenej Rómskej komunity na roky 2007-2008*, resolution 680/2007 of 15.08.2007.

410 <http://www.samisoster.com/SF/page1/page1.html> (04.04.2008).

411 <http://www.gnn.gov.uk/environment/fullDetail.asp?ReleaseID=309566&NewsAreaID=2> (28.02.2008).

5. Combating racism and xenophobia in the European Union – developments in policy and legislation

The European institutions have repeatedly condemned all manifestations of racism and xenophobia, as incompatible with the values of the EU, stressing the need to change perspectives, seeing diversity as a benefit rather than a threat to society.⁴¹² Racism, discrimination, entrenched disadvantage, racist violence and harassment have remained a fact of life for many individuals in Europe. The results of the survey Eurobarometer ‘Discrimination in the European Union’ indicated that 64 per cent of Europeans are of the opinion that discrimination on the basis of ethnic origin is widespread in their country and four out of ten Europeans claimed to be unaware that discrimination is prohibited by law.⁴¹³ The Eurobarometer also noted a particularly difficult situation for the Roma.

The EU designated 2007 as the ‘European Year of Equal Opportunities for All’, in order to make people in the European Union more aware of their rights to equal treatment and to a life free of discrimination. The Year launched a major debate on the benefits of diversity, and the EU introduced measures to mainstream the priority of combating racism and xenophobia and to increase equal opportunities and overcome discrimination. To this end, the EU has concluded studies, launched instruments towards reinforcement of the area of Freedom, Security and Justice, reached agreement on the text of the Framework decision on racism and xenophobia, signed the Treaty of Lisbon and established the EU Agency for Fundamental Rights.

The following information provides an overview of selected activities undertaken by the EU institutions, organs and consultative bodies.

5.1. Solidarity

5.1.1. Equality, non-discrimination and social inclusion

European Year of Equal Opportunities for All

With over thousand different activities across thirty countries, the European Year served to raise people’s awareness of their rights to a life free of discrimination, helped build a new dialogue between different actors on promoting equality, and highlighted the benefits of diversity for society as a whole.⁴¹⁴ It will be followed up in

⁴¹² FRA press release is available at http://www.fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=9&contentid=4458a87a48a0e (14.01.2008).

⁴¹³ Eurobarometer Discrimination in the EU is available at http://ec.europa.eu/public_opinion/archives/ebs/ebs_263_en.pdf (14.01.2008).

⁴¹⁴ For more information on the European Year of Equal Opportunities for All see http://ec.europa.eu/employment_social/eyeq/index.cfm?language=EN (14.01.2008).

2008 by a new European Commission initiative to tackle discrimination beyond the workplace, while the best ideas generated over the year will be taken up by the new PROGRESS programme.⁴¹⁵ Activities during the year included the diversity truck tour; the European Year's partnership with the Eurovision Song Contest, which brought the campaign message to 100 million European TV viewers; a short clip promoting diversity published on the EU's 'eutube' area of the YouTube video website; and the first ever Equality Summit under the German EU Presidency.⁴¹⁶ In addition, around one million euro has been devoted to 19 projects focusing on the inclusion of the Roma community, spread across 12 countries.⁴¹⁷ The Commission released studies that have helped to widen the perspective on the situation of vulnerable groups in the labour market, addressed multiple discrimination, and identified non-discrimination mainstreaming instruments, case studies and ways forward in the formulation and implementation of policies, legislation and programmes.⁴¹⁸ The Commission sought to provide decision makers and other stakeholders with the means by which to assess and improve the national compilation of equality data.⁴¹⁹ In its conclusions, the European Council welcomed the results of the 'European Year of Equal Opportunities for All' and invited Member States to strengthen efforts to prevent and combat discrimination inside and outside the labour market.⁴²⁰

Impact of the Racial Equality Directive

The Commission sent formal requests to 14 Member States to fully implement EU rules banning discrimination on the grounds of race or ethnic origin.⁴²¹ In order to widen a perspective on the scope of issues that can be regarded as 'positive action' and the lack of a clear legal framework defining what is allowed, the Commission, in collaboration with the Italian Department for Rights and Equal Opportunities, organised a conference to explore the concept of positive action, identify actions already undertaken and highlight the ruling of the European Court of Justice's on positive action for gender equality.⁴²² The European Parliament stressed that more needed to be done to implement the Racial Equality Directive

415 More information on the PROGRESS Programme is available at http://ec.europa.eu/employment_social/progress/index_de.htm (14.01.2008).

416 The clip promoting diversity has received almost 30,000 views in its first week online. It is available at <http://www.youtube.com/watch?v=kChJxsc708U> (14.01.2008).

417 Celebrating 1000 ways to promote equal opportunities for all http://ec.europa.eu/employment_social/fundamental_rights/pdf/news/ip07_1717_en.pdf (14.01.2008).

418 Press release on public consultations on new anti-discrimination measures is available at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1006&format=HTML&aged=0&language=EN&guiLanguage=en>, http://ec.europa.eu/yourvoice/consultations/index_en.htm (14.01.2008).

419 High Level Advisory Group of Experts (2007) *Ethnic minorities in the labour market* (December 2007) available at http://ec.europa.eu/employment_social/fundamental_rights/pdf/hlg/etmin_en.pdf; European Commission (2007) *Tackling multiple discrimination – Practices, policies and laws*, available at: http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/multidis_en.pdf (14.01.2008); European Commission/Centre for Strategy and Evaluation Services (2007) *Non-discrimination mainstreaming – instruments, case studies and way forwards*, available at: http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/mainstr07_en.pdf (14.01.2008); European Commission (2006) *European Handbook on Equality Data: Why and how to build a national knowledge base on equality and discrimination on the grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation*, available at: http://ec.europa.eu/employment_social/publications/2007/ke7606381_en.pdf (15.06.2007).

420 For presidency conclusions see <http://www.eu2007.pt/NR/rdonlyres/653A999C-723A-4ED2-B14D-E6E51D83BBB/0/LASTCE97669.pdf> (14.01.2008).

421 The countries concerned – Spain, Sweden, Czech Republic, Estonia, France, Ireland, United Kingdom, Greece, Italy, Latvia, Poland, Portugal, Slovenia and Slovakia – were given two months to respond, failing which the Commission can take them to the European Court of Justice.

422 More information on the conference proceedings is available at http://ec.europa.eu/employment_social/fundamental_rights/events/romeconf07_en.htm (14.01.2008).

in its non-legislative resolution of 27 September 2007, noting deficiencies in fields such as legal redress, awareness-raising, data collection, and the independence and funding of equality bodies.⁴²³

Community statistics on the extent of discrimination

Following on the legislative resolution of the parliament that approved the Commission proposal on the Community Statistical Programme 2008-2012, the European Parliament and the Council took a decision No 1578/2007/EC of the 11 December 2007 on the Community Statistical Programme 2008 to 2012.⁴²⁴ The five-year programme includes statistical activities in the field of social policy, education, vocational training, and youth. Within this scope of activities, the programme foresees the exploration of possibilities for the development of a common methodology to obtain or to improve existing statistical data on the extent and impact of discrimination.

Equal opportunities for young people

The Lisbon Strategy objectives relevant to the EU's Education, Youth and Culture policy sector were reviewed by the Council of Ministers on 24-25 May. EU Ministers adopted a resolution on 'Creating equal opportunities for all young people – full participation in society'.⁴²⁵ Promotion of young people's rights and their active engagement in society were included as main priorities. The resolution also highlighted the crucial role played by youth in combating discrimination and in promoting cultural diversity and respect. The improved social inclusion of young people with fewer opportunities is the priority of the three consecutive Presidencies of the European Union (Germany, Portugal and Slovenia). In this context a peer-learning exercise between Member States has been launched on this issue. Professional and social inclusion of young people from disadvantaged backgrounds is also one of the priorities of the Commission's Communication 'Promoting young people's full participation in education, employment and society' of 5 September 2007.⁴²⁶ Youth has also been a priority of two European-level campaigns for diversity. In the framework of the campaign 'For Diversity-Against Discrimination' the Commission launched a poster competition for young people entitled 'Breaking Stereotypes' and for 12-18 years olds a competition to create a poster illustrating the idea of non-discrimination throughout the European Union.⁴²⁷ In the framework

423 European Parliament (2007) *Resolution of 27 September 2007 on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin* (2007/2094(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0422+0+DOC+XML+V0//EN&language=EN> (14.01.2008).

424 European Parliament (2007) *Legislative resolution of 12 July 2007 on the proposal for a decision of the European Parliament and of the Council on the Community Statistical Programme 2008 to 2012* (COM(2006)0687 – C6-0427/2006 – 2006/0229(COD)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0341+0+DOC+XML+V0//EN&language=EN> (14.01.2008); *Official Journal*, L 344 (28.12.2007), p. 0015, see: <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2007:344:SOM:EN:HTML> (11.02.2008).

425 Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council: 'Creating equal opportunities for all young people – full participation in society', <http://register.consilium.europa.eu/pdf/en/07/st08/st08770.en07.pdf> (14.01.2008).

426 European Commission (2007) *Communication 'Promoting young people's full participation in education, employment and society'* (COM(2007)498).

427 See <http://postercompetition.stop-discrimination.info/> and <http://www.europayouth.eu> (14.01.2008).

of their partnership in the youth field the Council of Europe and the Commission cooperated in youth conferences on diversity in Russia, Turkey and Sweden under the campaign 'All Different-All Equal'.⁴²⁸ The Commission launched a new EU Programme 'Youth in Action', which is to be implemented from 1 January 2007 until 31 December 2013 with a total budget of 885 million euro. It is the successor of the YOUTH Programme (2000-2006). Respect for cultural diversity together with the fight against racism and xenophobia are priorities of the 'Youth in Action' Programme. The programme encourages involvement of young people with fewer opportunities and addresses young people aged between 13 and 30.⁴²⁹

Equality in sports

The European Commission adopted in 2007 a White Paper on Sport and proposed Action Plan, which called for prevention of and fight against racism and violence in sport.⁴³⁰ As regards racism and xenophobia, the Action Plan lists a number of practically oriented activities and EU instruments to be used in combating violence, racism and xenophobia in sports. The Action Plan also foresees promoting dialogue and exchange of best practices in existing networks such as Football Against Racism in Europe (FARE).⁴³¹ In its own initiative Opinion on Equal Opportunities and Sport, the Committee of the Regions highlighted that while discrimination and inequality in sport exists, sport can be used to address these issues.⁴³²

Roma, Sinti and Travellers

In the European Council Conclusions from 14 December 2007, the Council underlined 'the very specific situation faced by the Roma across the Union' and invited Member States and the Union to use all means to improve their inclusion.⁴³³ The Commission is to examine existing policies and instruments and to report to the Council on progress achieved before the end of June 2008.

428 <http://alldifferent-allequal.info/search/node/partnership+with+the+European+Commission> (14.01.2008).

429 More information about the Youth in Action programme is available at http://ec.europa.eu/youth/yia/index_en.html (14.01.2008).

430 European Commission (2007) *White Paper on Sport*, available at: http://ec.europa.eu/sport/whitepaper/wp_on_sport_en.pdf (14.01.2008); European Commission (2007) *Action Plan 'Pierre Coubertin'* (Accompanying document to the White Paper on Sport), available at: http://ec.europa.eu/sport/whitepaper/sec934_en.pdf, adopted on 11 July 2007 (14.01.2008).

431 In this respect, the European Parliament had already adopted a written declaration on tackling racism in football in March 2006. Declaration available at [http://www.europarl.europa.eu/sides/getDoc.do?reference=P6_TA\(2006\)0080&language=EN](http://www.europarl.europa.eu/sides/getDoc.do?reference=P6_TA(2006)0080&language=EN)

432 Committee of the Regions Opinion on Equality in Sport is available at http://coropinions.cor.europa.eu/CORopinionDocument.aspx?identifier=cdr\ecos-iv\dossiers\ecos-iv-014\cdr57-2007_fin_ac.doc&language=EN (14.01.2008).

433 For European Council Conclusions see <http://www.eu2007.pt/NR/rdonlyres/653A999C-723A-4ED2-B14D-E6E51D83BBBB/0/LASTCE97669.pdf> (14.01.2008).

5.1.2. Protecting and promoting fundamental rights

European Union Agency for Fundamental Rights (FRA)

The FRA was created on 1 March 2008. The EU made further steps towards making the Agency for Fundamental Rights fully operational. Following a proposal by the Commission, the Council adopted FRA's first Multi-annual Framework⁴³⁴ (MAF) in February 2008 for the next five years (2007-2012). It includes the following thematic areas:

- racism, xenophobia and related intolerance;
- discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination);
- compensation of victims;
- the rights of the child, including the protection of children;
- asylum, immigration and integration of migrants;
- visa and border control;
- participation of the citizens of the Union in the Union's democratic functioning;
- information society and, in particular, respect for private life and protection of personal data;
- access to efficient and independent justice.

Moreover, the Council decision on the conclusion of the agreement between the European Community and the Council of Europe on co-operation between the Fundamental Rights Agency and the Council of Europe was adopted by the Council on 28 February 2007.⁴³⁵

EU Fundamental Rights and Citizenship programme

Through Council decision 252/2007 of 19 April 2007, the European Union established a specific programme 'Fundamental Rights and Citizenship'.⁴³⁶ A budget of 93.8 million Euro was allocated to the programme over the period 2007-2013. Supporting NGOs, local authorities, international organisations and capacity of

⁴³⁴ COUNCIL DECISION implementing Regulation (EC) No 168/2007 as regards the adoption of a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2007-2012 (23 January 2008, (OR. en) 16773/07), available at http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0515en01.pdf (20.03.2008).

⁴³⁵ The agreement provides for regular contacts and meetings between officials of the Agency and of the Council of Europe, as well as for regular exchange of information where relevant. It also makes possible joint and complementary activities on topics of common interest.

⁴³⁶ http://ec.europa.eu/justice_home/funding/rights/funding_rights_en.htm (14.01.2008).

others to enhance participation in the promotion of fundamental rights, rule of law and democracy, the new financial instrument aims to foster civil society dialogue and encourage democratic participation.

Monitoring compliance of EU legislation with the Charter of Fundamental Rights

The European Parliament adopted a non-legislative resolution in response to the Commission communication on monitoring compliance with the Charter of Fundamental Rights in the Commission's legislative proposals.⁴³⁷ Parliament welcomed the Commission's proposal, called on the Commission to make the monitoring process more transparent, and encouraged the Commission to make more precise the role of the Fundamental Rights Agency in the monitoring process and to call more frequently on its support.

Treaty of Lisbon

The EU leaders signed the Treaty of Lisbon on 13 December, and proclaimed the Charter of Fundamental Rights on 12 December 2007. The Member States agreed to finalise the ratification process with a view to allowing entry into force of the Treaty on 1 January 2009. The Treaty of Lisbon makes reference to the European Charter of Fundamental Rights, making it legally binding.⁴³⁸

The rights of the child

Following on the adoption of the Communication from the Commission 'Towards an EU strategy on the rights of the child', the European Commission brought together the European Forum on the Rights of the Child.⁴³⁹ On 4 June 2007 all stakeholders met for the first time at the European Forum on the Rights of the Child to exchange best practices and take positive action for children and young people. It focused on strengthening membership and discussed possible mechanism for participation of children in the future, and how to protect children against sexual exploitation.

The Committee of the Regions recommended that EU and Member State policies take into account the diversity of children and their varying needs, emphasising that special attention will need to be paid to the impact of poverty, social exclusion, disability, discrimination and racism and the situation of ethnic minority and refugee children, and the implications of religious, linguistic and cultural diversity, both within the EU and in the global context.⁴⁴⁰

⁴³⁷ European Parliament resolution of 15 March 2007 on compliance with the Charter of Fundamental Rights in the Commission's legislative proposals: methodology for systematic and rigorous monitoring (2005/2169(INI)) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0078+0+DOC+XML+V0//EN&language=EN> (14.01.2008).

⁴³⁸ For European Council Conclusions see <http://www.eu2007.pt/NR/rdonlyres/653A999C-723A-4ED2-B14D-E6E51D83BBBB/0/LASTCE97669.pdf> (14.01.2008).

⁴³⁹ For a press release on creation of the Forum see <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/746&format=HTML&aged=0&language=EN&guiLanguage=en> (14.01.2008).

⁴⁴⁰ The Committee of the Regions Opinion 'Towards an EU strategy on the rights of the child' is available at http://coropinions.cor.europa.eu/CORopinionDocument.aspx?identifier=cdr\const-iv\dossiers\const-iv-009\cdr236-2006_fin_ac.doc&language=EN (14.01.2008).

Freedom of movement of EU citizens and their families

The European Parliament adopted a resolution on the application of Directive 2004/38/EC on the right of EU citizens and their families to move and reside freely within the territory of the Member States, rejecting the principle of collective responsibility and reaffirming the need to combat all forms of racism and xenophobia, drawing attention to the situation of Roma in Europe and calling on the Commission 'to act in developing a global strategy for the social integration of the Roma community [...]':⁴⁴¹

5.2. Freedom, security and justice

5.2.1. Hague Programme (2005-2009)

The Commission issued a report on the implementation of the Hague Programme in 2006, noting a satisfactory level of achievement in the area of the respect and protection of fundamental rights.⁴⁴²

High-level group on the future of European home affairs policy after 2010

At the initiative of the German EU Presidency, the high-level advisory group on the future of European home affairs policy (Future Group), consisting of Vice-President Frattini, the six interior ministers of the current and upcoming trio of presidencies (Germany, Portugal and Slovenia as well as France, the Czech Republic and Sweden), one representative from the subsequent three presidencies (Spain, Belgium or Hungary), and experts from individual Member States as needed, met in order to work towards drafting recommendations on European home affairs policy starting in 2010, after the Hague Programme ends.⁴⁴³

Migration management

The European Parliament debated a legislative report on the proposal for a directive on common standards and procedures in Member States for returning illegally staying third-country nationals.⁴⁴⁴ In an amendment to the Commission's proposal, parliament highlighted compliance with fundamental rights and called on the Agency for Fundamental Rights to pay special attention to this directive when implemented by Member States. The European Parliament, on 26 September 2007,

441 For more see <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B6-2007-0464&language=EN> (14.01.2008).

442 Report on the implementation of The Hague programme for 2006 is available at http://ec.europa.eu/justice_home/doc_centre/doc/sec_2007_896_en.pdf (14.01.2008).

443 For a press release on the first meeting of the High Level Group see http://www.eu2007.de/en/News/Press_Releases/May/0521BMI.html (14.01.2008).

444 European Parliament (2005) *Legislative resolution on the proposal for a directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals* (COM(2005)0391 – C6-0266/2005 – 2005/0167(COD)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2007-0339+0+DOC+XML+V0//EN&language=EN> (14.01.2008).

adopted a non-legislative resolution on policy priorities in the fight against irregular immigration of third-country nationals.⁴⁴⁵ Commenting on the Commission Communication on this subject, parliament underlined the importance of safeguarding fundamental rights of individuals when developing measures to fight irregular immigration or stepping up external border controls.⁴⁴⁶

Gender aspect of migration policy

In its outlook opinion on the situation of migrant women in the EU, the Committee of the Regions pointed out that its opinion on the policy plan on legal migration drew attention to the concern of local and regional authorities about gender issues, noting the need to consider the discrimination which may be faced by women based on their gender, ethnic roots, geographical origin or other grounds listed in Article 13 of the EC Treaty.⁴⁴⁷

Integration of third-country nationals

Within this context, the European Commission published its Third Annual Report on Migration and Integration,⁴⁴⁸ covering developments in 2006 and up to the adoption in June 2007 of Council Conclusions on the strengthening of integration policies in the EU by promoting unity in diversity.⁴⁴⁹ Structural initiatives targeting the host population to reinforce its ability to adjust to diversity are still underrepresented in national strategies. Fostering integration as a genuinely two-way process is a major challenge that requires further efforts. The second edition of the Handbook on Integration for policy-makers and practitioners was also published, providing concrete examples from different areas of immigrant integration and 'lessons learned' including access to health services.

The European Parliament, in its adoption of a non-legislative resolution on the policy plan on legal migration, proposed drawing up a summary of the rights and duties of migrant workers in order to foster their participation in economic, social and political life, and to achieve integration. Within the context of Directive 2003/86/EC on the right to family reunification, Member States were asked to grant migrant women a legal status that is independent of that of their spouse. The resolution also emphasised the particular responsibility of the media (in particular European public radio and television broadcasters) in the dissemination of an accurate image of immigration and in countering stereotypes.

445 European Parliament (2007) *Resolution of 26 September 2007 on policy priorities in the fight against illegal immigration of third-country nationals* (2006/2250(INI)). <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0415+0+DOC+XML+V0//EN&language=EN> (14.01.2008).

446 European Commission (2006) *Communication from the Commission on policy priorities in the fight against illegal immigration of third-country nationals* (COM/2006/0402 final).

447 http://coropinions.cor.europa.eu/CORopinionDocument.aspx?identifier=cdr/ecos-iv\dossiers\ecos-iv-013\cdr396-2006_fin_ac.doc&language=EN (16.05.2008).

448 Press release is available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/351&format=HTML&aged=0&language=EN&guiLanguage=en> (14.01.2008).

449 Council document 10267/07, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/jha/94682.pdf (14.01.2008).

5.2.2. Police and judicial co-operation

Council Framework Decision on Combating Racism and Xenophobia

A proposal for a Framework Decision on Combating Racism and Xenophobia was presented by the European Commission in 2001, and the text had been under discussion since 2002. In April 2007 the Justice and Home Affairs Council reached political agreement on the Framework Decision, reducing its scope. This is reflected in the title, which has become the ‘Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law’.⁴⁵⁰ In June 2007, the European Parliament had adopted an own-initiative report urging the Council to reach agreement on the proposed Framework Decision.⁴⁵¹ In July 2007, the draft ‘Council Framework Decision was sent to the European Parliament for reconsultation.’⁴⁵² The European Parliament adopted on 29 November 2007 a resolution proposing a series of amendments to the draft text. Among the European Parliament’s amendments to the proposal there is a reference to FRA. The European Parliament calls on the Council ‘to take account of the opinion of the European Union Agency for Fundamental Rights and of the NGOs active in the field’ when conducting the review of the decision. Once adopted, the Framework Decision will harmonise criminal provisions against racist behaviour.⁴⁵³

450 Conclusions of the Justice and Home Affairs Council of 19-20 April 2007, Council press release is available at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/misc/93739.pdf (14.01.2008).

451 European Parliament (2007) *Recommendation to the Council of 21 June 2007 concerning the progress of the negotiations on the framework decision on action to combat racism and xenophobia* (2007/2067(INI)) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0285+0+DOC+XML+V0//EN&language=EN> (14.01.2008).

452 http://register.consilium.europa.eu/servlet/driver?page=Result&lang=EN&typ=Advanced&cmsid=639&ff_COTE_DOCUMENT=11522%2F07&fc=REGAISEN&srm=25&md=100 (14.01.2008).

453 <http://www.europarl.europa.eu/oeil/file.jsp?id=216962> (14.01.2008).

6. Conclusions

6.1. The Racial Equality Directive

One of the tasks of the FRA is to gather information about how the Racial Equality Directive is actually applied in the various Member States, and how the specialised bodies operate in practice. The first thing to note is that by the end of the reporting period, three Member States still had no specialised body in existence, and almost half of all Member States applied no sanctions at all in racial/ethnic discrimination cases. Amongst the remainder who did, there was an enormous variation in the level of fines handed out.

The scarcity of sanctions in most of the Member States is problematic because the Racial Equality Directive declares effective, proportionate and dissuasive sanctions to be mandatory. Effective sanctions are important to gain the trust of the victim population and to raise awareness about the legislation and its principles in the wider population. Without effective sanctions it is unlikely that large parts of the population, companies and also legal practitioners are going to take anti-discrimination legislation very seriously and make the effort to inform themselves about this legislation.

It is true that where there is a low level of cases going to court, and few sanctions being applied, this does not necessarily reflect that problems are not being addressed. For example, in some Member States there is more of a consensus tradition in industrial relations, where social partners and other bodies work together to try settle disagreements with mediation and negotiation, so that cases are more likely to be resolved before getting to the stage of a court case. In the case of the Netherlands, for example, the Equal Treatment Act is designed to encourage such pre-court settlement of disputes. However, one drawback with this approach is that the threat of sanctions is diminished, and these are normally seen as crucial to improve the bargaining position of victims of discrimination. There is also a loss of the educative function of awareness-raising in the general public and amongst employers that stems from the threat and application of credible and dissuasive sanctions.

In some cases there clearly are problems which lie behind the low figures. For example, in Slovenia, the *Human Rights Ombudsman* reported the problem to be the result of the opaque and unhelpful wording of the legislation; in Portugal the problem was reported to result from the slow and complex procedure for appraising complaints.

Another factor lies in the use of criminal law. In some Member States the criminal sanctions which in theory can be applied in discrimination cases look to be very dissuasive. However, when this exists in the context of criminal law rather than civil law, then such severe sanctions are unlikely to be applied in practice. In Member States which use civil law in the fight against ethnic discrimination, the burden of proof is much lower and sanctions are more likely to materialise.

In several Member States the powers which have been granted to the specialised body or bodies are too limited to contribute to effective sanctions being applied in practice. Some bodies have neither the power to issue sanctions themselves, nor do they assist victims in proceedings which lead to sanctions. Even when a specialised body has the power to issue sanctions, it may take the policy decision to avoid this strategy and concentrate instead on mediation, such as in the case of Cyprus.

6.1.1. The low level of complaints

Reports describe a rather low level of complaints to specialised bodies and anti-racist NGOs in the first place. Of course, in theory a low level of complaints need not indicate that anything is wrong – it might be argued that this could reflect the reality of a genuinely low level of discrimination. However, the employment, housing and health sections of this report, as well as the similar evidence of previous years, show clearly the existence of the problem of ethnic discrimination in its various manifestations, much of which would not have come to public notice without the findings of specific research. For years, various types of evidence and research have shown that most victims of discrimination who could complain, do not, the latest being the survey reported in the employment chapter that most victims of *inter alia* racial or sexual harassment at work in Slovenia did not report the incident.

Various examples in the employment and health sections of this report give some indication of the possible reasons for the failure or reluctance of victims of discrimination to make formal complaints. Some people may have no confidence in the law when it is perceived to be weak; some victims might be worried about the financial costs of court cases, or hold fears of other costs or repercussions; workers on restricted contracts and temporary work permits may feel too legally vulnerable to make a complaint. However, a scarcity of cases can also reflect other things, such as a lack of awareness in the general population about the possibilities of legal redress that are open to victims of discrimination (as shown in the health chapter, where interviews with patients in Greece showed that they had no awareness of how to submit a complaint regarding discrimination in health treatment). For some Member States there has been little public debate in the area, and no evidence of any public campaigns to raise awareness of the national measures that were instituted following the transposition of the Racial Equality Directive. In the employment chapter it was noted that in one Member State a trade union organisation for handling complaints takes the deliberate decision *not* to refer cases to the national equality authority. Clearly there is a need for more targeted research here, to cast light on the various structural and social forces that go to determine whether and how ethnic discrimination cases get reported and handled in the 27 Member States.

A recent development providing an exception to this general picture is the case of France, where the official anti-discrimination body, the HALDE, has been

receiving since 2006 a significant and increasing number of complaints. The HALDE has developed a strong public image using information campaigns in order to raise public awareness of itself and of the issue of discrimination, and recent surveys have reflected a growing awareness of the French public about the problem.

6.2. Evidence for discrimination

Whilst the chapter on legal issues in this report provides information on the operation of the Racial Equality Directive, the information in the subsequent chapters on the four areas of social life operates to confirm the original need for the directive in the first place, by giving examples and cases of direct and indirect discrimination in the fields of employment, housing, education and health. In all of these areas the kinds of deductions about the extent and form of discrimination that can be made from official statistics and court cases alone are rather shaky, and need to be complemented by the findings of research and investigation. As with previous EUMC Annual Reports, research examples in the employment chapter are grouped into three categories: discrimination testing, victim studies and research on the majority population.

Examples of discrimination testing, which identifies the operation of discrimination in access to housing and employment, have been reported increasingly each year. In the area of employment, the method was reported in several Member States (with a major employment testing project carried out in 2007 for the first time in Greece). The method was also reported in three Member States in 2007 to test access to housing, and in France there was a testing case reported in access to health care.

Previous FRA/EUMC reports have noted over recent years a growing number of studies of the subjective experiences of discrimination of minorities, or 'victim studies'. In this latest reporting period there were more than ever before, with examples of people's experiences of discrimination in employment reported in 11 Member States, with another carried out in one Member State to test the impact of national equal treatment acts and bodies, reported in the legal issues chapter. Also, for the first time, in the new area of health care, there were three surveys reported on the racism and discrimination subjectively experienced by health sector staff, covering five Member States. This type of study is useful for highlighting problems that may not otherwise come to notice, given the already demonstrated reluctance of victims to make formal complaints.

Generally less common are studies of the majority population in this field. It might be thought that such studies would be of limited use in exposing problems, since employers would not be expected to readily confess to a researcher his or her racist attitudes or unlawful practices. Nevertheless, the employment chapter notes surveys of employers in three Member States where a majority of respondents disclosed that they would refuse to recruit immigrants or Roma.

Again this year, the evidence shows that in all four areas of social life – employment, housing, education and health – it is the Roma and asylum seekers who suffer the worst excesses of discriminatory treatment. Also, as previous Annual Reports have noted, migrant workers who are legally constrained, and therefore insecure, experience worse conditions of work than majority workers, and have less opportunity to defend themselves or to complain regarding their workplace exploitation. In one sense, such workers are not excluded from employment – instead they are disproportionately *included* in the least desirable jobs. The kind of exclusion that irregular migrants and asylum seekers suffer is illustrated in the chapters on education and health care. Asylum seekers are often in detention camps far away from educational facilities, and the children of irregular migrants may be deterred from school when authorities need to record and report their legal status. The same reason often keeps irregular migrants away from health care facilities if they think they may be reported to the police and deported.

6.2.1. Countering discrimination with positive action

The Equality Directives explicitly allow for specific compensatory measures such as positive action to be introduced. Whilst positive action measures to counter the effects of discrimination are not particularly common across the EU, there are generally a few new examples reported each year. Following on from the example of the city of Berlin, described in last year's FRA report,⁴⁵⁴ where positive action was introduced for the recruitment of minorities into the Berlin police force, there were similar examples reported in 2007, with Romania, Bulgaria and the Czech Republic all using a positive action approach to target the recruitment of members of minority groups into their police forces, and with France doing something similar for recruitment to the armed forces.

In 2007 there were developments at EU level which added to the debate on positive action: a European conference 'Equal Opportunities for all: What role for positive action?' held in Rome in April 2007, and a European publication 'Beyond Formal Equality: Positive Action under Directives 2000/43/EC and 2000/78/EC', published in 2007.⁴⁵⁵ Both concluded that the EU's equality agenda is in need of positive action. Positive action aims to compensate for present and past discrimination, adding to the role of laws and complaints, which in themselves are not enough to combat discrimination and its effects. Regarding access to accommodation, the decision of the European Committee of Social Rights,⁴⁵⁶ reported in the housing chapter, is significant in that, in the context of years of unequal treatment of Roma in Bulgaria in relation to their housing rights, the committee concluded that positive action measures were needed for the integration of Roma into mainstream society.

However, the practice of positive action remains controversial for two main reasons: firstly, because it is often confused in the public mind with positive discrimination, quotas, or other devices perceived by some to be socially unjust, and secondly, it is controversial because a minimum requirement of effective

454 FRA (2007) *Report on Racism and Xenophobia in Member States of the EU*, p. 67.

455 M. De Vos, *European Commission Brussels (2007) Beyond Formal Equality: Positive Action under Directives 2000/43/EC and 2000/78/EC*, available at http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/bfe07_en.pdf.

456 Complaint no. 31/2005, *European Roma Rights Centre v. Bulgaria* – see section 4.2.3. of this report.

positive action is to have accurate data on the minority populations concerned. This is necessary so as to be able to judge the initial need for the policy, and equally importantly, to be able to judge when the problem disappears, so the positive action measure can be stopped. Yet, as this Annual Report and others have noted, there is wide variation between Member States over the principle of ‘ethnic statistics’: in some countries they form part of the official census and are widely used, in others they are strongly in opposition to national norms, and in some they are banned by national laws. There would seem to be a need for further exploration of the extent to which the inability to produce accurate statistics of relevant populations within a Member State acts as a barrier to the adoption of positive action, or whether it modifies the form or the outcome of such measures within that country.

A sharper area of controversy thrown up by this year’s Annual Report is a measure which goes further than positive action. In the housing chapter, it was reported that in at least one German city, foreigners and ethnic German immigrants are officially subject to fixed quotas in certain city districts, in order to maintain socially-balanced housing areas. The measure would seem to be contrary to certain basic principles of positive action – for example, it relies on fixed quotas, and it is presumably not a ‘temporary special measure’, but remains in place over many years. This policy has proven to be more controversial, with critics claiming that the quotas themselves constitute direct discrimination against members of minority groups. In return, supporters argue that the end justifies the means, that it is part of an initiative to combat discrimination and exclusion against minorities, and that it produces a fairer balance of residential communities than if the distribution was left to market forces. Clearly, policies such as these need to be exposed to a broader level of academic scrutiny and public debate.

6.3. Member State differences

The ‘ethnic statistics’ question is not the only one which highlights clear contrasts in Member States’ approaches to migrant-related issues. Previous Annual Reports have covered the debate on whether religious clothing can be worn by pupils in schools or by employees in various sectors of work, and have clearly demonstrated that across the EU there is an extremely wide variation in acceptability and practice regarding this subject. Differences are apparent even within one Member State: between Federal States in Germany, for example, or between the two main linguistic communities in Belgium. There are other differences in detail. The legal issues chapter notes that in France, a legal ruling in 2007 made it clear that the principal of secularism, as a justification, for example, for excluding the wearing of a headscarf, only applies to public authorities and cannot be used by a private company in the provision of services. Consistent with this, in France (and Germany) there are cases which confirm that dismissal of an employee for wearing a headscarf is unlawful.⁴⁵⁷ However, as stated in the 2006 EUMC Annual Report, the Supreme Court in Denmark ruled that the dismissal of a supermarket employee for wearing a headscarf did not constitute discrimination.⁴⁵⁸

457 N. Nathwani (2007) *Islamic Headscarves and Human Rights: A Critical Analysis of the Relevant Case Law of the European Court of Human Rights Netherlands Quarterly of Human Rights* Vol.25 No.2, 2007, pp. 221-254.

458 EUMC (2006) *The Annual Report on the Situation regarding Racism and Xenophobia in the Member States of the EU*, p. 25.

Usually this debate focuses on the wearing of headscarves by females. The education and employment chapters describe new debates or cases concerning headscarves or veils in Belgium, Bulgaria, Denmark, Germany, Spain, France, the Netherlands and the UK. However, in 2007 the same issue emerged regarding the wearing of turbans by male Sikhs in Europe. In France in 2007 Sikh boys were reported to be appealing against expulsion from school for wearing turbans, and it was also noted that in France it is forbidden to wear a turban in photographs for driving licences. At the same time, it was reported that in Ireland the national police force banned the wearing of turbans as part of the police uniform. However, in some other Member States this is not a contentious issue. In the UK, for example, the wearing of turbans has long been allowed as a normal part of the uniform in the police and in the various armed services, and in Sweden, as reported in last year's FRA report, the police force has included in its diversity plan the right for police officers to wear a headscarf, a turban or a Jewish kippah while on duty.⁴⁵⁹ The wide variation in public opinion on this issue between Member States was confirmed in 2007 with the publication of the findings of the European Commission's Special Eurobarometer on perceptions of discrimination. When EU citizens were asked if they agree with the statement 'The wearing of visible religious symbols in the workplace is acceptable', the level of agreement in different countries ranged from only 29 per cent (Lithuania) up to 79 per cent (Malta).⁴⁶⁰

6.4. Health and discrimination

This is the first year that health care has been included in an Annual Report. An initial impression is that, compared to the three other areas of social life, information and data on ethnic discrimination in health care seem to be harder to find, and the general level of awareness of racism and discrimination issues seems to be lower. Nevertheless, there were cases reported in many Member States of migrants and minorities suffering different and worse treatment, or suffering abuse from medical staff, as well as the evidence from a range of academic or NGO reports on the various factors that reduce access to health care for minorities such as Roma, asylum seekers and irregular workers.

The research indicates that immigrants and ethnic minorities often face problems in accessing and using health care services. Even when access to these services is legally granted, such groups may often not use them, either because they are not aware of their rights, or because the administrative procedures are too complex, or because they object to the way they are treated because of their religious beliefs, or because of language barriers. As a result, they risk receiving inadequate service in medical diagnosis, care and prevention.

Whilst there were many reported instances of positive initiatives for improving and extending health care to migrants and minorities, it was more difficult to find any with elements specifically aimed at addressing and combating discrimination. Furthermore, there were just a few reports covering the problem of the racism or discrimination experienced by minority staff employed within the

⁴⁵⁹ FRA (2007) *Report on Racism and Xenophobia in Member States of the EU*, p. 74.

⁴⁶⁰ *Discrimination in the European Union* European Commission, Eurobarometer, 2007, p. 15, http://ec.europa.eu/public_opinion/archives/ebs/ebs_263_sum_en.pdf (15.05.2008).

health sector, yet these few reports each exposed a serious problem. It seems likely that this problem is more widespread than people are aware of. The research gave an insight into some of the reasons why health care staff are reluctant to complain individually. Therefore, if the problem is not exposed through complaints, it will need to be exposed by research, so that health care organisations can be encouraged to introduce policies to combat it. It is clearly not acceptable for it to be left to individual groups of staff to decide on a case-by-case basis what the appropriate response is to, for example, a racist patient who abuses or refuses to be treated by an ethnic minority nurse.

6.5. Examples of trends and developments

There are relatively few opportunities to make reliable generalisations about trends over several years in issues relevant to racism and xenophobia in the EU, because of the general weaknesses in statistics for this purpose. Thus many of the observations about developments over time are inevitably rather impressionistic, and tend to be qualitative rather than statistical. An exception to this statement can be found in the chapter on racist violence and crime, which identifies the 11 Member States which collect adequate data to provide a trend analysis. Of these, we can say that a majority, eight, recorded an upward trend in recorded racist crime over the period 2000-2006. Similarly, of four Member States which collect sufficient data on anti-Semitic crime we can say that three experienced a general upward trend between 2001-2006, and of the four Member States which collect adequate data on right-wing extremist crime, two experienced a general upward trend between 2000-2006. On a smaller scale, as shown in the education chapter, one German Federal State, Brandenburg, which collects incidents with a right-wing extremist background in its schools, has been able to identify a steady decline in such recorded incidents since registration of such crimes began in the school year 2000/2001. The racist violence chapter also provides examples of some more qualitative judgements – for example, it seems that over the last few years various Member States have become more positive in paying necessary attention to racist crimes, in responding to hate crimes, and in introducing measures to encourage the recruitment of minorities into the ranks of the police.

Another ‘good practice’ trend can be noticed in the field of employment. Since the first case studies of good practice began to be reported to the EUMC, following the creation of the RAXEN network in 2000/2001, there have clearly been reported each year more policies which fall under the heading of ‘diversity policy’ or ‘diversity management’ in both public and private sector organisations. There has also been a noticeable growth each year in what might be called ‘encouragement measures’ for diversity management, organised by government authorities, employers, NGOs, or combinations of these, running campaigns and training courses and offering advice and incentives for organisations to adopt diversity policies. (Only selected examples of both of these have been able to be printed in the Agency’s Annual Reports in any one year – more can be seen on the FRA InfoBase.⁴⁶¹) It also seems that diversity policies are reaching into a broader spread of Member States, many for the first time. In 2005, the European Commission published the findings of a major survey of diversity management practices in the

then 25 countries of the EU,⁴⁶² and one of the conclusions was that at that time there was very little (or no) evidence for diversity management to be found in countries of southern Europe, and in those Member States which joined the EU in 2004. This conclusion may now need to be modified, as in the last FRA report diversity management activity was noted in Italy,⁴⁶³ and in 2007, as the employment chapter of the current report shows, evidence of diversity management activities could be found in Cyprus, Malta, Portugal and Romania.

6.6. Data collection and research by the FRA

Data and information collected by the FRA complement data collected elsewhere. They can be drawn on by policy makers and legal authorities, and can also be useful in identifying areas where new research needs to be initiated.

6.6.1. Complementing legal data

The socio-legal data and information collected by the FRA in this field complement the more formal material gathered by other bodies. A relevant example here is the Migrant Integration Policy Index (MIPEX), created in 2007, which is used to measure policies to integrate migrants in 25 EU Member States (plus three non-EU countries), using over 100 policy indicators.⁴⁶⁴ The index compares the performance of Member States along a number of dimensions relevant to the integration of migrants. One of these comparisons is how Member States perform according to the range of sanctions available in the enforcement of anti-discrimination legislation, and in this evaluation, for example, Greece, Poland and Portugal are rated highest in terms of 'best practice'. The problem here is that this evaluation is based on a consideration of what sanctions are available in theory, but this may have little relationship to actual practice. In complete contrast to the MIPEX rating, in the FRA's own evaluation of EU Member States, Greece, Poland and Portugal are rated low in terms of performance, because in reality they applied no sanctions at all during the reporting period (see section 2.1.1.), and also Poland and Portugal are categorised as having ineffective equality bodies (section 2.1.3.). Thus the socio-legal data collected by the FRA can be useful in highlighting the differences which often exist between legal arrangements in theory and social reality in practice.

6.6.2. Informing court decisions

Another practical value of the statistics and information provided by the FRA is that they are available to be drawn on in legal decisions. An illustration of this has been referred to earlier, namely in the case of the European Court of Human Rights which in 2007 delivered a judgement against the Czech Republic, and in coming to this decision, referred to information collected by the EUMC, the predecessor of the FRA, on the educational situation of Roma.

⁴⁶² European Commission (2005) *The Business Case for Diversity: Good Practices in the Workplace* Office for Official Publications of the European Communities.

⁴⁶³ FRA (2007) *Report on Racism and Xenophobia in Member States of the EU*, pp. 71-72.

⁴⁶⁴ <http://www.integrationindex.eu/> (09.04.2008).

6.6.3. Primary research by the FRA

One result of the FRA/EUMC's collection of data and information across the EU over several years is the highlighting of the near impossibility of finding secondary data in this field which would allow a meaningful comparison between Member States. For example, in the area of racist crimes, as chapter three makes clear, statistics on racist crimes can be compared over time within one Member State, but not *between* Member States. For this reason, the FRA has now started to design and carry out its own research, which is designed with comparability built into the methodology, and aims to produce data on important problem areas which are directly comparable between Member States. One of the first of these is under way in 2008: a 'victim survey' of migrants and minorities' experiences of discrimination, racist crime and policing in all 27 EU Member States. The findings from this and other similar research by the Agency will be described in future FRA Annual Reports.

7. Opinions

7.1. The Racial Equality Directive

Effective and dissuasive sanctions are crucial to fight ethnic and racial discrimination. Without these, discriminatory attitudes and behavioural patterns are unlikely to change and victims remain defenceless. Also settlements depend on the availability of sanctions to strengthen the negotiation position of victims. No sanctions and/or awards related to cases of ethnic or racial discrimination could be detected during 2006-2007 in 12 Member States. The absence of sanctions coincides in some cases with the absence of an effective equality body. This observation stresses the central importance and role of equality bodies.

- Member States should ensure that equality bodies are well resourced to perform their important function. They need to be accorded sufficient independence so as to invite trust by the victims.

Another reason for the absence of sanctions lies in the role of the equality bodies. Sanctions are absent or rare in countries in which the equality bodies do not support victims of discrimination in proceedings which lead to sanctions, or do not have the power to issue sanctions themselves or do not use this power for some reason.

- Member States should ensure that equality bodies are empowered to assist victims in proceedings which lead to sanctions. Equality bodies should have the ability to function both as low threshold access points for victims and as bodies which support victims to obtain real redress and full compensation.

In some countries, the relative scarcity of sanctions has structural reasons related to the role of criminal law in the fight against ethnic discrimination. Symbolically, criminal law certainly is the most important instrument any state can use in the fight against ethnic discrimination. However, in practice, criminal law does have its disadvantages: the shift of the burden of proof foreseen by the Racial Equality Directive does not apply and the victim of discrimination often has limited control of the criminal procedure, which usually lies in the hands of the prosecution services.

- Member States which rely mainly or exclusively on criminal law should create complementary civil and administrative procedures for victims of ethnic or racial discrimination to obtain real redress and full compensation.

7.2. Racist violence and crime

Member States should acknowledge that data collection on racist crime is essential for the development of evidence-based policies that can address and prevent the problem, and in turn can indicate whether legislation on racist crime is effectively targeted where it is most needed.

- Where Member States have no or limited data collection on racist crime, they should establish comprehensive data collection mechanisms that encourage public reporting and accurate recording. To this end, Member States can learn lessons from those Member States that have established good data-collection practices.

As in previous Annual Reports, the problem has been noted of abuses by law enforcement officers against vulnerable minorities. Public trust in the police is an important factor in democratic societies.

- Member States should ensure that the public can report incidents of racist police abuse and violence to an independent police complaints authority. These authorities should be functionally external to ministries and other government offices.

7.3. Research and awareness-raising

New examples in the reporting period of discrimination testing experiments in access to employment, housing and health care confirm that the method plays a unique and valuable role in bringing unseen problems to public attention.

- Member States are called upon to consider implementing more widespread and systematic discrimination testing ('situation testing') in order to facilitate a clearer assessment of the magnitude and mechanisms of discrimination in employment, housing and health provision, and to provide evidence with which to supplement official data.

7.4. Sanctions and complaints

Several chapters of the Annual Report have noted evidence that victims of discrimination who might be expected to complain do not do so.

- Research should be carried out on the operation and impact of the Racial Equality Directive, so as to shed light on the forces that predispose victims of discrimination to complain or constrain them not to complain, and the reasons why sanctions are applied or not applied by specialised bodies or courts.

7.5. Anti-discrimination training

Evidence in both the employment and health care sections of this Annual Report suggests that there is a need for anti-discrimination training for employees in work organisations.

- Governments and employers should make available anti-discrimination and diversity training for employees in the public and private sector.
- Health sector employers should conduct on a regular basis anti-discrimination training of public and private health care providers. Anti-discrimination training subjects should be included in the curricula of medical universities and colleges.

7.6. Housing

Access to low-rent, publicly funded housing is one of the most important means of improving the generally bad housing conditions experienced by immigrants, Roma, and other ethnic minorities.

- Member States are called upon to increase the stock of low rent, publicly funded housing, to ensure, and if necessary to enforce, the application of equitable criteria in the allocation of affordable public housing. In particular, they should take every necessary measure to ensure that these criteria do not discriminate against immigrants, Roma and other ethnic minorities.

7.7. Education

Inequality in access to and performance in education for migrants and minorities, compared to the majority population, are particularly striking in those countries where there is an early tracking school system in place. According to PISA 2006 performance, early stratifying of students into separate institutions or programmes has a particular negative impact on the performance of socioeconomically or linguistically disadvantaged students.

- Member States should consider adopting more integrative school systems in order to reduce inequality in education.
- Access to education for all population groups, including asylum seekers and irregular migrants, needs to be established in firm legal and practical terms. Practical barriers such as discriminatory enrolment procedures and access testing, unavailability or inaccessibility of pre-school facilities, or unreasonably long distances to schools, should be removed.
- Segregated forms of education should be either completely abolished or reduced to short-term preparatory classes leading to the integration of migrant and

minority children into regular schooling. Member States should draw lessons from the judgement of the European Court of Human Rights against the practice of segregating Roma children into special schools.

7.8. Data collection in education

The collection, evaluation and public discussion of reliable information is an indispensable prerequisite for improving the situation of vulnerable and disadvantaged groups in education. This has recently been reconfirmed by the PISA 2006 education performance study, which points to the significant positive association between schools who monitor and evaluate achievement and make achievement data public and students having better test performance. In most Member States there is insufficient monitoring and evaluation systems in place, or none at all.

- Member States should consider installing systems to allow the monitoring of migrants and minority ethnic pupils in terms of educational achievement.

7.9. Data collection in health care

More knowledge is required in the EU about the dynamics of health and well-being of immigrants and ethnic minorities. To this end Member States should take steps to collect data systematically, providing the basis of evidence that policy-makers and planners can use in defining national and EU-wide strategies.

- Member States should develop and implement mechanisms for collecting publicly available data on inequality and discrimination in health care. Data on health status and access to health services should be disaggregated by ethnicity in health surveys, registers and public information systems and made available to the public when national statistical confidentiality rules permit this disaggregation.

7.10. Migrant and minority-sensitive health care

Health care services are called for to not only recognise the role of cultural, social, linguistic and health background, but also the role of the difficult and ill-defined settings in which migrants often live and work.

- Member States and the EU should encourage culturally sensitive training of the health workforce. Staff development and training programmes in the health care system should include components related to Roma-specific needs in health status.

Annex

The methodology of the report

The information provided in this report is the product of an on-going data collection exercise involving the FRA's 27 RAXEN National Focal Points (NFPs). Each Member State has one NFP, which is responsible for collecting data under common headings in each of the six thematic areas. NFPs consist of consortia which are typically constituted by bodies such as anti-racist NGOs, university research centres, institutes for human rights, or government-affiliated organisations. The NFPs are requested to collect information in accordance with specific and common guidelines. Each NFP produces a 'National Data Collection Report', and from the information in these National Data Collection Reports the thematic chapters of the report are produced by the FRA.

The 27 National Focal Points which provided the information for this report are as follows:

Belgium	Centre for Equal Opportunities and Opposition to Racism (CEOOR), Brussels http://www.diversiteit.be
Bulgaria	Project 1 EOOD, Sofia http://www.csd.bg/en/nfp
Czech Republic	People in Need (PIN), Prague http://clovekvtisni.cz
Denmark	Documentation- and Advisory Center on Racial Discrimination (DACoRD), Copenhagen http://www.drcenter.dk
Germany	European forum for migration studies (efms), Bamberg http://www.efms.de
Estonia	Legal Information Centre for Human Rights (LICHHR), Tallinn http://www.lichr.ee
Greece	Hellenic League for Human Rights (HLHR); Research Centre for Minority Groups (KEMO), Athens http://www.hlhr.gr/hlhr-kemo/profile.htm#hlhr%20profile
Spain	Movement for Peace, Disarmament and Liberty (MPDL), Madrid http://www.mpdl.org

France	Centre d'Etudes des Discriminations, du Racisme et de l'Antisémitisme (CEDRA), Paris http://www.commission-droits-homme.fr
Ireland	National Consultative Committee on Racism and Interculturalism (NCCRI), Dublin http://www.nccri.ie/
Italy	Cooperation for the Development of Emerging Countries (COSPE), Florence http://www.cospe.it
Cyprus	Intercollege's Multiethnic, Anti-racism and Reconciliation Studies Unit, together with Symfiliosi and the Cyprus Sociological Association, Nicosia http://www.intercollege.ac.cy
Latvia	Latvian Centre for Human Rights (LCHR), Riga http://www.humanrights.org.lv
Lithuania	Centre of Ethnic Studies – Institute for Social Research (ISR), Vilnius http://www.ces.lt
Luxembourg	Centre d'Etudes de Populations, de Pauvreté et de Politiques Socio-Economiques/ International Networks for Studies in Technology, Environment, Alternatives, Development (INSTEAD), Differdange http://www.ceps.lu
Hungary	Institute for Legal Studies of the Hungarian Academy of Sciences (HAS) + Institute of Ethnic and National Minority Studies of the HAS, Budapest http://www.mtaki.hu/
Malta	Jesuit Centre for Faith and Justice (JCFJ), Valletta http://www.jesuit.org.mt
Netherlands	Art.1 http://www.art1.nl
Austria	Ludwig Boltzmann Institute of Human Rights – Ludwig Boltzmann Institute of Human Rights and ZARA – Zivilcourage und Anti-Rassismus-Arbeit http://www.univie.ac.at/bim/focalpoint/
Poland	Helsinki Foundation for Human Rights (HFHR), Warsaw http://www.hfhrpol.waw.pl

Portugal	Numena – Research Centre on Human and Social Sciences, Lisbon http://www.numena.org.pt
Romania	Center for Legal Resources, Bucharest http://www.crj.ro
Slovenia	Peace Institute, Institute for Contemporary Social and Political Studies; Ljubljana http://www.mirovni-institut.si
Slovakia	People against Racism (PAR), Bratislava http://www.rasizmus.sk
Finland	Finnish League for Human Rights (FLHR), Helsinki http://www.ihmisoikeusliitto.fi
Sweden	Swedish Centre against Racism http://www.centrummotrasism.nu/Default.aspx?id=184
United Kingdom	Centre for Rights, Equality and Diversity, University of Warwick http://www2.warwick.ac.uk/fac/soc/sociology/research/raxen/

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