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17-18 January – Informal meeting of Justice and Home Affairs Ministers on EU action in countering hate crime, racism, antisemitism and xenophobia

January
February
14 March – European Parliament adopts a resolution on strengthening the fight against racism, xenophobia and hate crime
March
April
May
6-7 June – Council of the European Union adopts conclusions calling for an update of the EU Strategy for combating radicalisation and recruitment to terrorism
June
July
August
23 September – Ministers of 17 EU Member States meet in Italy to sign the Rome Declaration on diversity and the fight against racism
September
October
12-13 November – Fundamental Rights Conference on hate crime is organised by the European Union Agency for Fundamental Rights (FRA) and hosted in cooperation with the Lithuanian Presidency of the Council of the European Union
November
6 December – Council of the European Union issues conclusions on combating hate crime in the European Union
December
The impact of the economic crisis, high unemployment rates, fears relating to the arrival of migrants and a gradual loss of trust in democratic processes fuel racism, xenophobia and related intolerance in the European Union (EU). Some political rhetoric at local, national and European levels exacerbates an aggressive tone, not least because the media pick up on these messages, which then echo across social media. The EU institutions and Member States must therefore remain vigilant and reinvigorate their efforts to counter the expression of racism, xenophobia and related intolerance in all their forms.

6.1 Racism, xenophobia and related intolerance again top political agenda

Black ministers of state compared to apes; a centrist mayor saying in public that maybe Hitler did not kill enough gens du voyage; Members of Parliament claiming that Zionists financed and organised the Holocaust; the scapegoating of Roma, asylum seekers, refugees, migrants and members of ethnic and religious minorities for the ills of society; murders motivated by racist and extremist considerations: all these elements contributed to putting racism, xenophobia and related intolerance back on the political agenda of the EU and its Member States in 2013. These issues are increasingly discussed within a broader context of “hate crime” (see also Chapters 5, 7 and 9).

The fight against racism, xenophobia and related intolerance gained political attention at the highest level in January. The Irish Presidency of the Council of the European Union then hosted an informal meeting of Justice and Home Affairs Ministers on EU action to counter hate crime, racism, antisemitism and xenophobia, drawing on FRA evidence presented by FRA’s director. This meeting set the stage for the year to come, focusing the attention of political leaders on their duty to counter these phenomena.

The European Parliament further called on “Member States to take all appropriate measures to encourage
the reporting of hate crimes and of every racist and xenophobic crime and to ensure adequate protection for people who report crimes and for the victims of racist and xenophobic crime” in March 1 (see Chapter 9 for more information on the rights of victims of hate crime).

The Council of the European Union focused attention on the need for more concrete actions to be developed to “counter extreme forms of intolerance, such as racism, anti-Semitism, xenophobia and homophobia” in its June conclusions on fundamental rights and the rule of law.

The United Nations Committee on the Elimination of Racial Discrimination (CERD) called upon states to give due attention to all manifestations of racist hate speech and take effective measures to combat them, in its general recommendation on combating racist hate speech issued in September.²

In July, the European Court of Human Rights (ECtHR) issued a factsheet citing a number of cases where it ruled speech of a racist, xenophobic, antisemitic or aggressively nationalistic nature and speech discriminating against minorities and immigrants to be “offensive and contrary” to the European Convention on Human Rights (ECHR).³ The court is careful to distinguish in its findings between, on the one hand, genuine and serious incitement to extremism and, on the other hand, the right of individuals (including journalists and politicians) to express their views freely even if they offend, shock or disturb others.

In a similar development, ministers of 17 EU Member States met in Rome in September to condemn the stream of racist abuse directed at Cécile Kyenge, Italy’s first minister of African origin. Highlighting the special responsibilities of political leaders, they called for pan-European action to fight racism by promoting diversity. All 28 Member States had signed the so-called Rome Declaration on the matter by November; by which time France’s Minister for Justice, Christiane Taubira, also of African descent, had been the subject of similar racist abuse.

The EU Commissioner for Home Affairs highlighted the dangers of extremism, speaking at the Fundamental Rights Conference on hate crime jointly organised by FRA and the Lithuanian Presidency in November.⁶ She stressed that:

“We have seen the development of Islamophobic, anti-Semitic and white supremacist ideology in far-right groups. These groups are also anti-democratic, intolerant, and violent. They are divisive, using one another to create suspicion and hatred between communities. These groups are behind a mounting wave of harassment and violence targeting asylum seekers, immigrants, ethnic minorities and sexual minorities in many European countries.”⁷

Finally, the Council of the European Union, in its conclusions on combating hate crime issued in December, called on

“the Fundamental Rights Agency to continue assessing in an objective, reliable and comparable manner the extent of racism, xenophobia, anti-Semitism and other forms of hate crime through EU-wide surveys and to work together with Member States to facilitate exchange of good practices and assist the Member States at their request in their effort to develop effective methods to encourage reporting and ensure proper recording of hate crimes.”⁸

(See the FRA activity box on FRA’s antisemitism survey on the next page.)
FRA ACTIVITY

Responding to antisemitism in the European Union

Antisemitism is still a reality in the European Union. Little is known, however, of how it affects Jewish communities. That is why FRA conducted a survey asking self-identified Jews their opinions about trends in antisemitism; how antisemitism affects their everyday life; their personal experiences as victims or witnesses of antisemitic incidents; their worries about becoming a victim of an antisemitic attack; and their actual experiences of discrimination because they are Jewish.

- Two thirds of respondents (66 %) consider antisemitism to be a problem across the EU Member States surveyed. Three quarters of respondents (76 %) indicate that antisemitism has worsened over the past five years in the country where they live.
- Three quarters (75 %) of respondents consider online antisemitism to be a problem. Almost three quarters of respondents (73 %) said that antisemitism online has increased over the last five years.
- In the 12 months preceding the survey, 26 % of all respondents experienced an incident or incidents involving verbal insult or harassment because they are Jewish; 4 % experienced physical violence or threats of violence.
- Almost half (46 %) of the respondents worry about becoming the victim of an antisemitic verbal insult or harassment in the next 12 months, and one third (33 %) fear a physical attack in the same period.
- Almost two thirds (64 %) of those who experienced physical violence or threats of violence did not report the most serious incident to the police or to any other organisation. Three quarters (76 %) of the respondents who experienced antisemitic harassment in the five years preceding the survey did not report the most serious incident. More than four in five (82 %) of those who said that they felt discriminated against in the 12 months preceding the survey because they are Jewish did not report the most serious incident to any organisation.
- Close to one quarter (23 %) of the respondents said that they at least occasionally avoid visiting Jewish events or sites because they would not feel safe there, or on the way there, as a Jew. Over one quarter of all respondents (27 %) avoid certain places in their local area or neighbourhood at least occasionally because they would not feel safe there as a Jew.
- One in 10 respondents experienced discrimination when looking for work or at work in the 12 months preceding the survey.
- Over half of all survey respondents (57 %) heard or saw someone claiming that the Holocaust was a myth, or that it had been exaggerated, in the 12 months preceding the survey.
- Large proportions of respondents said they considered emigrating from the Member State they live in because they do not feel safe there as Jews.

FRA’s survey on antisemitism collected data from 5,847 self-identified Jewish respondents (aged 16 or over) in eight EU Member States: Belgium, France, Germany, Hungary, Italy, Latvia, Sweden and the United Kingdom. These countries cover over 90 % of the estimated Jewish population in the EU. It is the first EU survey to collect comparable data on Jewish people’s experiences and perceptions of hate motivated crime, discrimination and antisemitism.


6.2 Racism, xenophobia and related intolerance fuel incidents and brutal crimes

Racism, xenophobia and related intolerance manifested themselves in the most brutal form in several EU Member States in 2013: murder motivated by racism and extremism.

FRA fieldwork in Greece found that Greece has witnessed a steep increase in phenomena of racist violence, discrimination and intolerance, as well as extremism, despite the notable decrease in the overall violent crime rate in the country. Shehzad Luqman, 26, a Pakistani migrant worker, was stabbed to death in Athens, Greece, in January, allegedly by two young Golden Dawn supporters, whose trial started in December. Mohammed Saleem, 82, was killed on his way back home from mosque in Birmingham, United Kingdom, by a man who proclaimed that he wanted to
initiate a ‘race war’. Lee Rigby, 25, was murdered in broad daylight in the streets of London in May by two radicalised Muslim youths. Clément Méric, 18, an anti-fascist activist, died from the consequences of a fight with skinheads in Paris, France, in June. Pavlos Fyssas, 32, a Greek hip-hop artist, was stabbed to death by a Golden Dawn party member in September in Athens. This was followed by a retaliatory attack, in which two Golden Dawn sympathisers (Manos Kapelonis, 22, and Georgios Fountoulis, 27) were murdered in front of the party’s headquarters in November.

These murders are at the sharp end of a societal climate where intolerant views come to be more openly and violently expressed in the EU. Political actors share responsibility for enabling such a climate. This is shown in the cases of the politicians Cécile Kyenge in Italy and Christiane Taubira in France, who were the targets of racist abuse by other politicians, with the media often serving as an echo chamber and the internet providing a further outlet for the expression of such abuse.

6.2.1 Racism, xenophobia and related intolerance in politics

Racism and discrimination against foreigners and migrants is often fuelled by the discourse of politicians, as the Commissioner for Human Rights of the Council of Europe points out. In addition, CERD highlights that “the use of racist discourse by some politicians and in the media […] vilifies and promotes prejudices against persons of foreign origin”. FRA evidence also shows that Jews often heard antisemitic statements being made in the context of political events or speeches.

“Europe has been experiencing a worrying intensification of activities of racist extremist organisations, including political parties. […] It worries me deeply that the European community and national political leaders appear not to be fully aware of the serious threat that these organisations pose to the rule of law and human rights. […] National authorities need to be vigilant and combat racism and extremism at all levels of society.”


The year 2013 was marked by steady support for political parties with largely xenophobic anti-foreigner, anti-migrant and anti-Muslim agendas in a number of EU Member States including Austria, Bulgaria, the Czech Republic, France, Greece, Hungary and the Netherlands.

Groups campaigning on ultra-nationalist and xenophobic platforms initiated steps to be recognised as political parties in their own right, sometimes with success. The rhetoric of these groups and parties often accuses European integration of further eroding national sovereignty, highlights what they consider as the negative impact of social integration on national identity, particularly as regards accommodating the needs of religious minorities, such as Muslims; and makes a case for national preference, including when it comes to access to the social welfare system.

FRA ACTIVITY

Assessing the effectiveness of responses to racism, discrimination, intolerance and extremism

Crimes motivated by racism, xenophobia and related intolerances persist throughout the European Union, as do the mainstreaming of elements of extremist ideology in political and public discourse, and ethnic discrimination. Growing alarm was expressed at the national, EU and international levels concerning violent manifestations of racism and intolerance. An additional important concern is the substantial parliamentary representation of parties that use paramilitary tactics or are closely associated with paramilitary groups and use that extremist rhetoric to target irregular migrants in Greece, and the Roma and Jews in Hungary.

In this context, FRA took the initiative to collect data and compile a thematic situation report that examines the effectiveness of responses by public authorities, statutory human rights bodies, civil society organisations and others to counter racism, discrimination, intolerance and extremism. The report takes Greece and Hungary as case studies to develop concrete and practical proposals for action.

The identification of barriers to counter such phenomena is, however, relevant to the EU as a whole. The proposals contained in the report on issues such as tackling racist and related crime, increasing trust in the police and countering extremism are, therefore, useful in all EU Member States.


One example is the application, in November, by the newly formed Nationalist Party of Bulgaria to be officially recognised as a party, which would allow it to benefit from public funding. Stated aims of this party are to “smash the Gypsy terror with an iron hand” and to “demolish social policies that stimulate the birth rate of minorities and parasitism”.

In a development reminiscent of the events in Gyöngöspata in Hungary in 2011 (see FRA Annual report 2011, p. 156), the Nationalist Party in Bulgaria formed civil groups with the cooperation of the
Hungarian authorities were entitled to take preventative measures to protect democracy and ban the Magyar Gárdá. It ruled that, if the activities of an association amount to widespread racist intimidation of a group, then banning it does not contravene the European Convention of Human Rights.

Members of Parliament can also be called to account by lifting their parliamentary immunity to answer to charges levelled against them in court. This was the case for Marine Le Pen, leader of the National Front (Front National). Her immunity was lifted by the European Parliament in July at the request of the Ministry of Justice in France so that she could answer charges of “incitement to hatred, discrimination or violence against a group of persons on grounds of their religious affiliation”.

The Greek Parliament lifted the immunity of six leading Members of Parliament representing Golden Dawn in October to enable a deeper investigation into their alleged involvement in serious criminal offences. Charges ranged from establishment and participation in a criminal organisation, murder and grievous bodily harm to money laundering and bribery. In addition, the parliament voted to suspend state funding for Golden Dawn. Furthermore, in December a Joint Ministerial Decision was issued, suspending any kind of state funding for Golden Dawn.

The initiative taken in December by 16 state governments in Germany to attempt to ban the far-right National Democratic Party must also be noted. The proposed ban rested on the notion that this party actively seeks to undermine or overthrow the free democratic order.

6.2.3 Racism and xenophobia persist in the European Union

Roma, persons of African descent, migrants and asylum seekers continue to face racism and xenophobia in the European Union, as evidence from Austria, Bulgaria, Finland, Germany, Greece, Hungary, Ireland, the Netherlands, Slovakia and Sweden shows (see also Chapter 7 for more information on Roma).

The arrival of asylum seekers and refugees in Bulgaria and Hungary in larger numbers than usual fuelled the expression of xenophobic sentiments and attitudes in these countries. This raises the question of what effect the arrival of asylum seekers from Syria and other conflict zones in large numbers could have in EU Member States not usually considered traditional destination countries.

In Bulgaria, opinion polls showed that feelings of hostility, resentment and fear towards asylum seekers and refugees are widespread. The Council for Electronic Media (Съвет за Електронни Медии) criticised media for the way they reported immigration and refugee
issues, and the United Nations High Commissioner for Refugees urged Bulgarian authorities to take steps to stem the expression of xenophobia against asylum seekers and refugees in the country.

**Promising practice**

**Acknowledging racist crime: mapping Afrophobia in Sweden**

The authorities in Sweden refer to racism and discrimination against black persons as Afrophobia. Little is known yet about the phenomenon, but the Swedish National Council for Crime Prevention (Brottförebyggande rådet) shows that the number of recorded Afrophobic crimes in the country is increasing steadily, with about one in five of such crimes recorded in 2012 being of a violent nature.

Acknowledging the issue, the Swedish government commissioned an NGO (Mångkulturellt centrum) to map racism and discrimination against persons of African descent in Sweden. This mapping will review official hate crime data and highlight examples of good practice to counter Afrophobia, with a particular focus on awareness-raising activities for children and youth. The results are expected to be published in January 2014.

For more information, see Arbetsmarknadsdepartementet (2013). Mångkulturellt centrum ska kartlägga afrofobi, available at: www.regeringen.se/sb/d/17988/a/229303

In Hungary, xenophobic sentiments were expressed in towns hosting reception and detention centres, such as Balassagyarmat, Bicske, Debrecen and Vámosszabadi. Incidents involving asylum seekers, related to the overcrowding of a refugee reception centre, contributed to an increase of xenophobic sentiments among the public. The 2013 results of a yearly survey of a representative sample of the Hungarian population show that 36% of respondents would reject all asylum applications.

CERD concluded in April that the absence of an effective investigation by Germany into statements made by Thilo Sarrazin in 2009 about migrants of Turkish and Arab background amounted to a violation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Mr Sarrazin was a member of the executive board of the German national bank at the time.

While CERD acknowledged the importance of freedom of speech, it concluded that: “Mr. Sarrazin’s statements amounted to dissemination of ideas based upon racial superiority or hatred and contained elements of incitement to racial discrimination. By concentrating on the fact that Mr. Sarrazin’s statements did not amount to incitement of racial hatred and were not capable of disturbing public peace, the State party failed its duty to carry out an effective investigation whether or not Mr. Sarrazin’s statements amounted to dissemination of ideas based upon racial superiority or hatred”.

The German government was given 90 days to react to the complaint and to decide on measures that needed to be undertaken. It informed CERD of its willingness to review whether or not existing legislation is sufficient.

The UN also urged Germany to develop a comprehensive strategy to combat racial discrimination. The Human Rights Council found deficits in the protection of human rights of migrants in the framework of the Universal Periodic Review (UPR). The UPR criticised, among other matters, the German state’s handling of the 10 murders allegedly perpetrated by members of the right-wing extremist group National Socialist Underground (NSU). In response, Germany promised to enhance how it tackles discrimination against migrants.

The internet and social networking sites increasingly offer platforms for the expression of racist, xenophobic and intolerant sentiments. This is confirmed by FRA surveys, such as the EU LGBT survey, the survey on antisemitism and the EU-wide survey on violence against women. Europol has also highlighted that social networking sites are increasingly used by extremists to disseminate their ideologies and to radicalise, recruit and mobilise their followers.

“Racist hate speech can take many forms and is not confined to explicitly racial remarks. As is the case with discrimination […] speech attacking particular racial or ethnic groups may employ indirect language in order to disguise its targets and objectives […] States parties should give due attention to all manifestations of racist hate speech and take effective measures to combat them […] whether emanating from individuals or groups, in whatever forms it manifests itself, orally or in print, or disseminated through electronic media, including the Internet and social networking sites, as well as non-verbal forms of expression such as the display of racist symbols, images and behaviour at public gatherings, including sporting events.”

Committee on the Elimination of Racial Discrimination (2013), General Recommendation No. 35: combating racist hate speech, Geneva, United Nations

The privacy afforded to internet users does not mean that they can post racist and xenophobic abuse with impunity (see also Chapter 3). For instance, the Supreme Court in Italy found in August that managing a blog inciting racial hatred is the same as participating in a criminal association.

Still in Italy, a representative of the Lega Nord political party was served with a 13-month sentence, a €10,000 fine and a three-year ban on holding public office by the Court of First Instance of Padua in July.
The representative was found guilty of incitement to commit acts of sexual violence motivated by racism, having posted the following comment on Facebook, targeting Cécile Kyenge, Italy’s first black minister: “But is there no one there who could rape her, just to let her understand how a victim of such a ferocious crime could feel? Shame!”

In January, the Court of First Instance in Paris, France, held that Twitter should provide information to the plaintiffs enabling them to identify the authors of tweets posted under antisemitic hashtags (#unbonjuif – a good Jew; #unjuifmort – a dead Jew). The court’s judgment also required Twitter to make available a system on its French platform which enables users to report content that falls under the category of crimes against humanity and incitement to racial hatred.

Still in relation to antisemitic content posted online, an offender in Latvia received a six-month suspended sentence in January on the grounds of incitement to hatred.

Prosecutors in Belgium and the United Kingdom can also call upon specific guidelines relating to how to prosecute online content of a racist nature. The Guidelines on prosecuting cases involving communications sent via social media drafted by the Crown Prosecution Office for England and Wales describe action it is necessary to take before initiating a prosecution. The first stage requires sufficient evidence and the second involves considering the public interest. The guidelines also provide principles for initially assessing the communication’s content. Before bringing charges, the prosecutors are further encouraged to take into account the context in which the interactive social media dialogue takes place and to carefully consider if the prosecution would not constitute a breach of the right to free speech as protected by the ECHR.

In Belgium, the Circular regarding the investigation and prosecution policy on discrimination and hate crimes (including discrimination on the basis of gender) aims to standardise research policies and prosecution for offences, laws and decrees on ‘anti-discrimination’, ‘gender’ and ‘racism’, including the phenomenon of Holocaust denial. Its specific objectives are identification and more efficient recording of the facts of discrimination and hate crimes; raising awareness among prosecutors, labour auditors and police; providing guidance in the investigation and prosecution of the offences concerned for judges and police officers on the ground; improving collaboration and mutual exchange between police and judicial actors and other stakeholders. The circular also notes that special attention needs to be paid to investigating offences committed over the internet.

Evidence from Cyprus, Finland and the United Kingdom shows that schools can be the theatre of racist abuse. Education should, however, offer effective means to counter racism. The OSCE Parliamentary Assembly acknowledged this in June, when it called upon participating States to “increase efforts to counter racism, xenophobia, intolerance and discrimination, also through education, inter alia, by reviewing, as appropriate, educational curricula and textbooks in order to ensure that that they are free from prejudice and negative stereotypes and by introducing or further elaborating sections on tolerance and non-discrimination.”

Promising practice

Keeping racism out of the classroom and off the playground

The Immigrant Council of Ireland, an NGO advocating for and providing legal advice to migrants, published an anti-racism policy guide to assist schools in ensuring that their anti-bullying policies respond adequately to racist incidents. The guide sets out procedures for identifying, reporting and dealing with racist incidents. It also provides tools and management support for school staff to directly intervene in racist incidents and means of sanctioning offenders.

The guide further stresses the importance of preventative measures, such as running awareness-raising activities during European anti-racism week, organising intercultural days or inviting guest speakers from diverse ethnic backgrounds to serve as positive role models.

For more information, see: www.immigrantcouncil.ie/images/stories/pdfs/Anti-Racism_policy_2.pdf

6.3 Discriminatory ethnic profiling persists

Discriminatory ethnic profiling is unlawful, yet it persists, thereby contributing to the deterioration of social cohesion and to loss of trust in law enforcement. Evidence of such profiling was found in Austria, Finland, Germany, Greece, Ireland, the Netherlands, Sweden, Spain and the United Kingdom (see below). The practice involves treating an individual less favourably than others who are in a similar situation, for example by exercising police powers such as stop and search solely on the basis of a person’s skin colour, ethnicity or religion.

Persons with an ethnic minority background were found to be much more likely to be stopped and searched than
The German Institute for Human Rights called for the elimination of racial profiling by the German federal police and recommended that identity checks should not be carried out on the basis of criteria such as a person’s skin colour.

The police in Greece continued its large-scale operation (Xenios Zeus) to remove what it referred to as ‘illegal immigrants’ in regions bordering Turkey and in Athens. The operation ran from August 2012 to June 2013. It involved about 4,500 police officers and led to the apprehension of nearly 124,000 third-country nationals, of whom fewer than 7,000 were found to be in the country irregularly. The Greek Ombudsman highlighted the abusive character of transferring people who were not suspected in any way to police stations during the operation for the purpose of identity checks, as evidenced by the low percentage of those who were actually found to be in the country irregularly (5.6%).

International monitoring bodies stress the importance of protecting the foundations of democratic system and the rule of law, and tackling misconduct by law enforcement officials. The Council of Europe Commissioner for Human Rights, following his visit to Greece, raised concerns about ill-treatment, including torture, committed by law enforcement officials, notably against migrants and Roma.

The Greek police launched internal investigations on law enforcement officials, resulting in arrests of police officers, including senior officers, and others on various charges, including illegal weapons possession, reportedly related to Golden Dawn. The special report of the Greek Ombudsman includes 47 racist incidents in which members of the security forces are alleged to have participated.

ECRI recommended that the authorities in Ireland, Finland and the Netherlands should take steps to prevent ethnic profiling, whether through adopting legislation on the issue (Ireland), ensuring that visible minorities are not profiled (Finland) or training police officers about it (Netherlands).

Similar recommendations were made to Spain by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. CERD recommended that Sweden “take measures to evaluate the effects of the application of the Terrorism Act, including on minority communities, and ensure the application of relevant guarantees to prevent possible police profiling and any discrimination in the administration of justice.”

Noting that “figures show that people from a black or ethnic minority background are up to seven times more likely to be stopped and searched by the police than those from white backgrounds,” the UK government launched a consultation on the police’s stop and search powers in July, to establish if they are used fairly and appropriately. The consultation shows that a quarter of people surveyed believe that stop and search powers are used in a way that discriminates against certain groups, with more than half of respondents from black and minority ethnic groups believing this to be the case.

The report recommends that the police use stop and search powers in compliance with the relevant code of practice and equality legislation, as well as establishing ways of monitoring the extent to which this is the case. In 2010, the Equality and Human Rights Commission found that Asian people were stopped and searched about twice as white people and black people about six times as often. Five separate police forces took action to remedy the situation, which was the subject of a publication by the commission in May 2013.

The Equality and Human Rights Commission “concluded that where firm action had been taken to reduce race disproportionality, and/or overall usage of the [stop and search] power, it had succeeded, without prejudice to the drop of crime levels.” In November, the commission published a further report, which reveals that, while the use of stop and search by police forces in England and Wales has decreased, black and Asian people are still disproportionately targeted.

6.4 Responses to manifestations of racism, xenophobia and related intolerance

EU Member States can address manifestations of racism, xenophobia and related intolerance through policy responses, by appointing specialised authorities or by making changes to anti-racism strategies and action plans.

ECRI recommended to the Netherlands and Portugal that they should introduce provisions in their criminal codes that would make racist motivation an aggravating circumstance. Similarly, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance recommended that Spain “ensure that racial motivations are harmonised throughout the Penal Code in conformity with Article 1 of the ICERD, and ensure a better implementation of the provisions relating to racial motivation as an aggravating circumstance.”
In November, the Greek government submitted to parliament another bill seeking to transpose the Framework Decision on Racism and Xenophobia into national law. This was the third bill of this type set before Greek lawmakers in 2013, each being the subject of intense political controversy. The last draft provides for increased sanctions and penalties for those who publicly encourage or cause hate or violence against individuals or a group of individuals on the basis of their race, skin colour, religion, genetic origin, ethnic or national origin and disability, posing a danger for public order or a threat to life, freedom or physical integrity of these persons. Law 4139/2013 on addictive substances and other provisions amended the Greek Criminal Code, which now provides that committing an act motivated by a racist motive constitutes an aggravating circumstance, and the sentence for such a crime cannot be suspended.

In Germany, the State Parliament of Brandenburg (Landtag Brandenburg) voted unanimously in November for the integration of an anti-racism clause into the State Constitution. The text prohibits discrimination based on ethnicity but also obliges the Land to protect peaceful coexistence and to fight the dissemination of racist and xenophobic ideas.

A number of EU Member States undertook initiatives to improve and enhance their institutional responses to combat racism and related intolerance. In Spain, a prosecutor’s office was set up in each of the 50 provinces to investigate offences with discriminatory or racist motivations. The activities of these offices are coordinated by a national delegate appointed by the state’s general attorney.

The Cyprus police, in cooperation with the Office of the Commissioner for Administration, issued a circular outlining the police’s official policy in tackling racist violence, xenophobia and discrimination.

**FRA ACTIVITY**

**Fighting hate crime in the European Union**

A conference on combating hate crime in the EU, hosted by FRA in cooperation with the Presidency of the Council of the European Union and held in Vilnius on 12–13 November 2013, brought together more than 400 policy makers and practitioners from national governments, international organisations, civil society, EU institutions and bodies. The conference objectives, apart from an exchange of ideas and best practices on how to combat hate crime, were in particular to develop concrete proposals for a follow-up to FRA’s opinions pertaining to hate crime and to explore effective practical solutions for combating hate crime at the EU and Member State levels.

The conclusions of the conference fed directly into the Council Conclusions on combating hate crime in the European Union issued in December.


The Greek police set up a direct telephone help line (11414) for victims of racist violence in January, together with an online form for reporting racist crime. By September, 214 complaints were registered through the hotline, according to information FRA obtained from the Ombudsperson.

The Inter-Ministerial Committee on the Fight against Racism and Antisemitism in France adopted a new programme in February. The programme aims to prevent racist violence in schools; fight racism and antisemitism through education at schools, in public offices and in sport; and enhance victim support services, including through conducting annual victimisation surveys and strengthening the reporting and investigation of hate crime.

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**Addressing institutional racism**

In its report on Finland, ECRI recommends that law enforcement officers, prosecutors and judges undergo systematic training and awareness raising on antidiscrimination legislation, racism and tolerance. It also suggests to the authorities that they monitor and record racist acts and hate speech committed by the police.

The Court of Appeal of Helsinki (Helsingin hovioikeus) conducted an internal study on discrimination and racism. It found instances of intolerant and racist behaviour among judges and the court staff, including racist jokes and degrading language used about minorities in work-related situations and prominent use of derogatory expressions. The study concludes that such conduct can be considered as harassment as stipulated in the antidiscrimination legislation.


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A coalition of parliamentary groups in Germany submitted a request to the government in June calling on the government to step up its fight against antisemitism and support the life of Jews in the country. One aspect would be to establish a permanent expert group tasked with analysing and evaluating the situation of antisemitism in Germany and detailing measures taken to counter the phenomenon. Remembrance also figures as a task; the group would need to implement educational measures for teachers as well as young people, in cooperation with foundations, institutions and memorial places.\textsuperscript{89}

The Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance was established in Poland in February.\textsuperscript{90} It is responsible for monitoring and analysing the occurrence of racist and xenophobic incidents and promoting activities to counter racial discrimination, xenophobia and related intolerance.

Still in Poland, the Police strategy for the development of the system of human rights protection for the years 2013–2015 was adopted. One of its main aims is to enhance actions towards the prevention of hate crimes on the grounds of national, racial or ethnic origin and on other grounds.\textsuperscript{91}

### 6.5 EU Member States need better official data collection to address racist crime effectively

Reports published by law enforcement agencies and criminal justice systems in EU Member States show great fluctuation in officially recorded crime with racist, xenophobic, anti-Roma, antisemitic or Islamophobic/anti-Muslim motives in the EU between 2011 and 2012.\textsuperscript{92}

These reports show decreases in recorded racist crime in Belgium, Cyprus, Finland, Ireland, Luxembourg and Scotland (UK). They show increases in recorded racist crime in Austria, Denmark, France, Germany, Greece, Lithuania, Latvia, the Netherlands, Poland, Slovakia, Spain and Sweden, as well as in England, Northern Ireland and Wales (all UK).

Data on racist incidents are available for Austria, Belgium, Finland, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Poland, Spain, Sweden and the United Kingdom in the Annual report on hate crime published by the Office for Democratic Institutions and Human Rights (ODIHR).\textsuperscript{93}

The Netherlands and Sweden report a rise in recorded anti-Roma crime, whereas the Czech Republic reports a decrease in such crime. The Prosecutor General’s Office in Poland began collecting data on anti-Roma crime in 2012. ODIHR reports recorded anti-Roma data from the Czech Republic and Sweden.\textsuperscript{94}

“The Council of the European Union invites Member States to collect and publish comprehensive and comparable data on hate crimes, as far as possible including the number of such incidents reported by the public and recorded by law enforcement authorities; the number of convictions; the bias motives behind these crimes; and the punishments handed down to offenders.”


Whereas the authorities in Finland report a decrease in recorded Islamophobic/anti-Muslim crime, those in France, the Netherlands and Sweden report increases. The Austrian authorities reported no change in the recorded number of crimes. The Prosecutor General’s Office in Poland began collecting data on anti-Muslim crime in 2012. ODIHR reports recorded Islamophobic/anti-Muslim data for Austria and Sweden.\textsuperscript{96}

On the basis of the data obtained by FRA, official data collection mechanisms on crimes with racist, anti-Roma, antisemitic and Islamophobic/anti-Muslim motivations in EU Member States can be classified into three broad categories (Table 6.1), which relate to the scope and transparency of the data that are recorded:

- limited data available – data collection is limited to a few incidents, and data are, in general, not published;
- good data available – different bias motivations are recorded, and data are, in general, published;
- comprehensive data available – different bias motivations are recorded, as are characteristics of victims and perpetrators, where criminal victimisation has occurred, and the types of crimes that were committed, such as murder, assault or threats, and data are always published.
Data collection on racist and related crime in Spain became comprehensive as a result of changes introduced in relation to what data are collected and training offered to frontline police officers on how to record racist and related crime. Data are now collected on crimes motivated by racism, xenophobia and intolerance of another person’s religion or beliefs as well as antisemitism. In addition, about 20,000 law enforcement officials received training in how to identify and record such crimes in 2013.97

**Outlook**

The Stockholm Programme, which aims to deliver on an area of freedom, security and justice for Europe’s citizens, draws to a close in 2014. EU institutions and Member States are expected to follow up the Stockholm programme, in particular concerning the fight against all forms of racism, xenophobia and related intolerance within the EU.

The publication of the European Commission’s report on the implementation of the Framework Decision on Racism and Xenophobia in 2014 will provide important information about how EU Member States have transposed provisions on incitement to racist and xenophobic violence and hatred, the racist and xenophobic motivation of crimes, the liability of legal persons and jurisdiction across the EU. The full and correct transposition of the existing Framework Decision will constitute a first step towards effectively fighting racism and xenophobia by means of criminal law in a coherent manner across the EU. Bilateral dialogue between the European Commission and Member States will play a key role in this process.

The collection of reliable, comparable and comprehensive data on racist and related crime would contribute to the Framework Decision’s effective implementation. Public authorities in Member States will be increasingly called on to collect and publish data on such crime, including details of prosecutions and the sentences handed down. Public authorities in Member States will also look to find ways to provide more effective remedies to combat racist abuse perpetrated online or through social media platforms.

### Table 6.1: Status of official data collection on racist, anti-Roma, antisemitic and Islamophobic/anti-Muslim crime in EU Member States, December 2013

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<tr>
<th>Limited data</th>
<th>Good data</th>
<th>Comprehensive data</th>
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<tbody>
<tr>
<td>Few incidents and a narrow range of bias motivations are recorded Data are usually not published</td>
<td>A range of bias motivations are recorded Data are generally published</td>
<td>A range of bias motivations, types of crimes and characteristics of incidents are recorded Data are always published</td>
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<td><strong>Cyprus</strong></td>
<td>Belgium</td>
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<td><strong>Estonia</strong></td>
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**Note:** Spain is underlined as its official data collection on racist and related crime became comprehensive, see first paragraph below.

Source: FRA, 2013
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Endnotes

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