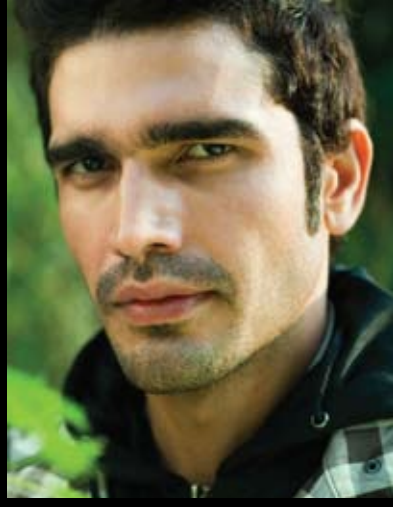


racism

enar shadow report 2009-2010

in europe

european network against racism

Author: Jean-Pierre Gauci, People for Change Foundation

Peer review: Veronique Muscat

Research assistant: Anna Abela

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

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

Published by the European Network against Racism (ENAR) in Brussels, March 2011, with the support of the Community Programme for Employment and Social Solidarity - PROGRESS (2007-2013), the Open Society Foundations, the Joseph Rowntree Charitable Trust, and the ENAR Foundation.

PROGRESS (2007 - 2013) is managed by the Directorate-General for Employment, social affairs and equal opportunities of the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields. For more information see: http://ec.europa.eu/progress. The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

ENAR reserves the right not to be responsible for the accuracy, completeness or quality of the information provided in this report. Liability claims regarding damage caused by the use of any information provided, including any information which is incomplete or incorrect, will therefore be rejected.

Design and layout by Crossmark.

ENAR – european network against racism
60 rue Gallait, B-1030 Bruxelles
Tel +32 2 229 35 70
Fax +32 2 229 35 75
Email: info@enar-eu.org
www.enar-eu.org

Table of contents

Message from the President **2**

Executive summary **3**

1. Introduction **4**

2. Communities vulnerable to racism **5**

3. Manifestations of racism and racial & religious discrimination **6**
3.1 Employment 6
3.2 Housing 9
3.3 Education 11
3.4 Health 13
3.5 Policing and racial profiling 15
3.6 Racist violence and crime 18
3.7 Access to goods and services in the public and private sectors 20
3.8 Media, including the internet 21

4. Political and legal context **23**
4.1 Anti-discrimination 23
4.2 Migration and integration 26
4.3 Criminal justice 28
4.3.1 Racism as a crime 28
4.3.2 Counter terrorism 29
4.3.3 Ethnic Profiling 30
4.4 Social inclusion 31

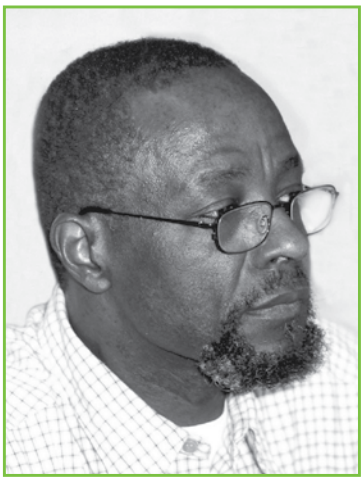
5. National recommendations **33**
5.1 General 33
5.2 Anti-discrimination 33
5.3 Migration and integration 33
5.4 Criminal justice 33
5.4.1 Racism as a crime 33
5.4.2 Counter terrorism 34
5.4.3 Ethnic profiling 34
5.5 Social inclusion 34

6. Conclusion **35**

7. Bibliography **36**

Annex: List of abbreviations and terminology **37**

Message from the president



I am very happy to present the 6th edition of the European Network Against Racism (ENAR) Shadow Report on Racism in Europe. The present volume is based on 27 national shadow reports including 26 EU member states and Croatia. These reports reveal that across Europe, ethnic and religious minorities continue to face discrimination and exclusion in different ways and to different extents. Europe's Roma, migrants, asylum-seekers, Muslims, Jews and people of African descent continue to suffer social exclusion, as well as various difficulties in all areas of life, from employment to education, from housing to policing.

The report shows some areas of improvement, such as the positive impact of EU anti-discrimination legislation in EU member states in terms of outlawing racial discrimination. Unfortunately, legislation alone conveys rights on paper while often leaving very little noticeable change in practice unless additional measures are taken. The report shows that racial discrimination on grounds of ethnicity continues to be one of the most widespread forms of discrimination in Europe.

In addition, the rise of extremist organisations and political parties expressing racist sentiments, not only on the margins of politics but increasingly within the mainstream and even within elected government, has been notable. Another distressing trend is the association often made between migration on the one hand, and crime and security on the other. The effect of such unfounded association can be seen in EU migration policy, reflecting a pattern which emerged in some national debates back in the early eighties (in France, Germany, and Benelux countries). There is also evidence of an increase in incidents of racially motivated crime against visible minorities across Europe. Relations between the police and ethnic minorities have continued to be marked by discrimination; this is of serious concern when considering the critical role the police play in protecting human rights, including those of racial, ethnic and religious minorities.

The particular situation of the Roma across Europe needs urgent attention. Indeed, the difficulties that the Roma face in all walks of life, coupled with a widespread negative attitude and prejudice from the general population across Europe, makes this community extremely vulnerable and leaves them at the margins of society. However, the trends highlighted above send a strong signal that such widespread and massive exclusion could be extended to other ethnic and religious minorities in the EU.

We hope that all EU decision-makers and political leaders will use and value this report and will recognise the urgent need for a concerted effort across the EU to overcome the barriers and challenges that hinder effective equality for all, and even more so in times of financial and economic crisis hitting first and foremost all those at the bottom of the social ladder. It is vital that we move towards a Europe that respects and promotes equality, diversity and fundamental rights, by maximizing the potential of all through the development of confident and well-established communities and integrated and cohesive societies.

ENAR's Shadow Report for Europe is a unique mechanism to collect and present the alternative views of civil society on the state of racism in EU Member States and across Europe. The ENAR Shadow Reports build a perspective on racism that reflects the critical views of NGOs and vulnerable communities. They highlight the crucial roles NGOs and civil society play in supporting the participation both of communities vulnerable to racism and relevant institutions in the struggle against racism. ENAR Shadow Reports also offer some key recommendations for policy and actions at the national level. We are therefore very grateful to all the dedicated people who have contributed to the ENAR Shadow Reports, and very thankful for the valuable support of the Open Society Foundations and Joseph Rowntree Charitable Trust in enabling this unique monitoring instrument to be published.

Chibo Onyeji
ENAR President

Executive summary

Across the European Union, to different extents and under different guises, ethnic and religious minorities continue to face discrimination and exclusion. Manifestations of racism and racial discrimination are reported across the EU in various sectors, namely: employment; housing; education; health; policing; racist violence and crime; access to goods and services; the media.

The 2009 Eurobarometer on Discrimination in the EU[1] highlighted that racial discrimination on ethnic grounds is considered the most widespread form of discrimination, with 61% of respondents perceiving it to be so. This is just 1% lower than the previous year. Religious discrimination is perceived as widespread by 39% of respondents as opposed to 41% in the previous year.

To different degrees, across different countries, Roma, migrants, refugees and asylum seekers, Muslims and Jews continued to be the groups most widely susceptible to discrimination and racism. In the field of **employment**, the key manifestations of racism and discrimination included discrimination in recruitment, job retention, promotions within employment, and the disproportionate impact of unemployment. Moreover, the period under review continued to see an intensification of the commoditisation of migrant workers, as reflected in the way migration was addressed within the context of the economic crisis and its aftermath.

In the field of **education**, the issues highlighted include lower quality education for ethnic minorities, segregation, racist bullying, lower attendance and schooling rates, early dropout rates and language barriers. On a positive note, a number of reports note shifts towards upward mobility for minority children as well as increased protection.

With regard to **housing**, the key concerns include the impact of the economic crisis, 'ghettoisation' and low quality housing, homelessness, discrimination in the private rental market, failure to consider Roma caravans as a residence, and the continued use of detention and reception centres for asylum seekers across the European Union.

Ethnic and religious minorities also faced problems in **healthcare** as well as in accessing shops, public transport, financial services as well as places of entertainment.

Concerns regarding **media** included the use of the Internet and social media to proliferate racist messages and the difficulties encountered when attempting to regulate them; the continued use of hate speech in the media and the balance to be struck with freedom of expression in this context; negative depictions of ethnic minorities in the media, most notably through terminology and associations, and the use of the media by right wing parties.

Ethnic minorities were also the victims of various acts of **violence and crime**, while relations with the police and ethnic minorities have continued to be marked with **discrimination**, despite improvements being noted in a number of countries. This is of concern when considering that 'law enforcement based on equality and non-discrimination is a cornerstone of democratic societies',[2] as well as the critical role the police play in protecting human rights, including those of racial, ethnic and religious minorities.[3] **Ethnic profiling** remained rampant over the period under review.

The period under review marked important political, legal and policy developments in the field of anti-discrimination, migration and human rights issues across the European Union. 2009 was marked by the European Parliament elections, which saw a shift towards rightist politics, but also by the coming into force of the Lisbon Treaty with its important implications for anti-racism across the EU. The year also saw the adoption of the Stockholm Programme on Justice and Home Affairs[4] and the continued work on the Horizontal Anti-Discrimination Directive.[5]

On the national level, various legislative amendments were also made which directly or indirectly affect the lives of ethnic minorities. These included developments in counter-terrorism strategies, in the criminal law framework as well in legislation on **migration and integration.**

1 *Special Eurobarometer 317: Discrimination in the EU in 2009, http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf, date Accessed: 6 January 2011.*

2 *EU Midis Police: Pg 4*

3 *NR Ireland Pg. 16*

4 *The Stockholm Programme is the multi-annual programme for Justice and Home Affairs of the European Union. It builds on from the Tampere Programme of 1999 and the Hague Programme of 2004. It has been prepared by the Swedish Presidency of the Council of the European Union. The aim is to provide a framework for the development of law and policy across the European Union in a number of related spheres including security and migration.*

5 *Proposal for a Council Directive to implement the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.*

1. Introduction

The report covers the period between January 2009 and March 2010. This period was marked by a number of important developments on both European and national levels. 2009 saw the coming into force of the Lisbon treaty, the European Parliament election as well as the adoption of the Stockholm Programme, together with various legislative and other proposals from the European Commission. 2010 was marked as the European Year against Poverty and Social Exclusion, highlighting social inclusion as an objective to be worked towards in the Member States.

Throughout the year, racism and racial discrimination continued to affect the lives of ethnic and religious minorities across the EU. To varying degrees and under different guises, discrimination negatively impacted opportunities available to ethnic minorities, causing exclusion and hindering integration. Manifestations of racism and racial and religious discrimination came from various individual and group actors, ranging from the markets to state officials.

This report does not base itself solely on hard data, since data collection is largely missing in this field. It builds on this information through the compilation of the experiences and analysis of Europe's anti-racist movement, thus supplementing official reporting with a grassroots perspective.

Roma, migrants and asylum seekers were among the most affected by discrimination which occurred in various aspects of life, from the labour market to healthcare, from schools to the provisions of goods and services. The manifestation of racism in the various spheres is discussed in some detail over the first section of this report. The section covers manifestations of discrimination in employment and the labour market, housing, education, healthcare, policing including racial profiling, access to goods and services as well as manifestations in the media and over the Internet. The section also discusses issues of racist violence and crime. The report highlights trends in these manifestations. Detailed accounts of country-specific issues should be sought in the various National Reports available at: www.enar-eu.org.

The second section discusses legal, political and policy developments in a number of areas, namely anti-discrimination, migration and integration, the criminal justice system, and social inclusion. Here, developments occurring both at the European level as well as those on the national level are discussed. It specifically highlights the impact of the coming into force of the Lisbon Treaty on the various areas of work, as well as the adoption of a number of other proposals and programmes. The report finally makes a number of recommendations for further action and draws some overarching conclusions.

This report is based primarily on the data compiled in the 27 National Shadow Reports compiled by the national coordinations of ENAR. While this report seeks to report all the main issues raised across Europe, a reading of the National Reports is critical to obtain a clear understanding of the situation of ethnic minorities in the various Member States. Trends have been identified, with examples from a variety of national reports being included in the present report. However, due to space restrictions, this report can never do justice to the depth of knowledge, insight and analysis provided by the network of authors who drafted the National Reports.

2. Communities vulnerable to rasim and discrimination

Across the European Union and to different degrees, a number of communities are specifically highlighted as being particularly vulnerable to racism and discrimination. These include the Roma, migrants and the Muslim and Jewish communities.

The **Roma** are specifically highlighted as particularly vulnerable in almost all of the national reports. A similar finding was also made by the EU-MIDIS Report.[1] This highlights how Roma were the most vulnerable to discrimination in most areas of life and had the highest prevalence of discrimination cases[2] and also builds on the similar findings and conclusions of previous reports. The EU-MIDIS Report found that on average, half of the Roma respondents reported having been discriminated against at least once in the 12 months immediately preceding the research, while those who had been discriminated against had suffered on average 11 cases of discrimination over the same period.[3] Roma were specifically mentioned as vulnerable in reports from Belgium, Bulgaria, Czech Republic, Finland, France, Hungary, Ireland, Latvia, Romania, Slovenia and the United Kingdom.[4]

The **Muslim community** is also specifically earmarked by most national reports as being susceptible to racism. The EU-MIDIS Report found that a third of Muslim respondents had experienced discrimination over the 12 month research period and each of them reported, on average, eight cases of discrimination.[5] It also found that age and residency were determining factors with younger persons, while newly arrived migrants experienced a greater deal of discrimination than older generations.[6]

Islamophobia is often encouraged by populist political discourse, which was often keen to associate Islam with terrorism and security concerns, as well as incompatible sets of values. Muslims were specifically mentioned as susceptible to discrimination in reports from Austria, Belgium, Bulgaria, Denmark, France, Germany, Italy, Malta, Netherlands, Sweden, Slovakia, Slovenia and the United Kingdom.[7]

Jews are also considered vulnerable to racism, with anti-Semitism reported as being on the rise in Austria (up 53% since 2008), Belgium, France (up 77.5% since 2008), Hungary, Italy and the Netherlands[8] among others.

People of African Descent were also mentioned in many reports. The report from Italy, for instance, indicates North Africans as being the most vulnerable to racism with over 50% of respondents reporting having experienced discrimination,[9] while the report from Malta indicated that 66% of African immigrants interviewed had experienced discrimination.[10] Closely linked to this category are **migrants** who were also specifically highlighted by most reports as being particularly vulnerable. This includes both intra-EU migrants and third country nationals as well as asylum seekers and persons enjoying international protection. Second and third generation migrants were also mentioned in some reports. The situation of migrants, and specifically third country nationals is made particularly difficult when considering the failure of the legal framework to address discrimination in their regard whilst doubts about one's legal status often hinders his willingness to report discrimination, out of fear of losing one's residency rights. Undocumented migrants are at particular risk in this context. African migrants are specifically mentioned as vulnerable in reports from Austria, Belgium, Greece, Hungary, Ireland, Italy, Malta, The Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.[11]

Overlaps and **multiple discrimination** are common, often making it hard to determine a specific ground of discrimination. The issues are specifically blurred when race interrelates with **religion and nationality**. These distinctions are, however, sometimes considered important because of the diverging legal frameworks that address discrimination on each of these grounds. Moreover, multiple discrimination involving racism along with discrimination on other grounds, most notably gender and age but, also, sexual orientation, is also highlighted in a number of national reports.

Other specific groups are also mentioned in specific national reports including 'the erased people' in Slovenia,[12] the Greek Catholic, Baptist and Adventist communities in Romania,[13] Macedonians and Pomaks in Bulgaria, stateless persons in Hungary,[14] Asians in Slovakia,[15] the Serbs in Croatia[16] and Travellers in Ireland. [17]

1 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (Vienna: European Union Agency for Fundamental Rights, 2009 Available at http://www.fra.europa.eu/fraWebsite/eu-midis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*

2 *Ibid, p. 155.*

3 *Ibid., p. 155.*

4 *See Section IV in the National Reports submitted by Belgium, Bulgaria, Czech Republic, Finland, France, Hungary, Ireland, Latvia, Romania, Slovenia and the United Kingdom.*

5 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Data in Focus Reports: Muslim, (n.d:n.d, 2009), p. 3. Available at http://www.fra.europa.eu/fraWebsite/attachments/EU-MIDIS_MUSLIMS_EN.pdf, date accessed: 6 January 2011.*

6 *Ibid, p.3.*

7 *See Section IV in the National Reports submitted by Austria, Belgium, Bulgaria, Denmark, Italy, Malta, Netherlands, Sweden, Slovakia, Slovenia and the United Kingdom.*

8 *See Section IV in the National Reports submitted by Austria Belgium, Netherlands, France, Hungary, Italy and the Netherlands*

9 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d, 2010), p. 6.*

10 *Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d, 2010), p. 6.*

11 *See Section IV in the National Reports submitted by Austria, Belgium, Greece, Hungary, Ireland, Italy, Malta, Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden and the United Kingdom*

12 *Tefera, Eyachew, ENAR Shadow Report 2009/2010: Slovenia, (n.d: n.d, 2010), p. 7.*

13 *Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d, 2010), p. 2.*

14 *Serafimov, Victor, ENAR Shadow Report 2009/2010: Bulgaria, (n.d: n.d, 2010), p. 6-7.*

15 *Ejalu , William Apollo, ENAR Shadow Report 2009/2010: Hungary, (n.d: n.d, 2010), p. 7.*

16 *Pusic, Zoran & Klekar Martina, ENAR Shadow Report: Croatia, (Brussels: European Network Against Racism, 2010), p. 9.*

17 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d, 2010), p. 6.*

3. Manifestations of racism and religious discrimination

Over the period under review, ethnic and religious minorities continued to face discrimination across a wide range of areas and spheres of life. This section will provide an overview of manifestations of racism and racial discrimination across the European Union in various sectors, namely: employment; housing; education; health; policing; racist violence and crime; access to goods and services; the media.

The 2009 Eurobarometer on Discrimination in the European Union highlighted that racial discrimination on ethnic grounds is considered the most widespread, with 61% of respondents perceiving it to be so.[1] This is just 1% lower than the previous year. Religious discrimination is perceived as widespread by 39% of respondents as opposed to 41% in the previous year. This compares to 58% in the case of age, 53% for disability, 47% for sexual orientation and 40% for gender. It is also interesting that the perception of discrimination on the basis of race, religion and sexual orientation saw a marginal decline (1%, 3% and 4% respectively), while an increase was noted in the case of discrimination on the other grounds.[2]

While overall 3% of respondents reported they had experienced racial discrimination themselves (the same percentage as gender-based discrimination but half that of age-based discrimination)[3], of those who considered themselves to belong to an ethnic minority, this percentage went up to 25% in the case of ethnicity and 11% in the case of religion. In this context, ethnicity is second only to disability.[4] The findings of the national reports from across the European Union confirm this perception to be true.

A number of overarching themes emerge from the national reports that cut across the specific areas where discrimination occurs. Unfortunately, these are largely similar to the concerns outlined in previous shadow reports, implying little or no improvement over the course of the reporting period. Internationally, 2009 was marked by the global economic crisis which also left its impact, on ethnic and religious minorities across the European Union. This has ranged from increasing difficulties in the labour market, to the scapegoating of migrants for all of Europe's problems, particularly by populist politicians, as highlighted in Slovenia and the Netherlands[5] among others. Amnesty International has also noted how the economic downturn has led to a rise in discrimination, racism and xenophobia in various European countries.[6] It has also led to increased tensions, fuelled by a sense of competition for limited (and declining) resources (such as jobs). This explains why 88% of respondents to the Eurobarometer survey on Poverty and Social Exclusion felt that there was some (48%) or a lot (40%) of tension among ethnic groups.[7]

One key overarching concern remained data collection. While improvements have been noted in some countries, the lack of adequate and comparable data is a concern noted in most countries. Data collection is critical to the documentation of disparities between groups in different fields and makes benchmarking any progress more difficult. Moreover, it negatively impacts the possibility of policy developments that fully address ongoing concerns and hinders high quality policy analysis and evaluation from governments and NGOs alike. A failure to understand the situation negatively affects actions to address it. In this regard, acknowledgement is due to the valuable contribution to research and data being made by the EU Fundamental Rights Agency. The EU-MIDIS Report, for instance, provides one of the best and most detailed accounts of racism and racial discrimination in the European Union.[8]

The use of this research by national governments and other involved entities should, therefore, be encouraged. The lack of data also increases the importance of anecdotal evidence, which is a strong source in all of the national reports, as this supplements existing data sources.

Another concern remains lack of implementation of existing legislation. Most reports note the positive impact that EU membership has had on the legal framework in the field of anti-racism. The transposition of the Race Equality Directive[9] has bolstered many countries' legal framework in this regard. However, implementation of those legal provisions remains a concern throughout the EU. Whilst the legal framework has been set up, implementation and enforcement in many countries remains weak or even absent. This is further accompanied by a low level of awareness of the relevant legal provisions and remedies. The Fundamental Rights Agency found, for instance, that in Greece 86% of Roma respondents were not aware of the existence of anti-discrimination legislation.[10] This is also reflected in the low number of discrimination complaints filed. The FRA EU-MIDIS report found that an overwhelming

1 *Special Eurobarometer 317: Discrimination in the EU in 2009, http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf, Date Accessed: 6 January 2011, p. 15.*
2 *Ibid., p. 7.*
3 *Ibid., p. 8, Overall 16% of respondents claimed that they had experienced discrimination.*
4 *Ibid, p. 9.*
5 *See Section V. of the National Reports submitted by Slovenia and the Netherlands.*
6 *Economic Crisis Fuelling Racism in Europe, Report Warns, http://euobserver.com/9/30149, Date Accessed: 6 January 2011.*
7 *Special Eurobarometer 321: Poverty and Social Exclusion, http://ec.europa.eu/public_opinion/archives/ebs/ebs_321_en.pdf, Date Accessed 6 January 2011, p. 265.*
8 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d., 2009).*
Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.
9 *Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJL180/22.*
10 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Data in Focus Reports:Roma, (n.d: n.d; 2009), p. 7.*
Available at http://www.fra.europa.eu/fraWebsite/attachments/EU-MIDIS-roma.pdf, Date Accessed: 6 January 2011.

majority of respondents did not report their experiences of discrimination, assault, threats and serious harassment, meaning that thousands of incidents of discrimination and racist crime remain invisible and uninvestigated and, therefore, fail to be considered by official complaints and criminal justice data collection mechanisms.[11]

This trend also emerged in the National Reports of Belgium, Hungary, Ireland, Lithuania, Malta, Slovakia and Slovenia,[12] with some reports linking this phenomenon to the belief that no action will be taken or to the victims' lack of faith in the authorities. The empowerment of ethnic minorities about their rights and potential remedies is therefore crucial.

Another point that resurfaced this year was the inter-relation of discrimination in different sectors. For instance, discrimination in employment leads to fewer opportunities and choices in housing and therefore segregation, which in turn impacts children's access to quality education and healthcare. This, consequently, supports the inter-generational transmission of exclusion. Moreover, there is also a strong inter-relation between discrimination and poverty and social exclusion. Therefore, a holistic and mainstreamed approach to addressing discrimination and racism is necessary.

Furthermore, there appears to be a general trend across the EU whereby States and public figures refuse to acknowledge that racism and racial discrimination is a reality. This leads to reluctant political engagement with the issue that limits the possibility of short and long-term changes and improvements. Moreover, when coupled with the impact of the financial crisis, such a perception leads to cuts in spending on anti-racism efforts. In Ireland, for instance, the NCCRI was dismantled in 2008 and 2009 saw no developments in terms of other entities absorbing its responsibilities, while the possibility of the Equality Authority continuing its work with the imposed cuts is also considered questionable.[13]

This reluctance to engage strategically in anti-racist activities is also reflected in the low number of active plans that were being implemented over the course of the year.

Language barriers have resulted in discrimination in many fields of private and public life. For instance, it is reported to have impacted access to quality education in Denmark, Estonia, Finland, Greece and Luxembourg,[14] to healthcare in Denmark, Estonia, Finland, Ireland, Latvia, Malta, Poland and Spain[15] to employment in Bulgaria, Denmark, Finland and Sweden.[16]

Some actors, most notably employers, have taken advantage of prospective employees' lack of linguistic fluency in order to impose restrictions on non-native applicants. The reality of these barriers calls for the implementation of positive action measures in this field in order to ensure equal opportunities.

Another clear link that emerges from the findings is the correlation between the political climates, as represented by, for instance, the rise of far-right parties[17] in a number of European countries with the increase in hate crime, as mentioned in the reports from Greece, Italy and Slovakia.[18] Similarly increased populist political discourse was highlighted, among others, in Hungary and the Netherlands,[19] where right wing parties are particularly on the rise.

3.1 Employment

Despite the prohibition of discrimination in accessing employment propounded by the Race Equality Directive[20] and Employment Equality Directive, [21] ethnic and religious minorities continue to face problems. These were exacerbated, as discussed above, by the impact of the economic crisis. The issues faced included discrimination in recruitment, job retention, promotions within employment and the disproportionate impact of unemployment. Moreover, the period under review saw the intensification of the commoditisation of migrant workers within the context of the economic crisis and its aftermath.

The EU-MIDIS study found that the average unemployment rate at the time of the interview stood at 12%, with the highest rate being reported for Africans in Malta and the lowest for Russians in Estonia.[22] Taken by aggregate, the Roma community had the highest level of unemployment at 23%, followed by Sub Saharan Africans at 17%. The lowest rate of unemployment is experienced by Russians at 4%, followed by Central and Eastern Europeans at 5%, and Ex-Yugoslavs at 6%.[23]

11 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d., 2009), p. 50 et seq. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*

12 *See Section V of the National Reports submitted by Belgium, Hungary, Ireland, Lithuania, Malta, Slovakia and Slovenia.*

13 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d,, 2010), p. 25.*

14 *See Section V. iii. of the National Reports submitted by Denmark, Estonia, Finland, Greece and Luxembourg.*

15 *See Section V. iv. of the National Reports submitted by Denmark, Estonia, Finland, Ireland, Latvia, Malta, Poland and Spain.*

16 *See Section V. i. of the National Reports submitted by Bulgaria, Denmark, Finland and Sweden.*

17 *This will be discussed in detail in Section VI.*

18 *See National Reports submitted by Greece, Italy and Slovakia.*

19 *See National Reports submitted by Hungary and the Netherlands.*

20 *Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJL180/22.*

21 *Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJL 303/16*

22 *These statistics should bear in mind the mode of selection of respondents in the different countries which may impact the likelihood of responses.*

23 *Ibid.*

Indeed, **unemployment** was mentioned as a major concern in many of the National Shadow Reports, most notably Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Malta, the Netherlands, Slovenia, Spain and the United Kingdom.[24]

In May 2009, the Association of Polish Roma **in Poland** started a project aimed at including unemployed or long-term unemployed Roma in the labour market. A group of social assistants were trained on different aspects related to job-seeking methods, preparation for interviews etc. They now work in the field, assisting Roma in finding jobs, contacting local job centres and addressing other issues related to the labour market.

The Finnish report for instance, highlights how the unemployment rate for immigrants[25] stands at around 20% which, while marking a slight drop from previous years, remains twice as high as the national average.[26] Roma and migrants from predominantly Muslim countries suffered the highest rates of unemployment, while Europeans and Indians enjoyed the lowest rates of unemployment.[27] Similar trends were also reported in other countries.

Linked to this is the fact that unemployment benefits were denied despite payment of similar taxes. This emerged from reports from, among others, Finland and Malta[28] (the latter in the case of migrants).

Unemployment was also linked to the economic crisis, which saw general unemployment rates rise in many European countries. This was accompanied by citizens increasingly fearing for their jobs. In a Eurobarometer which set out to examine the impact of the economic crisis,[29] respondents expressed concern that they (32%) their partner (38%) or their children (47%) would lose their job. This would also imply that people worried about their job stability are likely to expect jobs not to be taken by migrants. This was reflected, for instance, in the 'British jobs for British workers' campaign in the UK.

Moreover, many national reports highlighted how the **economic crisis** negatively impacted the employment sectors which attract concentrations of migrant workers. Conversely, the report from Denmark, for instance, highlights that ethnic minorities have been less affected by the crisis than other groups, a trend it links, among other reasons, to positive action measures by some municipalities, whereby 60% of new recruits were from ethnic minority background.[30]

Furthermore, research by the International Organization for Migration found that 'in general, the employment situation of migrant workers, especially non-EU nationals, deteriorated more rapidly than that of natives during the economic crisis'.[31] Between 2008 and 2009, the unemployment rates of intra-EU migrants rose by 2.8%, while that of TCNs rose by 5%. The difference, the report argues 'may be partly explained by the high concentration of non-EU foreign workers in sectors with high cyclical demand such as construction, retail and hospitality'[32] as well as 'the higher propensity for EU migrants to return home when they become jobless'.

In terms of gender, it is interesting to note that female migrants were shown to have been less affected by the crisis, due to the concentration of female migrant workers within areas less vulnerable to the recession, such as education and healthcare. Moreover, the economic crisis has also resulted in shifts between employment sectors (e.g. from construction to agriculture) and types of jobs (with migrants more likely to become self-employed).

Unemployment rates also reflect the difficulties in finding employment faced by ethnic minorities, as reported in many of the national shadow reports including Belgium, Bulgaria, Czech Republic, Denmark, Finland, Germany, Malta, the Netherlands, Poland, Romania, Spain and Sweden.[33]

The EU-MIDIS Report found that, on aggregate, Roma were most likely to have faced discrimination when looking for work (38%) followed by Sub Saharan Africans (22%) and North Africans (20%). The groups which reported least discrimination were Russians and Ex-Yugoslavs (8%). In terms of countries, the highest levels of discrimination were reported in Hungary (47%) and the Czech Republic (45%), followed by Malta and Greece (42%), with the lowest rates being reported in the Netherlands and Bulgaria (29%).[34]

Language barriers were a major concern, as they hindered the employment of ethnic minorities, as highlighted in reports from Bulgaria, Denmark, Finland and Sweden.[35] In many cases,

24 *See Section V. i. of the National Reports submitted by Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Malta, the Netherlands, Slovenia, Spain and the United Kingdom.*

25 *It is important to note that the EU-MIDIS Report sought specific groups within specific countries and hence did not gather a general impression of, for instance, the situation of 'immigrants' in a particular country.*

26 *Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d, 2010), p. 11.*

27 *Ibid.*

28 *See Section V. i. of National Reports submitted by Finland and Malta.*

29 *European Employment and Social Policy Report. http://ec.europa.eu/public_opinion/archives/ebs/ebs_316_en.pdf, date accessed: 6 January 2011.*

30 *Quraishy, Bashy, ENAR Shadow Report 2009/2010: Denmark, (n.s: n.d, 2010), p. 11.*

31 *Koehler, Jobst, Laczko, Frank, Aghazarm, Christine and Schad, Julia, Migration and the Economic Crisis in the European Union: Implications for Policy, (Belgium: International Organisation for Migration, 2010), p. 4 et seq.*

32 *Ibid., p. 4.*

33 *See Section V. i. of the National Reports submitted by Belgium, Bulgaria, Czech Republic, Denmark, Finland, Malta, the Netherlands, Poland, Romania, Spain and Sweden.*

34 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d, 2009), p. 9-10. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*

35 *See Section V. i. of the National Reports submitted by Bulgaria, Denmark, Finland and Sweden.*

this was used more as an excuse than an objective criterion, as reported by, among others, the Swedish report, which amounted to indirect discrimination.[36] On a positive note, a German court considered the requirement to have native level German language skills 'indirect discrimination on grounds of ethnic origin.[37] It reached this conclusion after considering that only persons who had been learning German since early childhood could be considered native speakers, and therefore anyone not fulfilling this criterion would effectively be considered a non-native speaker.[38] The EU-MIDIS report found that Sub-Saharan Africans were the group most likely to quote language difficulties (6%) as the key hindrance to finding employment.[39]

When members of ethnic minorities did manage to find jobs, these often did not reflect their qualifications, as stated in reports from the Czech Republic, Finland, Germany and Malta.[40] This reflects a number of issues, including difficulties in getting qualifications recognised, the need to take any jobs available, and a reluctance by some entities and companies to have ethnic minorities represented within better ranked positions.

In **Hungary**, the Centre for Independent Journalism in Budapest continued to run the Roma media internship programme. Under the programme, persons from the Roma community are provided with training in various media skills, before being seconded to one of the print and broadcast media for an internship. Most participants can be employed after the internship period.

Within employment, ethnic minorities continued to face discrimination and other problems. These include working under precarious or dangerous conditions (as reported in Belgium, the Czech Republic, Greece, Malta and Spain[41]), lack of compliance with minimum standards set out in national legislation (Romania[42]), lower wages (Bulgaria, Denmark, Greece, Malta[43]), exploitation (Denmark and Finland[44]), as well as the 'glass ceiling effect'.

36 *Kawesa, Victoria, ENAR Shadow Report 2009/2010: Sweden, (n.d: nd, 2010), p. 8.*
37 *http://infoportal.fra.europa.eu/InfoPortal/caselawFrontEndAccess.do?id=387, Date accessed: 6 January 2011.*
38 *See in this regard: http://infoportal.fra.europa.eu/InfoPortal/caselaw-FrontEndAccess.do?id=387, accessed 4th January 2010*
39 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d, 2009), p. 39.*
Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.
40 *See Section V. i. of the National Reports submitted by Czech Republic, Finland and Malta.*
41 *See Section V. i. of the National Reports submitted by Belgium, the Czech Republic, Greece, Malta and Spain.*
42 *Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d, 2010), p. 15.*
43 *See Section V. i. of the National Reports submitted by Bulgaria, Denmark, Greece, Malta.*
44 *See Section V i. of National Reports submitted by Denmark and Finland.*

According to the EU-MIDIS Report, at work, Roma were once again most likely to face discrimination (19%), followed by Sub-Saharan Africans (17%) and North Africans (16%), with Russians and Ex-Yugoslavs facing the least discrimination (4%). The highest prevalence of discrimination by country was experienced by North Africans in Italy (30%) and Roma in Greece (29%).[45]

In the **Czech Republic**, an NGO called IQ Roma Service since 2007 evaluates employers who use anti-discrimination regulations and the principle of equal treatment when employing persons. Being named in this project sets a good example and provides an incentive for other employers to follow suit. More information is available at: www.ethnic-friendly.eu

Lack of adequate data on the situation of ethnic minorities in employment was raised as a concern in multiple national reports, including France and Slovakia.[46]

3.2 Housing

Equality in the field of housing remains a dream for many ethnic minorities despite its express prohibition through Article 3(1) H of the Race Directive. Issues identified by the various national reports, include: the impact of the economic crisis, 'ghettoisation' and low quality housing, homelessness, discrimination in the private rental market, failure to consider Roma caravans as a residence and the continued use of detention and reception centres for asylum seekers across the Union.

The EU-MIDIS report found relatively low experiences of discrimination in the field of housing.[47] In looking at discrimination by a housing agency of landlords over the 12 month period preceding the research, 11% of Roma and North African respondents had experienced discrimination (when contrasted with 38% and 20% in accessing employment).[48] This was followed by a prevalence rate of 7% in the case of Sub Saharan Africans and Turkish persons with Central and Eastern Europeans (CEE), Russian and Ex-Yugoslav respondents having experienced minimal levels of discrimination in this field.[49] Italy was highlighted as the exception in this regard, with all groups interviewed highlighting higher degrees of discrimination (North Africans at 26%, Albanians at 19% and

45 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d, 2009), p. 42.*
Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.
46 *See Section V. i. of the National Reports submitted by France and Slovakia.*
47 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d., 2009), p. 10.*
Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.
48 *Ibid., p. 43-44.*
49 *Ibid., p. 44.*

Romanians at 15%). This points to a country-specific problem.[50] Most national reports specifically highlight Roma communities as specifically vulnerable to racism in the field of housing.

Discrimination in the private rental market was also raised as a concern in most national reports most notably Belgium, Czech Republic, Ireland, Latvia, Malta and Spain.[51] Landlords were often reluctant to rent their properties to members of ethnic minorities particularly migrants and Roma, with the Spanish report highlighting explicit discriminatory remarks being made in adverts and the fact that 63.6% of landlords and 50% of real estate agents were willing to rent their property only to Spaniards.[52] Moreover, migrants (and ethnic minorities more broadly) were reportedly faced with stricter conditions including higher rental prices, higher deposits and bank guarantees.[53]

Another key concern is the quality of the housing that ethnic minorities live in. This is raised as a concern in most national reports including the Czech Republic, France, Germany, Greece, Ireland and Italy.[54] The Irish report, for instance, highlights how research on the experiences of migrant workers in a particular suburb of Dublin indicated that the respondents were living in overcrowded and damp housing which was inadequately furnished and unmaintained. Moreover, their residence was marred by insecurity of tenure resulting in a need to move around regularly.[55] The report from Greece quotes the Supervisors of Public Health, who stated that many migrants live in severely overcrowded conditions, with 30 or 40 immigrants living together in one apartment and sharing a single set of sanitary facilities. Residents sleep on the floor or anywhere else available, with open spaces being used to dump garbage creating health and fire hazards. The same report links low quality housing to issues of public health and a rise in far right sentiments.[56]

On a positive note, research in Ireland indicated that the housing situation tended to improve the longer a person resided in the country.[57] Other reports however recount how many migrants do not perceive their present location as their final destination and refuse to perceive their host countries as 'home', reflecting a failure of integration. This was specifically highlighted in the report submitted by Romania[58] but can be applied to a number of other countries.

In **Spain**, two associations from Albacete, 'Justicia y Paz' and 'Albacete Acoge', are running a programme which provides support to migrants looking for accommodation. They act as mediators towards landlords so that migrants can find a rented house. In order to persuade owners more easily, contracts are backed by the 'National Plan of Guaranteed Rent' and house insurances. After four years, they invite renters and tenants to directly deal with each other.

Problems in **accessing housing** are highlighted in various national reports including Belgium, Cyprus, Czech Republic, Finland, France, Hungary, Italy, Latvia, Poland and Slovenia.[59]

Moreover, difficulty in accessing housing has led to '**ghettoisation**', as reported in the Czech Republic, Denmark, Finland, the Netherlands, Slovakia, Spain and Sweden.[60] 'Ghettoisation' in this context refers to spatial segregation linked to social, legal, or economic pressures. Such segregation is partly the result of the experience of discrimination within the labour market but also impacts other aspects, including education and healthcare.

The Romanian report highlights concerns which are also applicable in a number of other countries. It describes how local authorities have created segregated Roma settlements (ghettos) which are often presented as suitable alternatives. In practice however, such settlements lack basic services and hinder access to quality education and healthcare. They effectively become major barriers to inclusion.[61]

With regard to migrants, policies akin to segregation run counter to the idea that frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. In practice, over the period under review, low-quality housing and overrepresentation of immigrants in deprived urban neighbourhoods continued to hinder integration in most Member States

Homelessness is another concern which is earmarked in a number of reports particularly Cyprus, France, Denmark, Greece, Hungary, Italy, Ireland, Slovenia and the United Kingdom.[62] This is sometimes linked to legal requirements rendering people homeless or to evictions which have

50 *Ibid., p. 44.*
51 *See Section V. ii. of the National Reports submitted by Belgium, Czech Republic, Ireland, Latvia, Malta and Spain.*
52 *Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 9.*
53 *Ibid., p. 9.*
54 *See Section V. ii. of the National Reports submitted by the Czech Republic, France, Greece, Ireland and Italy.*
55 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 12.*
56 *Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p.14.*
57 *Focus Ireland, Making a Home in Ireland: Housing Experiences of Chinese, Indian, Lithuanian and Nigerian migrants in Blanchardstown, http://www.focusireland.ie/index.php/research/publications-list-and-summaries/195-2009-making-a-home-in-ireland-housing-experiences-of-chinese-indian-lithuanian-and-nigerian-migrants-in-blanchardstown, accessed 15 September 2010, cited in Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 12.*
58 *Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d., 2010), p. 16.*
59 *See Section V. ii. of National Reports submitted by Belgium, Cyprus, Czech Republic, Finland, France, Hungary, Italy, Latvia, Poland and Slovenia.*
60 *See Section V. ii. of National Reports submitted by the Czech Republic, Denmark, Finland, the Netherlands, Slovakia, Spain and Sweden.*
61 *Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d., 2010), p. 17.*
62 *See Section V. ii. of National Reports submitted by Cyprus, France, Denmark, Greece, Hungary, Italy, Ireland, Slovenia and the United Kingdom.*

become more frequent following the economic crisis. In Italy, for instance, 2009 saw families of immigrant origin forming 22% of all evicted families,[63] while in Spain, the economic crisis has disproportionately affected the ability of immigrants to pay their mortgages.[64] Both situations led to evictions and possible homelessness. This, in some countries, was accompanied by discrimination in homeless shelters, a concern highlighted, for instance, in the report from Denmark, where sleeping bags, food and clothes are distributed in a discriminatory manner.[65]

In **Ireland**, there are cross sectorial partnerships between the Immigrant Council of Ireland and Focus Ireland research initiative. Focus Ireland is a leading agency working in the area of homelessness. They partnered with the Immigrant Council of Ireland to conduct research in Blanchardstown, a suburb of Dublin, where a relatively high proportion of the population has a migrant background. The report, 'Making a Home in Ireland', was published in 2009. See www.focusireland.ie and www.immigrantcouncil.ie

3.3 Education

Discrimination in and through education has a direct and indirect long term impact on ethnic minorities. Not only does it hinder their prospects of progression, it also contributes towards the creation of an environment hostile to integration and inclusion. Unfortunately, in the period under review, a number of concerns were raised including: lower quality education for ethnic minorities, segregation, racist bullying, lower attendance and schooling rates, early dropout rates and language barriers. On a positive note, a number of reports note shifts towards upward mobility for minority children as well as increased protection.

On aggregate, the EU-MIDIS found that 10% of Roma, 8% of North Africans and 6% of Turkish and Sub-Saharan African respondents had faced discrimination by school personnel at least once over the 12 months preceding the research.[66] North Africans in Italy (21%) and Roma in Poland (20%) and Hungary (17%) were most likely to report such discrimination.[67]

A key issue which has been reported in a number of countries is the segregation of children from an ethnic minority background, most notably Roma, into specific schools. This was reported in Cyprus, Greece, Hungary, Slovakia, Spain and Romania.[68] Moreover, the report from Spain highlights how special centres set up for foreigners in certain regions with the intention of facilitating integration have had the unintended effect of fostering segregation.[69] The same report highlights how the unequal distribution of migrants between public and semi-private schools (the number of foreign pupils attending public schools is 4.7 times higher than the figure for semi-private) also risks creating further **segregation**.[70]

The report from Greece highlights how there is a conscious ethnic segregation of children. There are schools that only Roma children attend while non-Roma children attend different schools because their parents do not want them attending the same school as Roma children. This perpetuates both discrimination and exclusion.[71]

This is also highlighted as a concern in Slovakia. The same report outlines how a study published by the international organisation 'Roma Education Fund' stated that, in the school year 2008/2009; Roma represented approximately 60% of all children in the system of special education in Slovakia.[72] According to Amnesty International, "in regions with high Romani populations this number is even higher and can reach up to 75%".[73] The same report also describes how over the period under review, Roma children continued to be incorrectly placed in schools for children with special educational needs.

Similarly, in local schools in Debrecen, in Hungary, Roma children were denied enrolment by local schools on grounds that they were not used to sitting still for long periods, that they were illiterate in an advanced age, or that their motor skills were not developed enough for writing and drawing.[74]

63 *Osce Censis "Migration outlook 2010" Milano Sopem 2010 www.oecd.org/dataoecd/12/24/45613085.pdf, accessed 15 September 2009, cited in Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 12.*

64 *Boullosa, Luis, 'Alquilo sofá con derecho a cocina por 150 euros al mes', La Razón, 14.03.2009, www.larazon.es, accessed 29 October 2010, cited in Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 10.*

65 *Quraishy, Bashy, ENAR Shadow Report 2009/2010: Denmark, (n.s: n.d., 2010), p. 13.*

66 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d, 2009), p. 11. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*

67 *Ibid., p. 11.*

68 *See Section V. iii. of the National Reports submitted by Cyprus, Greece, Hungary, Slovakia, Spain and Romania.*

69 *Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d, 2010), p. 11-12.*

70 *Ibid., p. 12.*

71 *Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d, 2010), p. 16.*

72 *Roma Education Fund, School as Ghetto. Systemic Overrepresentation of Roma in Special Education in Slovakia, (2009), http://www.romaeducationfund.hu/documents/special_education_slovakia.pdf, date accessed: 20 September 2010, cited in Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (n.d:n.d;2010), p. 12.*

73 *Amnesty International, Slovakia: Still separate, still unequal. Violations of the right to education of Romani children in Slovakia (London, Amnesty International Publications, 2007), http://www.amnesty.org/en/library/asset/EUR72/001/2007/en/2bf73037-d374-11dd-a329-2f46302a8cc6/eur720012007en.pdf, date accessed: 20 September 2010, cited in Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (n.d: n.d; 2010), p. 12.*

74 *The International Law Research and Human Rights Monitoring Centre, ENAR Shadow Report 2009/2010: Hungary, (n.d: n.d, 2010), p. 19.*

Allocation in schools is also reported as a concern in reports from Belgium, France[75] and Ireland,[76] with the latter reporting that newcomer students are much less likely to fulfill certain criteria which can facilitate access to schools, such as having an older sibling in the school, having applied for a school place at an early age, or having a parent who attended the school.[77] This means that they are often segregated in schools which are known for having lower levels of educational quality. In Italy, the Ministry of Education proposed a maximum limit of 30% of non-Italian students in each class.[78] This was intended to 'stay open to integration, protecting the symbols and identity of the Italian School' thereby avoiding the creation of 'ghetto' classes. The initiative was however highly criticised as discriminatory also because it forces parents living in an area with a high density of migrant students to take their sons and daughter to a school far from their area of residence.[79]

In **Latvia**, the Ministry of Education and Science (MES) in cooperation with the Latvian Language Agency within the framework of the European Fund for the Integration of Third-Country Nationals has implemented the 'Adaptation Programme and Development of Materials for Children of Third Country Nationals aged 6 to 12'. Two adaptation/educational programmes and teaching materials for school children aged 6 to 9 and 10 to 12, as well as information material for parents in English and Russian have been developed within the project. The developed educational material used in the 'Latvia through A Friend's Eyes' project consists of: a Pupil's book 'My Diary of Latvia'; Worksheets called 'Latvia through Friend's Eyes'; a Comic Book also called 'Latvia through A Friend's Eyes' and a Teacher's book. Each adaptation programme is planned to be realised within 60 hours. The objective of the programmes is to assist a child in the process of acquiring basic skills of the state language and practical intercultural skills, thus facilitating the adaptation process in the society and environment of Latvia. According to MES, 405 foreign children are attending Latvia's general education schools in 2009/2010 academic year. MES is also planning to continue the development of the adaptation programme for older children.

Reports from Bulgaria, Czech Republic, France, Greece, Netherlands, Slovakia and Spain[80] highlight how schools which are more heavily populated by ethnic minorities are often marred by lower quality education. Moreover, a lack of proper school programmes addressing the needs of foreign pupils leads to the 'ghettoisation' of Roma and Chechen children in particular. Many reports, such as those from Poland and Malta,[81] report how schools are not yet prepared to deal with multi-cultural classrooms.

A number of reports (Bulgaria, France, Germany, Ireland and Malta[82]) highlight racially motivated incidents within a school environment as another issue of concern. These include verbal harassment, bullying and abuse. In Ireland, 46% of respondents to a research commissioned by the Teachers' Union of Ireland reported at least one racist incident within their school within the month preceding the survey. This marked a sharp rise from similar reports the previous year.[83] No similar statistics were available for other countries.

Meanwhile, the report from Germany highlighted that schools are not equipped to support children in case of ethnic discrimination.[84]

One result of this discrimination is lower levels of academic achievement as reported in reports from Belgium, Czech Republic and Slovakia,[85] as well as difficulties and reluctance to further one's prospects into higher education as reported in Belgium, Bulgaria, Greece, Slovakia, Spain, Ireland and Italy.[86]

The UK report cites March 2010 Department of Education statistics which reveal that the lowest achieving groups in 2008 were Travellers of Irish heritage and Roma, followed by Black Caribbean, Pakistani, Black and pupils from a Mixed White and Black Caribbean background.[87]

Since December 2002, the Ministry of Refugee, Immigration and Integration Affairs in **Denmark** has been running the 'We Need All Youngsters (Brug for alle unge)' campaign, which focuses on youth education programs and young people with non-Danish ethnic backgrounds. Its primary objective is to get more young people to complete youth education. One of the positive examples is the establishment of 'homework assistance cafés'. Municipalities and ethnic organisations help increase the number of café users. Increasingly, the homework assistance targets vulnerable groups of young people with non-Danish ethnic backgrounds, by meeting the target group wherever it is, online or in sports clubs for instance.

75 *See Section V. iii. of the National Reports submitted by Belgium and France.*
76 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d, 2010), p. 13.*
77 *FRA, Annual Report 2010, http://fra.europa.eu/fraWebsite/attachments/AR_2010-conf-edition_en.pdf, date accessed :13 September 2010.*
78 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d, 2010), p. 16.*
79 *Circ 8/10/2010 of Ministry of Education http://www.istruzione.it/web/ministero/cs080110 http://www.immigrazione.biz/circolare.php?id=383, date accessed: 6 January 2010, cited in Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d, 2010), p. 16.*
80 *See Section V. iii. of the National Reports submitted by Bulgaria, Czech Republic, France, Greece, Netherlands, Slovakia and Spain.*
81 *See Section V. iii. of the National Reports submitted by Poland and Malta.*
82 *See Section V iii. of the National Reports submitted by Bulgaria, France, Ireland and Malta.*
83 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d, 2010), p. 12, 13.*
84 *Hieronymus, Andreas, Fogen, Ines, Mehreoglu, Yucel and Krogen Justin, ENAR Shadow Report 2009/2010: Germany, (European Network Against Racism: Brussels, 2010), p. 17.*
85 *See Section V iii. of the National Reports submitted by Belgium, Czech Republic and Slovakia.*
86 *See Section V iii. of the National Reports submitted by Belgium, Bulgaria, Greece, Slovakia, Spain, Ireland and Italy.*
87 *Department for Children, Schools and Families. Key Stage 4 Attainment by Pupil Characteristics, in England 2008/2009, (London: DCSF, 2010) cited in Isal Sarah, Schmitz, Klara and Cooper, Hannah, ENAR Shadow Report 2009/2010: United Kingdom, (n.d: n.d, 2010), p. 15.*

The Spanish report highlights that very low schooling rates after 17 years of age are found in the Maghrebi (27%), South American (34.4%) and Asiatic (39.6%) communities.[88] In Italy, non-Italian students attending upper secondary school are only 5% of the total student population and are mainly concentrated in technical and professional schools.[89] The Greek report highlights how while in elementary and secondary school foreign students make up 11% of the student population, in high school the rate falls to 6.5%.[90]

I know, I read, I understand': Innovative methods of teaching asylum seeking children. In **Poland**, a project coordinated by a group of teachers and friends at an intercultural high school in Warsaw, was designed for Polish and foreign teachers working in kindergartens. It aimed at training and providing them with special teaching tools and methods adjusted to the needs of foreign pupils.

Positive developments were noted in Ireland where, for instance, only a small number of Travellers are not engaging in tertiary education.[91]

Language barriers also affect the distinctions highlighted above. It is outlined as a barrier to education in reports from Denmark, Estonia, Finland, Greece, Lithuania, Luxembourg and Poland.[92] The Lithuanian report highlights how although multilingual schools are considered more efficient by the majority of respondents (parents, teachers, school administration), the monolingual model remains the dominant one, reflecting the greater premium placed on perceived preservation of ethnic, community, linguistic and cultural identity, over increased efficiency of education.[93]

The report from Slovakia outlines how assessments of mental disability, which are often used to justify the misplacement of Roma children into special schools, are marred by cultural, linguistic and socio-economic biases whereby the specific context of the children is not catered for, and their exposure barriers are taken to reflect (often wrongly) mental disability.[94]

Educational attainment is also affected by the high levels of absenteeism by ethnic minorities in schools as reported by Lithuania[95] and Cyprus[96]. There is very little data in this regard which reflects a lack of data regarding experiences in education throughout the system. Such data collection is critical if the key issues effecting ethnic minorities within the education system are to be addressed.

A further barrier to tertiary education is the classification of migrants and children of migrant workers as non-EEA students, implying payment of fees which are sometimes 400% more than those payable by EU Nationals.

On a positive note, the Finnish ombudsman objected to proposals by the government to have non-EEA residents pay university fees,[97] while in Latvia, the Saeima adopted amendments to the Education Law,[98] which widened the list of persons eligible for education in Latvia. Thus, elementary (basic) and secondary education of children of persons with temporary residence permits in Latvia shall be funded in the same way as the education of Latvia's citizens or non-citizens.[99] Unfortunately, no similar developments were noted in other European countries.

In **Spain**, the association 'Casa dels Infants del Raval' runs several projects for children in a deprived district of Barcelona ('el Raval'). The 'Casal Joven Atlas' programme targets children and youngsters from 12 to 20 years old and covers several areas: formal education support (homework help, Spanish and Catalan courses), delinquency prevention, education through leisure activities (excursions, birthday parties) etc. Participants are nationals from more than 14 countries, with an important proportion of Moroccans.

Monitoring of Roma children segregation in schools in **Poland**. In early 2010, the Association of Roma in Poland started a project aiming at monitoring the situation of Roma children in schools. The project is to be finished at the beginning of 2011 and aims to provide recommendations and develop teaching programmes.

3.4 Health

In the field of healthcare, problems faced by ethnic minorities included access to healthcare, language barriers, mishandling of clients from ethnic minority backgrounds and issues of mental health specifically with immigrants.

88 *Instituto de Evaluación, op. cit., p. 58.*
89 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d, 2010), p. 15.*
90 *Theodoridis, Nasos, Annual Report 2009, (Athens: Antigone , 2010), http://www.antigone.gr/en/library/files/reports_on_greece/2009/national%20report%202009.pdf cited in Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d, 2010), p. 16.*
91 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d, 2010), p. 13.*
92 *See Section V iii. of the National Reports submitted by Denmark, Estonia, Finland, Greece, Lithuania, Luxembourg and Poland.*
93 *Andriukaitis, Gediminas and Kliukas, Nerijus, ENAR Shadow Report 2009/2010: Lithuania, (n.d: n.d; 2010), p. 13*
94 *Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (n.d:n.d;2010), p. 13.*
95 *Andriukaitis, Gediminas and Kliukas, Nerijus, ENAR Shadow Report 2009/2010: Lithuania, (n.d: n.d; 2010), p. 14.*
96 *Kossiva, Andriana, Charalambidou, Nicoletta, Papadoupoulou, Anthoula, Polili, Oncel, and Pasha, Faika Deniz, ENAR Shadow Report 2009/2010: Cyprus, (n.d: n.d;2010), p. 19.*
97 *Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d; 2010), p. 16.*
98 *IzglĐtĐbas likums (29.10.1998), http://www.likumi.lv/doc.php?id=50759, date accessed: 9 September 2010, cited in Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (n.d: n.d; 2010), p. 18.*
99 *GrozĐjumi IzglĐtĐbas likumĐ (04.03.2010) http://www.likumi.lv/doc.php?id=206963&from=off, date accessed: 9 September 2010, cited in Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (n.d: n.d; 2010), p. 18.*

The EU-MIDIS Report found that when aggregates are taken, respondent-perceived discrimination is relatively low in the area of healthcare. Roma were the only exception, as 17% report having faced discrimination. This goes up to 23% and 22% in Greece and Poland respectively. This is followed by North Africans (8%) and Sub Saharan Africans (7%).

Specific countries however indicate differing results. In Italy, for instance, North Africans emerge as the single category experiencing most discrimination at 24% which is higher than any other group in any other country examined by the research. Africans in Malta emerged as the Sub-Saharan African group with the highest perceived discrimination by healthcare personnel (17%), followed by Brazilian immigrants in Portugal (15%) and Somalis in Finland (14%).[100]

In a number of countries, rights of access to medical services are secured in practice but are not supported by an adequate legal framework, resulting in a lack of clarity. In other countries however, access to the health system is denied to migrants. The report from Greece, for instance, provides many examples of the inability of undocumented immigrants to ensure access to required levels of medical care particularly in cases of chronic diseases.[101] In Sweden, undocumented children only have a right to urgent medical care without any subsidies.[102]

Problems of access are often linked to problems resulting from social security legislation and policies. Latvia's report, for instance, highlights that, while legally employed TCNs are expected to pay the same income tax and social security payment as nationals, the social protection system including healthcare services and social assistance remains effectively inaccessible.[103] Similar issues are reported in Belgium, Luxembourg, Bulgaria, Lithuania and (theoretically) Malta.[104] In many countries, such as Greece, NGOs have filled this gap by offering free medical services to minorities and migrants.[105]

Moreover, while access might be provided in theory, links to immigration status often hinder access to healthcare by ethnic minorities, most notably immigrants. Reports from France, Italy and Spain[106] indicate that a number of people do not go to hospital for fear of being arrested or reported to the police due to their status. In this regard, improvement can be noted in Italy whereby, during the period under review, a letter by the relevant Ministry clarified that doctors in public hospitals are not allowed to report the irregular immigration status of their patients.[107]

In **Italy**, a national campaign called "No Reporting" was been launched by Medici Senza Frontiere, ASGI, Società Italiana Medicina delle Migrazioni and OISG. The campaign states that the Italian Constitution (article 32, comm1) includes the right to sanitary treatment as a universal right, for all human beings, irrespective of their legal status www.divietodisegnalazione.medicisenzafrontiere.it Following pressure from civil society and associations, the prefect has stated in an official letter sent to all public doctors that public officials working in health centres have to respect their obligation not to report, as foreseen by article 35 of the decree 286/98.

Language barriers also lead to exclusion from quality healthcare in a number of countries, notably Denmark, Estonia, Finland, Ireland, Latvia, Malta, Poland and Spain.[108] This is due to lack of access to information and communication difficulties encountered when speaking to medical professionals. Some developments were noted in this regard, including in Malta where a cultural mediation service started to be developed within the healthcare system.[109] A number of countries reported that this was not sufficient. The Irish report for instance highlighted how language, interpretation and translation services continued to operate at a relatively low capacity,[110] while in Romania, many cultural mediators risk losing their jobs due to the government's recent decentralisation policy.[111]

The report from Poland highlighted that, very often, patients of ethnic and linguistic minority background are not informed of their rights and are, at times, left unaware of their condition or the treatment they are receiving.[112] The report from Germany states that vulnerable groups **lack information** about health entitlements and how to use the health system.[113]

The **attitudes of healthcare workers** towards ethnic minorities also negatively impact the experience of ethnic

100 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d., 2009), p. 45. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*

101 *Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, p. 18.*

102 *Kawesa, Victoria, ENAR Shadow Report 2009/2010: Sweden, (n.d: nd., 2010), p. 13.*

103 *Baltic Institute of Social Sciences Immigrants in Latvia: possibilities and conditions of inclusion, Riga, 2009, p. 65, available at: http://www.biss.soc.lv/downloads/resources/imigrantu_integracija/Imigranti_EN.pdf accessed on 9 September 2010, cited in Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (n.d: n.d; 2010), p. 20.*

104 *See Section V. iv. of the National Reports submitted by Belgium, Luxembourg, Bulgaria, Lithuania and Malta.*

105 *Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, p.17.*

106 *See Section V. iv. of the National Reports submitted by France, Italy and Spain.*

107 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 17.*

108 *See Section V. iv. of the National Reports submitted by Denmark, Estonia, Finland, Ireland, Latvia, Malta, Poland and Spain.*

109 *Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d, 2010), p. 20.*

110 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 16.*

111 *Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d., 2010), p. 23-24.*

112 *Fagasinski Maciej, ENAR Shadow Report 2009/2010:Poland, (n.d.: n.d., 2010), p. 17.*

113 *Hieronymus, Andreas, Fogen, Ines, Mehreoglu, Yucel & Kroger, Justin, ENAR Shadow Report 2009/2010: Germany, (European Network Against Racism: Brussels, 2010), p. 20.*

minorities within the healthcare system. Unfriendly and demeaning treatment by doctors and other members of staff is reported in a number of countries including Bulgaria, Slovakia and Sweden.[114] This is said to exclude and alienate ethnic minorities from accessing healthcare services which they might have a right to. The report from Poland indicates how an individual of ethnic minority background was assaulted by healthcare personnel and given results which were not confirmed when he retook tests at another clinic.[115] This reflects a greater need for cross-cultural training and competence for staff within healthcare systems.

Inadequate living conditions for Roma in some countries (most notably Slovakia)[116] and migrants in Malta,[117] also impacts the wellbeing of ethnic minorities. The report for Slovakia describes low levels of hygiene, lack of access to safe drinking water and sewage systems, irregular removal of garbage from segregated Romani settlements, the presence of parasites and rodents in settlements, a low level of health awareness, poor healthcare for children and low attendance to gynaecological examinations and obligatory vaccination programmes.[118]

Health and Social Help – Drom (NGO) in **the Czech Republic.** Since 2006, Drom has been implementing a project of "field social work" in excluded locations which focuses on the health and social needs of citizens of excluded locations who are in danger of neglecting their health either because of lack of information, risky lifestyles or inaccessibility of health care. The social workers thus focus on awareness raising, help solve health problems and their prevention, and mediate on their behalf with health institutions. The project is carried out in Moravia and South-Moravian district. In 2009, 400 clients received help.

Access to healthcare for detained asylum seekers in Malta was a matter of concern, especially the fact that certain illnesses remained untreated due to delays in the delivery of medicines.[119] Moreover, housing segregation is often linked to lack of access to quality healthcare (as well as education), as highlighted, for instance, in Slovakia.[120] On a positive note, the Lithuanian report noted that State-run information campaigns on hygiene for Roma women and girls were implemented.[121]

There is very little data available on healthcare, as is noted in a number of national reports, including Estonia, Latvia and Lithuania.[122] Other countries, including Spain and the United Kingdom, have issued data that is sufficient to provide a fair assessment of the health inequalities that exist.[123]

Ireland appears to be addressing healthcare issues for ethnic minorities through a number of relevant strategies including the Intercultural Health Strategy[124] and Ireland's National Action Plan on Female Genital Mutilation. The impact of these measures has, however, been hindered by cuts in resources over the course of the period under review.[125]

3.5. Policing and ethnic profiling

Relations between police and ethnic minorities have continued to be marked with discrimination despite improvements in a number of countries. This is of concern considering that 'law enforcement based on equality and non-discrimination is a cornerstone of democratic societies'[126] and the critical role the police play in protecting human rights including those of racial, ethnic and religious minorities.[127]

ENAR Ireland Standard Framework for the Reporting of Racist Incidents in **Ireland**. ENAR Ireland applied for funding through Dublin City Council's Integration Fund in January 2009 to pilot a Racist Incident Monitoring System and was successful. The Racist Incident Monitoring System aims to ensure the availability and coordination of comparable statistics on racist incidents (including in the areas of racist violence and crime; goods and services; employment) as a key tool to addressing racism. The data shall provide evidence to inform policy and legal development. ENAR Ireland also aims to ensure organisations can make appropriate referrals and that supports are available to individuals and groups who experience racist incidents. See www.enarireland.org

Discrimination, in this context, took the form of ethnic profiling, failure to address reports made by ethnic minorities, and abusive treatment by police officers in some countries. The lack of trust towards the police by ethnic minorities, leading to reluctance to report is a matter of concern. On a positive note, a number of national reports highlight greater sensitisation within the

114 See Section V. iv. of the National Reports submitted by Bulgaria, Slovakia and Sweden.
115 HFHR, The case described in the letter from the Mazowiecki patients rights advocate to the Helsinki Foundation for Human Rights dated 28.08.2009, ref. No. SSW-076-7-2-IP/09, cited in Fagasinski Maciej, ENAR Shadow Report 2009/2010:Poland, (n.d.: n.d., 2010), p. 17.
116 Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (n.d:n.d. ;2010), p. 16.
117 Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d. , 2010), p. 21.
118 Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (n.d:n.d.;2010), p. 16.
119 Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d, 2010), p. 21.
120 Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (n.d:n.d.;2010), p. 16.
121 Andriukaitis, Gediminas and Kliukas, Nerijus, ENAR Shadow Report 2009/2010: Lithuania, (n.d: n.d.; 2010), p. 16.

122 See Section V. iv. of the National Reports submitted by Estonia, Latvia and Lithuania.
123 See Section V. iv. of the National Reports submitted by Spain and the United Kingdom.
124 Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 14.
125 Ibid., p. 15.
126 European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Data in Focus Reports: Police Stops and Minorities, (n.d: n.d; 2009), p. 4.
Available at http://www.fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police.pdf, Date Accessed: 6 January 2011.
127 Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d,, 2010), p. 16.

police, development of research into police attitudes, as well as increasing diversity within police forces.

'**Ethnic profiling**' (to be distinguished from criminal profiling[128]) is understood[129] to refer to the use by police, security, immigration or customs officials of generalisations based on race, ethnicity, religion or national origin - rather than individual behavior or objective evidence - as the basis for suspicion when directing discretionary law enforcement actions. It is often manifest in police officers' decisions about who to stop for identity checks, questioning, searches and sometimes arrest. Ethnic profiling can also be used to "mine" (or undertake computerised searches of) databases for potential terrorist suspects or in targeting surveillance and anti-radicalisation policies.[130]

In **Greece**, the Greek Helsinki Monitor (GHM) has the necessary staff and financial resources to promote complaints about discrimination against vulnerable groups to both the Ombudsman and the relevant authorities. It mediates to provide all legal means to condemn acts of racism. It also monitors and keeps records of practices of the Greek police and has a website that is updated regularly, even in English, which contains all data related to discrimination.

The practice is reported to have intensified in recent years.[131] To different degrees, and under different pretexts ethnic profiling is reported as occurring in most national reports most notably Belgium, Bulgaria, Czech Republic, Denmark, France, Greece, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, Spain, Sweden and the United Kingdom.[132] In some countries, an assessment of the practice was made virtually impossible by the lack of data, with the United Kingdom remaining the only country that collects race-segregated data regarding police stops.

The OSI concluded that "the apparent decline in the more egregious forms of ethnic profiling underscores that, all too frequently, the practice is more of a public relations tool than a reasoned response to crime and terrorism. In this respect, it reflects a political reality that is subject to change".[133]

Indeed, the increased use of the practice has occurred within a context of increased racism and xenophobia and rising concerns regarding irregular immigration. This is clear, for instance, from political statements regarding specific police actions in parts of Italy that make the racial motivation apparent.[134] In Spain, over the period under review, a police trade union ('SUP') reported that an internal rule refers to migrants as criminals and encourages massive identity checks.[135] Another trade union ('Unión Federal de Policía') has reported the existence of quotas for arresting undocumented migrants and even a decoration policy for those officers who follow these instructions.[136]

Post 9/11, the practice of profiling increased in the context of counter-terrorism, while recent years have seen an increase in the use of the practice in the context of immigration control. Such use is reported in many national reports, including Greece.[137] Non-national looking persons are more likely to be stopped by the police, and asked to present their documents. In Ireland, a law was proposed that would require foreigners (and not Irish persons) to carry identification documents with them. This, the national report argues, is likely to lead to increased ethnic profiling.[138]

The specific purposes for which such profiling is applied also reflects the communities that are more likely to be subjected to it. EU-MIDIS found that darker skin colour affected the likelihood of being subjected to this practice.[139]

128 "Criminal profiling," relies on statistical categorisations based on identifiable characteristics believed to correlate with certain behaviours, such as serial killer, hijacker, or drug courier profiles that have been developed. Ethnicity is frequently and properly used to compile "suspect profiles" or suspect descriptions, generally based on a witness description of a person connected with a particular crime committed at a specific time and place. (Source: Open Society Justice Initiative, Addressing Ethnic Profiling by Police: A Report on the Strategies for Effective Police Stop and Search Project, http://www.soros.org/initiatives/justice/focus/equality_citizenship/articles_publications/publications/profiling_20090511/profiling_20090511.pdf, Date accessed: 6 January 2011.)

129 There is no commonly agreed definition of racial profiling that can be said to apply across the European Union. This working definition was developed by ENAR and OSI for the purpose of their work on ethnic profiling.

130 ENAR Fact Sheet 40: Ethnic Profiling, http://www.soros.org/initiatives/justice/focus/equality_citizenship/articles_publications/publications/ethnic_20100512/Factsheet-ethnic-profiling-20091001-ENG.pdf, date accessed: 6 January 2011, p. 2.

131 Ethnic Profiling in the European Union: Pervasive, Ineffective and Discriminatory. Executive Summary and Recommendations, http://www.soros.org/initiatives/justice/focus/equality_citizenship/articles_publications/publications/profiling_20090526/summary_20090526.pdf, Date Accessed: 6 January 2011, p.2.

132 See Section V. v. of the Reports submitted by Belgium, Bulgaria, Czech Republic, Denmark, France, Greece, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, Spain, Sweden and the United Kingdom.

133 Open Society Justice Initiative, Ethnic Profiling in the European Union: Pervasive, Ineffective and Discriminatory. Executive Summary and Recommendations, http://www.soros.org/initiatives/justice/focus/equality_citizenship/articles_publications/publications/profiling_20090526/summary_20090526.pdf, Date Accessed: 6 January 2011, p. 3.

134 See for instance the White Christmas actions in Coccaglio, Italy, as reported in Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 19.

135 SUP, La policía ejectua las órdenes políticas que vulneran los derechos de los inmigantes, www.sup.es, date accessed: 22 October 2010 cited in Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 15.

136 Sanmartin, Olga R. and Lázaro, Fernando, 'Se condecora por detener a extranjeros', El Mundo, date accessed: 20 October 2010 cited in Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 15.

137 Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p. 19.

138 Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d,, 2010), p. 17.

139 European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Data in Focus Reports: Police Stops and Minorities, (n.d: n.d; 2009), p. 7.
Available at http://www.fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police.pdf, Date Accessed: 6 January 2011.

Specific groups are highlighted as being particularly susceptible. These included Roma, North Africans, and Sub-Saharan Africans, as well as immigrants more generally. The EU-MIDIS Research[140] found that, on average, one in three Roma respondents were stopped in the 12 months preceding the research.[141] Moreover, those stopped by the police experienced, on average, four stops over a 12-month period. This was more pronounced in some countries. For instance, Roma respondents in Greece experienced, on average, almost six police stops within the 12 months prior to the research.[142] The perception of racial motivation for stops varied, with, for instance, 39% and 24% in the case of Roma in Greece and Hungary respectively,[143] 31% and 21% in the case of North Africans in Spain and Italy,[144] and 24% in the case of Sub-Saharan Africans in France.[145]

The discriminatory nature is further highlighted by EU-MIDIS when compared with 'stop-and-searches' carried out on majority populations. Overall, minority respondents were more likely than majority respondents to be stopped when on public transport or on the street. In certain countries, sharp distinctions were noted, which were less apparent in other countries. For instance, the report highlights that, in Hungary, 15% of the majority are stopped as opposed to 41% in the case of Roma.[146] In Greece 23% of the majority are stopped as opposed to 56% of Roma.[147] In both Spain and France, 42% of North Africans had been stopped as opposed to 12% and 22% of the majority population.[148]

Treatment by police officers was also a matter of concern in many countries. A number of reports highlight cases of abuse and cruel, inhuman and degrading treatment. Racist insults and abuse by the police were reported in reports from Bulgaria, Spain, France, Denmark, Romania and Slovakia.[149] The report from Spain describes how Moroccan nationals are sometimes called 'moro de mierda' ('Arab shit') by police and have 'their trousers pulled down in public while being searched'.[150] Migrants, it continues, may also be assaulted, ending up with serious injuries. In these cases, police officers often report that they were first attacked in order to justify victims' injuries.[151] The report from Slovakia describes how 6 boys aged between 10 and 16 were brought in for interrogation for theft, and subsequently 'forced, under threat of violence, to strip naked and to slap and kiss each other'. Dogs were also set loose on the boys, while other police officers watched, laughed and shouted racist insults at them.[152] The report from Malta describes cases of verbal and physical abuse by staff in immigrant detention centres.[153]

On a positive note, reports from Finland and the Netherlands noted the positive impact of NGOs, equality bodies and ombudsmen in curbing the practice of racial profiling.[154] This suggests the need for greater monitoring of police practices by equality bodies across the EU. Furthermore, the Swedish report states that, following incidents which revealed racism within the police force, a research project was initiated to assess the attitudes and values of police cadets before and after they completed their training.[155]

Meanwhile, the Finnish report points to sensitisation courses being offered to police officers.[156] The Netherlands report highlights increasing diversity within the police force[157] while in Greece; current members of the police force have made proposals for the integration of immigrants within the force.[158] The Maltese report highlights how the Code of Ethics of the Police Force promotes the fostering of relationships of trust and respect with all members of the community irrespective of, among other things, race, religion or nationality.[159]

3.6 Racist violence and crime

Instances of racist violence and crime continued to be reported in most EU Member States. In varying forms and under different guises, ethnic and religious minorities were targeted as **victims of crime** in all of the States covered by

140 The EU MIDIS research is quoted extensively as the only available data on the subject of ethnic profiling.
141 European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Data in Focus Reports:Roma, (n.d: n.d; 2009), p. 10. Available at http://www.fra.europa.eu/fraWebsite/attachments/EU-MIDIS-roma.pdf, Date Accessed: 6 January 2011.
142 European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Data in Focus Reports: Police Stops and Minorities, (n.d: n.d; 2009), p. 3. Available at http://www.fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police.pdf, Date Accessed: 6 January 2011.
143 Ibid., p. 7.
144 Ibid., p. 6.
145 Ibid., p. 6.
146 Ibid., p. 8.
147 Ibid., p. 8.
148 Ibid., p. 8.
149 See Section V. v. of the National Reports submitted by Bulgaria, Spain, France, Denmark, Romania and Slovakia.
150 Open Society Justice Initiative, Ethnic Profiling in the European Union: Pervasive, Ineffective and Discriminatory. Executive Summary and Recommendations, http://www.soros.org/initiatives/justice/focus/equality_citizenship/articles_publications/publications/profiling_20090526/summary_20090526.pdf, Date Accessed: 6 January 201, cited in Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 15.
151 Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 15.
152 Slovenské národné stredisko pre Ďudské práva, Správa o dodržiavaní Ďudských práv na Slovensku 2009, http://www.snslp.sk/images/stories/file/spravy/report-observance-hr-2009-en.pdf, date accessed: 25 September 2010, cited in Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (n.d: n.d., 2010), p. 18.
153 Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d., 2010), p. 26, 27.
154 See Section V. v. of the National Reports submitted by Finland and the Netherlands.
155 Kawesa, Victoria, ENAR Shadow Report 2009/2010: Sweden, (n.d: nd., 2010), p. 14.
156 Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d., 2010), p. 20.
157 Chambon, Laurent, ENAR Shadow Report 2009/2010: the Netherlands, (N.D:N.D., 2010), p. 16.
158 Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p. 19
159 Pulizjia ta' Malta, Introduzzjoni mill-kummissarju tal-pulizija, http://police.gov.mt/dnload/KodiciEtika.pdf., date accessed: 15 April 2005, cited in Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d., 2010), p. 26.

the National Reports. Such violence took different forms including harassment, physical assault, destruction or vandalism of property as well as desecration of religious venues. "The most pervasive racist violence in Europe is also perhaps banal and unorganised, however that is not to suggest that serious and organised crime does not exist".[160] The National Reports highlight examples of racially motivated crimes targeting ethnic minority communities, including, among others, migrants, Roma and Travellers.

When considering aggregated minority groups, the EU-MIDIS Survey found that the 12-month prevalence rate of crime victimisation is highest among respondents with a Sub-Saharan African background, with 33% of respondents having been victim of at least one of the five crimes tested, and among the Roma (32%).[161] 24% of Central and Eastern Europeans, 26% of North Africans, and 21% of Turks in the EU reported having been victimised during the 12 months prior to the survey.[162]

Racist violence is reported to be on the rise in an ever-growing number of EU Member States, as stated by the EU Fundamental Rights Agency in its Annual Report for 2009.[163] The report from Cyprus, for instance, highlights how national NGOs and international organisations have reported an unprecedented rise in racist crime during the period under review,[164] while the report from Hungary mentions how the country witnessed a sharp rise in violent attacks against minority groups and their property, principally the Roma communities, during the last three years[165]:

"The immediate cause of heightened domestic and international concern about the situation of the Roma in Hungary beginning in late 2008 was a series of violent incidents leading to loss of life, serious injuries and destruction of property among the Roma community".[166] Interestingly, a few reports highlighted that racist violence and hate speech are common in sport. The report from Croatia, for instance, highlights that football spectators in stadiums have often been culprits of this kind of violence.[167]

One manifestation of such crime is **anti-semitism**. In Italy, for instance, anti-semitism continued to be expressed mainly in the media, anti-semitic graffiti, insulting emails to Jewish institutions and posts on various web forums. Wall graffiti (often accompanied by swastikas and crosses) made up the bulk of the incidents. Many messages praised Hitler and the extermination of the Jews. Moreover, the report noted a slight increase in incidents of Jews being targeted as individuals, such as graffiti on the walls of houses and businesses owned by Jews. One incident, carried out by far right groups, included the sealing and padlocking of over 20 shops owned by Jews. Such instances were more pronounced during the period of the Israeli offensive in Gaza.[168]

There appears to be a link between increased racist violence and the success of far right parties, as was reported in Italy, Greece and Slovakia.[169] On a positive note, reports from the Czech Republic and Latvia indicate that measures are being taken by state authorities against neo-nazi groups.[170]

Even so, **neo-nazi crimes** are reported in Latvia, Lithuania and the Netherlands.[171] Moreover, the report from Hungary indicates how, in the weeks before the European Parliament elections in 2009 and the National Elections in 2010, there were weekly rallies being held by the Magyar Garda or the 'Hungarian Guard'. Their members wore black boots and uniforms bearing nationalist symbols last employed by Hungarian fascists during World War II.[172]

A key issue regarding racist violence is the way these incidents are addressed by national authorities. Across the EU, and in line with the relevant Framework Decision on Combating Racism and Xenophobia,[173] there are a range of laws intended to address some of the various facets of racist violence and crime. These have tended to be one or both of two types: namely the criminalisation of **incitement to racial violence and crime**, and the specific addressing of **racial motivation** in other crimes (such as crimes against the person and crimes against property). However, many

160 *European Network Against Racism, ENAR Fact Sheet 42: Racist Violence and Support to Victims, http://cms.horus.be/files/99935/MediaArchive/publications/FS42%20-%20racist%20violence%20and%20support%20to%20victims%20EN.pdf, date accessed: 6 January 2011, p. 2.*

161 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (Vienna: Fundamental Rights Agency, 2009), p. 96. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*

162 *Ibid.*

163 *European Union Agency for Fundamental Rights, Annual Report: 2009, http://www.migualdad.es/ss/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobheadername1=Content-disposition&blobheadervalue1=inline&blobkey=id&blobtable=MungoBlobs&blobwhere=1244652316683&ssbinary=true, date accessed: 6 January 2011, p. 24.*

164 *Kossiva, Andriana, Charalambidou, Nicoletta, Papadoupoulou, Anthoula, Plilli, Oncel, and Pasha, Faika Deniz, ENAR Shadow Report 2009/2010: Cyprus, (Brussels: European Network Againt Racism,2010)., p. 27*

165 *Ejalu, William Apollo, ENAR Shadow Report 2009/2010: Hungary, (Brussels: European Network Against Racism, 2010), 24-25.*

166 *OSCE: Field Assessment of Violent Incidents against Roma in Hungary: Key Developments, Findings and Recommendations (Warsaw, June 2010) p11. Cited in Ibid., p. 25.*

167 *Pusic, Zoran & Klekar, Martina, ENAR Shadow Report 2009/2010: Croatia, (Brussels: European Network Against Racism, 2010), p. 20,*

168 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (Brussels: European Network Against Racism, 2010), p. 21.*

169 *See Section V. vi. of the National Reports submitted by Italy, Greece and Slovakia.*

170 *See Section V. vi. of the National Reports submitted by Latvia and the Czech Republic.*

171 *Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (Brussels: European Network Against Racism, 2010), p. 21.*

172 *Ejalu, William Apollo, ENAR Shadow Report 2009/2010: Hungary, (Brussels: European Network Against Racism, 2010), p. 25.*

173 *Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.*

national reports describe the legal framework and remedies as insufficient and ineffective.

Most national reports highlight reluctance by authorities to address the issue seriously and report little effort to combat hate crime. This is manifested in the reluctance or refusal by police services to take cases of racist violence seriously or to identify racist motivations for crimes. This concern is raised in reports from Belgium, the Czech Republic, Estonia, Finland, Latvia and Lithuania.[174]

Foreigners subjected to racist violence face several difficulties. In various countries, they find it difficult to lodge official complaints and are not informed of their rights or given the required documents. Meanwhile, the police refuse to draw adequate attention to their reports (when filed) and are reluctant to investigate such offences as racially motivated. On a positive note, the report from Lithuania highlights how prosecution is proactive in prosecuting racially motivated crimes.[175]

In the **Czech Republic** the NGO People in Need (**Člověk v tísni**) initiated in March 2009 a civil movement whose goal was to actively express the discontent of the civil society with neo-Nazi activities by organizing events against neo-Nazi gatherings. The initiative later spread to other locations e.g. **Plzeň** and **Přerov**.

Unfortunately, racist violence and crime remain **under-reported** (see in this regard Section V.V on Policing), **under-recorded and under-prosecuted**. High levels of reported and recorded racist crime are one indicator of good law enforcement and minority community relations. The EU-MIDIS report however found that 'the majority of assaults or threats were not reported to the police, and the non-reporting of serious harassment was even higher'.[176]

In the case of assault or threat, the highest rate of reporting stood at less than half, at 43% (by ex-Yugoslavs), while the rate of reporting by Roma, CEE and Russians stood as low as 31%.[177] The levels of reporting were even lower in the case of serious harassment with the highest rate standing merely at 25%.[178] Moreover, lack of confidence in the police was most widely quoted as the reason for not reporting, with 75% of Roma, 55% of ex-Yugoslavs and 52% of Turkish respondents stating this as their answer.[179]

In **Poland** A special phone line for foreign students residing in Warsaw. The Collegium Civitas, an university in Warsaw, in cooperation with Afryka Inaczej (a NGO based in Warsaw) started to run a special phone line for African students living in Warsaw. In a case of emergency a person could call and ask for assistance. The phone line is operated by persons from Africa, who speak English, French, Portuguese and Polish and know the city and the Polish reality PrzestrzeĐ Miasta (City Space).

Other reasons for not reporting included fear of retaliation, language barriers, having addressed the issue themselves and residence permit problems. The widespread belief that nothing will happen if one reports cases of racist violence to the police is also highlighted by a number of national reports including Latvia and Malta.[180]

Moreover, the reports from Bulgaria, Denmark, Estonia and Finland highlight how racist crimes are not treated as serious crimes.[181] Reporting is further hindered by a belief that one's immigration status will be prejudiced by reporting, especially in countries where immigration control is entrusted to the police force.

Data collection remains a key concern in this area. **Limitations in data collection** make it difficult to provide an estimate of the prevalence of such crime, while also limiting the possibility of assessing the impact of legislation in the area of racist crimes and the effective identification of key problematic areas and appropriate responses. The National Reports highlight a differing capacity of national systems for the compilation of data in this regard, although most describe the systems as inefficient and ineffectual. This lack of adequate data is reported in Belgium, France, Ireland, Italy, Lithuania, Luxembourg, Romania and Spain, among others.[182]

In **Hungary** a 50-member investigation team was set up by the police to focus on assaults against Roma after the growing number of cases of violent assaults against them in the reporting period.

On a positive note, the reports from Finland and the Netherlands highlight how such data is being collected.[183] In some countries, like Cyprus, data on such incidents is compiled by NGOs. However, this remains incomplete.[184] The UK report, for instance, describes how the Institute of Race Relations (IRR) collates information on racial violence

174 See Section V. vi. in the National Reports submitted by Belgium, Czech Republic, Estonia, Finland, Latvia and Lithuania.
175 Andriukaitis, Gediminas and Kliukas, Nerijus, ENAR Shadow Report 2009/2010: Lithuania, (Brussels: European Network Against Racism; 2010), p. 17-18.
176 European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (Vienna: European Union Fundamental Rights Agency, 2009), p. 71. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.
177 Ibid.
178 Ibid.
179 Ibid., p. 73.
180 See Section V. vi. of the National Reports submitted by Latvia and Malta.
181 See Section V. vi. of the National Reports submitted by Bulgaria, Denmark, Estonia and Finland.
182 See Section V. vi. of the National Reports submitted by Belgium, France, Ireland, Italy, Lithuania, Luxembourg, Romania and Spain.
183 See Section V. vi. of the National Reports submitted by Finland and the Netherlands.
184 Kossiva, Andriana, Charalambidou, Nicoletta, Papadoupoulou, Anthoula, Plilli, Oncel, and Pasha, Faika Deniz, ENAR Shadow Report 2009/2010: Cyprus, (Brussels: European Network Against Racism,2010), p. 26.

by monitoring over 300 media sources across the UK on a daily basis. In a recent report, the IRR has published data relating to 660 cases of racial violence that took place in 2009.[185] It does not claim to give a comprehensive account of racist violence, since these are only the cases covered in the news, as monitored by the IRR.

In **Slovakia**, the Civic association People against Racism provides victims of hate crime with free legal aid and conducts educational activities in secondary schools focused on unmasking extremist ideologies, their symbols and rhetoric as well as running public campaigns. In cooperation with the Football against Racism in Europe Network (FARE), they monitor racially motivated crimes in stadiums.

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

Access to goods and services remained an area where, despite legal prohibitions, discrimination was rampant. In various aspects, and under different guises, ethnic minorities were prevented from accessing such goods and services. Discrimination in this field included access to shops, public transport, financial services as well as places of entertainment.

Accessing shops is an area of concern in a number of countries. The Spanish report highlights how a particular store in Mallorca posted a warning saying 'no entrance for dogs and Romanians'.[186] Another individual was told to return to her country when seeking to use the services of a social consultant.[187] Also within shops other issues have been raised including trailing in shops (Finland)[188], double pricing and a refusal to sell products (the Czech Republic)[189]. In this regard, the EU MIDIS found that Roma (once again) were most likely to be discriminated against (20%) followed by North and Sub Saharan Africans (11%) followed by persons of Turkish origin (4%). Such discrimination was most prevalent against Roma in Poland (44%) and Hungary (31%), followed by North Africans in Italy (27%). Four out of the ten groups experiencing the highest prevalence were Roma.[190]

Another key area of concern involved **access to public transport**. This was noted, among others, in reports from Denmark, Italy, Malta and Spain.[191] This took place on various means of transport, including airlines. The report from Spain recounts how Ryanair refused boarding to an Ivorian National with an EU Residence card on the basis that he was not European.[192] Roma were refused access to underground services on the allegation that their ticket was false.[193] Buses were reported as having failed to stop when dark looking individuals were waiting. Upon boarding buses, individuals were either threatened and told to leave or accused of being thieves with warnings being given to all other passengers to beware.[194]

In Foggia, Italy, because a particular line was increasingly busy due to a reception centre in the vicinity, the local council opened a new line serving only the local population, instead of simply increasing the number of buses. This was done under the pretext that it was a strategy to avoid conflict.[195]

Such discrimination also remained rampant in places of **leisure and entertainment** most notably restaurants, bars and nightclubs. This was reported in Belgium, Bulgaria, Denmark, Finland, France, Germany, Hungary, Italy, Luxembourg, Malta, Romania, Slovakia, Spain and Sweden.[196]

The EU-MIDIS found that 20% of Roma, 14% of Sub-Saharan Africans, 13% of North Africans have been discriminated against over the 12 month period prior to the interview. The prevalence rate was highest amongst Africans in Malta (35%) followed by Roma in the Czech Republic and North Africans in Italy (30%) and Roma in Poland (26%).[197] Interestingly, the research also noted how Somalis are particularly vulnerable to discrimination at cafés, restaurants, bars and nightclubs.[198] On this issue, many national reports also noted the vulnerable position of women wearing headscarves and other attire traditionally worn by Muslims.[199]

185 *Athwal, Harmit, Bourne, Jenny and Wood, Rebecca, Racial violence: the buried issue, IRR briefing paper no. 6, (London: IRR, 2010) http://www.irr.org.uk/pdf2/IRR_Briefing_No.6.pdf, Accessed 30 June 2010, cited in Isal Sarah, Schmitz, Klara and Cooper, Hannah, ENAR Shadow Report 2009/2010: United Kingdom, (Brussels: European Network Against Racism, 2010), p. 20.*

186 *Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 18.*

187 *Ibid., p. 18.*

188 *Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d., 2010), p. 8.*

189 *Muhic, Selma and Vales, Frantisek, ENAR Shadow Report 2009/2010: Czech Republic, (n.d: n.d., 2010), p. 30.*

190 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (Vienna: European Union Fundamental Rights Agency, 2009), p. 47. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*

191 *See Section V. vi. of the National Reports submitted by Denmark, Italy, Malta and Spain.*

192 *Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 18.*

193 *Ibid., p.18.*

194 *Ibid., p. 18.*

195 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 24.*

196 *See Section V. vi. of the National Reports submitted by Belgium, Bulgaria, Denmark, Finland, France, Hungary, Italy, Luxembourg, Malta, Romania, Slovakia, Spain and Sweden.*

197 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (Vienna: European Union Fundamental Rights Agency, 2009), p. 46. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*

198 *Ibid.*

199 *See, for example, Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 24.*

In the **financial services sector**, racial discrimination was reported as rampant by a number of countries. The report from Greece states that Greek Roma encountered problems in acquiring mortgage loans on favourable terms available to other vulnerable groups.[200] The report from Spain speaks of IKEA refusing to grant a VISA card to a customer since he was foreign.[201] The report from Hungary speaks of the impossibility of third country nationals to access loans,[202] while the reports from Romania[203] and Italy[204] contemplate discrimination in the insurance industry. The report from Finland also considers discrimination within the banking sector.[205] The EU-MIDIS report found that 7% of Roma, 6% of North Africans and 4% of Sub Saharan African and Turkish respondents have experienced discrimination by a bank in the year preceding the research.[206]

3.8 Media, including the internet

The media plays a critical role in influencing public opinion and reporting on issues relating to ethnic minorities. Even here, discrimination continued to be rampant. Issues include the use of the internet and social media to proliferate **racist messages** and the difficulties in regulating this, the continued use of hate speech and the balance to be struck with freedom of expression. Negative depictions of ethnic minorities in the media, most notably through terminology and associations, and the use of the media by right wing parties was also considered.

The use of the **Internet** as a space for the proliferation of racist speech is a concern raised in most national reports, most notably Cyprus, Estonia, Finland, Greece, Latvia, Lithuania, Malta, Netherlands, Poland, Romania, Slovenia and Spain.[207] A key issue raised is the use of social networking sites such as Facebook and Twitter. Racist groups were noted in various countries including an anti-traveller group in Ireland (to which 8000 people signed up)[208], anti-Roma groups in Romania[209] and Italy,[210] and approximately 350 anti-immigrant groups in Italy with some having up to 7000 members.[211]

In **Malta**, PeaceLab opened an internet café on their premises in Hal Far with the scope of bringing means of communication closer to migrants living in the area. This is thought of as a means to alleviate the stress caused by not knowing about the well-being of family members living overseas.

Another issue is the promotion of racist messages over file and movie sharing platforms, such as YouTube. The Polish report refers to several racist films and clips concerning the Roma community and Chechen asylum seekers, including the film 'A life of a Chechen: Find out to whom your taxes go' containing racist comments and hate speech.[212] The film was finally taken offline.

Some national reports recount difficulties encountered when attempting to regulate Internet **hate speech**. The report from Slovakia, for instance, reports how most extremist websites were hosted on US servers making it impossible for Slovak authorities to take action against them.[213]

A number of proposals have been circulating across various countries on how this issue can be addressed. In Finland a proposal was made to ban anonymity, to set up a net-monitoring authority similar to those available for TV and radio, and to encourage self-regulation, whereby hosts of online fora are urged to clamp down on overtly racist messages.[214] A number of cases on Internet hate speech were tried before the Latvian courts.[215] 4 young men were sentenced to imprisonment of between 1 and 2 years (suspended) for hate speech over the internet.

On a positive note, a number of reports highlight high levels of use of the Internet by ethnic minorities, especially migrants, which help them stay in touch with family and friends in countries of origin. This is highlighted in the report from Finland,[216] among others. The report from Malta highlights how the anti-racist movement made use of the Internet to raise awareness about its concerns and promote diversity.[217]

200 *Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p. 22.*
201 *Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010). p.18.*
202 *Ejalu, William Apollo, ENAR Shadow Report 2009/2010: Hungary, (n.d: n.d., 2010), p. 26.*
203 *Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d., 2010), p. 8.*
204 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 24.*
205 *Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d., 2010), p. 22.*
206 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d., 2009), P. 47. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*
207 *See Section V. viii. of the National Reports submitted by Cyprus, Estonia, Finland, Greece, Latvia, Lithuania, Malta, Netherlands, Poland, Romania, Slovenia and Spain.*
208 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 22.*
209 *Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d., 2010), p. 30.*
210 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 25.*
211 *Ibid., p.25.*
212 *Fagasinski Maciej, ENAR Shadow Report 2009/2010: Poland, (n.d.: n.d., 2010), p. 22.*
213 *Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (n.d: n.d., 2010), p. 23.*
214 *Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d., 2010, p. 24-25.*
215 *Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (n.d: n.d., 2010), p. 25.*
216 *Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d., 2010), p. 23.*
217 *Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d., 2010), p. 33.*

Another concern highlighted by various Shadow Reports was the depiction of minorities in the media as well as a general **lack of diversity** in the media. In **Lithuania**, research found very few stories on the issue of asylum, indicating lower levels of attention being given to the issue by the media and society at large.[218] The media also linked migration with criminality. The report from Italy for instance, found that out of 684 TV news items over the period of observation, only 26 were not linked to debates on criminality and/or security.[219]

The report from Malta reported how an in-depth content analysis of the local media showed that indirect racism is common in Maltese media.[220] The terms 'illegal immigrants' and 'illegal immigration' are the terms of choice when describing matters relating to migration, with journalists making little distinction between the terms 'illegal immigrants', 'irregular immigrants', 'asylum seekers' and 'refugees' despite their differing legal definitions. Additionally, derogatory terms such as "clandestines", "parasites", and "scroungers" were also occasionally employed. The Spanish report highlights how the mass media frequently depicts migrants from a purely Eurocentric perspective, using terminology similar to that reported in Malta.[221]

The two reports in fact highlight how national or ethnic origin is mentioned when reporting crimes for which the offender is of migrant origin. Moreover, prejudices towards Muslims are often reinforced through news which link Islam to insecurity, fundamentalism and terrorism. In Romania, media reporting of Roma tended to be linked to criminality and violence, while social issues such as poverty, limited access to education and other social services, discrimination, and abuse by authorities remained sidelined.[222]

Over two thirds of TV news and half of printed news items portrayed Roma in a negative and stereotypical way. The research also noted how TV news often disassociates Romanian citizens from Roma with Romanian nationality, fostering racism and xenophobia.

A good practice in the field of diversity in the media is the creation in 2010 of ANSI, the national association of intercultural media in **Italy**. Acknowledged by the National Press Federation, the association was born after a long process involving the multicultural journalists, experts, trade unions and the national order of journalists. The NGO Cospe www.cospe-fi.it , actively working for the promotion of cultural diversity in the media for over 10 years, has had a crucial role in facilitating and supporting the process, allowing multicultural journalists to be the protagonists. Its main objectives are to promote multiculturalism as a key element of journalism in Italy; promote policies on diversity in the media; and to facilitate access to the professional order for non-Italian journalists defending their rights.

On a positive note, the report from Greece notes how in recent years, the media have begun to recognise the cultural uniqueness of the Roma and are therefore appealing to the State authorities to improve the living and working conditions of the community.[223] This, however, has not meant that the media stopped running the main negative stereotypes associated with Roma.

Reports from Sweden, Hungary and Greece report how mainstream media was used by exponents of far right parties.[224] While some tailored their messages in order not to expose themselves to accusations of incitement to racial hatred, others took advantage of the media's need for viewership, using their impact on viewer ratings so as to get further airtime in the media.

It is interesting to note that, in the Eurobarometer on Discrimination, which asked for respondents' views on whether diversity was sufficiently reflected in the media in terms of ethnic origin, 55% answered in the affirmative (12% 'yes definitely' and 43% 'yes to an extent') while 36% responded in the negative (30% 'no, not really' and 6% saying 'definitely not').[225] Similar findings were made regarding religion or belief with 52% replying in the affirmative and 35% in the negative.[226]

Many National Shadow Report point out that the opinions of ethnic minorities are rarely sought when discussing issues directly affecting them or other issues which have a direct impact on their lives.

218 Andriukaitis, Gediminas and Kliukas, Nerijus, ENAR Shadow Report 2009/2010: Lithuania, (n.d: n.d.; 2010), p. 22.
219 Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p.24.
220 Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d., 2010), p. 31.
221 Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 19-20.
222 Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d., 2010), p. 30.
223 Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p. 22.
224 See Section V. iii. of the National Reports submitted by Sweden, Hungary and Greece.
225 Special Eurobarometer 317: Discrimination in the EU in 2009, http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf, Date Accessed: 6 January 2011, p. 15.
226 Special Eurobarometer 317: Discrimination in the EU in 2009, http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf, Date Accessed: 6 January 2011, p. 18.

4. Political and legal context

The period under review marked important political, legal and policy developments in the field of anti-discrimination, migration and human rights issues across the European Union. 2009 was marked both by the European Parliament elections, which saw a shift towards rightist politics, but also the coming into force of the Lisbon Treaty[227] with its important implications for anti-racism across the European Union. The year also saw the adoption of the Stockholm Programme on Justice and Home Affairs and the continued work on the Proposal for a Council Directive to implement the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, herein referred to as the 'Horizontal Directive'.

A key development over the course of 2009 was the coming into force of the Lisbon Treaty on 1 December 2009. Signed in December 2007, it replaced the failed Constitutional Treaty and amended the current Treaty on the European Union (TEU) and the Treaty establishing the European Community (TEC). In doing so, it left an important impact on anti-racism and migration policy in the European Union as will be discussed in the specific sections of the report. Besides the sector-specific developments, the Lisbon Treaty also affects the potential role of civil society organizations on EU developments regarding the anti-racist movement, by for instance, increasing the role of the `European Parliament' (most notably through the extension of 'co-decision' as the main legislative procedure) and creating the Citizens' initiative.

A key development is that the Treaty makes the Charter of Fundamental Rights legally binding. The Charter does not create new rights, nor does it extend the competence of the European Union. It does however, for the first time, set out, in one document, all the existing rights which persons residing in the EU can benefit from. The Lisbon Treaty gives the rights listed in the Charter the same legal value as the EU treaties, allowing them to be recognised and interpreted in new ways which could bring positive benefits to individuals.

2009 was also marked by elections for the European Parliament. The elections were marked by progress made by the far-right in many EU member states during the European elections. Far-right parties gained seats in Austria, Denmark, Finland, Greece, Hungary, Italy, the Netherlands, Romania and the UK. Declines were noted for such parties in some Member States, including Belgium, France and Poland. This development also led to the creation of the Europe of Freedom and Democracy (EFD) group, stemming from the Independence/Democracy group founded after the 2004 European elections. The group consists of 30 MEPs from 8 national political parties, most prominently the United Kingdom Independence Party (UKIP), with 13 MEPs, and Lega Nord (The Northern League) from Italy, with 9 MEPs. The group has 32 of the 736 seats in the European Parliament (just over 4%). This initiative is in direct contravention of the philosophy of the Charter of European Parties for a Non-Racist Society. The Charter, which was signed by the majority of EU political groups in 2001, explicitly states that the signatories commit to 'refuse to endorse in any way views and positions which stir up or invite hostility or division between people of different ethnic or national origins or religious beliefs'[228] and to 'refrain from any form of political alliance or cooperation at all levels with any political party which incites or attempts to stir up racial or ethnic prejudices and racial hatred.'[229]

2009 was also marked by the Durban Review Conference held in Geneva in April 2009. The aim of the meeting was to evaluate the progress made towards the targets set by the World Conference Against Racism, Racial Discrimination, Xenophobia and Related intolerance, held in Durban in 2001. It is interesting to note that very little developments were made in the EU on the issue of National Action Plans Against Racism. Over the period under review, a number of countries came to the end of their existing plans and these were not renewed. Other Member States, such as Malta initiated processes to adopt such plans.

Furthermore, 2009 and 2010 were also marked by the developments in specific legal fields, which will be discussed in the forthcoming sections.

4.1 Anti-discrimination

The entry into force of the Lisbon Treaty has important implications for anti-discrimination in the EU. Equality and non-discrimination principles appear prominently and repeatedly in the Treaty's core provisions. The preamble refers to equality as a universal value while Article 2 of the Treaty on European Union provides that 'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail'.[230] However, the Treaty fails to make any ground-breaking changes when it comes to the competence of the Union or the possibility of adopting legislative or policy measures in the field of anti-discrimination and equality. In this regard, the treaty largely preserves the status quo. It is disappointing to note that the Treaty did not alter the nature of the legal basis for the adoption of harmonisation measures in the field of anti-discrimination so that the ordinary legislative procedure and

227 *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:EN:HTML, date accessed: 6 January 2011.*

228 *Charter of European Political Parties for a Non-Racist Society, http://www.coe.int/t/dghl/monitoring/ecri/activities/38-seminar_ankara_2011/Charter.asp, date accessed: 6 January 2011.*

229 *Ibid.*

230 *The Consolidated version of the Treaty on European Union, Art. 2*

qualified majority voting would apply. The Treaty does not specifically prohibit discrimination, but through Article 19 TFEU, it enables the Council to adopt measures to combat discrimination on the various grounds.[231]

Having said this, the Treaty does offer some ways forward. The emphasis on mainstreaming of equality, for instance is critical. Through the provision of Article 10 TFEU "In defining and implementing the policies and activities referred to in this Part, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."[232] This is an important step forward for the European Union and 'represents a significant strengthening of the existing legal basis for current practices and policy making'.[233]

The Treaty also reiterates the (limited) prohibition of nationality discrimination which, however, applies only to EU Nationals. These provisions are placed within a context of increased rights for European citizens, thereby strengthening the existing protection from discrimination set out in the Charter of Fundamental Rights which, following the coming into force of the Lisbon Treaty, is legally binding.

In this regard, it is also to be noted that in January 2010 the European Court of Justice ruled, in the case of Kücükdeveci v Swedex GmbH & Co KG,[234] that national courts have a duty to disapply any provision of national legislation which is contrary to the principle of equal treatment. The judgment allows the Court to bypass the lack of horizontal direct effect by giving direct effect to the corresponding general principle of EU law. The role of the Directive in such a case, it would seem, is to provide detailed guidance on what the general principle requires. While this case addressed the issue of age, the principles enshrined therein apply in a similar way to race and religion as grounds of discrimination.

This period was also marked by developments on the Horizontal Directive, which was initially proposed by the European Commission in July 2008. 2009 saw the backing of the proposal by the European Parliament reflected through the adoption of a consultation report by MEP Kathalijne Buitenweg with 360 votes in favor and 227 against. Moreover, various National Shadow Report highlight how the Directive was also discussed on the national level. This would appear to be marked by a general **lack of political will** to press forth with ambitious plans in this regard. The main arguments against the development appear to be coming from Germany.[235] This official opposition has been based on reference to the principle of subsidiarity, the costs for small and medium sized businesses, too much bureaucracy and the wish to regulate anti-discrimination at the national level. Germany's position was negatively received by anti-racist organizations across the EU with, for instance, Amnesty International calling on Germany to change its position as continued opposition to the Directive was likely to leave persons without access to legal protection against discrimination for years to come.

In terms of existing anti-discrimination legislation, various National Reports highlight **deficiencies** in their national framework despite improvements noted in some other reports. On a positive note, most reports highlight the positive impact of the commencement of infringement proceedings on their country's legal framework. Indeed, the infringement notices put forward by the Commission in previous years lead to improvements in the legal regime in, for instance, Malta, Lithuania and Italy, whereby the European Commission decided to stop the legal actions on the basis of the improvements implemented by the relevant legislatures. As such, it is noteworthy that the threat of infringement proceedings left the desired positive impact at least so far as the wording of the law was concerned.

In Malta, the addressed deficiencies included an apparent exception to banks and financial institutions, the fact that the independence of the equality body was not mentioned and the failure of the occupational requirement to be a determining one for the relevant exception to be applied.[236]

In Finland, the issue concerned the application of the legal provisions to private commercial relationships, such as the rental market.[237] In Italy, the proceedings were initially instituted on the basis of inadequate protection against victimisation, an incorrect definition of harassment and a failure to apply the shifting of the burden of proof as required by the directive.[238] On a positive note, reports from the Czech Republic, Romania and Bulgaria highlight how anti-discrimination legislation in these countries goes beyond the minimum requirements of the directive.[239] Nonetheless, the reports also highlight that the **practical implementation** of the provisions leaves much to be desired.

2009 also saw the coming into force of legislation in a number of other countries. The Equal Treatment Act in Estonia

231 Ibid., Art. 19
232 Ibid., Article 10.
233 European Network Against Racism, The EU Lisbon Treaty: What Implications for Anti-Racism?, http://cms.horus.be/files/99935/MediaArchive/publications/lisbontreaty_EN_LRfinal.pdf, Date Accessed: 6 January 2011, p.14.
234 C-555/07 Kücükdeveci v Swedex GmbH & Co KG [2010], http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007J0555:EN:HTML, date accessed: 6 January 2011.
235 http://www.amnesty.at/uploads/tx_amnesty/EU_Antidiscrimination_Letter_to_German_Minister_February_2010.pdf
236 Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d., 2010), p. 35.
237 Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d., 2010), p. 26.
238 Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 29.
239 See Section VI. i. of the Reports submitted by the Czech Republic, Romania and Bulgaria.

came into force in January 2009,[240] while the Czech Republic adopted the Anti-Discrimination Act,[241] becoming the last of the EU Member States to adopt legislation transposing the relevant directives. The Estonian Act however only covers discrimination in the labour market and is riddled with shortcomings, not least a stricter application of the statute of limitations. Similar limitations of scope are also noted in Poland, where the Race Directive is only implemented in the Labour Code.[242]

The role of equality bodies is also highlighted in many National Reports. The assessment of the work of such bodies varies by country. The importance of Ombudspersons and equality bodies was highlighted in reports from Slovenia and Greece.[243]

Other reports, such as the report from Latvia, indicate that concerns raised in previous years about the role and effectiveness of the **equality body** were not addressed over the course of the reporting period.[244] The report highlights serious concerns, such as a request for the resignation of the Ombudsman by staff members in his own office and resignations from other concerned entities due to frustration expressed against his work as an Ombudsman.[245] Another key concern regarding equality bodies is their independence. Lack of independence is a critique put forward by, among others, reports from Italy, Poland, Latvia and Spain.[246] A lack of awareness of equality bodies was also noted, with the EU-MIDIS finding that about six in ten or more respondents in each country were unable to think of any organisation in their respective country of residence that can offer support or advice to people who have been discriminated against (for whatever reason). The least well informed were African immigrants in Malta (93% were unable to mention an organisation), Sub-Saharan Africans living in Portugal (88%), Surinamese in the Netherlands (81%) and Somalis in Denmark (80%).[247]

In terms of public opinion on efforts done to combat discrimination, the Eurobarometer on Discrimination for 2009 found very mixed views, concluding that 'taking aggregate results at EU level, we can see that **opinion is divided as to whether sufficient efforts are being made in citizens' countries to fight all forms of discrimination**: Whilst a slight majority of 49% think that this is the case, 44% express the opposite view'. The same research found that the most positive responses came from Finland (68%), Cyprus (65%) and the Netherlands (63%).[248]

A pilot project was initiated in **Romania** by "Impreuna" Agency in partnership with the Ministry of Education, ARDOR (The Romanian Association of Debate, Oratory and Rhetoric) and Policy Center for Roma and Minorities, National Network of Roma Youth and supported by NCCD, National Agency for Equal Chances and the University of Bucharest. The awareness raising campaign regarding Roma was based on the Karl Popper regional and national high school debate competitions attended by 200 students in eight districts. The campaign extended and continued during 2010, planning to involve by September 2010 educational institutions in all districts of Romania and to actively involve more than 500 teachers and students.

A trend in many countries is to merge equality bodies into one equality body covering the various grounds of discrimination. For instance, in both Lithuania and Malta, the transposition of the race directive involved the expansion of the remit of the equality bodies set up for gender issues.[249]

Even where legislation exists, and remedies are put into force, **lack of knowledge of the law,** poor accessibility of the relevant institutions and general bureaucracy often mean that very few victims of discrimination avail themselves of their rights. The report from Hungary highlights how the majority of victims are not aware of or cannot comprehend the anti-discrimination legislation or existing legal remedies.[250]

The services of a lawyer are **too expensive** and free legal aid is not readily available. This often results in under-reporting of discrimination cases. **Lack of support and assistance with legal claims** is also a key critique of equality bodies raised in many national reports. A case in point is the report submitted by Italy, which states that its equality body has presented proposals to provide greater legal support to victims of discrimination, including the creation of a fund to pay for legal expenses on their behalf.[251]

Possibly as an effect of the economic crisis, a decrease in resources allocated to anti-discrimination efforts was noted over the course of the reporting period. The Irish report for instance highlights how 2009 saw the equality authority operate on a budget that had been reduced by over 40% at

240 *Kovalenko, Julia, ENAR Shadow Report 2009/2010: Estonia, (n.d.: n.d., 2010), p. 24 et seq.*
241 *Muhic, Selma and Vales, Frantisek, ENAR Shadow Report 2009/2010: Czech Republic, (n.d: n.d., 2010), p. 32 et seq.*
242 *Fagasinski Maciej, ENAR Shadow Report 2009/2010: Poland, (n.d.: n.d., 2010), p. 27.*
243 *See Section VI. i. of the National Reports submitted by Slovenia and Greece.*
244 *Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (n.d: n.d., 2010), p. 26.*
245 *Ibid., 26-27.*
246 *See Section VI. i. of the National Reports submitted by Italy, Poland, Latvia and Spain.*
247 *European Union Agency for Fundamental Rights, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Main Results Report, (n.d: n.d., 2009), p. 86. Available at http://www.fra.europa.eu/fraWebsite/eumidis/eumidis_main_results_report_en.htm, date accessed: 6 January 2011.*
248 *Special Eurobarometer 317: Discrimination in the EU in 2009, http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf, Date Accessed: 6 January 2011, p. 35.*
249 *See Section VI. i. of the National Reports submitted by Lithuania and Malta.*
250 *Ejalu, William Apollo, ENAR Shadow Report 2009/2010: Hungary, (n.d: n.d., 2010), p. 29.*
251 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 26.*

the end of 2008.[252] Similar disproportionate cuts continued to apply for the authority's budget for 2010. A cut of around 30% was also noted in Latvia,[253] while in Lithuania only slightly more than 10% of the initial planned budget was actually allocated to anti-discrimination.[254] Other reports highlight how relevant entities also work with limited budgets, which hinders the effectiveness of their work. As the Irish report concludes: 'such cuts arguably lend support to the view that equality is a luxury in a time of recession, rather than equality and social inclusion being central to building a social and sustainable country and Europe'.[255]

4.2 Migration and integration

Migration and integration is another area where substantial developments occurred on both the European and national levels. These developments occurred within a climate of increased hostility towards immigrants, often fuelled by the media and based on fears linked to the economic crisis, as highlighted earlier. Controversial and lively public debates, often underpinned by populist arguments, were highlighted in a variety of EU Member States.

On a European level, the debate surrounding migration was affected by the introduction of the Lisbon Treaty, the adoption of the Stockholm Programme and the launch of the European Integration Forum and website. The Treaty does not contain any specific protection for third country nationals,[256] but requires the Union to frame a common policy on asylum, immigration and external border control which is 'fair towards third country nationals'. No elaboration of this provision is given in the Treaty. It also changed the framework for the making of the EU's Immigration policy. Key among these changes is the shifting of legal migration to the ordinary legislative procedure (being 'co-decision'), meaning that measures linked to entry, residence and rights of legal immigrants may be adopted by qualified majority voting, rather than unanimity. The shift also increases the role of the European Parliament, which now becomes a co-legislator on these issues. The development is limited by the fact that control of "volumes of admission of third-country nationals coming from third countries to their territory in order to seek work" remains firmly in the hands of Member States, thereby restricting the potential scope for proposals by the European Commission. Moreover, through Article 63A(4) the Lisbon Treaty creates a legal basis for the development and adoption of policies, most notably "measures to provide incentives and support" for the integration of third-country nationals.

In the field of asylum, the Charter of Fundamental Rights establishes the right to asylum, by providing that 'the right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community'[257] (Article 18). Moreover, changes to the treaty provisions imply a shift from the minimum standards approach to the adoption of common procedures, thus moving to a more advanced stage of harmonisation in this field.[258]

In the reporting period, the European Commission also put forward a number of proposals intended to recast the asylum acquis.[259]

The first proposal is a recasting of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. In brief, the Directive intends to:

1. Clarify the legal concepts, thus simplifying their application;
2. Streamline procedures and reduce administrative costs and burdens associated with maintaining two protection statuses;
3. Ensure the full compatibility of the standards of the EU acquis with the standards developed since the adoption of the Directive by the case law of the ECJ and the ECHR.

The recast directive includes a number of positive developments which were welcomed by civil society organisations including, for instance, the European Council for Refugees and Exiles (ECRE). The Council welcomed the proposal, stating that it raised the standard of protection. It thus constituted a step forward in harmonising the criteria for international protection and its content at EU level. A key welcome feature of the proposal is its attempt to align the content of protection granted to refugees and those enjoying subsidiary protection, as well as standardising various definitions.

The Procedures directive aims to recast the existing directive in order to:

252 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 25.*
253 *Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (n.d: n.d., 2010), 27.*
254 *Andriukaitis, Gediminas and Kliukas, Nerijus, ENAR Shadow Report 2009/2010: Lithuania, (n.d: n.d.; 2010), p. 23.*
255 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 25.*
256 *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:EN:HTML, date accessed: 6 January 2011, Article 63A(4)*
257 *Charter of Fundamental Rights of the European Union, http://www.europarl.europa.eu/charter/pdf/text_en.pdf, Date accessed: 6 January 2011.*
258 *Article 78 of the Treaty on the Functioning of the European Union (TFEU)*
259 *Directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted , http://www.statewatch.org/news/2009/oct/eu-com-min-standards-explanatory-com-551.pdf, date accessed: 6 January 2011.*

1. facilitate consistent application of the asylum acquis and simplify applicable arrangements;
2. provide for a number of guarantees aimed at enhancing access to asylum procedures;
3. increase the overall level of fairness in asylum procedures, thus leading to more consistent application of agreed procedural principles and guarantees;
4. consolidate the key procedural notions and devices and define better their functional role in asylum procedures;
5. facilitates access to effective remedy for asylum applicants in line with Community and international obligations of Member States.

Another key development on the European Level was the adoption of the 'Stockholm Programme – An open and secure Europe serving and protecting citizens'.[260] As the name suggests, the programme primarily addresses the concerns of citizens and pays very little attention to third country nationals. Security concerns prevail over human rights concerns in the programme, as the rights of many of Europe's migrants appear to be sidelined in favour of restrictive border policies, control of illegal immigration and return policies. Migration is seen as a threat or, at best, a purely economic solution. With migration seen simply as a solution to declining labour markets in Europe, the programme supports the commoditisation of migrants, a process which has been underway across the Union for a number of years.

On a positive note, the Programme reaffirms the objective of developing a Common European Asylum System (CEAS) "based on high protection standards" whilst highlighting the necessity that "individuals, regardless of the Member State in which their application for asylum is lodged, are offered an equivalent level of treatment as regards reception conditions, and the same level as regards procedural arrangements and status determination".[261]

Moreover, 2009 saw the formal launch of the European Integration Forum and www.integration.eu - the Union's online integration platform. The website, an initiative of the European Commission, aims to provide integration policymakers and practitioners a tool for the exchange of information and good practice. The forum, on the other hand, provides a biannual platform of consultation on integration issues, bringing together integration actors from the national and European level.

Aside from developments at the European Level, a number of important developments also took place at the national level in legal and institutional frameworks, as well as through the implementation of both positive and negative initiatives by States. Integration efforts vary across States, with some having no policies, while others developing or revising their policies over the reporting period. Worryingly, in Germany, for instance, the National Plan on Integration did not address discrimination, nor did it consider its consequences seriously.[262]

In terms of legislation, many reports highlight weaknesses in the relevant national legal frameworks. The report from Poland, for instance describes how experts underline that the law is often too complicated and interpreted differently by different actors,[263] while the French report speaks of a **repressive trend** in French migration law.[264] In Greece, a Presidential decree of 2009 has the effect of denying asylum seekers the right to appeal, a right which is secured in the relevant Directives.[265] The Irish Immigration, Residence and Protection Bill, currently going through the Oireachtas, while positive in some aspects, contains a number of serious concerns including, summary deportations, restrictions on the right to marry, limitation on access to justice for migrants, failure to protect trafficked persons, detention, refoulment, and limitations on family reunification.[266] In Italy, the 'Disposizioni in materia di sicurezza pubblica' established irregular immigration as a **criminal offence** subjecting it to a fine of between 5000 and 10000 Euros. The same act also extended the period of detention, created the offence of hiring a house to an irregular immigrant.[267] **Concerns about the detention of migrants**, including the duration of such detention, were raised in Bulgaria, France, Malta and Spain.[268] A court case in Ireland challenged the legality of restrictions on the right of EU citizens' family members to work in Ireland.[269]

June 2010, the UNHCR Regional Representative for Nordic and Baltic Countries, the State Border Guard Service and the Lithuanian Red Cross Society signed a tripartite memorandum of understanding on modalities of mutual cooperation to support the access of asylum seekers to the territory and the asylum procedures of **the Republic of Lithuania**. The parties agreed to organise training for border officers, to allow regular visits by lawyers to border crossing points, Vilnius International Airport and the Foreigners' Registration Centre in Pabrade, and the distribution of information about the right to asylum and the asylum procedure in the abovementioned locations.

260 *The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens [2010] OJL 115/01, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:115:0001:0038:EN:PDF, date accesed: 6 January 2011.*

261 *Ibid.*

262 *Hieronymus, Andreas, Fogen, Ines, Mehreoglu, Yucel & Krogen, Justin, ENAR Shadow Report 2009/2010: Germany, (European Network Against Racism: Brussels), p. 36-37.*

263 *Fagasinski Maciej, ENAR Shadow Report 2009/2010: Poland, (n.d.: n.d., 2010), p. 28.*

264 *Bourgoint, Julie E. and Salemkour, Malik, ENAR Shadow Report 2009/2010: France, (n.d.: n.d., 2010), p. 42.*

265 *Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p. 28.*

266 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 27.*

267 *Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 29.*

268 *See Section VI. ii. in the National Reports submitted by Bulgaria, France, Malta and Spain.*

269 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 28.*

Difficulties encountered when attempting to acquire **citizenship** were also raised in many National Reports. The report from the Netherlands, for instance, speaks of long and costly processes involving courses and exams,[270] while provisions in Italy were made more stringent.[271] Positively, the report from Greece highlighted the shortening of the residency period required for one to acquire citizenship (from ten to seven years).[272]

Beyond legislation, the implementation of laws and schemes often results in further problems for migrants across the EU. The Irish report, for instance, highlights how the new scheme on work permits for non-EEA nationals was seen as a positive step by NGOs. However, several problems were subsequently identified in its actual implementation.[273] Moreover, while the right to family reunification is established in most European countries, a number of restrictions and rules make its application in practice problematic.

4.3 Criminal justice

4.3.1 Racism as a crime

Across the European Union, the legal framework regarding racist violence and crime varies considerably, despite its basis in the provisions of the Framework Decision on Racism as a Crime. As underlined elsewhere in this report, the reported period saw a rise in the **prevalence of racist violence,** as highlighted also in the findings of the EU-MIDIS Report. ECRI highlighted that: 'In the last year there has been a hardening of the immigration debate and a rise in xenophobic and intolerant attitudes in general, including virulent verbal attacks and violent incidents'.[274]

This issue was also highlighted by the European Parliament in its reaction to the Stockholm Programme. It: 'recalled that, from the viewpoint of an ordinary citizen, one of the biggest threats to internal security is social exclusion; points out that unemployment and other income problems, such as over-indebtedness, aggravated by the global financial crisis, increase the risk of exclusion and that ethnic minorities are extensively vulnerable, as they also face the risk of becoming victims of discrimination and racist crime'.[275]

A major lacuna in the legal and policy framework of most countries is the **lack of a comprehensive monitoring system** which would allow States to keep track of developments in the field, ensure that sufficient efforts by law enforcement bodies are undertaken and plan and implement effective strategies for combating such crimes. This concern was raised in most of the National Shadow Reports including Cyprus and Malta.[276]

Many National Reports also highlighted that national legal remedies in this field are insufficient or ineffective. The Report from Austria highlights how 'there exists no legal definition of racist violence, although there are different legal provisions covering various aspects of the phenomenon. This contributes to a lack of systematic statistics. Data available from NGOs reflects anecdotal and qualitative evidence, which therefore makes it difficult to draw conclusions and evaluate trends based on available information (...)'.[277]

A number of countries report **restrictive definitions** of what is regarded as racist violence, meaning that no Europe-wide definition of racist crime can be developed. ENAR argues that 'racist violence' is to be understood as any incident in which it is believed by the victim or any other person that persons or property are victimised because of some aspect of their identity — such as their 'race', ethnicity, national origin, skin colour, language (or religion or belief in the case of Hindus, Jews, Muslims and Sikhs) - or their perceived connection, attachment, affiliation, support or membership of a group on the basis of their 'race', ethnicity, national origin, skin colour, language (or religion or belief in the case of Hindus, Jews, Muslims and Sikhs).

Other reports, like that of the Czech Republic, highlight the weak position of the victim as another shortcoming in the legal framework.[278] This often reflects the general position of victims of crime within a similar scenario.

Another key concern which needs to be addressed through legislative or policy developments is the way reports are addressed by authorities including, but not solely, when victims of crime become subject to secondary victimization by the authorities, or where discrimination by members of the police force results in a reluctance or outright failure of the police to investigate racist crime and bring those responsible to justice.

It is noteworthy that, in many countries, racist violence and crime is the only (or one of the few) hate crimes actually addressed in the national legislation. This is possibly the effect of EU requirements, which create a regrettable hierarchy of grounds. From an anti-racism perspective, it is positive to note, however, that the existence and need to address racist violence has been acknowledged.

270 Chambon, Laurent, ENAR Shadow Report 2009/2010: the Netherlands, (n.d: n.d., 2010), p. 29.
271 Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (n.d: n.d., 2010), p. 29.
272 Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p. 29-30.
273 Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d., 2010), p. 28.
274 Racist violence is growing in Europe, says Council of Europe Anti-Racism Commission Report: http://www.coe.int/t/dghl/monitoring/ecri/library/pressreleases/69-08_07_2010_annualreport2009_EN.asp, Date accessed: 6 January 2011.
275 European Parliament resolution of 25 November 2009 on the Communication from the Commission to the European Parliament and the Council — An area of freedom, security and justice serving the citizen — Stockholm programme, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2009-0090+0+DOC+XML+V0//EN, Date accessed: 6 January 2011.
276 See sections VI.iii.i of the relevant National Shadow Reports.
277 Bukasa, Di Tutu, ENAR Shadow Report 2009/2010: Austria, (n.d.:n.d, 2010), p. 26.
278 Muhic, Selma and Vales, Frantisek, ENAR Shadow Report 2009/2010: Czech Republic, (n.d: n.d., 2010), p. 37.

Positive developments in this area also emerged over the course of the reporting period. In Bulgaria, for instance, legislative developments over the course of 2009 have led to the Criminal code now recognising the provocation for discrimination on any grounds as a crime.[279] The code also provides for a relatively wide scope of application of these provisions. Moreover, racially motivated crimes against the person or property are criminalised in most countries, with 2009 seeing such a provision being included in the Lithuanian criminal code.[280]

In Malta, developments over the course of the reporting period included crimes against property within the scope of 'aggravating circumstance', thereby extending the previous scope which was limited to crimes against the person. Moreover, the expansion of the scope of the crime of incitement to racial hatred was extended to also cover incitement to racist violence.[281] Interestingly, the Bulgarian Criminal Code provides a sanction for being a member of an organisation created for the purpose of perpetrating racially motivated attacks, which crime subsists irrespective of whether any attacks are actually carried out.[282] In this regard, the same report highlights how the members of these organisations are sanctioned with imprisonment for up to three years.[283]

In Spain, the provision which prohibits associations promoting discrimination and racism (Art. 515.5 CRC) has recently been replaced by a more general article on criminal groups (Arts. 570 bis CRC), since the term 'association' prevented the application of this norm to groups that were not formally recognised as such.[284] In principle, this seems to be a positive development for fighting neo-nazis and similar groups, but it remains to be seen how the judicature will apply this new provision. In Latvia, the reporting period saw the coming into force of provisions aimed at criminalising the glorification and justification of genocide, crimes against humanity and war crimes.[285] This legislation was often criticized for violating the right to freedom of expression and/or association. Similar debates were prominent in, among others, Sweden[286] and the Netherlands.[287]

Many national reports also highlighted the lack of effectiveness of provisions in the legal framework making **racial motivation an aggravating circumstance**. This motivation is an aggravating circumstance in many countries including Finland, France, The Netherlands, Slovakia, Spain and Malta.[288] The reasons for the negative assessment vary and include, among others, reluctance by victims to refer to such motivation, difficulty by prosecutors to prove such motivation and reluctance by police and prosecutors to look into the possibility of such motivation. Moreover, many reports highlight that despite the legal framework, prosecutions were very limited, either due to the aforementioned reluctance by prosecutors or to difficulties in proving motive. Racial motivation is not considered an aggravating circumstance in Estonia.[289]

Another key issue raised by many of the National Reports remains the **lack of guidelines and training** for law enforcement officers on the application of the relevant legal provisions. This hinders the potential impact of legislation. The report from Denmark, for instance, highlights how, while top police authorities wish to enforce the laws adequately, individual police officers and police stations need clear guidelines regarding how laws should be enforced.[290] There is no on-going training of the police officers on inter-cultural sensitivities or on how to police neighborhoods with large ethnic minority populations. The report from Estonia complains of the lack of specific instructions for police regarding the implementation of the Criminal Code when dealing with a racist crime,[291] while the Irish report outlines lack of resources as the reason for such lack of training.[292] Training is being offered in Finland[293] whilst in Poland, the NGO Pro Humanum conducted several trainings and published a handbook on anti-discrimination for the police.[294]

4.3.2 Counter terrorism

The fight against terrorism has been used across the EU to justify measures and discourse that were often **discriminatory and racist**, most notably regarding Muslim communities. In Greece, for instance, conservative right-wing rhetoric links the building of a mosque in Athens to terrorism.[295] The argument brought forward was that financing Arab Muslims will result in a school of aspiring terrorists. These concerns are also shared by a large number of Greek clergy, such that, to date there is no mosque in Athens where Muslims can pray.

279 *Serafimov, Victor, ENAR Shadow Report 2009/2010: Bulgaria, (n.d: n.d., 2010), p. 28.*
280 *Andriukaitis, Gediminas and Kliukas, Nerijus, ENAR Shadow Report 2009/2010: Lithuania, (n.d: n.d.; 2010), p. 17-19.*
281 *Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (n.d: n.d., 2010), p. 40-41.*
282 *Serafimov, Victor, ENAR Shadow Report 2009/2010: Bulgaria, (n.d: n.d., 2010), p. 29.*
283 *Ibid, p. 29.*
284 *Ley Orgánica 5/2010, de 22 de junio, por la que se modifica la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal, cited in Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 26.*
285 *Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (n.d: n.d., 2010), p. 29.*
286 *Kawesa, Victoria, ENAR Shadow Report 2009/2010: Sweden, (n.d: nd., 2010), p. 26.*
287 *Chambon, Laurent, ENAR Shadow Report 2009/2010: the Netherlands, (n.d.: n.d., 2010), p. 30.*
288 *See Section VII. iv. i . of the National Reports submitted by including Finland, France, Netherlands, Slovakia, Spain and Malta.*
289 *Kovalenko, Julia, ENAR Shadow Report 2009/2010: Estonia, (n.d.: n.d., 2010), p. 29.*
290 *Quraishy, Bashy, ENAR Shadow Report 2009/2010: Denmark, (n.s: n.d., 2010), p. 43.*
291 *Kovalenko, Julia, ENAR Shadow Report 2009/2010: Estonia, (n.d.: n.d., 2010), p. 29.*
292 *Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (n.d: n.d,, 2010), p. 31.*
293 *Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (n.d: n.d., 2010), p. 32.*
294 *Przeciwdziałanie dyskryminacji w działaniach Policji, http://prohuma-num.org/?p=180, Date accessed: 30 September 2010, cited in Fagasinski Maciej, ENAR Shadow Report 2009/2010:Poland, (n.d.: n.d., 2010), p. 31.*
295 *Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p. 33.*

Meanwhile, in Sweden, in an effort to address terrorism, the Ministry of Integration and Equality commissioned a report entitled 'Threats against democracy and value grounds: a situation report from Malmö', which critics claimed had a negative impact on ethnic and religious minorities in Sweden, especially Muslims.[296]

In Spain, the European Commission Against Racism and Intolerance (ECRI) noted how, after the Madrid bombings, Muslims were 'disproportionately subject to stop and search procedures by the police' and were also associated with terrorism in public debate.[297] A similar concern is highlighted also in other reports including France.[298] Indeed, the fight against terrorism has overlapped with ethnic and religious profiling, while there has been increased **confusion between Islamism and terrorism.**

The pretext of national security and counter-terrorism has also been used to justify restrictive migration and asylum policies. National security has long been used as a justification for detention policies applied to asylum seekers. The situation has, however, worsened under the guise of counter-terrorism. The report from Hungary, for instance, highlights that the new detention regime of asylum seekers seems to target all asylum seekers from Arabic countries in the name of the security and counterterrorism.[299] Of all the asylum seekers in detention, more than 80% of the detainees are from the Middle East and North Africa. In Estonia some prominent politicians publicly stated that if migration policies were loosened and migrants, albeit highly skilled, entered the country, this would constitute a threat to the state.[300] In Denmark, legislation based on security allows for the deportation of migrants without so much as the right to be informed of the reason for their deportation (in the case that they are deemed to be a threat to national security).[301] This despite the fact that a survey commissioned by Amnesty International found that the majority of the Danish public was against deporting suspects without due hearing, especially to countries where they risk the death sentence. Similarly, in Greece, the prosecutor of the Supreme Court issued a circular which clearly states that "the reasons to tighten the provisions relating to illegal immigration are evident, since this seeks to address a phenomenon that creates extremely serious social problems and issues of public safety, but it also seriously undermines the national interest of our country".[302]

Moreover, counter-terrorism has been used to justify the adoption of legislative measures likely to restrict individual rights to disproportionately affect ethnic and religious minorities. The report from Belgium, for instance, highlights how anti-terrorism legislation had the potential to restrain individual civil liberties, particularly with regards to data collection on citizens by antiterrorist secret service.[303] Moreover, in the absence of a monitoring framework, the system was based on secrecy and assumptions, heightening the risk of abuse of power and likely to disproportionately affect and, consequently, disenfranchise the Muslim minority. Similarly, the Spanish report, commenting on possible incommunicado detention which is allowed under the relevant legal framework, highlights how, considering ECRI's warning of certain 'propensity of the criminal justice system to arrest non-citizens on less solid grounds than Spanish citizens', foreigners are also likely to be held incommunicado under detention with less solid grounds than nationals.[304]

Interestingly, a number of National Reports, including those from the Czech Republic and Cyprus[305] indicated that counter-terrorism was not high on the national agenda. Others, like the one from Bulgaria,[306] highlight the fact that the few measures undertaken in this field were detrimental to religious minorities and migrants.

4.3.3 Ethnic Profiling

Legal and policy developments regarding ethnic profiling over the course of the period under review were limited. A lack of political and legal effort to combat racial profiling was noted in various countries including Austria, Cyprus, and Greece.[307] The UK report highlights discussions around the practice inspired by the tenth anniversary of the Stephen Lawrence Inquiry, but this did not result in any specific legislative or political developments.[308]

The relevant legal framework applicable to this field includes: the International Covenant on Civil and Political Rights (ICCPR); the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR); the EU Treaties and the Charter of Fundamental Rights; and the national constitutions of the Member States. These provide for protection and rights in the fields of data protection, non-discrimination and free movement. The key legal issues which arise regarding ethnic profiling are mainly linked to the application of race legislation

296 *Kawesa, Victoria, ENAR Shadow Report 2009/2010: Sweden, (n.d: nd., 2010), p.28.*
297 *Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 27.*
298 *See Section VI. iii. Ii. of the National Report submitted by France.*
299 *Ejalu, William Apollo, ENAR Shadow Report 2009/2010: Hungary, (n.d: n.d., 2010), p. 33.*
300 *Kovalenko, Julia, ENAR Shadow Report 2009/2010: Estonia, (n.d.: n.d., 2010), p. 30.*
301 *Quraishy, Bashy, ENAR Shadow Report 2009/2010: Denmark, (n.s: n.d., 2010), p. 36.*
302 *Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (n.d: n.d., 2010), p. 33.*
303 *Bouhlal, Radouane, ENAR Shadow Report 2009/2010 : Belgium, (n.d. : n.d., 2010), p. 26.*
304 *Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (n.d: n.d., 2010), p. 27.*
305 *See Section VI. iii. ii. of the National Report submitted by the Czech Republic and Cyprus.*
306 *Serafimov, Victor, ENAR Shadow Report 2009/2010: Bulgaria, (n.d: n.d., 2010), p. 29.*
307 *See Section VI. III. iii. of the National Reports submitted by Austria, Cyprus and Greece.*
308 *Isal Sarah, Schmitz, Klara and Cooper, Hannah, ENAR Shadow Report 2009/2010: United Kingdom, (n.d: n.d., 2010), p. 33.*

to the police force, and issues of accountability. While some reports mention that ethnic profiling is officially prohibited, others report that particular entities, such as immigration authorities, are excluded from the scope of the prohibition.

Arguments regarding ethnic profiling have taken one of two approaches, as summarised in the UK report.[309] On one hand, there is the call for an end to the use of '**stop and search**' on the grounds that alienation and discrimination are far more damaging than the benefits of using this crime reduction practice. The other perspective has been to allow for the practice to take place, provided that there is more accountability and evidence that it is a justifiable and effective practice in reducing crime. Few have tried to justify the practice as it presently stands. A key weakness of the framework in this regard is information and data. Virtually all the National Shadow Reports highlighted that there was **very little or no data** available regarding the practice. Any framework which is developed should, therefore, ensure that such data is duly collected and analysed.

A group of associations in **France** named 'Police+Citizens' was established in 2009. It launched a petition calling for the implementation of particular procedures in 'stop and searches' cases. This initiative is inspired by the UK model in which policemen have to report the reason justifying the stop and search in a particular form and must give a copy of the official record to the person controlled.

The main political development on the European level on the issue was a European Parliament Recommendation to the Council dated 24 April 2009 on the problem of profiling, notably on the basis of ethnicity and race, in counter-terrorism, law enforcement, immigration, customs and border control.[310]. It first suggests procedural guarantees to protect individuals from abuse. These include basing the processing of personal data on published, clear, specific and binding legal rules which, the Parliament suggests, is to be supervised by independent data protection authorities and stringent penalties should apply in case of breach. A further recommendation is to create a relevant legal framework, which defines profiling and sets clear limits on its use, bearing in mind data protection safeguards. It further suggests the application of strict necessity and proportionality tests at least with regard to the collection and retention of personal data. Moreover, the Parliament calls for judicial control and time limits for the retention of personal information. Furthermore, it recommends that 'the collection of data on individuals solely on the basis that they have a particular racial or ethnic origin, religious conviction, sexual orientation or behaviour, political opinions or are members of particular movements or organisations which are not proscribed by law should be prohibited; it is necessary to establish safeguards regarding protection and procedures for appealing against the discriminatory use of law enforcement instruments'. Effective and accessible redress, with clear information, should also be made available. It further calls for the establishment of a set of criteria for assessing the effectiveness, legitimacy and consistency with EU values of all profiling activities. Finally, the Parliament also recommends an examination of the extent to which the Race Directive prohibits or regulates profiling measures and practices and consideration of reform to remove the exclusion of airports and ports from its scope, as well as a study on the practice and its effectiveness.

4.4 Social inclusion

Almost 84 million Europeans live at risk of poverty, which means they face insecurity and go without the basics.[311] This, despite the fact that the EU and its Member States have committed to make a decisive impact on the eradication of poverty.[312] Perception of poverty across the Union stands at around 75%, being highest in Hungary at 95% and lowest in Denmark at 31%. Ethnic minorities are disproportionately represented in this category. The report from Luxembourg highlights a study on recently arrived migrants, which shows that the risk of poverty is higher among newly arrived migrants (56%) than among the second generation of migrants (13%).[313] Reports from Austria, Belgium and Finland also highlight this specific vulnerability.[314]

The reporting period saw discussions on the Post-Lisbon Strategy for Growth and Jobs (which came to an end in late 2010). Moreover, issues of poverty and social exclusion became ever more pertinent due to the economic recession and its impact on the labour market and the provision of social welfare services across the Union. The end of the reporting period overlapped with the start of the European Year against Poverty and Social Exclusion. The potential impact of such 'years' on their respective fields should not be underplayed. For this to be achieved, however, the 'year' had to move away from rhetoric and address the key underlying issues,[315] which are discrimination and the impact of legal status.

The guiding principle of the 'year', as set out on the relevant website, is 'to give voice to the concerns of people who have to live with poverty and social exclusion, and to inspire every European citizen and other stakeholders to engage with these

309 *Ibid., p. 33.*

310 *European Parliament, Profiling, notably on the basis of ethnicity and race, in counter-terrorism, law enforcement, immigration, customs and border control, http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2009-0314&language=EN&ring=A6-2009-0222, Date accessed: 9 January 2011.*

311 *European Commission: Employment Social Affairs and Equal Opportunities, 2010 European Year for Combating Poverty and Social Exclusion, http://www.2010againstpoverty.eu/about/?langid=en, Date accessed: 6 January 2011.*

312 *Ibid.*

313 *Petersheim Anita, ENAR Shadow Report 2009/2010: Luxembourg, (n.d: n.d., 2010), p. 45.*

314 *See Section VI. iv. of the National Report submitted by Austria, Belgium and Finland.*

315 *European Commission: Employment Social Affairs and Equal Opportunities, 2010 European Year for Combating Poverty and Social Exclusion, http://www.2010againstpoverty.eu/about/?langid=en, Date accessed: 6 January 2011.*

important issues.' It is of concern that even at such a generic level, non-citizens, migrants, refugees and others are already excluded despite the potential role they can play as persons potentially affected by such exclusion. The objectives of the 'year' are clearly set out in the legal instrument adopted as the basis for the 'year'.[316]

Article 2 of the decisions sets out the following as the objectives and guiding principles of the year:

1. Recognition of the fundamental right of people in a situation of poverty and social exclusion to live in dignity and to play a full part in society.
2. Shared responsibility and participation, meaning that all actors, public and private, should engage in and take responsibility for actions to combat exclusion.
3. Promoting a more cohesive society by raising public awareness of the benefits for all of a society where poverty is eradicated, fair distribution is enabled and no one is marginalised.
4. Commitment and concrete action — reiterating the strong political commitment of the EU and the Member States to make a decisive impact on the eradication of poverty and social exclusion and promoting this commitment and actions at all levels of governance.

Overcoming discrimination and promoting the social inclusion of immigrants and ethnic minorities is set out as one of the priorities. This is a welcome acknowledgment of the link between discrimination and exclusion as well as the specific needs of ethnic minorities and migrants in this context. The selection of this theme and the priorities set out, were welcomed by the European Antiracist movement, as it saw the potential of benefit for ethnic minorities across the EU.

A number of issues relating to social inclusion are highlighted in the various National Reports. Many highlight that the respective governments have adopted some form of strategy for inclusion. However, even so, a number of concerns continue to emerge. A number of Reports, however, highlight that the positive rhetoric often found in these documents is not reflected in the implementation of actual initiatives. Even when this is the case, practical **implementation of specific initiatives is often lacking**, as highlighted by, for instance, the reports from Hungary, Bulgaria and Cyprus.[317] Moreover, even with such policies in place, gaps remain, most notably relating to the social aspects of migration, including the social, cultural and political rights of migrants. Some reports, such as that from Romania[318] highlight how social inclusion does not receive the necessary political prioritisation required for a strategy to be adequately implemented.

A critical point is the failure to consult ethnic minorities, most notably migrants, as part of the process of drawing up national strategies for social protection and social inclusion. This results in a failure to address the challenges faced by such groups. Notwithstanding these concerns, most national reports highlight that national strategies include measures aimed at assisting migrants.

While ethnic minorities, specifically Roma and immigrants, are often perceived as needing assistance to secure their inclusion, which acknowledgment is reflected in commitment towards this goal in many national strategy documents, in other countries this is not the case. The report from Cyprus, for instance, highlights how "the underlying philosophy remains the same. It basically envisages better management of migration flows of third country nationals so as to protect local vulnerable groups from their inflow, without migrants specifically included in the vulnerable groups themselves, but with a touch of basic integration measures also for migrants. This approach is to be regretted as firstly, it does not recognize and specifically include migrants and particularly migrant women, in the vulnerable groups socially excluded and secondly they are again perceived as a threat to the social cohesion of the rest of the population. The premise on which such an approach is based is to a large extent discrimination and racism".[319] Instead of combating discrimination, such an approach is likely to further stigmatise migrants and ethnic minorities.

Another key concern is the **consistency and mainstreaming** of these issues across various policy fields. While the mention of minorities in social inclusion documents is important, this will have no impact if other policy fields fail to address the specific concerns which underpin specific exclusion. Moreover, many national reports highlight how policies adopted to counter the impact of the economic crisis had a negative impact on migrants. The report from Cyprus, for instance, highlights how the official policies and measures taken to combat the effects of the crisis rendered migrants ever more susceptible to exclusion and poverty.[320] The crisis also lead to cuts in funding for initiatives aimed at promoting inclusion, as reported in Ireland, Latvia, Lithuania and Romania.[321]

316 *European Parliament and European Council, Decision No 1098/2008/EC of the European Parliament and the Council of 22 October 2008 on the European Year for Combating Poverty and Social Exclusion (2010), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:298:0020:0029:EN:PDF, Date accessed: 6 January 2011.*

317 *See Section VI. iv. of the National Reports submitted by Hungary, Bulgaria and Cyprus.*

318 *Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (n.d: n.d., 2010), p. 47.*

319 *MacKay; Polili, Enar Shadow Report on Cyprus 2008. KISA, TCHRF. http://cms.horus.be/files/99935/MediaArchive/national/Cyprus%20-%20SR%202008.pdf cited in Kossiva, Andriva, Chavalambidou, Nicoletta, Papadoupoulou, Anthoula, Plilli, Oncel, and Pasha, Faika Deniz, ENAR Shadow Report 2009/2010: Cyprus, (n.d: n.d.,2010), p. 45.*

320 *Kossiva, Andriana, Charalambidou, Nicoletta, Papadoupoulou, Anthoula, Plilli, Oncel, and Pasha, Faika Deniz, ENAR Shadow Report 2009/2010: Cyprus, (n.d: n.d.,2010), p.45.*

321 *See Section VI. iv. of the National Reports submitted by Ireland, Latvia, Lithuania and Romania.*

5. National recommendations

The following recommendations are drawn from the recommendations made in the various national reports. They address authorities at various levels and are aimed at achieving a situation of equality for all. They also build on the recommendations made by ENAR over the past years.

5.1 General

- Develop data collection mechanisms on European and national levels in order to ensure that the situation of ethnic and religious minorities is duly studied and analysed. This will help ensure that policy developments are relevant and likely to be effective.

- Respect NGOs and migrant community organisations as partners in the drafting and implementation of anti-racism and integration policies and practices. Their work should be supported through, amongst other things, ensuring that existing funding opportunities are made accessible to them and other sources of funding are introduced.

- Involve a broad range of actors in the fight against racism and discrimination. The business community, sports associations and the arts should all be considered as a key part of the anti-racist movement.

- Continue to mainstream anti-discrimination and equality concerns in all areas of policy on the European and national level, ensuring policy coherence and allowing for a real possibility of achieving the set goals. Equality Impact Assessments should be carried out in all areas of policy.

5.2 Anti discrimination

- Ensure that the provisions of international, European and national law on anti-discrimination are abided by. The European Commission, together with the Fundamental Rights Agency, should continue to monitor this process, providing support and assistance. The views of civil society organisations, including migrant community organisations, should be sought, particularly regarding the potential and impact of legislation and policies on the lives of ethnic minorities.

- Adopt national action plans or strategies on racism, which are adequately funded and supported, based on the political will to achieve real change and implemented through a partnership approach.

- Actively promote the reporting of discriminatory incidents through awareness raising and ensure that the procedures and transparent and accessible.

- Further strengthen existing equality bodies and secure funding in order to ensure that they can duly carry out the responsibilities assigned to them under European and National legislation. The independence and impartiality of equality bodies should also be secured.

- Ensure and strengthen the legal standing of NGOs to bring forth cases of discrimination in front of judicial authorities.

- Organise targeted dissemination campaigns to raise awareness of discrimination issues and of existing remedies under national legislation. Vulnerable groups should be specifically targeted.

- Provide for linguistically and culturally appropriate services most notably within the education and health system.

- Ensure that political compromise is reached on the European Commission proposal for a Directive implementing the principle of equal treatment on the grounds of age, disability, religion or belief, and sexual orientation. This should not come at the expense of its potential effectiveness.

5.3 Migration and integration

- Promote at all levels positive values, conceptions and principles around the issue of migration and the value of diversity, including through the use of positive terminology.

- Ensure that the implementation of the Stockholm Programme does not undermine the fundamental values of equality and human rights, but rather considers them vital for the achievement of an open and secure Europe.

- Sign, ratify and implement the UN Convention on the Rights of All Migrant Workers and Members of their Families.

- Ensure that migration law and policy is clear and transparent in order to ensure consistency of decisions and adherence to international human rights standards.

- Further develop and apply existing indicators of integration to different categories of immigrants bearing in mind State obligations and varying approaches to integration.

- Develop (age and gender sensitive) integration policies which understand integration in line with the EU Common Basic Principles on integration.

5.4 Criminal justice

5.4.1 Racism as a crime

- Give greater consideration to the inclusion of racism as an aggravated offence in legislation and to ensuring increased sentencing where a criminal act has had a racist aspect.
- Promote efforts to establish and improve communication between police, NGOs and ethnic minorities in order to ensure trust is maintained.
- Ensure that adequate support is provided to victims of racist violence and crime.
- Address, without undue delay, cases of racist bullying and incitement to racial hatred over the internet.
- Encourage further research into racism, violence and crime. This should include an analysis as to how law enforcement agencies address and respond to such incidents and how the media, political discourse and institutional frameworks address the phenomenon.
- Compile and publish race-segregated data regarding victims of racist violence.

5.4.2 Counter terrorism

- Ensure that counter-terrorism efforts do not undermine the human rights and fundamental freedoms of ethnic and religious minorities across the EU and ensure the competence of the EU FRA to monitor such compliance.
- Ensure that counter-terrorism efforts do not undermine prospects of integration and social cohesion. Communities should be engaged as actors towards their own security and not be scapegoated.

5.4.3 Ethnic profiling

- Provide for monitoring and complaints mechanisms within national police forces in order to curtail ethnic profiling. Data on such practices should be monitored and published.
- Mainstream equality and human rights training into the training of both new recruits and in-service training.
- Ensure that counter-terrorism does not further exclude and marginalise or scapegoat particular communities but rather works towards a sense of safety and security for all.

5.5 Social inclusion

- Include all migrants, asylum seekers and undocumented workers, in social inclusion policies.
- Carry out a racial equality and integration assessment on all measures and policies adopted within the context of social inclusion.
- Ensure that migration policies do not contribute to social exclusion.

6. Conclusion

The lives of ethnic and religious minorities across the EU over the period under review continued to be marred by racism and discrimination. Europe's Roma, migrants, persons of a diverse ethnic heritage, Muslims and Jews continued to suffer social exclusion, as well as various difficulties in accessing and within employment, the education system and adequate medical care. Housing conditions remained poor, while the media continuously portrayed minorities and migrants as criminals and burdens to society.

They suffered violence and harassment and were singled out for unfair and discriminatory treatment by police forces. They bore the brunt of the economic crisis and were scapegoated, especially by political parties with right wing tendencies, which continue to gain support through their populist exploitation of fear and xenophobia.

The future is, however, not all bleak. As time progresses, ethnic minorities are becoming more empowered as agents of their own betterment. NGOs and migrant community organisations are heavily engaged in monitoring and advocacy, taking governments to task over their failure to abide by agreed standards and legislation.

Developments on both the national and European level have the potential to affect the lives of ethnic minorities. The coming into force of the Lisbon Treaty making the Charter of Fundamental Rights legally binding and the adoption of new legislation across the EU have a real chance of improving the enjoyment of human rights by ethnic minorities. However, combating racism and discrimination requires a positive political will that transcends the rhetoric of equality, thus entering the field of policy and practice likely to implement those principles. Legislation is not enough. Its implementation needs to be duly monitored if it is to have its desired impact. It is unfortunate that the opportunity presented by the the new EU multi-annual programme on justice and home affairs was lost, as reflected by the adoption of the Stockholm programme with its focus on security and closing borders and lack of priority given to human rights concerns.

Various actors at different levels have a role to play in ensuring that a Europe free from racism is really achieved. The position of civil society actors is strengthened by the amendments brought into force by the Lisbon Treaty, placing upon them a greater responsibility to hold both European and national institutions accountable. The European institutions are now bound by a clear statement that equality is a fundamental value of the EU and must be mainstreamed into the various areas of work of the Union. National Governments are also legally obliged to abide by the standards set. Yet a political will to move towards equality, in a spirit of partnership and good will, remains critical to any real progress towards enhancing the lives of ethnic and religious minorities in Europe.

7. Bibliography

ENAR National Shadow Reports are available at:
http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN

ENAR National Shadow Reports'

Andriukaitis, Gediminas and Kliukas, Nerijus, ENAR Shadow Report 2009/2010: Lithuania, (Brussels: European Network Against Racism, 2010)

Benedi Lahuerta, Sara, ENAR Shadow Report 2009/2010: Spain, (Brussels: European Network Against Racism, 2010)

Bouhlal, Radouane, ENAR Shadow Report 2009/2010: Belgium, (Brussels: European Network Against Racism, 2010)

Bourgoint, Julie E. and Salemkour, Malik, ENAR Shadow Report 2009/2010: France, (Brussels: European Network Against Racism, 2010)

Bukasa, Di Tutu, ENAR Shadow Report 2009/2010: Austria, (Brussels: European Network Against Racism, 2010)

Chambon, Laurent, ENAR Shadow Report 2009/2010: The Netherlands, (Brussels: European Network Against Racism, 2010)

Di Pasquale, Laura, ENAR Shadow Report 2009/2010: Italy, (Brussels: European Network Against Racism, 2010)

Ejalu, William Apollo, ENAR Shadow Report 2009/2010: Hungary, (Brussels: European Network Against Racism, 2010)

Fagasinski Maciej, ENAR Shadow Report 2009/2010: Poland, (Brussels: European Network Against Racism, 2010)

Hieronymus, Andreas, Fogen, Ines, Mehreoglu, Yucel and Krogen Justin, ENAR Shadow Report 2009/2010: Germany, (European Network Against
Racism: Brussels, 2010)

Hojsik, Marek, ENAR Shadow Report 2009/2010: Slovakia, (Brussels: European Network Against Racism, 2010)

Isal Sarah, Schmitz, Klara and Cooper, Hannah, ENAR Shadow Report 2009/2010: United Kingdom, (Brussels: European Network Against Racism, 2010)

Kawesa, Victoria, ENAR Shadow Report 2009/2010: Sweden, (Brussels: European Network Against Racism, 2010)

Kossiva, Andriana, Charalambidou, Nicoletta, Papadoupoulou, Anthoula, Polili, Oncel, and Pasha, Faika Deniz, ENAR Shadow Report 2009/2010: Cyprus, (Brussels: European Network Against Racism, 2010)

Koltchanov, Boris, ENAR Shadow Report 2009/2010: Latvia, (Brussels: European Network Against Racism, 2010)

Kovalenko, Julia, ENAR Shadow Report 2009/2010: Estonia, (Brussels: European Network Against Racism, 2010)

Lynch, Catherine, ENAR Shadow Report 2009/2010: Ireland, (Brussels: European Network Against Racism, 2010)

Mardaki, Andriana, ENAR Shadow Report 2009/2010: Greece, (Brussels: European Network Against Racism, 2010)

Mashaire, Percy, ENAR Shadow Report 2009/2010: Finland, (Brussels: European Network Against Racism, 2010)

Muhic, Selma and Vales, Frantisek, ENAR Shadow Report 2009/2010: Czech Republic, (Brussels: European Network Against Racism, 2010)

Nicolae, Valeriu (ed.), ENAR Shadow Report 2009/2010: Romania, (Brussels: European Network Against Racism, 2010)

Petersheim Anita, ENAR Shadow Report 2009/2010: Luxembourg, (Brussels: European Network Against Racism, 2010)

Pusic, Zoran & Klekar, Martina, ENAR Shadow Report 2009/2010: Croatia, (Brussels: European Network Against Racism, 2010)

Quraishy, Bashy, ENAR Shadow Report 2009/2010: Denmark, (Brussels: European Network Against Racism, 2010)

Serafimov, Victor, ENAR Shadow Report 2009/2010: Bulgaria, (Brussels: European Network Against Racism, 2010)

Tefera, Eyachew, ENAR Shadow Report 2009/2010: Slovenia, (Brussels: European Network Against Racism, 2010)

Vassallo, Jeannine and Gauci, Jean-Pierre, ENAR Shadow Report 2009/2010: Malta, (Brussels: European Network Against Racism, 2010)

European Institutions

European Commission: Employment Social Affairs and Equal Opportunities, 2010 European Year for Combating Poverty and Social Exclusion, 2010

European Employment and Social Policy Report, September 2009

EU Fundamental Rights Agency, EU-MIDIS Report, European Union Minorities and Discrimination Survey 2009: Main Results Report, 2009

EU Fundamental Rights Agency, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Data in Focus Reports: Muslim, 2009

EU Fundamental Rights Agency, EU-MIDIS European Union Minorities and Discrimination Survey 2009: Data in Focus Reports: Police Stops and Minorities, 2009

EU Fundamental Rights Agency, Annual Report: 2009, 2009

Special Eurobarometer 317: Discrimination in the EU in 2009, November 2009

Special Eurobarometer 321: Poverty and Social Exclusion, February 2010

The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens, OJL 115/01, 2010

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJL180/22.

European Union, The Consolidated version of the Treaty on European Union, available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:321E:0001:0331:EN:PDF

European Union, The Consolidated version of the Treaty on the Functioning of the European Union, available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:EN:PDF

European Union, Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, available at http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:en:HTML

European Parliament and European Council, Decision No. 1098/2008/EC of the European Parliament and of the Council of 22 October 2009 on the European Year for Combating Poverty and Social Exclusion 2010, 2009

European Union, Charter of Fundamental Rights of the European Union, available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:EN:PDF

Other sources

Charter of European Political Parties for a Non-Racist Society, available at http://www.coe.int/t/dghl/monitoring/ecri/activities/38-seminar_ankara_2011/Charter.asp

EUObserver, Economic Crisis Fuelling Racism in Europe, Report Warns, April 2010

ECRE, Comments from the European Council of Refugees and Exiles on the European Commission Proposal to Recast the Asylum Procedures Directive, May 2010

European Network Against Racism, ENAR Fact Sheet 40: Ethnic Profiling, December 2009

European Network Against Racism, ENAR Fact Sheet 42: Racist Violence and Support to Victims, December 2009

European Network Against Racism, The EU Lisbon Treaty: What Implications for Anti-Racism?, November 2009

Open Society Justice Initiative, Addressing Ethnic Profiling by Police: A Report on the Strategies for Effective Police Stop and Search Project, 2009

Open Society Justice Iniative, Ethnic Profiling in the European Union: Pervasive, Ineffective and Discriminatory. Executive Summary and Recommendations, 2009

Annex 1: List of abbreviations and terminology

Abbreviations

CEAS:	Common European Asylum System
ENAR:	European Network Against Racism
EU:	European Union
EU-MIDIS:	European Union Minorities and Discrimination Survey
FRA:	European Union Agency for Fundamental Rights
IRR:	Institute of Race Relations (United Kingdom)
NAPAR:	National Action Plan Against Racism
NCCRI:	National Consultative Committee on Racism and Interculturalism (Ireland)
OSI:	Open Society Institute
TCN:	Third Country National
TEU:	Treaty on European Union
TFEU:	Treaty on the Functioning of the European Union
UK:	United Kingdom
US:	United States

Terminology

"**Ethnic and religious minorities**": Throughout the report the term ethnic and religious minorities is used to define the broad category to which the report refers. Whilst no universally accepted definition of minority exists, the definition used by the International Organisation for Migration will be used. This provides: "a minority may be considered to be a group which is numerically inferior to the rest of the population of a State and in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics which differ from the rest of the population and who, if only implicitly, maintain a sense of solidarity directed towards preserving their culture, traditions, religion or language"181. Specific terminology is used when necessary.

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

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

Integration is understood as a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.

racism in europe

enar shadow report 2009-2010

ENAR's Shadow Report on Racism in Europe provides a unique monitoring tool bringing together facts and developments from across the European Union on racism and related discrimination. The 2009-2010 report draws on 27 national shadow reports presenting an NGO perspective on the current situation of racism in Europe. The report does not base itself solely on hard data but builds on the compilation of the experiences and analysis of those experiencing racism and discrimination on the ground.

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

The report demonstrates that manifestations of racism and related discrimination in Europe continue in key areas of life, despite some progress, e.g. in the area of education. It also acknowledges the significance of the civil society response and contribution to addressing racism and promoting equality for ethnic and religious minorities within Europe.

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

The European Network Against Racism (ENAR) is a network of European NGOs working to combat racism in all EU Member States (and Croatia) and represents more than 700 NGOs across Europe. ENAR aims to fight racism, racial discrimination, xenophobia and related intolerance, to promote equality of treatment between EU citizens and third country nationals, and to link local, regional and national initiatives with European initiatives.

european network against racism

60, Rue Gallait • B-1030 Brussels • Belgium
Tel: +32 (0)2 229 3570 • Fax: +32 (0)2 229 3575
E-mail: info@enar-eu.org • Web: www.enar-eu.org

#20026 • www.crossmark.be