

Racism and Xenophobia in the EU Member States trends, developments and good practice

Annual Report 2003/2004 - Part 2



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in the EU Member States
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good practice**

EUMC – Annual Report 2003 / 2004
Part 2

Foreword

Foreword by Anastasia Crickley Chair of the EUMC and Beate Winkler Director of the EUMC

The Annual Report 2003/4 of the EUMC covers a year which brought about decisive developments for the European Union. 2003 was the year when the two European Council anti-discrimination Directives were due to be transposed into the Member States' national legislation. The enlargement of the EU to embrace ten central, eastern and southern European countries in May 2004 had a significant influence on both the political work within EU institutions and on public discourse.

Both developments are strongly reflected in the EUMC's report. As in the previous years, legislative initiatives constitute a major theme of monitoring and reporting. This year, the Annual Report has focused on the Member States' achievements in adopting their laws, regulations and administrative provisions as necessary according to the two Council Directives. The deadline for the transposition of the Council Directive 2000/43/EC (implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) was 19 July 2003, and for the Council Directive 2000/78/EC (establishing a general framework for equal treatment in employment and occupation) it was 2 December 2003. By the middle of 2004 the European Commission was taking legal action against five Member States for their failure to pass all the national measures required by the Directives. By then most Member States had fully or partially transposed them.

Discrimination in the area of education, and initiatives on how to prevent it, also form a major theme of this year's report. Information has been drawn from each Member State on direct and indirect discrimination in the education sector. Whilst evidence of direct discrimination relates mostly to regulatory or administrative practices, indirect discrimination is indicated by the fact that migrant and minority groups are disproportionately represented in educational establishments with lower academic demands, characterised by early dropout rates, and lower school completion rates. The Annual Report makes clear that amongst the groups most vulnerable to discrimination, Roma, Sinti, Gypsy and Traveller pupils are particularly disadvantaged in many of the EU 15 countries.

With regard to the new EU Member States, although they were still Accession Countries in 2003, the EUMC decided to include them in the report through a special chapter which introduces an overview of issues in their education sectors. This has allowed an initial comparison of issues between them and the EU 15. For one thing, while the issue of religious symbols or headscarves in schools is of some significance in some of the EU15, it does not seem to be an issue of great debate in the ten new Member States. In the Accession Countries there is a stronger emphasis on the educational situation of national minorities, rather than immigrant minorities.

Outside the field of education, the Annual Report looks at national developments in the areas of racist and xenophobic violence and crimes, and discrimination in the sectors of employment and, for the first time, housing. As in the previous years, it is also able to highlight an increasing range of examples of good practices against racism and discrimination across the EU.

Over the coming year the EUMC will continue actively to contribute to fostering the principles of equality and diversity, to raising public awareness of racism and discrimination, and to measuring progress towards a fair European society free from racism, xenophobia, Islamophobia and antisemitism.

Finally, we take this opportunity to thank the Management Board and the staff of the EUMC for their work, and all associated with the work of the EUMC for commitment and support they have given to the EUMC during the whole year.

Anastasia Crickley
Chair

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Director

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Executive Summary

Introduction

The Annual Report for 2003/4 covers developments in EU Member States in five main areas: legislative initiatives, racist violence and crimes, employment, housing and education, mainly in the year 2003. This is the first year that the area of housing has been added to the topics specifically researched by the EUMC. As with previous years, there is one main theme in the Annual Report, and this year the major focus is on education.

The report is compiled from information sent to the EUMC from its RAXEN National Focal Points (NFPs) in each Member State of the EU. The NFPs are the contracted partners of the EUMC in the national context, and are the coordinators of a national information network which includes cooperation with main actors in the fields of racism, xenophobia and antisemitism. Each year they transmit the information for the Annual Report to the EUMC according to specific guidelines.

Chapter 1 of the Annual Report covers in turn the four themes of legislative initiatives, racist violence and crimes, employment and housing. For each of these areas the major developments in the year are set out country-by-country for the 15 EU Member States.

Chapter 2 covers the main theme of education and discrimination in the 15 EU Member States. In this section the information is set out not country-by-country, but brought together in a more detailed and themed overview, the main themes of which are: indicators of discrimination in education, good practice and programmes for awareness-raising, provisions for minority education, developments in intercultural education, and finally the issue of religious symbols in schools.

Chapter 3 is a new component in the EUMC Annual Report, covering minorities and the educational sector in the 10 Accession Countries. The year 2003 was the last in which the EU consisted of 15 Member States, and in May 2004 the ten new Accession Countries became full members of the EU. Thus, during 2003, with the assistance of PHARE, the EU enlargement programme, the EUMC made preparations to extend the RAXEN network to the PHARE countries of Central and Eastern Europe. In autumn 2003 new NFPs in these countries had been contracted, and in

early 2004 Cyprus and Malta were also integrated into the network. Although, strictly speaking, any information provided by these NFPs should not appear until the next EUMC Annual Report, it was nevertheless decided that the current Annual Report would constitute a valuable opportunity to present a 'pre-membership' introduction to the situation in these ten new Member States with regard to the field of education. Therefore, the ten new NFPs were asked to produce information for the Annual Report on the educational situation in their respective Member States, covering similar themes as with the EU15: minority education, religious symbols in schools, discrimination, and good practice and preventive initiatives. It should be noted that this information refers to 2003, at a time when the ten were still Accession Countries rather than Member States, and therefore these countries are still referred to as 'Accession Countries' in this chapter. At the end of this section is a comparison between the 15 Member States and the Accession Countries of Central and Eastern Europe showing a number of important differences in the perceptions of the main issues in the area of migrants, minorities and education, and in the emphasis of relevant policies.

THE NEED FOR ANTI-DISCRIMINATION IN EUROPE

At the Lisbon European Council of March 2000 it was agreed that Member States should coordinate their policies for combating poverty and social exclusion and produce National Action Plans, which have subsequently highlighted the need to give greater emphasis to addressing the integration of immigrants.¹ Similarly, through the European Employment Strategy,² the EU has been concerned with the disadvantage of vulnerable groups such as immigrants and ethnic minorities in employment. However, despite the acknowledgement that immigrants are at particular risk of social exclusion, many of the National Action Plans display a rather narrow approach to integration, comprising mainly language and other training measures for immigrants themselves.³ Although these are important, there is also a need for measures which specifically address the exclusionary implications of racism and

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- 1 see the latest Joint report by the Commission and the Council on social inclusion:
http://europa.eu.int/comm/employment_social/soc-prot/soc-incl/final_joint_inclusion_report_2003_en.pdf
 - 2 see the latest Joint Employment Report, examining progress by Member States in implementing the new Employment Strategy agreed for 2003 – 2006:
http://europa.eu.int/comm/employment_social/employment_strategy/report_2003/jer20034_en.pdf
 - 3 for further information on the EU's inclusion and employment strategies see
<http://www.enar-eu.org/en/publication/index.shtml>

discrimination. In this EUMC Annual Report there can be found many examples of anti-discrimination and anti-racist ‘good practice’ by various Member States in the fields of education, employment and housing, in legislative developments, and in countering racist violence and crimes.

Racism and racial discrimination in a wider perspective in 2003

Legislative initiatives

For this topic, the reporting period was dominated by two dates: the 19 July 2003 as the deadline for implementation of the Council Directive 2000/43/EC (implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) and the 2 December 2003 as the deadline for the Council Directive 2000/78/EC (establishing a general framework for equal treatment in employment and occupation). For both Directives all the EU Member States should have adapted their laws, regulations and administrative provisions as necessary.

During the reporting period most of the EU Member States were active in putting into force, or at least in drafting, new anti-discrimination laws and ethnic equality regulations. Others supplemented their existing laws and regulations. Two countries failed to meet the schedule specifically because of the withdrawal of their draft laws (Germany and Greece). Several were late, and by the end of 2003, a number of EU Member States (for example, Denmark, Austria, Italy and Luxembourg) had problems in implementing one or both of the two Council Directives into all of the several relevant domains, or failed to transpose all provisions of the Directives.

Because of the focus on the Directive implementation activities, the NFPs did not report many other activities under the heading of “other relevant legal provisions” (only 6 of the 15 reports included additional information here). New activities not directly related to the Directives included bills setting out the circumstances for aggravated penalties regarding certain racist crimes (France, Finland), reforms in criminal legislation or administrative measures to make the reporting and dealing with cases easier (France, the Netherlands), or the preparations for a National Action Plan on combating racism (Ireland).

COURT CASES

The selection of court cases presented by the NFPs and assessed by them as significant indicates the broad range of potential incidents which can fall under this heading, with court sentences applied to activities as varied as the denial of the holocaust, the refusal to let housing to immigrants, racist speech on the radio, or the denial of access to restaurants and bars. Several of the cases focussed on problems with labour market access or employment: for example, discriminatory recruitment practices such as refusing to recruit visible minorities for jobs involving contact with the public, or the refusal to allow the wearing of a headscarf at the workplace. In two countries, legal decisions were made that employers could not constitute the wearing of a headscarf as valid grounds for dismissal. Several court decisions were reported in different EU Member States regarding the wearing of headscarves, with varying outcomes. All of these decisions were accompanied by an intense public debate.

GOOD PRACTICE

The ten NFPs which selected and presented material under the heading of “good practice” focussed on awareness-raising activities and training for legal authorities and security forces, and also on governmental initiatives (for example, strategies to increase the competence of the judiciary regarding issues of discrimination) and non-governmental initiatives (for example, lawyers’ initiatives to support victims of racist violence).

Racist violence and crimes

Given the different sources of information on racist violence and crime in each Member State, it is difficult to offer generic statements about trends across the EU. While some Member States have established a mechanism for data collection on racist crimes, others have no such system. Frequently, information for individual countries rests with NGO and media reports, and where police data exists it is subject to changes in legislation that can make comparisons between different data sets problematic. As was pointed out in last year’s EUMC Annual Report, such differences can lead to the misleading impression that those countries with better data collection systems have a greater problem with racist crime and violence than those who do not. Given these caveats, there is and continues to be a problem with racist violence and crime in all Member States. In turn, there is great variation in policy and practical

responses to racist violence and crime, with some Member States having extensive and wide-ranging initiatives while in others projects are limited to the actions of dedicated NGOs.

VARIATIONS IN TRENDS

Where official data is available, the following can be noted: preliminary figures for Germany indicate a potentially dramatic fall in the number of extremist crimes registered under the category 'politically motivated criminality - right-wing' from 10,902 in 2002 to 6,965 in 2003. However, the 2003 figures have to be treated with caution as they will be subject to adjustments and may not reflect the final total. In France a recent decline in officially recorded racist crimes has also been noted, with the Ministry of the Interior recording 817 cases in 2003, compared to 1,313 cases of racist/antisemitic acts in 2002 (although these figures are still high when compared with the 1990s). In the Netherlands the latest statistics available, covering 2002, show amongst other things a striking rise in antisemitic violence compared to 2001. While the Swedish authorities recorded a drop in racist/xenophobic crimes between 2001 and 2002, these figures are subject to subtly different counting procedures, and preliminary unpublished statistics for 2003 show an increase on 2002's figures. For the UK, the number of racist incidents both reported to and recorded by the police has increased since 1996/7, but there is some indication that reporting has levelled off in the period 2000 - 2002. In contrast with official figures, surveys by NGOs or victim surveys tend to indicate higher levels of racist violence and crime.

RECORDING OFFENCES

As mentioned in the last Annual Report, Belgium continues to work towards establishing an official centralised mechanism for recording racist/antisemitic offences. Likewise, in 2000, the Portuguese government established a Commission for Equality and Against Racial Discrimination which has given increased visibility to racist crimes but which, as yet, has not produced consistent data on the extent and nature of racist crime in Portugal. Also, while the Spanish authorities record incidents with a racist or xenophobic motive, official statistics greatly underestimate racist incidents and, because of this, non-official sources must be referred to in order to get a more accurate indication of the extent of racist crime. In Italy, records on racist crime continue to be based on court cases and, therefore, are not representative of the extent of the problem. In Greece, police authorities do not record whether crimes have had a racist motivation, and there has never been a prosecution, to

date, based on anti-racist criminal law 927/1979. However, there continue to be encouraging developments, building on those mentioned last year. In 2003 the Danish Police Intelligence Service published, for the first time, figures on reported crimes with a possible racist motive. In Finland, a new provision of the Penal Code came into force on 1 January 2004 which, in line with many other Member States' criminal laws, introduced racist motivation as an aggravating factor in criminal offences.

COMPLAINTS AGAINST THE POLICE

Evidence exists in some Member States that the authorities themselves, notably the police, can be the source of some disturbing incidents. For example, in Austria, at the end of 2003, investigations were proceeding into an incident (recorded on an amateur video) when police officers and medics stood on a Mauritanian man for some minutes as he lay motionless on the ground. The man later died. In Spain and Greece, the police and coastguards have been repeatedly criticised by national and international NGOs for their treatment of Roma and alien immigrants, and in Greece a policeman was convicted in 2003 for the killing of a Roma man. Similarly, the Portuguese Commission for Equality and Against Racial Discrimination has, since 2000, noted a number of incidents of racist violence by police, while in Finland, in December 2003, the Ombudsman for Minorities received numerous complaints about police treatment of asylum seekers in Tampere.

EXTREMIST GROUPS AND INTERNET RACISM

The criminal justice authorities have been active against 'White Power' nationalist groups, with Sweden having a series of arrests and convictions against extreme right-wing leaders throughout 2003. In the period 2001-2003, initiatives have been launched in Member States – notably in Austria, Finland, Germany and Sweden – offering 'Exit' programmes to members of right-wing nationalist organisations, and have met with some success. In turn, NGOs, sometimes in partnership with the authorities, continue to be active with a range of anti-racist initiatives in most of the Member States. Some initiatives have focused on the 'new' problem of racist Internet sites, such as a 2003 report by the French NGO MRAP (Movement Against Racism and for Friendship Between Peoples), and have highlighted the reality of borderless transnational racism.

Discrimination in employment

Indirect evidence of potential discrimination comes from national statistics which indicate, for example, a higher unemployment rate for certain minority groups. The various NFP reports demonstrate the continuing inconsistency in the availability of statistics according to national or ethnic origin, and in the degree to which these can be used to indicate the existence of discrimination in employment. Generalisations across countries are not possible because of the national variation in the practices of keeping such records, although it is argued that in the longer term the operation of the new Directives may produce some national convergence here. According to the NFP reports, in most countries ethnic monitoring is not practiced, and statistics are available only in terms of 'nationals' or 'non-nationals', which leads to an incomplete picture. In Spain, there are no statistics on discrimination and asking for ethnic origin in surveys is also seen as unacceptable.

In France there are no statistics on discrimination which relate to the victims' origins but there are national statistics which allow indirect indicators of discrimination. Multivariate analyses of these show that amongst people with the same rate of qualification, those from immigrant backgrounds have higher unemployment rates, and also take longer to find work than their equivalently qualified peers. Similarly in the Netherlands, there are multivariate analyses to show higher unemployment rates for minorities despite having similar levels of qualification as the majority. In Austria there are statistics on Austrians and 'aliens' which show higher unemployment rates for the latter, but there are no multivariate analyses reported which might explore these further. In Denmark the NFP reports that there are official statistics demonstrating the marginalised position of ethnic minorities in the employment sector, but the absence of multivariate analyses on these statistics leads to a tendency in public and media debate to make assumptions on deficits in the immigrant and minority population as the sole factor to explain such differences.

RESEARCH

The references to available work highlight the importance of research on employment discrimination as an important complement to statistics. The NFP reports reveal a wide variety in the existence of such research. Whereas countries such as France and the UK have a long tradition in this, the Spanish NFP laments the dearth of studies in Spain on, for example, employment discrimination related to the Roma population. In

Germany the NFP recognises that the high unemployment rate for immigrants does not signify discrimination in itself, but that more tangible evidence of discrimination comes from research as well as from anti-discrimination centres. In Italy, where it was reported that the migrant population of the northern region of Lombardy in 2003 had an unemployment rate almost ten points higher than the average, the NFP similarly recognises that this does not necessarily reflect discrimination. However, complementary evidence of discrimination in Italy came during 2003 when the results were released of the latest ILO-sponsored matched-pair discrimination testing. The researchers sent Moroccans and Italians to apply for the same jobs in various parts of Italy, and the results demonstrated that Moroccans seeking work are systematically discriminated against on the grounds of their name and origin. Another category of research on discrimination is surveys of people's subjective experiences. In Denmark a programme of telephone interviews showed that more people felt that they had experienced discrimination in the employment sector than in previous years. Similarly in France a survey of people of immigrant origin found that 39 per cent felt they have suffered negative treatment just because of their origin, colour of skin or accent.

ROMA, SINTI, GYPSIES AND TRAVELLERS⁴

The accession to the EU in 2004 of new Central and Eastern European countries has raised the issue of Roma, Sinti, Gypsies and Travellers for the first time in many peoples' minds. However, many of the 15 EU Member States have had an issue of discrimination against these groups for many years, although this has not always been prominent in public discourse. In Italy unofficial estimates suggest that the unemployment rate for Roma is far higher than for any other segment of the population, which may be an indirect reflection of discrimination, and in Spain and Finland the Roma are reported as continuing to face negative attitudes and discrimination in employment. In Ireland the NFP notes that amongst the increasing number of employment cases heard by the Equality Tribunal, remarkably few relate to Travellers, probably because still relatively few Travellers participate in the mainstream labour market.

4 It is recognised that different terms are used to refer to these groups in different countries, and that a term such as 'gypsies', which is acceptable in one country may be unacceptable in another. In this report the general heading 'Roma, Sinti, Gypsies and Travellers' is used collectively in reference to the whole of the EU, and when information relates to one Member State the specific term is used which is acceptable and current within that national context.

GOOD PRACTICE

With regard to good practice, there are many examples quoted by the NFPs of initiatives to combat discrimination and broaden employment opportunities for Roma and for migrants and minorities in general, from governments, local public authorities, the police forces, trade unions, and a range of NGOs, across the Member States. However, it is noticeable that amongst all these examples of ‘good practice’, virtually nothing is reported regarding the private sector. A very large number of projects under the heading of ‘good practice’ are supported by EU funds, mainly EQUAL projects, but also several other sources of European funds.

Discrimination in housing

Detailed statistical evidence regarding discrimination in housing is scarce in most EU countries, with the exception of the Netherlands, Sweden and to a certain extent Germany. Thus, in most Member States, information is mainly qualitative, such as complaints about incidents of discrimination, and is provided by official ombudspersons, special bodies and NGOs active in the field.

VULNERABLE GROUPS

As for the social groups most vulnerable to racism and discrimination in housing, a recurring theme in this section is the fact that Roma, Sinti, Gypsies and Travellers seem to be the minority groups facing the most difficulties. For one thing, surveys show that they are the group “least wanted” as neighbours by people from the majority population. A common problem is the lack of provision of accommodation sites by the authorities. This often results in people from these groups living in unapproved accommodation, which sometimes lacks basic sanitary facilities. Another social group likely to experience discrimination in housing are immigrants, who have difficulties finding accommodation in almost every Member State. In particular, immigrants coming from non-EU-countries often face discrimination in access to both public and private housing, with the NFP reports making particular reference to evidence of discrimination in Spain, France and Italy. In many EU countries, such as France, the Netherlands, Austria and Sweden, an over-representation of immigrants in socially-deprived suburban areas can be found, reflecting a process of socio-economic segregation.

RESEARCH

As is the case with discrimination in the sector of employment, there are certain established ways of investigating whether or not there exists unequal treatment of persons from an ethnic minority background. One method, well known in the employment sector, is discrimination testing, such as in a study in Austria mentioned in the last EUMC Annual Report which found widespread resistance on the part of Viennese landlords to let accommodation to Africans. A similar method was used 2003 in Belgium when, in a programme of test phone calls, proprietors turned down callers with a foreign name or accent, but thereafter answered positively to a person apparently belonging to the majority population. In 58 per cent of the tests the proprietor refused to give further information about the accommodation to a 'foreign' applicant.

GOOD PRACTICE

Good practice can be found across EU Member States, aimed at tackling the most prevalent forms of discrimination. Government programmes in Greece and Ireland exist to provide Roma and Travellers with suitable accommodation. However, implementation remains a challenge in a number of areas. In many Member States, both official authorities and NGOs try to make access to public and private housing easier; in Belgium, Greece, France, Ireland and the UK government programmes set codes of conduct for avoiding discriminatory practices among public and private housing providers. Another approach, taken, for example, by NGOs in Spain, Italy, Luxembourg and Austria, is to rent and then to sub-rent housing to immigrants. In order to counteract trends towards socio-economic segregation or "ghettoisation" a neighbourhood association and a housing company in Hannover, Germany, have established a housing estate with 93 apartments designed to meet the needs of residents from various ethnic backgrounds. Two thirds of the tenants are German, and one third are non-Germans. In the Netherlands the government has announced the development of a policy of tackling segregation by building a mix of low-cost and more expensive housing in areas where formerly only low-cost housing existed, and in Vienna inter-ethnic housing projects bring Austrians and migrants together.

Racism and discrimination in the education sector and initiatives on how to prevent it

Chapter 2 of this Annual Report covers the main theme of racism and discrimination in the education sector, and initiatives on how to prevent it. As with other areas scrutinised in this report, it becomes clear that the main problems and issues, the ways of reacting to them, and the monitoring systems that are in place, vary widely across the 15 Member States.

DISCRIMINATION

Information has been drawn together from each Member State on direct and indirect measures of discrimination in the educational sector and how evidence for this is gained. As for direct discrimination, incidents are mostly recorded in case reports, in a rather unsystematic way, in many Member States (for example, Belgium, Germany, Italy, Luxembourg, Austria, Portugal and Finland.) Whereas racist incidents of antisemitism (95 cases in 2003) and incidents against North Africans (21 cases in 2003) are reported from schools in France, in other Member States the issues of discrimination which are reported seem to be more regulatory or administrative in character, such as discriminatory admittance policies to schools reported from the Netherlands, the requirement for pupils of 'foreign origin' to show an ID in order to receive the certificate in Secondary Education in the region of Madrid, Spain, or the refusal of grants for vocational education to non-EU or non-refugee pupils in Ireland.

Indirect indicators of discrimination are suggested by data showing an over-representation of migrant and minority groups in educational institutions with lower academic demands, and early dropout and lower completion rates. In general, migrant and ethnic minority pupils tend to do less well regarding educational attainment than their peers from the majority population. However, there are wide differences between the various migrant and ethnic minority groups. Whereas in the UK, for example, pupils from the Black, Bangladeshi or Pakistani communities lag behind the average, pupils with Chinese and Indian backgrounds outperform the majority pupils. A similar pattern becomes evident in the enrolment figures of academically demanding schools, which have higher rates of pupils from India and China in the UK, and of pupils from Russia, Poland and Croatia in Germany.

ROMA, SINTI, GYPSIES AND TRAVELLERS

Roma, Sinti, Gypsy and Traveller pupils continue to be affected by discrimination in school to a particularly large extent. They are frequently assigned to 'special needs' schools (which is also true for migrants in, for example, Austria, Germany and Belgium) or put into segregated classes in mainstream schools (as reported in one Danish town).

Good practices against such discrimination are adopted by national and local governments, and NGOs, with varied results. Activities comprise, among others, the drawing up of codes of practice, and the production of teaching materials and syllabi aimed at fostering appropriate education of an ethnically diverse pupil population in general or pupils of a particular group (such as in Greece, France, Ireland, the Netherlands, Finland, Sweden and the UK). On the level of individual schools, many projects such as 'activity days' are carried out across the EU, targeted at tackling racism and enhancing the understanding of different cultures.

SPECIAL PROVISIONS

Special tuition for immigrant pupils is provided in many EU countries, most of which offer courses in the national state languages (Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the UK). Special teaching in the migrants' native languages is a more controversial issue. Such classes still exist in Belgium, Denmark, Germany, France, Luxembourg, the Netherlands, Austria (to some extent), Finland and Sweden. Whereas countries like Germany, Greece, Spain, Italy and the UK take the approach of integrating migrant children into "normal" classes, and France follows a mixed concept of separation and integration, in Finland there exist "immigrant classrooms" with special teachers and no Finnish pupils.

As regards special provisions for national minorities (be they officially recognised as such or not) the situation of the Roma, Sinti, Gypsies and Travellers is of particular interest, as they are found in most Member States. They can receive special teaching (e.g. in Romanes) in Belgium, Germany, Greece, Ireland, the Netherlands, Austria, Finland, Sweden and the UK, whereas in Spain and Portugal there are no such possibilities. With the exception of France, where the republican imperative of promoting national unity tends to work against special

group rights, there are special provisions for most national minorities in most EU countries.

INTERCULTURAL EDUCATION

As for the concept of intercultural education, an assessment of current practices in Member States points to a change of paradigm from a “pedagogy for foreigners” to integrative learning processes, which equally concern members of minority and majority populations. Different terms – intercultural education, multicultural education, anti-racist education – denote different emphases, but all these programmes intend to foster positive attitudes towards others, the learning of cooperative skills, and a better understanding of societal interrelations in order to build bridges between different ethnic communities and individuals from diverse backgrounds.

RELIGIOUS SYMBOLS

Whereas the issue of religious symbols such headscarves in school is of little significance in some Member States (e.g. Greece, Ireland and Finland), it has become highly controversial in others. In most countries there is a general tendency towards tolerating religious symbols in schools, albeit sometimes with certain restrictions (Denmark, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden, UK). In France, an official report on the issue was published in 2003, which led to the controversial ban of all ostentatious religious symbols and clothing in schools in 2004. In Germany, the Federal Constitutional Court ruled in 2003 that it is in the remit of federal states to establish legal provisions on the use of religious symbols in schools. Whereas some Länder (federal states) were planning legislation which will allow the use of religious symbols, other Länder were planning to ban them altogether, and some were even proposing to prohibit only Muslim symbols, whilst Christian and Jewish items of clothing would still be allowed.

Minorities and the education sector in the 10 Accession Countries

Chapter 3 presents an overview of the situation for minorities and migrants in the education sector of the 10 Accession Countries (later to become new Member States on 1 May 2004).

ROMA , SINTI, GYPSIES AND TRAVELLERS

Clearly the main problem area for these countries is the educational situation of Roma, who face marginalisation in all of the Accession Countries apart from Malta, where the existence of a Roma community is not reported. Segregation in schools, the wrongful assignment of Roma pupils to 'special needs' schools, and a lack of mother tongue instruction are common. Cases have been described of humiliating treatment within schools. There have recently been introduced many measures to improve the schooling of Roma, with amendments to legislation, new resources and material support, new school policies against discrimination, and a wide range of initiatives and projects, often sponsored within the remit of the EU's PHARE programme. It seems that some of the most effective measures to counter segregation, discrimination and poor attainment include preparatory classes for Roma children before entrance to primary school, the employment of Roma pedagogical assistants, the increased use of mother tongue teaching and the development of Roma language textbooks, as well as programmes that foster the relationship between families and the school. However, the legacy of years of segregation and discrimination means that improvements and success will not come easily or quickly.

THE RUSSIAN-SPEAKING MINORITY

The other key minority education issue in three of the Accession Countries, the Baltic states of Estonia, Latvia and Lithuania, is that regarding the Russian-speaking minority. As the State languages become the main language of instruction, those of the Russian minority who do not have a good grasp of the State language are in danger of falling behind. Russian schools and teachers have criticised the new regulations that the State language should become the primary language of instruction within a rather short period of time. There are different approaches within the Baltic States, with Estonia introducing changes more rapidly, whilst the other Baltic states have so far exhibited a more cautious and gradual transition.

OTHER VULNERABLE GROUPS

There are other minority groups that are affected by manifestations of racism and discrimination in the Accession Countries, in particular asylum seekers, refugees, and undocumented immigrants. For example, there are indications that among the most vulnerable groups in education are refugees from Chechnya in Lithuania, members of the African, Arab, and Muslim communities living in Malta, or refugees from Bosnia and Herzegovina who formerly held a status of temporary asylum in Slovenia. At times, legal immigrants and ethnic minorities other than the Roma are also at risk. This applies, for instance, to people with Greek Pontian backgrounds and Turkish-Cypriots in Cyprus.

DISCRIMINATION AWARENESS

In general, it might be said that the issue of ethnic or 'racial' discrimination in education does not receive the required attention in most of the Accession Countries. There is no systematic monitoring or collection and documentation of data on incidents of racism and discrimination by the ministries of education or other public bodies, and also there exists insufficient research on manifestations of racism, xenophobia, and discrimination in education.

RELIGIOUS SYMBOLS

There are no legal regulations or recommendations concerning the issue of religious symbols in schools in the Accession Countries. Often it is considered a school internal issue, which means that schools can apply their own rules regarding the wearing of religious symbols by pupils. There are no reports about any controversial issues on this subject in recent times.

An initial comparison of issues in the EU15 and Accession Countries

The juxtaposition of the two overviews on the educational situation for migrants and minorities allows some initial comparisons to be made between the policies and main issues in the EU15 and those in the Accession Countries of Central and Eastern Europe, particularly with regard to minority education:

- One difference is that there is a stronger emphasis on minority schooling in the Accession Countries, in contrast to the greater emphasis on intercultural education approaches in the EU15. The characteristic of the latter is that it targets all pupils, not just minorities. Correspondingly, the teaching of ethnic minority culture and history is mainly provided for minorities in the Accession Countries, whereas in the EU15 it is part of the curriculum for all pupils.
- Whilst minority language development is an issue in all 25 countries, it is seen as the central aspect in minority education in the Accession Countries of Central and Eastern Europe
- In the EU15 the educational situation of immigrants and ‘new minorities’ is at the centre of educational discussions, whereas this is less of an issue in the Accession Countries. Correspondingly, the debate on the schooling of national minorities is less developed in many of the EU15.
- In the Accession Countries of Central and Eastern Europe there appears to be a greater number and variety of innovative policies and initiatives directed at countering the discrimination and inequality suffered by Roma, as compared to the EU15.
- Debates on religion, the wearing of the headscarf, etc. are more at the centre of public and educational discussion in the EU15 than in the Accession Countries. There are no substantial Muslim populations in the Accession Countries which compare to those in the EU15, and the schooling of Muslims has not developed into a public issue.
- Whilst in some of the EU15 countries antisemitism in schools is mentioned as an issue, this does not seem to be a major concern in the Accession countries. The Jewish population is relatively small in these countries, and there is very little available information at all on antisemitism.

1. Racism and racial discrimination in a wider perspective in 2003

The Annual Report for 2003 covers developments over that year in EU Member States in five main areas: legislative initiatives, racist violence and crimes, employment, housing and education. This is the first year that the area of housing has been added to the topics specifically researched by the EUMC. As with previous years, there is one main theme in the Annual Report, and this year the major focus is on education.

The report is compiled from information sent to the EUMC from its RAXEN National Focal Points (NFPs) in each Member State of the EU. The NFPs are the recognised partners of the EUMC in the national context, and are the coordinators of a national information network which includes cooperation with main actors in the fields of racism, xenophobia and antisemitism. Each year they transmit the information for the Annual Report to the EUMC according to specific guidelines.

Chapter 1 of the Annual Report covers in turn the four themes of legislative initiatives, racist violence and crimes, employment and housing. For each of these areas the major developments in the year are set out country-by-country for each of the 15 EU Member States.

Chapter 2 covers the main theme of education and discrimination in the 15 EU Member States. In this section the information is set out not country-by-country, but brought together in a more detailed and themed overview, the main themes of which are: indicators of discrimination in education, good practice and programmes for awareness-raising, provisions for minority education, developments in intercultural education, and finally the issue of religious symbols in schools.

Chapter 3 is a new component in the EUMC Annual Report, covering minorities and the educational sector in the 10 Accession Countries. The year 2003 was the last in which the EU consisted of 15 Member States, and in May 2004 the ten new Accession Countries became full members of the EU. Thus, during 2003, with the assistance of the PHARE

programme, the EUMC made preparations to extend the RAXEN network to the PHARE countries of Central and Eastern Europe. In autumn 2003 new NFPs in these countries had been contracted, and in early 2004 Cyprus and Malta were also integrated into the network. Although, strictly speaking, any information provided by these NFPs should not appear until the 2004 EUMC Annual Report, it was nevertheless decided that the 2003 Annual Report would constitute a valuable opportunity to present a 'pre-membership' introduction to the situation in these ten new Member States with regard to the field of education. Therefore, the ten new NFPs were asked to produce information for the Annual Report on the educational situation in their respective Member States, covering similar themes as with the EU15: minority education, religious symbols in schools, discrimination, and good practice and preventive initiatives. It should be noted that this information refers to 2003, at a time when the ten were still Accession Countries rather than Member States, and therefore these countries are still referred to as 'Accession Countries' in this chapter. At the end of this section is a comparison between the 15 Member States and the Accession Countries of Central and Eastern Europe showing a number of important differences in the perceptions of the main issues in the area of migrants, minorities and education, and in the emphasis of relevant policies.

THE NEED FOR ANTI-DISCRIMINATION IN EUROPE

At the Lisbon European Council of March 2000 it was agreed that Member States should coordinate their policies for combating poverty and social exclusion and produce National Action Plans, which have subsequently highlighted the need to give greater emphasis to addressing the integration of immigrants. However, despite the acknowledgement that immigrants are at particular risk of social exclusion, many of the National Action Plans display a rather narrow approach to integration, comprising mainly language and other training measures for immigrants themselves.⁵ Although these are important, there is also a need for measures which specifically address the exclusionary implications of racism and discrimination. In this EUMC Annual Report there can be found examples of anti-discrimination and anti-racist 'good practice' by many Member States in the fields of education, employment and housing, in legislative developments, and in countering racist violence and crimes.

5 see the latest Joint report by the Commission and the Council on social inclusion: http://europa.eu.int/comm/employment_social/soc-prot/soc-incl/final_joint_inclusion_report_2003_en.pdf

1.1. Legislative initiatives

Each National Focal Point (NFP) was asked to describe any new legal provisions in its Member State concerning the transposition of the new EU anti-discrimination legislation. They were also asked to describe any other relevant legal provisions or jurisprudence established in 2003, and present any examples of court cases in that year concerning racism and discrimination.

The reporting period was dominated by two dates: the 19 July 2003 as the deadline for implementation of the Council Directive 2000/43/EC (implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) and the 2 December 2003 as the deadline for the Council Directive 2000/78/EC (establishing a general framework for equal treatment in employment and occupation). For both Directives all the EU Member States should have adapted their laws, regulations and administrative provisions as necessary.

During the reporting period most of the EU Member States were active in putting into force, or at least in drafting, new anti-discrimination laws and ethnic equality regulations. Others supplemented their existing laws and regulations. Two countries failed to meet the schedule specifically because of the withdrawal of their draft laws (Germany and Greece). By the end of 2003, several EU Member States (for instance, Denmark, Austria, Italy and Luxembourg) had problems in implementing the two Council Directives into all of the several relevant domains, or failed to adapt to specific articles of the Directives.

Because of the focus on the Directive implementation activities the NFPs did not report many other activities under the heading of "other relevant legal provisions" (only 6 of the 15 reports included additional information here). New activities not directly related to the Directives included bills setting out the circumstances for aggravated penalties regarding certain racist crimes, (France, Finland) reforms in criminal legislation or administrative measures to make the reporting and dealing with cases easier, (France, the Netherlands) or the preparations for a National Action Plan on combating racism (Ireland).

The selection of court cases presented by the NFPs and assessed by them as significant indicates a broad range of incidents, with court sentences applied to activities as varied as the denial of the holocaust, the refusal to let housing to immigrants, racist speech on the radio, or the denial of access to restaurants and bars. Several of the cases focussed on problems

with labour market access or employment: for example, discriminatory recruitment practices such as the refusal to recruit visible minorities for jobs involving contact with the public, or the refusal to allow the wearing of a headscarf at the workplace. In two countries, legal decisions were made that employers could not constitute the wearing of a headscarf as valid grounds for dismissal. Several court decisions were reported in different EU Member States regarding the wearing of headscarves, with varying outcomes. All of these decisions were accompanied by an intense public debate.

The ten NFPs which selected and presented material under the heading of “good practice” focussed on awareness-raising activities and training for legal authorities and security forces, and also on governmental initiatives (for example, strategies to increase the competence of the judiciary regarding issues of discrimination) and non-governmental initiatives (for example, lawyers’ initiatives to support victims of racist violence).

1.1.1. Belgium

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

A new anti-discrimination law was put into force in February 2003. The law takes over all the grounds of discrimination provided for in the Article 13 of the Treaty of Amsterdam and the two Council Directives. However, the Belgian government adopts, in the NFP’s view, a narrow interpretation which means that only religious or philosophical convictions related to the existence or non-existence of a god are included, and political or other convictions are excluded.

It is no longer necessary for the perpetrator to have a deliberate intention to discriminate in order to speak of discrimination. Unintentional discrimination still constitutes discrimination. Since the anti-discrimination law files under Civil Law this form of unintentional discrimination is not penalised, but it can be stopped by the civil court. The government also follows the Directive when it proposes that ‘harassment shall be deemed to be a form of discrimination when unwanted conduct relating to any of the above-mentioned discrimination grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment’.

The scope of this Belgian anti-discrimination law largely corresponds with that of the first Council Directive on racial and ethnic origin. Concerning the other grounds of discrimination, the government goes further than the second Council Directive on equal treatment in employment and occupation, since this is confined to the two mentioned areas. Although housing is not explicitly stated, it is easily categorised as a service rendered in the public sphere and is thus covered by this law.

OTHER RELEVANT LEGAL PROVISIONS

The law of 20 January 2003 concerning the enforcement of the anti-racism legislation amends the anti-racism law of 1981 by specifying the terms to combat racism in the work place by labour inspectors, by granting the Centre for Equal Opportunities and Opposition to Racism (CEOOR) the mission to monitor and ensure that the fundamental rights of all foreigners residing on Belgian territory are respected, , and to publish statistical data on migration flows and jurisdiction relating to the evaluation of the anti-racist and anti-discriminatory legislation, discussed above.

SIGNIFICANT COURT CASES

In February the CEOOR filed a complaint against the radio programme *D&O-Ochtendshow* at the *Vlaamse Geschillenraad voor Radio en Televisie*, which is the body for receiving objections and complaints for radio and television. Two commentators made insulting remarks against the (Afro-American) Williams sisters during a tennis match in the Australian Open. This Council decided that these commentators had indeed used “vulgar language, which contributes to the trivialisation of racist speech”, and required the commentators to broadcast a message condemning their speech.

On 9 September 2003, the correctional court of Antwerp sentenced two people to one year suspended imprisonment and a penalty of 2,500 € for offences against the 23 March 1995 law against the denial of the holocaust and the anti-racism law of 30 July 1981. They are also deprived of their civil rights for ten years.

GOOD PRACTICE

In collaboration with the Superior Council of Justice, the CEOOR has provided training sessions to civil servants of municipal authorities in several judicial districts. The training covers the judicial framework of

the fight against racism and discrimination and the problems of application of the different legal instruments. The CEOOR also provided training to the police schools in Gent and Bruges, with the support of the Ministry of Interior, covering stereotypes, prejudices, discrimination, the anti-racism and anti-discrimination law, and so on.

1.1.2. Denmark

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

The Act on Ethnic Equal Treatment, to transpose Directive 2000/43/EC, came into force on July 1, 2003. This covered racial discrimination in housing, education and all other non-employment aspects of the Race Directive including the right for citizens to file complaints concerning discrimination on the basis of race and ethnic origin. Complaints according to the new Act will be handled by the Institute for Human Rights.

The Ministry of Labour proposed to transpose those parts of Directive 2000/43/EC relating to the labour market, as well as parts of Directive 2000/78/EC, by amendments to the existing Act on the Prohibition of Differential Treatment in Bill no.152. On April 30, 2003 the standing committee on Labour Market Policy published a report showing broad support for the Bill, but a number of political parties wanted the Institute for Human Rights to have the power to handle individual complaints from victims of discrimination on the grounds of race and ethnic origin in the labour market. The Liberal/Conservative Government did not accept this amendment, so the negotiations continued with the effect that by the end of the year the Directives 2000/78/EC and 2000/43/EC were not fully transposed in Denmark.

SIGNIFICANT COURT CASES

The number of court cases leading to convictions under section 266b of the Criminal Code (i.e. hate speech) was sixteen in 2003. This was the highest since the provision was adopted in 1939. It is significant that the numbers of sentenced perpetrators are higher today than the number of complaints filed in the beginning of the 80s. Most of the convictions during 2003 relate to statements/incidents that took place in 2001 during the general election campaign. Out of the total of fifteen convicted, nine

were members of two political parties – the Progressive Party and the Danish Peoples Party.

1.1.3. Germany

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

At present, it is difficult to make predictions as to when and in which form the EU anti-discrimination Directives will be transferred into national law, even though the original plan was to implement the first EU Directive by mid-2003. It is unclear whether the law should be conceived as one requiring approval, that is, one which should also pass through the Upper House of the German parliament (Bundesrat). The anti-discrimination bill is not likely to be passed before 2005.

SIGNIFICANT COURT CASES

One decision by the Federal Constitutional Court has largely resolved the issue of whether private-sector employees are entitled to wear headscarves during work in favour of women wearing headscarves (exceptions might be when work safety or hygiene does not permit the wearing of headscarves). The Federal Labour Court (BAG) (*Bundesarbeitsgericht*) decided on 10 October, 2002 in a verdict that wearing a headscarf for religious reasons was not grounds for dismissal (BAG 2 AZR 472/01). Against this decision by the Federal Labour Court the employer lodged a constitutional appeal, claiming that the ruling constitutes a violation of constitutional rights. However, in July 2003 the Federal Constitutional Court refused to hear the appeal, stating that the Federal Labour Court had acted appropriately and taken the basic rights of both parties into consideration in its ruling (1 BvR 792/03). On 24 September 2003 the Federal Constitutional Court ruled that there is no clear legal basis in the present laws to support the banning of teaching staff wearing headscarves at school (see Section 2.1.6 of this report).

GOOD PRACTICE

Several German lawyers also deal with the topics of right-wing extremism and xenophobia. Their work is not only limited to the interpretation of the law or bills, but they actively attempt to support victims of xenophobic violence as well; for example, the association

Anwälte gegen Rechts (Lawyers Against Right-Wing Extremism)⁶ or the *DAV Stiftung contra Rechtsextremismus und Gewalt* (DAV Foundation Against the Extreme Right-wing and Violence)⁷ with the purpose of allowing victims of extreme right-wing and politically motivated violence to assert quickly their rights through legal assistance.

1.1.4. Greece

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

In mid February 2003, a special committee of the Ministry of Justice submitted proposals in the form of a draft law for the incorporation into the Greek legal system of Directives 2000/43 and 2000/78. Due to the fact that the Greek Ombudsman, who was assigned the legal responsibility of examining all cases regarding violations of the principle of equal treatment, was at that time technically unprepared to undertake this task, the draft law was withdrawn. As a result, Greece failed to meet the deadline for the transposition of both Directives. In late July 2003, after pressure from the National Committee for Human Rights, the Ministry of Justice and the Ministry of Labour announced that a law for the full incorporation of both Directives 2000/43 and 2000/78 was being jointly prepared by them. The law was tabled in Parliament in December 2003, but had not been debated.

OTHER RELEVANT LEGAL PROVISIONS

A number of amendments to the basic immigration law 2910/2001,⁸ have been passed since its voting. The latest amendments were enacted in 2003, setting out a number of strict conditions regarding the specific circumstances under which a foreigner may legally remain in Greece.

SIGNIFICANT COURT CASES

On May 29, 2002, with the assistance of the European Rights Roma Centre and Greek NGOs, two residents of the Roma settlement of Patras filed a criminal complaint with the Misdemeanour Prosecutor of Patras against local “cultural associations”, whose chairmen had drafted an allegedly racist letter of protest against the presence of Roma. To many

6 cf. <http://www.anwaelte-gegen-rechts.de>

7 cf. http://www.anwaltverein.de/03/02/2000/32_00.html

8 See the Greek NFP’s Analytical Study on Legislation, EUMC, forthcoming 2004.

people's surprise, the court in Patras dismissed the case (June 25, 2003). The public prosecutor's motion to drop all charges stated that the defendants had no "malicious intent" aimed at the defamation of Roma and that the letter in question was merely intended to draw the authorities' attention to the plight of the Roma themselves.

GOOD PRACTICE

The Greek National Commission for Human Rights and the Migration Policy Group organised a two-day seminar in April (10-12) 2003 on 'Implementing European Anti-Discrimination Law'. The workshop, which targeted legal practitioners, aimed at introducing, describing and analysing Directives 43/2000 and 78/2000.

1.1.5. Spain

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

The two Directives were jointly transposed in Chapter 3 (Measures for the application of equal treatment) of Title II (Social measures) of a new law (Law 62/2003, of 30 December 2003) of fiscal, administrative and social measures (arts. 27-43), which was published in the Spanish Official Journal (BOE) the day after and came into force the first day of 2004. Both Community Directives have been transposed with virtually no social, political or parliamentary debate, which greatly limits their visibility. Their transposition through what is known in parliamentary terms as an accompanying law has been criticised by the Spanish Economic and Social Council.

OTHER RELEVANT LEGAL PROVISIONS

In addition, also at the end of 2003 a new amendment of the Organic Law 4/2000 on the rights and liberties of foreigners living in Spain and their integration into society (or Law on aliens) came into force (Organic Law 14/2003, of 20 November 2003). The approval of this new law had been preceded by the passing (21 March 2003) of a bill on Measures in the field of Law and Order, Domestic Violence and Migrants' Social Integration.

SIGNIFICANT COURT CASES

The number of judgements issued by Spanish tribunals has continued to be limited. It is necessary to understand that only cases of major discrimination are heard by the higher tribunals and reach the media. For example, the Spanish High Court confirmed in 2003 that a Colombian building worker who had been recruited despite having neither a residence permit nor a work permit was entitled to receive a pension on grounds of a permanent disability after an occupational accident in October 1999.

1.1.6. France

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

With regard to labour law applying to public servants and salaried employees of public and private enterprises, the Employment Directive 2000/78 was transposed by the statute of 16 November 2001. This transposition, however, did not take liberal professions and independent workers into account. The remaining transposition of Directive 2000/43, in the domains of health, social security, education, social benefits, and access to goods and services was being finalised by the Ministry of Justice during 2003.

The President of the Republic confirmed in October 2002 his intention to create an independent authority to fight against all forms of discrimination. In June 2003, the Prime Minister entrusted a mission to Bernard Stasi, Mediator of the Republic, to oversee the consultation and preparation of propositions regarding the creation of such a specialised body. This body will cover all forms of discrimination, will offer assistance to victims, and will have powers of mediation and investigation.

OTHER RELEVANT LEGAL PROVISIONS

Faced with a worrying resurgence in criminal acts motivated by racism (see the 'Racist Violence and Crimes' section in this report), Parliament adopted a law creating aggravating criteria in cases of attacks toward individuals and property motivated by racism (Article 132-76 of the

Penal Code).⁹ In the context of the debate over the Islamic headscarf, and following the presentation of the report of the “Commission of Reflection on the Application of the Principle of Secularity in the Republic”, on 11 December 2003 various bills regarding the wearing of religious symbols in schools have been deposited before Parliament in 2003, to be adopted in 2004.

SIGNIFICANT COURT CASES

A Parisian nightclub was seriously condemned for racial discrimination in hiring practices for having reserved for candidates of what they called “European type” all jobs involving contact with the public. The infraction was confirmed through a testing procedure, an inquiry by the labour inspection, a telephone recording of the manager, and examination of the human resources files.¹⁰ In addition for the first time, a court sentenced a high public official on the basis of discrimination for reserving Saturday marriage celebrations in City Hall for Catholics.¹¹ A final example is a telemarketing company ordered to reinstate an employee who had been fired for having refused to remove her Islamic headscarf.¹²

GOOD PRACTICE

Many penal policy guidelines concerning the fight against racism and antisemitism were addressed to public prosecutors by the Minister of Justice. In a dispatch of 1 March 2003, he called for the utmost vigilance and severity with regard to the prosecution of racist crimes; moreover, on 18 November 2003, he asked each public prosecutor’s office to designate a magistrate to coordinate the appropriateness of the penal response given to individual claims and to follow relations with NGOs on the subject. In November 2003 the President of the Republic announced the creation of an Interministerial Committee for the fight against racism and antisemitism.¹³ During its first meeting in December 2003, the Committee announced that a “Republican booklet”¹⁴ would be distributed in schools; that a “monitoring system” would be created to screen audio-visual shows and internet sites that might contain racist or

9 France, Statute N°2003-88 (03/02/2003) aimed at increasing the severity of sentences for infractions of a racist, anti-Semitic, or xenophobic character (= Loi n°2003-88 du 3 février 2003 visant à aggraver les peines punissant les infractions à caractère raciste, antisémite ou xénophobe)

10 CA Paris 17/10/2003 SOS Racisme et al.

11 TGI Avesnes-sur-Helpe (12/03/2003), APPEL

12 CA Paris, 19/06/2003, Télé - performance France

13 This committee was created by the decree n° 2003/11164 of December 8th, 2003.

14 Published in January 2004, it includes material on the history of the Shoah, and an action guide for teachers faced with incidents of racism and antisemitism.

antisemitic statements, and that a “reporting system” would be put into place in schools.

1.1.7. Ireland

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

In 2003 the Irish government announced its intention to implement the Article 13 Directives by the end of 2003, and indicated that it would amend both the Employment Equality Act 1998 and the Equal Status Act 2000 through the introduction of an Equality Bill. Although this Bill was still not published before the end of 2003, it was expected to be published in January 2004.

OTHER RELEVANT LEGAL PROVISIONS

The European Convention on Human Rights Act 2003 was signed into law by the President on 30 June 2003. The main purpose of the Act is to give further effect in Irish law to certain provisions of the European Convention on Human Rights. A decision to draw up the National Action Plan against Racism arises from Ireland’s commitments from the World Conference against Racism in Durban 2001. Following Durban the Department of Justice, Equality and Law Reform initiated a wide ranging consultation process to identify the key issues relating to racism in Ireland and what the priorities of the plan should be. The consultation process was overseen by a steering group, and its findings were published and widely disseminated during 2003. This document, *Diverse Voices*, sets a framework for policy development in a clear and structured format that highlights key issues raised and key priorities identified for inclusion in the Plan.¹⁵

SIGNIFICANT COURT CASES

There were 13 decisions by the Office of the Director of Equality Investigations (ODEI), - the Equality Tribunal - on 'race' grounds during 2003, nine under the Employment Equality Act 1998 and 4 under the Equal Status Act 2000.¹⁶ One of the cases was outside jurisdiction as the

15 National Action Plan against Racism Steering Group (2002), *Diverse Voices - A Summary of the Outcomes of the Consultative Process and a Proposed Framework for the National Action Plan Against Racism*.

16 ODEI, *Legal Review 2003*.

legislation was not in force at the time of the treatment complained off and of the 12 race-based cases decided none were in favour of the complainant. Three of the cases under the Employment Equality Act concerned access to employment. Equality Officers in two of those cases have examined the question of whether or not it is discriminatory on the race ground under the Employment Equality Act 1998 to ask for nationality on an application form or to ask for data on ethnic or national origin. The Equality Officers were of the opinion that it is discrimination unless it is clear that this information will be kept entirely separate from the selection process.

There were 68 decisions on Traveller community ground during 2003 by the Office of the Director of Equality Investigations (ODEI), two under the Employment Equality Act 1998 and the remainder under the Equal Status Act 2000. Of the 68 decisions, 39 cases were decided in favour of the respondent and 28 in favour of the complainant.¹⁷ The remaining complaint was outside jurisdiction as it was time-barred. Refusal of service on a licensed premises accounted for a large proportion of the Equal Status cases on the Traveller community ground.

GOOD PRACTICE

There is not a strong history of engagement in the issue of racism by the Judiciary in Ireland. However during the Annual Conference organised by the Judicial Studies Institute in November 2003 the National Consultative Committee on Racism and Interculturalism (NCCRI) was asked to address judges from every court jurisdiction on the question of racism. This marks the first overall engagement by all levels of the judiciary with the issue of racism. The NCCI has also been asked to direct training for court services personnel. The Irish Traveller Movement (a national Traveller NGO) has established a legal unit to support those considering legal action under anti-discrimination legislation.

17 ODEI, Legal Review 2003.

1.1.8. Italy

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

With the law of 10 March 2002, no.39, Parliament gave the Government the mandate to issue two decrees to implement the Directives. As decrees they are examined only by parliamentary commissions and not by the entire assemblies. Legislative decree no. 215 of 9 July 2003¹⁸ implements directive 2000/43/CE of 29 June 2000, which activates the principle of equal treatment among persons independently of ‘race’ and ethnic origin. Some NGOs expressed fears that the decree would not facilitate full compliance with the aims and provisions of Directive 2000/43: for instance, with regard to the reversal of the burden of proof.¹⁹ They were also concerned that there was no specific mention of the consequences for the perpetrator of discriminatory behaviour who disobeys the order of the judge to refrain from such behaviour in these kinds of cases. They also expressed similar concerns in examining the implementation decree of Directive 2000/78/CE.

SIGNIFICANT COURT CASES

The judiciary has been heavily criticised by governing parties for applying the “Mancino law” of 1992, and sentencing for incitement to racial hatred some members of the political parties which compose the government currently in power.²⁰ Important decisions were taken by courts in Milan and Trento on issues of discrimination by local authorities and private actors. The Milan Court, with a decision dated 20/21 March 2002, declared that the system of assignment of accommodation in public housing as practised by the city council of Milan was discriminatory.²¹ The court ordered the discriminatory behaviour to stop and that consequences of such decisions should be redressed. It also sentenced the city council to pay compensation to those immigrants who had filed the case against the council, as they were

18 Published in the Official Journal of the Italian Republic no.186 of 12.08.2003.

19 Art. 8 of Directive 2000/43/CE which provides for proof to be provided by the accused perpetrator of an act of discrimination to prove that no discrimination occurred.

20 Italy / Legislative Decree n.122, enacted on 26/4/1993 and converted into law n. 205 of 25/6/1993 on “urgent measures on the subject of racial, national, ethnic and religious discrimination”, undersigned by then Minister of Interior Affairs Nicola Mancino.

21 The council established that five points in the point-system for assignment of public housing would be given only to applicants with Italian citizenship; in a situation of chronic shortages of public housing for low income families, this means that non Italian citizens are de facto excluded from public housing assignments.

victims of discrimination, according to art. 44 of Consolidated Text no. 286, 1998.

1.1.9. Luxembourg

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

At the end of 2003, Luxembourg was in the process of implementing the Directives via two bills. Bill no. 5249 defines the principle of equal treatment as the absence of any direct or indirect discrimination on the grounds of religion or belief, disability, age, sexual orientation or racial or ethnic origin. By adding this last ground, this bill implements not only the 2000/78 Directive but also some parts of the 2000/43 Directive. With regard to scope of the bill, it applies to workers in the private sector and their conditions for access to employment, guidance and training, employment and working conditions, and membership of, and involvement in, an organisation of workers or employers.

Bill no. 5248 aims to implement the 2000/43 Directive, but only for matters treated by the Ministry of Justice, by establishing a legal frame to fight any discrimination on the grounds of racial or ethnic origin. This bill extends the notion of indirect discrimination, already defined in a previous law about discrimination on the grounds of sex, to discrimination on the grounds of racial or ethnic origin. Moreover, the bill introduces the principle of the reversal of the burden of proof: in order to protect the victim of the discrimination, allegedly to be weaker party, it is incumbent upon the respondent to prove that there has been no breach of the principle of equal treatment.

1.1.10. The Netherlands

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

The Equal Treatment Act (*Algemene Wet Gelijke Behandeling*), with its Equal Treatment Commission (*Commissie Gelijke Behandeling, CGB*), provides victims of discrimination with an accessible low-cost option for lodging complaints. Each year, the Commission settles approximately 200 cases by means of a non-binding judgement. In practice most of these judgements are being complied with. The Equal Treatment Act has

been adjusted to conform to the Racial Equality Directive (2000/43/EC) and the Framework Directive (2000/78/EC). The Dutch lawmakers did not submit the relevant bill to the Lower House until the beginning of 2003, and the implementation time limit (19.07.2003) was exceeded. (The amended Equal Treatment Act came into force in April.2004.)

OTHER RELEVANT LEGAL PROVISIONS

Criminal legislation has a long-standing tradition in the history of the struggle to prevent and overcome discrimination. Yet, with criminal legislation it is still difficult to report incidents of discrimination to the police, and dealing with these cases is given insufficient priority, if any at all. In April 2003, new, clearer Guidelines on Discrimination for police and the Public Prosecution Service were announced. On 1 February 2004 the bill for the amendment of the Penal Code (Sr) was to come into force, which changes – where relevant – discrimination offences, so that if the offence is committed by a person in the exercise of his profession, or is committed habitually, or in association with one or more persons, the sentence is doubled. In addition, the Public Prosecutor has greater powers to solve the case.

SIGNIFICANT COURT CASES

In 2003 the CGB published 166 rulings. In 47 of these ruling the complaint was based on discrimination on the grounds of race, nationality (citizenship) or religion with an ethnic connotation. The most public attention was for the ruling where the Commission stated that a Regional School Authority (ROC) is entitled to ban the Islamic (face covering) veil.²² According to the Commission, the school is not violating the Equal Treatment Act by enforcing the ban.

1.1.11. Austria

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

Austria did not succeed in transposing the two anti-discrimination Directives in time. Although the Federal Government presented two related draft laws²³ in July 2003, no parliamentary decision had been

22 Netherlands / CGB / 2003-40 (20.03.2003)

23 Governmental draft on the Equal Treatment Act and governmental draft amending the Federal Equal Treatment on women and men at the workplace, available at:

taken by the end of the year 2003. (The decision was finally made in 2004)

The Austrian government opted for extending the scope of already existing acts on equal treatment of men and women at the workplace instead of adopting a new comprehensive anti-discrimination law. The draft laws have been criticised mainly for not implementing a clear shift of burden of proof according to the Directives, and for failing to provide a legal basis for specialised NGOs to engage in judicial and/or administrative procedures providing for the enforcement of obligations under the Directives.

The mandate of the Commission for Equal Treatment and the Office for the Ombudsman for Equal Treatment, which were established by the previous Equal Treatment Act for Women and Men, will be broadened in order to encompass the other grounds of discrimination mentioned in artl. 13 TEC (Treaty of the European Community). The main criticism in relation to these two institutions, which will continue to be located at the Federal Ministry for Health and Women's Issues, focuses on the lack of NGO involvement regarding their composition.

SIGNIFICANT COURT CASES

In October 2003, the Constitutional Court found that the Independent Administrative Tribunal (UVS) of Vienna had violated the principle of equal treatment by declaring unfounded the complaint of a black African woman asserting that the repeated drug controls she was subjected to were racially motivated.²⁴ At the end of 2003, the UVS of Upper Austria issued two controversial rulings revoking the fine of two barkeepers who denied people entry to their bars because of their foreign origin or colour of skin.²⁵ Both decisions were based on the fact that artl. IX para 1 no. 3 EGVG²⁶ requires that the discriminatory act, namely preventing people from entering places open to the general public, has to be based on the *sole* grounds of their race, colour, or ethnic origin. In both cases this element of the offence could not be proved.

http://www.parlament.gv.at/portal/page?_pageid=908,131468&_dad=portal&_schema=PORTAL&P_NR=XXII, (19.04.2004)

24 Austria/ VfGH/ B1128/02 (09.10.2003)

25 Austria/ UVS Oberösterreich/ VwSen-230822 (25.11.2003); Austria/ UVS Oberösterreich/ VwSen-300533 (11.12.2003).

26 Einführungsgesetz zu den Verwaltungsverfahrensgesetzen (Introductory Act to the Statutes on Administrative Procedures)

GOOD PRACTICE

In June 2003, a conference on the transposition of the two EU anti-discrimination Directives was held in Vienna drawing attention to the important legislative changes, and to the problem of discrimination in general.²⁷ The event attracted an audience of around 150 participants composed of judges, prosecutors and attorneys as well as representatives from various Ministries, social partnership organisations and NGOs, and promoted a dialogue between representatives of groups vulnerable to discrimination and judicial personnel. In January 2003 the European Training and Research Centre for Human Rights and Democracy hosted the first anti-discrimination training for trainee judges in cooperation with the Court of Appeals, Graz. This seminar was the pilot for a whole series, which subsequently has been turned into a trans-national EU project.

1.1.12. Portugal

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

Council Directive 2000/43/EC was partially implemented via the passing of Law 99/2003, dated 27 August. The law endorses the Labour Procedure Code, which formally established its implementation within the field of racial discrimination in employment. The remaining fields under this Directive were not included. It should be noted that Law 134/99, dated 29 August, although prior to the Directive, already covers the key aspects encompassed in the latter. Accordingly, the government drew up Law proposal 81/IX, with a view to the partial implementation of the Directive, which was voted and approved in the *Assembleia da República* (Parliament) and has to be promulgated by the President of the Republic, and shortly after that be published in the official journal. Law 99/2003 further implemented the provisions of Council Directive 2000/78/CE.

27 The conference „Discrimination a trivial offence? Implementation of the two EU Anti-discrimination Directives in Austria” was organised by the Ludwig Boltzmann Institute of Human Rights in cooperation with the IOM Vienna, see: http://www.iom.fi/anti-discrimination/ws_austria.htm (19.04.2004)

SIGNIFICANT COURT CASES

In 2003 two criminal complaints were filed in the field of racism and xenophobia. One related to racial violence committed by police officers over two black citizens, which is still at a preliminary instruction stage, while a parallel disciplinary process moved by *Inspecção Geral da Administração Internal* (GAI - General Inspection of Home Affairs) is underway, set on determining the culpability of the officers. There is a further case related to racial discrimination on the part of two companies, a construction company and a real-estate firm, for refusing to sell a property to a couple of Roma ethnicity, which is now under study by the *Ministério Público* (Prosecuting Counsel).

GOOD PRACTICE

Following the co-operation of the Ministry of Justice with ACIME, a *Direcção dos Serviços de Educação, Ensino, Formação Profissional e de Apoio à Reintegração Social* (Educational Services, Teaching, Professional Training and Support to Social Integration Board), elaborated an information leaflet about the work carried out with the prison inmate population, taking into account minorities and/or immigrants.

1.1.13. Finland

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

The new Non-Discrimination Act (*Yhdenvertaisuuslaki*), based on both Directives (2000/43/EC and 2000/78/EC), was passed by the Parliament in December 2003. The law was to come into force on 1 February 2004. The law deals only with civil proceedings, thus excluding criminal proceedings and class action proceedings. Many of the provisions of the law are similar to articles in the Directives, such as those that outline the scope and purpose of the law and define discrimination. The most crucial aspect of the law is the creation of an anti-discrimination board (*syrjintälautakunta*). The purpose of the board is to prohibit discriminatory practice and to initiate counter actions, and it can impose fines for violations of the law in order to secure compliance. However, the board is not invested with the authority to handle compensation claims for a breach of the law. All compensation claims are addressed to a lower court and handled by ordinary civil court proceedings.

Additionally, there is no minimum amount for compensation, which could result in the sanction being very low. Allowing for certain exceptions, the maximum sanction is € 15,000. A statement can be requested from the board about how the law should be applied in a particular case by the courts, the Ombudsman for Minorities, and practically any official. This right is also given to all organisations, including NGOs.

OTHER RELEVANT LEGAL PROVISIONS

The new Citizenship Act (359/2003) came into force on 1 June 2003. The new law permits dual citizenship, and persons who have already given up Finnish citizenship are able to reclaim it under certain conditions.

SIGNIFICANT COURT CASES

One case was handled in Helsinki district court in October 2003, where the doorman of a restaurant was accused of denying access to an African couple. There were two Finnish witnesses who were members of the test group, who would have been allowed into the restaurant. During the court proceedings, the doorman explained that there were some “ultra nationalistic” people in the restaurant, and that this would be a threat to the health for the Africans concerned. However, one of the victims told the court that the doorman had stated that they were the “wrong colour”, and that if customers noticed black people, they would not come to the restaurant again. Both the Finns’ testimonies supported the stories of the victims. Therefore the court found that no legal ground for denial had been given (such as aggressive behaviour) and the only ground for denial was the colour of the skin.²⁸

GOOD PRACTICE

The IOM (International Organisation for Migration) is carrying out a project called Awareness Raising and Legal Training for Lawyers on Discrimination Practices,²⁹ chiefly funded by the European Commission’s Community Action Programme to Combat Discrimination, and with the Finnish League for Human Rights as the national partner. This project aims at addressing the need for information on different forms of discrimination and relevant legislation on discrimination among personnel of the judicial system. All areas of

28 Helsingin käräjäoikeus, tuomio 8.10. 2003 nro 9129, R 03/2499, s. 3. (Helsinki district court, judgment given on 8.10. 2003, number 9129, diario R 03/2499, p. 3.).

29 <http://www.iom.fi/anti-discrimination>

discrimination are covered in the project, including those on the grounds of race or ethnicity, religion or belief, disability, age or sexual orientation.

1.1.14. Sweden

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

On 1 July 2003 the new law on anti-discrimination, as an implementation of the two EC Directives, came into force. The new law bans discrimination³⁰ in many areas of society. The prohibition of discrimination, both direct and indirect as well as harassment, related to ethnic origin, religion or other belief, sexual orientation or disability, applies to labour market programmes, starting or running a business, occupational activity, membership of, participation in and benefits from organisations of workers or employers or professional organisations, and goods, services and housing. In addition, the prohibition of discrimination on grounds of ethnic origin or religion or other belief applies to social services, local and national transport services for disabled people and housing adaptation allowances; social insurance and related transfer systems; unemployment insurance, and health and medical care and other medical services.

The new Act also implies that the Ombudsman against Ethnic Discrimination can carry out legal proceedings on ethnic, religious and cultural discrimination in the new areas. The tasks of the Ombudsman were previously limited only to discrimination in the labour market and higher education, such as universities and university colleges.

SIGNIFICANT COURT CASES

In 2003 four cases regarding ethnic discrimination in working life initiated by the Ombudsman against Ethnic Discrimination were concluded in the Swedish Labour Court.³¹ One of the cases concerned a woman wearing a headscarf and applying for a new post in a shop. The argument was about whether the company had discriminated against the woman when the company ended the application procedure, and also by certain statements made at a meeting of the woman and the employer.

30 Lag (2003:307) om förbud mot diskriminering (Act on a ban against discrimination)

31 The Ombudsman against Ethnic Discrimination, *Arsredovisning 2003*, p. 26

The Swedish Labour Court accepted the employer's explanation that someone else was already contracted for the post.

GOOD PRACTICE

On 15 May 2003 the Government commissioned the National Courts Administration, the Officer of the Prosecutor-General, the National Police Board and the National Prison and Probation Administration to draw up strategies in competence regarding issues on discrimination for their working fields. The four different governmental bodies have accordingly in 2003 drawn up their own strategies how to combat discrimination in their fields.

1.1.15. United Kingdom

New legal provisions concerning the transposition of Directives 2000/43/EC and 2000/78/EC

The UK already largely complies with the requirements of the EU Race Directive, due to the provisions of the Race Relations Act 1976. However, the standards of the Directive in certain respects go further than the UK legislation, as well as providing for a different definition of indirect discrimination. The UK government has therefore introduced the Race Regulations 2003 to further improve the 1976 Act and to ensure full and complete incorporation of the Directive. A separate regulation, the Race Relations Order (Amendment) Regulations (Northern Ireland) 2003, has been introduced for Northern Ireland. While the changes introduced by the regulations are welcome, in the eyes of some commentators the incorporation of the Directive by secondary legislation has contributed to a rather incoherent and confusing state of UK anti-discrimination law.³²

SIGNIFICANT COURT CASES

The major development in interpreting existing anti-discrimination law in 2003 has been the decision of the House of Lords in the joined cases of *McDonald v Advocate-General for Scotland* and *Pearce v Governing Body of Mayfield School*.³³ Both cases involved the interpretation of the

32 see the UK RAXEN 3 legislation report

33 [2003] UKHL 34, 19 June 2003, available at:
<http://www.publications.parliament.uk/pa/ld200203/ldjudgmt/jd030619/macdon-1.htm>
(26.08.2003)

sex discrimination legislation, but as that legislation is very similar to the race relations legislation, the judgments in *McDonald* have also had a considerable impact. In particular, the Law Lords emphasised that the UK discrimination legislation was based upon the requirement to show a comparator, i.e. to show that a complainant was treated worse than someone else on account of their race or ethnic origin. As a result, previous decisions by employment tribunals were disapproved of, where harassment had occurred that was specifically sexist or racist in form, and where there had been no need to show that a person of the opposite sex or of another race would have been treated differently. The court emphasised that a complainant had to show that the harassment was based on their sex, race or ethnic origin, which usually would require at least reference to a hypothetical comparator. The impact of this restriction will be mitigated to a degree by the new definition of harassment in the Race Regulations, in which creating a hostile environment can constitute racial harassment, but nevertheless *McDonald* is seen by some commentators as a 'step back' in this respect.³⁴

GOOD PRACTICE

The Commission for Racial Equality (CRE) has recently concluded a formal investigation under its powers in the Race Relations Act 1976 into the circumstances of the murder of Zahid Mubarak³⁵ in Feltham Young Offenders Institute in March 2000, when he was beaten to death having been put into a cell with a white racist.³⁶ The report identified a systemic failure on the part of the prison authorities to secure equality of treatment on the grounds of race, and contained detailed evidence of 20 areas of failure in the management systems in Feltham. The extent of the failings identified in the report would have allowed the CRE to serve a Non-Discrimination Notice on the UK Prison Service under its powers under the Race Relations Act, which could require the Service to take appropriate steps to end discriminatory treatment. However, the Commission has decided that it will not immediately issue such a Notice but instead that it will first enter into a dialogue with the Prison Service to try to develop an agreed nationwide Action Programme to overcome the major problems and institutional weaknesses revealed by the investigation.

34 see the UK RAXEN 3 legislation report

35 Commission for Racial Equality (2003) *The Murder of Zahid Mubarak*, London, can be ordered at: www.cre.gov.uk (25.08.2003).

36 Commission for Racial Equality (2003) *The Murder of Zahid Mubarak*, London: CRE.

1.2. Racist violence and crimes

For this topic the NFPs were asked to present the sources of data and information available concerning racist violence and crimes (including antisemitic and Islamophobic violence) during 2003. They were asked to identify the social groups most vulnerable to racist violence and crimes, present any important cases which occurred during 2003, and outline any major initiatives or examples of good practice by public authorities, NGOs and others during the year.

Given the different sources of information on racist violence and crime in each Member State, it is difficult to offer generic statements about trends across the EU. While some Member States have established a mechanism for data collection on racist crimes, others have no such system. Frequently, information for individual countries rests with NGO and media reports, and where police data exists it is subject to changes in legislation that can make comparisons between different data sets problematic. As was pointed out in last year's EUMC Annual Report, such differences can create the misleading impression that those countries with better data collection systems have a greater problem with racist crime and violence than those who do not. Given these caveats, there is and continues to be a problem with racist violence and crime in all Member States. In turn, there is great variation in policy and practical responses to racist violence and crime, with some Member States having extensive and wide-ranging initiatives while others are limited to the actions of dedicated NGOs.

Where official data is available on racist violence and crime, the following can be noted: preliminary figures for Germany indicate a potentially dramatic fall in the number of extremist crimes registered under the category 'politically motivated criminality - right-wing' from 10,902 in 2002 to 6,965 in 2003. However, the 2003 figures have to be treated with caution as they will be subject to adjustments and may not reflect the final total. In France a recent decline in officially recorded racist crimes has also been noted, with the Ministry of the Interior recording 817 cases in 2003 compared to 1,313 cases of racist/antisemitic acts in 2002 (although these figures are still high when compared with the 1990s). In the Netherlands the latest statistics available, covering 2002, show amongst other things a striking rise in antisemitic violence compared to 2001. While the Swedish authorities recorded a drop in racist/xenophobic crimes between 2001 and 2002, these figures are subject to subtly different counting procedures, and preliminary unpublished statistics for 2003 show an increase on 2002's figures. For

the UK, the number of racist incidents both reported to and recorded by the police has increased since 1996/7, but there is some indication that reporting has levelled off in the period 2000 - 2002.

In contrast with official figures, surveys by NGOs or victim surveys tend to indicate higher levels of racist violence and crime. (For example, as reported in last year's Annual Report, whilst the Dutch police recorded a decrease in racist violence and violence instigated by extreme right wing groups for the years 1999, 2000 and 2001, the non-governmental Dutch Monitoring Centre on Racism and Xenophobia reported increases in racist violence between 1996 and 2000.) For England and Wales, the British Crime Survey has indicated higher levels of victimisation against ethnic minorities and specifically racist victimisation than official police statistics suggest.

In sum, these variations in racist crime trends are difficult to interpret with any degree of certainty within countries, let alone between countries. However, as shown in previous Annual Reports, the presence of systematically recorded and publicly available official data is better than the situation that persists in some Member States where, as yet, either no official body has been established to record incidents of racist crime or, where such a body exists, no data is consistently produced. In this regard, as mentioned in the last Annual Report, Belgium continues to work towards establishing an official centralised mechanism for recording racist/antisemitic offences. Likewise, in 2000, the Portuguese government established a Commission for Equality and Against Racial Discrimination which has given increased visibility to racist crimes but which, as yet, has not produced consistent data on the extent and nature of racist crime in Portugal. Also, while the Spanish authorities record incidents with a racist or xenophobic motive, official statistics greatly underestimate racist incidents and, because of this, non-official sources must be referred to in order to get a more accurate indication of the extent of racist crime. In Italy, police records on racist crime continue to be based on court cases and, therefore, are not representative of the extent of the problem. In Greece, police authorities do not record whether crimes have had a racist motivation, and there has never been a prosecution, to date, based on anti-racist criminal law 927/1979.

However, there continue to be encouraging developments, building on those mentioned last year.³⁷ In 2003 the Danish Police Intelligence Service published, for the first time, figures on reported crimes with a

37 For example, the PULSE computerised data collection system introduced in 2002 in Ireland for police recorded crime.

possible racist motive. In Finland, a new provision of the Penal Code came into force on 1 January 2004 which, in line with many other Member States' criminal laws, introduced racist motivation as an aggravating factor in criminal offences.

Evidence exists in some Member States that the authorities themselves, notably the police, can be the source of some disturbing incidents. For example, in Austria, at the end of 2003 investigations were proceeding into an incident (recorded on an amateur video) when police officers and medics stood on a Mauritanian man for some minutes as he lay motionless on the ground. The man later died. In Spain and Greece, the police and coastguards have been repeatedly criticised by national and international NGOs for their treatment of Roma and alien immigrants, and in Greece a policeman was convicted in 2003 for the killing of a Roma man. Similarly, the Portuguese Commission for Equality and Against Racial Discrimination has, since 2000, noted a number of incidents of racist violence by police, while in Finland, in December 2003, the Ombudsman for Minorities received numerous complaints about police treatment of asylum seekers in Tampere.

Set against these negative actions, the criminal justice authorities have also been active against 'White Power' nationalist groups, with Sweden having a series of arrests and convictions against extreme right-wing leaders throughout 2003. In the period 2001-2003, initiatives have been launched in Member States – notably in Austria, Finland, Germany and Sweden – offering 'Exit' programmes to members of right-wing nationalist organisations, and have met with some success. In turn, NGOs, sometimes in partnership with the authorities, continue to be active with a range of anti-racist initiatives in most of the Member States. Some initiatives have focused on the 'new' problem of racist Internet sites, such as a 2003 report by the French NGO MRAP (Movement Against Racism and for Friendship Between Peoples), and have highlighted the reality of borderless transnational racism.

1.2.1. Belgium

There is no coordinated registration of racist violence and crimes. The main problem can be described as an issue of weak reporting: neither complaints filed by organisations as the CEOOR (Centre for Equal Opportunities and Opposition to Racism), nor the acts of racial violence registered by the police give a representative image of the real amount of racist violence.

SIGNIFICANT INCIDENTS

In January 2003 an executive of the European Rabbi Centre was harassed in the Brussels subway station Porte de Hal by a group of people who insulted him with the words "dirty Jew" and knocked him down. The subway security service had to intervene.³⁸ In another incident a man was severely beaten by a passer-by who admitted to being a racist member of a neo-Nazi group and who stated that he "couldn't stand coloured people in his area". In September 2003 a Bruges court sentenced the attacker to six months in prison with no remission, and a fine³⁹.

GOOD PRACTICE

In May 2003 the CEOOR and the GSARA (*Groupe Socialiste d'Action et de Réflexion sur l'Audiovisuel*) organised a debate under the title "*Juifs, Maghrébins, Musulmans, Palestiniens, Israéliens ... à Bruxelles ou ailleurs: Pourvu que l'on se parle*" ("Jews, Maghrebians, Muslims, Palestines, Israelis .. in Brussels or somewhere else: Provided that we talk to each other"). The debate went along with the première of the film "*Pourvu que l'on se parle*". The film demonstrates in an informative but humorous fashion that Jews, Maghrebians and Palestinians live together and make friends with each other in Belgium, and that the expectations and the hopes of the different communities are very similar. The film constitutes a valuable item of teaching material for teachers, educators and people working in socio-cultural training.⁴⁰

1.2.2. Denmark

All violations of the Danish Penal Code reported to the Danish police are registered in the police's central Crime Report Database. However, this database does not include specific categories for racist violence or racist crimes. It records only figures about complaints concerning section 266 b of the Penal Code (hate speech). There were twenty-eight such complaints in 2003.

In cases regarding this section of the Danish Penal Code all complaints are also recorded by the Director of Public Prosecution, together with the number of court cases and convictions. Usually, these figures are not

38 <http://www.antisemitisme.be/site/index.asp?catId=4> (12.05.2004).

39 Centre for Equal Opportunities and Opposition to Racism, Brussels, Annual Report 2003, page 22

40 <http://www.agenda-respect.be/fr/agenda/calendrier/2003-05/22-film-gsara-centre.htm>

published. In an answer to the Danish Parliament's Committee on Justice,⁴¹ the Director of Public Prosecution, however, informed the Committee that between 1995 and September 2003 in total seventy-eight cases were forwarded for prosecution, involving 104 persons.

SIGNIFICANT INCIDENTS

In 2003 15 persons were convicted according to section 266 b of the Danish Penal Code. Four members of the Progressive Party were convicted and also five members of the Danish People's Party. A sixth member of the People's Party was acquitted in 2003, and one member of that party could not be sent for trial because of his status as a Member of the European Parliament. One member of the organisation "*Faelleslisten mod Indvandringen*" ("common list against immigration") was convicted for an offence that was directed against Muslims (Islamophobia). Three other sentences in 2003 may be described as convictions for antisemitic acts. One member of the organisation Hizb-ut-Tahrir was sentenced for the dissemination of a handbill containing degrading, insulting and threatening remarks about Jews, which was also published on the organisation's website.⁴²

GOOD PRACTICE

The figures on reported crimes with a possible racist motive have for the first time been published in a yearly report produced by the Danish Police Intelligence Service PET in 2003. Also the information from the Director of Public Prosecution to the Danish Parliament's Committee on Justice⁴³ on the number of convictions according to section 266 b of the Danish Penal Code between 1995 and September 2003, is a new and positive step that is very much welcomed in the Danish context.

1.2.3. Germany

The most important data sources on racist crimes are the police crime statistics, as extreme right-wing, xenophobic and antisemitic criminal offences are recorded by the official authorities systematically and extensively. Since 2001 there exists a new system of registering incidents of politically motivated criminality based on the perpetrator's motivation (KPMD-PMK). However, the official statistics by their very nature only

41 Danish Parliament (2003), Answer no. 447 as of 2 September 2003.

42 Danish Law Weekly (2003) page no. 1428, UfR.2003.1428Ø.

43 Danish Parliament 2003, Answer 447 as of 2 September 2003.

record incidents which are regarded as crimes. In order to do justice to an extended definition of racist violence, it is also vital to take into account data collected unofficially regarding racially motivated incidents (e.g. reports by anti-discrimination offices).

Statistical data for 2003 in Germany indicates a decline in the number of extremist crimes registered by the police under the category ‘politically motivated crime - right wing’ from 12,933 in 2002 to 11,576 in 2003. Of these, 7,951 were propaganda and 845 were violent crimes. In the area of right wing politically motivated crime, 10,792 criminal offences were classified as having an extremist background; of these 759 were violent crimes.

SIGNIFICANT INCIDENTS

Great media response was triggered by the discovery of 14 kg of explosives in the Munich neo-Nazi milieu. According to statements by some of the suspects, the neo-Nazi group around the main suspect was planning an attack on the construction site of the Jewish Community Centre in the centre of Munich on the day the foundation stone was to be laid, 9 November 2003.⁴⁴

GOOD PRACTICE

Since mid-April 2001, the “*Ausstiegerprogramm für Rechtsextreme*” (Federal programme to encourage right-wing extremists to drop out of this movement) has been running, accompanied by considerable media interest. Initiated by the Minister of the Interior, it is run by the *Bundesamt für Verfassungsschutz* (BfV, Federal Office for the Protection of the Constitution). The project aims to weaken the extreme right-wing milieu by encouraging leading figures to leave this scene, and also attempts to prevent “Mitläufer” (followers) who are not firmly entrenched in the right-wing milieu from drifting into potentially violent environments.

1.2.4. Greece

Systematic data collection and research relating to acts of racist violence and harassment do not exist. Consequently, the EUMC’s research on

⁴⁴ see: <http://www.sueddeutsche.de/muenchen/artikel/888/17871/> and Frankfurter Allgemeine Zeitung, 13.09.2003, Nr. 213 / p. 2

racist violence relies heavily on personal interviews, media and case law monitoring. Police authorities do not record whether or not crimes have a racist motivation, and there is no record of arrests or prosecutions on the basis of the anti-racist criminal Law 927/1979. The Ministry of Justice does not have data on racist violence since any criminal act is prosecuted irrespective of race, religion or ethnic origin and there are no data on the motivation of crimes. The ombudsman (*Synigoros tou Politi*) has conducted a number of investigations and reports. The Greek Office of the UNHCR keeps record of human rights violations concerning asylum seekers and refugees including incidents or acts of racist violence perpetrated by public authorities only. Data, including media reports, is also collected by Greek and by other NGOs.

SIGNIFICANT INCIDENTS

In 2003, the number of reported racist attacks was higher than noted before; the Greek NFP recorded eleven incidents between October 2002 and October 2003. In one incident in Piraeus, Athens (03.11.2003), after a car crash involving a Pakistani driver, a motorcycle gang of 20 Greek youths went on a rampage against Pakistanis.⁴⁵ On the following weekend the Pakistani community and human rights activists held a mass demonstration in Piraeus.

Within the period October 2002 - October 2003, the Greek NFP recorded seven press reports of incidents involving immigrants or minorities.⁴⁶ The incidents with immigrants were serious, involving shootings, serious injuries and death, and male sexual assault. In addition, there is extensive documentation of alleged police brutality towards Roma, along with a landmark conviction of a police officer for killing a Romani man.⁴⁷ During the reporting period damage to religious building seemed to be directed solely at Jewish religious buildings. The cemetery of Ioannina was vandalised three times in 18 months;⁴⁸ and a Holocaust memorial in

45 “Kokkinia: Nearoi ratsistes motosikletistes kakopiisan Pakistanous” (Kokkinia: Young motocyclist racists attack Pakistanis), in: Athens News Agency (04.01.2003)

46 For example: “Ekthesi Diethnous Amnistias – Anthropina Dikaiomata – Ellada” (Amnesty International Report on Human Rights in Greece), in: Athens News Agency (28.05.2003)

47 “Police officer sentenced for killing Romani man in Greece”, in: European Roma Rights Centre and Greek Helsinki Monitor, Roma Rights, No 1-2 (08.2003)

48 “Nei vandalismoi apo neonazistes” (New vandalisms by neo-nazis), in: Eleftherotypia (10.10.2003), (2002) “Jewish Cemeteries of Ioannina and Thessaloniki”, in: Yahoo Groups: Balkan Human Rights List (23.04.2002)

Thessaloniki was damaged,⁴⁹ as was the newly erected Holocaust memorial in Rhodes.⁵⁰

GOOD PRACTICE

The Athens anti-racist festival has become a well-established event every July, attracting thousands of visitors. Migrant communities and human rights organisations present their activities and organise cultural events in an effort to familiarise society with its migrant communities.

1.2.5. Spain

The main sources of data on racist violence and crimes are reports carried out by independent organisations; legal reports, comments and articles; the media; polls and surveys. The surveys on crime and violence regularly carried out by the Ministry of the Interior are not publicly accessible. However, it seems clear that violence in general and violence in which foreigners are involved, both as victims and perpetrators, increased in 2003.

SIGNIFICANT INCIDENTS

Two Spanish localities which have become notorious for problems linked to racist violence also witnessed new minor outbreaks in 2003: in El Ejido (Andalusia), foreign migrants claimed to have been attacked by a group of Spanish people, three of whom were arrested. In the neighbourhood of Ca n'Anglada in Terrassa (Catalonia), a number of skinheads stabbed one Maghrebian foreigner and eleven of them were arrested.

GOOD PRACTICE

All the initiatives aimed at countering racist violence seem to focus on awareness-raising campaigns and declarations, so that public discourse should not link foreign immigration with an increase in crime and delinquency. NGOs such as Spanish Caritas and *S.O.S. Racismo* work along these lines, as do the organisers of a cross-cultural week, which took place in a municipality of the province of Madrid (Fuenlabrada) under the name *Fuenlabrada, a city for integration*. Another example

49 Agiomavritis, P. (2003), "Thessaloniki Holocaust Memorial vandalized", in: Athens News (07.02.2003)

50 Greek Helsinki Monitor (2002), "Anti-Semitism in Greece: a current picture 2001-2002"

was a municipal awareness-raising campaign about racism and xenophobia, which was launched in Almería (Andalusia) with the participation of schools and adult educational centres.

1.2.6. France

According to statistical data from the Ministry of the Interior, during 2003 the number of racist and antisemitic acts decreased by over 37 per cent (to a total of 817 cases) as compared to 2002 (1,313 cases). This number, however, is still considered high in comparison with the 1990s. Statistics from the Ministry of the Interior are divided into two categories – (i) acts of violence and (ii) threats and acts of intimidation. The number of acts of violence dropped from 381 in 2002 to 229 in 2003 (a decrease of 40 per cent); the number of threats and acts of intimidation declined by over 39 per cent (from 999 cases in 2002 to 600 in 2003). The incidents must still be taken seriously as 32 people were injured in 2003 (compared to 39 in 2002). Most of the incidents took place in Île-de-France (including Paris) where 398 cases were recorded, making up 49 per cent of national incidents.

SIGNIFICANT INCIDENTS

In May, in Epinay-sur-Seine, there was an attack on a rabbi, director of the Rabbi School Mekor Israel, by two individuals of North African descent (stone throwing, no injuries). In May in Arthez-de-Béarn, there was a sexual assault with racist insults on a young girl of African origin by seven individuals, some of which were associated with the National Front (the perpetrator was taken into custody). In October in Bastia, following a brawl against North Africans, there was a punitive raid attempt by about forty individuals armed with wooden clubs and metal bars (two were taken in for questioning). In November, in Saint-Amand-les Eaux, there was an attack on a man of Moroccan descent, accompanied by racist remarks.⁵¹

GOOD PRACTICE

Following an initiative from 2002 by the Interior Ministry and the Commission to organise elections in the Muslim community, COMOR (*Commission d'organisation de la consultation des musulmans de*

⁵¹ For the listed incidents, see France, CNCDH, *La lutte contre le racisme et la xénophobie, Rapport d'activité*, La documentation Française, 2003, pp. 40, 44, 41 and 106.

France), there was an agreement to set up a French Muslim Council (*Conseil français du culte musulman*, or CFCM). In April 2003, the members of the 17 regional Muslim Councils were elected. These are important steps in the direction of a recognised and visible representation of Islam, in a way that should help to undermine the prejudices often held about this religion.

The NGO *Mouvement Contre le Racisme et pour l'Amitié Entre les Peuples* (MRAP, Movement Against Racism and for Friendship between Peoples) released a report on racist statements distributed through the Internet, which inspired a two-year long, detail-oriented investigation on racist Internet sites.⁵² Close to thirty Internet sites of a racist and xenophobic character had been identified, all of which were housed under the same service provider. This report puts forward suggestions on how to block further incitement to racist hatred on the Internet.

1.2.7. Ireland

In recent years the Garda (*Garda Síochána*, the national police force of Ireland) PULSE system has begun to provide a source of data on racially motivated crime and violence. Provisional figures for the year 2003 indicate that sixty-eight incidents with a racist motive were recorded up until December 2003. According to the Garda PULSE, 107 court proceedings were initiated in 2002, and 25 by December 2003. The Equality Authority's Annual Report 2002 noted that it dealt with 40 cases of harassment under the Employment Equality Act 1998, eleven of which were under the race ground and one was on the grounds of membership of the Traveller community. The National Consultative Committee on Racism and Interculturalism (NCCRI) continues to publish reports on racist incidents reported to it. In its latest report, covering the period from November 2002 to April 2003, the NCCRI recorded 48 racist incidents.

SIGNIFICANT INCIDENTS

An Algerian man was seriously assaulted in Dublin city centre by a group of men and women, hit by an iron bar and kicked in the head. Other incidents were non-violent and verbal: for example, an Irish women of Muslim origin experienced racist verbal abuse from the driver of another car as she was waiting at traffic lights; and an Indian man in a

52 MRAP (2003) *La naissance d'une nouvelle extrême droite sur Internet*, 94 p. + annexes. (=The Birth of a New Extreme Right on the Internet) <http://www.mrap.asso.fr/IMG/pdf/doc-91.pdf> (22.04.04).

rural town was subjected to constant racist abuse by a group of schoolboys on his way to work.

GOOD PRACTICE

In recent years there has been a range of developments aimed at tackling racist violence and racist crime in Ireland. These include legislative and policy developments, initiatives by the Gardaí, the establishment of specialised bodies with a remit in this area, public awareness raising campaigns and initiatives by civil society and NGOs which specifically target racism, such as the NGO 'Victim Support' which provides support to the victims of crimes and works closely with the Garda.

1.2.8. Italy

Italy still lacks official data sources and information on racist violence and crimes, as well as structures charged with collecting such information. No branch of government publishes data on the subject.

SIGNIFICANT INCIDENTS

A case of racist violence that generated much debate and received wide media coverage involved about 23 militants of a known extreme right-wing group – *Forza Nuova*.⁵³ In January 2003 the group stormed a television studio where a local Muslim leader was recording an interview, and physically attacked the man and his assistant. Police identified all of the members of the assault group, arrested six of them and charged all of them for racially motivated aggression. A judicial enquiry was opened into the case and has since been under way.

GOOD PRACTICE

Among the good practices reported in 2003 was an initiative jointly promoted by the Ministry of Education and the Union of Jewish Communities in Italy, which sought to raise awareness amongst pupils of both primary and secondary schools on different aspects of the Shoah. This initiative included an essay competition on the experience of children involved in the Shoah and the different roles of both individuals and entire groups as victims, perpetrators, those who looked the other

53 "Adel Smith aggredito in diretta televisiva", in: *La Repubblica* (10.01.2003), available at: <http://www.repubblica.it/online/cronaca/rissa/pestaggio/pestaggio.html> (20.04.2004).

way and those who tried to fight it. The winning essays were presented and awarded prizes on the occasion of the *Day of Memory* which is celebrated on 27 January each year.

1.2.9. Luxembourg

Data on racial violence and crimes is mostly provided by the *Police Grand-Ducale* whose annual report for 2003 was not available at time of writing. In 2002, the *Police Grand-Ducale* registered eleven complaints based on the law of Luxembourg (07.08.1997) against racism and discrimination.

SIGNIFICANT INCIDENTS

One racist incident of vandalism took place in a hairdressing salon specialised in the African hairstyle and owned by two men of African origin in Luxembourg during the night from 21 to 22 December 2003. The entire shop was destroyed by vandalism. Graffiti left by the perpetrators ("Nigger", "Prohibited to Blacks" "Bimbo", "Congo", "Africa Bamboula" and other racist insults against Blacks) indicated an act of racist violence.

GOOD PRACTICE

By the law of 16.07.2003 an Ombudsman was set up in order to promote an open civil society. His main aim is to arbitrate complaints about decisions of public administration (the Ombudsman is independent from both the government and the administration). The Ombudsman was to take up his work in May 2004.

1.2.10. The Netherlands

The Dutch Intelligence Service (AIVD, *Algemene Inlichtingen- en Veiligheidsdienst*) asked the 25 police regions to collect data on racial violence and violence incited by the extreme right. These data were put into a central databank which was developed in cooperation with the Leiden University and the Anne Frank House in Amsterdam. Starting from this, the longitudinal research project "Monitoring racism and the extreme right" was set up, which constitutes an important source of data on racist violence and crimes. The aim is to track and report expressions of racism, extreme right-wing ideology and racial discrimination in the

Netherlands, as well as responses to these phenomena. The most recent statistical data on racist violence and crimes are for the year 2002. The number of cases of racial violence in 2002 was 262; the number of registered discriminatory incidents by the Public Prosecution Service for the year 2002 was 242.

In 2002, there were sixty-eight violent incidents aimed at Muslims and entities associated with Muslims, especially mosques, amounting to about 26 per cent of the total number of acts of racist violence (whereas in 2001 this share had been about 60 per cent). Approximately 17 per cent of the investigated incidents of 2002 had to do with antisemitic violence (46 incidents). This is a striking increase in comparison with the antisemitic violence in 2001, which was 6 per cent (18 cases). Twenty-five per cent of the discriminatory incidents for the year 2002, registered by the Public Prosecution Service, were antisemitic ones.⁵⁴

SIGNIFICANT INCIDENTS

In May on the annual commemoration of the victims of World War II, several antisemitic incidents took place in Amsterdam, which shook the public and caused intense debate in the media. There are reports that at one commemoration site, young Moroccan boys took the wreaths away and played football with them. At another site the two minutes silence was disturbed by shouts of “Jews should be killed”.

After a period of inter-ethnic tensions in Amersfoort, a group of young white males attacked a Moroccan with baseball-bats. A group of extreme right-wing youngsters set fire to the Islamic primary school Tarieq Ibnou Ziyad in Den Bosch. They were arrested. After a period of tensions between white and black youngsters in Nieuw Vennep a Surinamese boy was harassed by white youngsters and in response took a butchers knife and stabbed his attacker twice.

GOOD PRACTICE

In 1999 the chairman of the extreme right Centrum Democraten had been sentenced by the Supreme Court for racist remarks on a demonstration. In 2002 his widow asked for revision of this decision. The widow stated that his remarks are “generally accepted” nowadays and were so at the

54 Van Donselaar, J. & Rodrigues, P. (2003) Monitor Racisme & Extreem Rechts. Opsporing en Vervolg in 2002, Amsterdam: Anne Frank Stichting

time of the conviction. In May 2003 the High Court decided that the decision could not be revised.⁵⁵

1.2.11. Austria

In Austria data on racist or xenophobic crimes are recorded by the Federal Ministry of Justice and the Federal Ministry of the Interior. Related data on complaints and convictions as well as on the perpetrators' motives are published annually in the Security Report and in the Report on the Protection of the Constitution.

According to the Security Report 2003, the public prosecutor's office had to deal with 799 new cases of extreme right, xenophobic and racist incidents prohibited under the Penal Code and Prohibition Statute.⁵⁶ Combined convictions under both instruments totalled 44 in 2003 compared to 29 in 2002, a significant increase.

SIGNIFICANT INCIDENTS

In July 2003, a 33-year-old man from Mauritania died during an incident involving the police and an ambulance team in the centre of Vienna. An amateur videotape showed police officers and ambulance attendants standing on the man for several minutes while he was lying motionless on the ground. By the end of 2003 the Regional Court for Vienna had conducted only preliminary enquiries against the doctor involved and against "unknown perpetrators".⁵⁷ Investigations and proceedings were under way regarding a number of police officers, security guards and the ambulance team, but by the end of 2003 these had not been completed.

In February four skinheads attacked a man in the Vienna underground. They started to harass him by holding a poster with swastikas and "Heil Hitler" slogans in his face, and then one of the skinheads beat him with a belt. The police arrested the skinheads and the case was sent to court. In July an orthodox Jew was violently beaten in Vienna and filed a complaint with the police.

55 Netherlands / Hoge Raad / 02722/02 H, (06.05.2003).

56 Austria, Bundesministerium für Inneres, Bundesministerium für Justiz (2004), Sicherheitsbericht 2003.

57 Der Standard, (27./28.09.2003), p. 12.

GOOD PRACTICE

As a result of a study on the use of language by the Austrian Police Force the Human Rights Advisory Board issued a recommendation that a training module should be organised on awareness raising and sensitising for police officers in order to avoid discriminatory language.⁵⁸ Police training sessions are offered on topics such as ‘the police and Africans’ and ‘police action in a multicultural society’, and a seminar ‘A World of Difference’ is a compulsory part of the training programme.

Although the Austrian legal framework provides for the prohibition of racial discrimination regarding the access to public places such as restaurants, pubs and bars there are frequent complaints by persons who have been denied entrance due to their ethnic origin or colour of skin. Several NGOs launched a joint operation testing pubs in Vienna and Graz on whether they select their guests according to skin colour and origin. In Vienna, eight out of eleven pubs treated persons of Arab and African origin differently to “white” test persons; in Graz this was the case in nine out of nineteen places. Several complaints were filed against these bars and restaurants under artl. IX para 1 no. 3 EGVG.⁵⁹ and the outcome of the tests in Graz was published in a local newspaper. Eventually these cases in Styria led to a change in the trade regulations act.

1.2.12. Portugal

It is extremely difficult to analyse incidents of racist violence and discrimination in Portugal. Existing official data sources are the *Comissão para a Igualdade e Contra a Discriminação Racial* – CICDR (Commission for Equality and Against Racial Discrimination) under the supervision of the *Alto Comissariado para a Imigração e Minorias Étnicas* – ACIME (High Commissariat for Immigration and Ethnic Minorities) and the *Estatísticas da Justiça* (Justice Statistics) of the Gabinete de Política Legislativa e Planeamento – GPLP (Legal Policy and Planning Office) of the *Ministério da Justiça* (Ministry of Justice).

58 Austria, Menschenrechtsbeirat (2003) Bericht des Menschenrechtsbeirates zur Studie "Sprachgebrauch der Sicherheitsexekutive“, available at: http://www.menschenrechtsbeirat.at/de/index_berichte.html (19.04.2004)

59 Introductory Provisions to the Code of Administrative Procedure, (Einführungsgesetz zu den Verwaltungsverfahrensgesetzen), Österreich, BGBl 50/1991 (31.01.1991), amended version BGBl I 97/2002, (25.06.2002).

The public body in charge of monitoring racist behaviour is the ACIME. Formal complaints, however, are filed with the CICDR, which operates under the supervision of the ACIME. Among thirty-six cases pending with the CICDR, there are six lawsuits involving physical racist violence and four involving verbal violence. An analysis of information provided by NGOs and newspapers, however, indicates that there are substantial discrepancies between the number of events registered in official and in NGO/media records. However, these institutions have no formal database from which trends or patterns of occurrences can be drawn.

SIGNIFICANT INCIDENTS

Data from the CICDR's pending cases point to police officers as the main perpetrators of recorded acts of racist violence since 2000. Among the thirty-six pending cases, nine are related to verbal and physical racially motivated violence, seven of which involve police officers. According to unofficial sources, skinheads are the main perpetrators of racist violence in Portugal.

GOOD PRACTICE

The ACIME is the governmental body responsible for awareness-raising actions in Portugal. In 2002 and 2003 the ACIME developed a number of new initiatives and good practice on issues such as public awareness, the promotion of scientific research on immigration and on Roma populations, and the implementation of a *Sistema Nacional de Apoio as Imigrantes* (National Immigrant Support System).

1.2.13. Finland

Despite some deficiencies, police statistics probably constitute the most important source of information on racial violence and discrimination. According to a system introduced in 1997, the police should always record if there is a racist motive in criminal reports. In addition, several victim surveys have shown that the majority of racially motivated crimes are not reported to the police. As police statistics for the year 2003 have not been available at time of writing only statistics of 2002 are presented. Altogether, 179 crimes were classified in 2002 as motivated by racism; 44 as most likely and 144 as possibly motivated by racism.

SIGNIFICANT INCIDENTS

No major court cases were discussed in the media. However, there have been racial tensions and properties of immigrants (e.g. restaurants) have been damaged in some cities. After the Ombudsman for Minorities had received numerous complaints from various sources about police behaviour in the city of Tampere, in December 2003 he took quite an exceptional measure and requested the local police to provide a report on the treatment of asylum-seekers there. In particular, he was interested to have investigated why asylum seekers were taken into custody more often in Tampere than on average, and why many of them had cancelled their application for asylum while in custody.

GOOD PRACTICE

One project to be mentioned is the “Non-fighting Generation”, which kicked off in 2001. The initiative aims at reducing racial violence among skinheads. After having focused on the cities of Helsinki and Turku in its beginning, the project is expanding to the Metropolitan Helsinki Area during the years 2002 to 2003, including the neighbouring cities of Espoo and Vantaa.

An amendment to the Penal Code (515/2003) which came into force on 1 January 2004 introduces an aggravating criterion for crimes which have been racially motivated in order to ensure appropriate punishment.

1.2.14. Sweden

Statistics on racist violence are compiled annually by the Protection of the Constitution Branch (*Konstitutionskyddet, RPS/Säk*) of the Security Police department of the National Police Board (*RPS/Säk*). Figures are published in an annual report. The latest available figures concern 2002 with 2,270 xenophobic crimes (excluding antisemitism, homophobia and related white power scene criminality). Scientifically reliable statistics on racist violence have been compiled since the mid-1990s. With minor variations, figures show a small but steady increase in the number of incidents generally defined as “hate crimes”. Figures show that the number of incidents dropped in 2002. This could be due to a number of reasons, among them the fact that 2002 was an election year, when extreme right parties made serious attempts to avoid being mentioned unfavourably in media reports. Preliminary statistics (not published) for 2003 show a marginal increase.

SIGNIFICANT INCIDENTS

A number of leaders of white power nationalist groups were found guilty of violent crimes in 2003. The head of the *Svenska Motståndsrörelsen*, SMR (Swedish Resistance) was arrested and charged with illegal possession of arms. The head of the Växjö branch of the Nationalsocialistisk Front, NSF, (National Socialist Front), was sentenced to 18 months in prison for assault, and the head of the mid-Swedish branch of Blood and Honour in Smaland was charged with gross assault and battery. The head of the Radio Islam web page was again targeted in a police investigation for breaches of internet legislation and incitement of racial hatred.⁶⁰

GOOD PRACTICE

In 2003 several NGOs established an “Anti-Racist Centre” which receives governmental funding. It is still too early to judge if this centre will have a major impact. However, an anti-racist centre that takes a broader view on racist activities and identifies methods to combat racism and racially motivated violence is badly needed and has been requested for many years in Sweden. In another initiative starting in 2002 the government asked the Integration Board to form networks between elected local politicians and public employees in order to focus on methods to combat racism, discrimination and xenophobia in local municipalities.

1.2.15. United Kingdom

Data presented in the form of tables and charts from the British Crime Survey (BCS) constitute a crucial source of information on victims of racially motivated offences, although it is not frequently updated. The Crown Prosecution Service (CPS) monitors decisions it makes in relation to racist or religious crime. In its annual reports the CPS gives both local and national statistics on charges, prosecutions and outcomes of cases of racial and religious crime. This information is shared with other agencies in the Criminal Justice System as well as interest groups and individuals. The review of the operation of the 1998 Crime and Disorder Act by Burney et. al. (2002),⁶¹ published by the CPS and Home Office, remains

60 All cases compiled in Expo Magazine 1-2004.

61 Burney, E. et. al. (2002) Racist Offences – How is the Law Working?, Home Office Research Study 244, London: Home Office, available at: <http://www.homeoffice.gov.uk/rds/pdfs2/hors244.pdf> (02.01.2003).

the most extensive current evaluation on racist violence. The number of racist incidents both reported to and recorded by the police in England and Wales since 1996/7 have increased and show a rising of reported incidents particularly between 1999 and 2000, when the figure more than doubled. The figures from 2000, 2001 and 2002 suggest that the rate of reporting has levelled off, although the numbers are still considerably lower than those reported in the British Crime Survey.⁶²

In addition to racist incidents recorded by statutory bodies, unofficial records of incidents are kept by various organisations – such as community associations, citizens' advice bureaux, migrant and refugee support groups and faith-based organisations. However, the unofficial and fragmented nature of these records means that no overall national pattern is available.

SIGNIFICANT INCIDENTS

Many cases of alleged racist incidents were reported in the local and national media. The following are some examples: a 15 year-old member of a traveller family was left to die in the middle of a playing field in Ellesmere Port. Two boys aged 15 and 16 have been charged with his murder. The family is convinced that the murder was on account of the boy 'being a Gypsy'. The police have not commented as to whether it is being treated as a racially motivated crime. A man from Tanzania who had been granted asylum was found with fatal injuries at the Luton hostel where he was staying in October 2002. In January 2003, a 36-year-old man, who also lived at the hostel, was charged with his murder. In March 2003, an 18-year-old man was sentenced to life imprisonment for the murder of a 30 year-old Iranian asylum seeker in Sunderland in August 2002. The perpetrator and others had already assaulted and racially abused the Iranian.

GOOD PRACTICE

Targeted police initiatives on hate crimes, such as those of the London Metropolitan Police Service and the Greater Manchester Police, have been adopted more widely across the country. For example, a South West England targeted policing initiative has had an impact on racist crime there. The National Probation Service (NPS) Merseyside programme

62 For example, the police figure for racist incidents recorded in 1999/00 of almost 48,000 was still substantially lower than the BCS estimate of the number of racially motivated incidents reported to the police (150,000) – see: www.homeoffice.gov.uk/rds/pdfs/hors223.pdf, page 56 (as of 24.08.04).

Against Human Dignity, and other NPS intervention programmes such as Newcastle and Greenwich, specifically target racially motivated offenders. Multicultural educational programmes such as Kent County Council's Minority Communities Achievement Service enables children to explore values such as sharing and equal respect and examines issues such as, fear, justice, being new, and ethnic diversity.

1.3. Employment

The NFPs were asked to provide data and information, with sources, on racism, xenophobia and discrimination in employment during the year 2003. They were also asked to identify the social groups most vulnerable to racism and discrimination in employment, and to outline major initiatives or 'good practice' by public authorities, NGOs and others during 2003.

Employment discrimination should increasingly be on the agendas of Member States. For one thing, 2003 was the year of implementation of the two anti-discrimination Directives, one of which is concerned only with employment. For another, the EU, through the European Employment Strategy,⁶³ has been concerned in particular with the disadvantage of vulnerable groups such as immigrants and ethnic minorities in employment, and has been raising awareness of ways of tackling discrimination in employment through its range of EQUAL⁶⁴ projects operating across the EU.

In last year's EUMC Annual Report the evidence on discrimination in the area of employment was categorised under several headings: indirect evidence, direct evidence, surveys of the majority and minority populations, and complaints. Indirect evidence comes from national statistics which indicate, for example, a higher unemployment rate for certain social groups. The various NFP reports demonstrate the continuing inconsistency in the availability of statistics according to national or ethnic origin, and in the degree to which these can be used to indicate the existence of discrimination in employment. Generalisations

63 see the latest Joint Employment Report, examining progress by Member States in implementing the new Employment Strategy agreed for 2003 – 2006: http://europa.eu.int/comm/employment_social/employment_strategy/report_2003/jer20034_en.pdf

64 See: www.europa.eu.int/comm/equal The goal of EQUAL is to test new ways of tackling discrimination and inequality experienced by those in work and those looking for a job. To this end, EQUAL co-finances activities in all EU Member States

across countries are not possible because of the national variation in the practices of keeping such records, although it is argued that in the longer term the operation of the new Directives may produce some national convergence here. According to the NFP reports, in Belgium, as in some other countries, at best the statistics are based on nationality, which leads to an incomplete picture. (The federal structure of Belgium reflects internal differences of practice here - while there is a general reluctance on the part of the authorities to keep such records because of the fear of 'ethnicising' the labour market, nevertheless the registration of ethnic origin is reported to be more likely to happen in the Flanders region of Belgium than in Wallonia.) In Portugal, ethnic monitoring is not practiced, and statistics are available only in terms of 'nationals' or 'non-nationals'. In Spain, there are no statistics on discrimination and asking for ethnic origin in surveys is also seen as unacceptable.

In France there are no statistics on discrimination which relate to the victims' origins but there are national statistics which allow indirect indicators of discrimination. Multivariate analyses of these show that amongst people with the same rate of qualification, those from immigrant backgrounds have higher unemployment rates, and also take longer to find work than their equivalently qualified peers. Similarly in the Netherlands, there are multivariate analyses to show higher unemployment rates for minorities despite having similar levels of qualification as the majority. In Austria there are statistics on Austrians and 'aliens' which show higher unemployment rates for the latter, but there are no multivariate analyses reported which might explore these further. In Denmark the NFP reports that there are official statistics demonstrating the marginalised position of ethnic minorities in the employment sector, but the absence of multivariate analyses on these statistics leads to a tendency in public and media debate to make assumptions on deficits in the immigrant and minority population as the sole factor to explain such differences.

This highlights the importance of research on employment discrimination as an important complement to statistics. The NFP reports reveal a wide variety in the existence of such research. Whereas countries such as France and the UK have a long tradition in this, the Spanish NFP laments the fact that there is not a single study in Spain on employment discrimination related to, for example, the Roma population. In Germany the NFP recognises that the high unemployment rate for immigrants does not signify discrimination in itself, but that more tangible evidence of discrimination comes from research as well as from anti-discrimination centres. In Italy, where it was reported that the migrant population of the

northern region of Lombardy in 2003 had an unemployment rate almost ten points higher than the average, the NFP reports speculation that this might be least partially the result of discrimination, though this could not be proved. However, complementary evidence of discrimination in Italy came during 2003 when the results were released of the latest ILO-sponsored matched-pair discrimination testing. The researchers sent Moroccans and Italians to apply for the same jobs in various parts of Italy, and the results demonstrated that Moroccans seeking work are systematically discriminated against on the grounds of their name and origin.

Another category of research on discrimination has been surveys of people's subjective experiences. In Denmark a programme of telephone interviews showed that more people felt that they had experienced discrimination in the employment sector than in previous years. Similarly in France a survey of people of immigrant origin found that 39 per cent felt they have suffered negative treatment just because of their origin, colour of skin or accent.

The new Equality Directives cover indirect discrimination in employment, and examples of this were presented by the NFPs in 2003. In Italy, the problem was mentioned of word of mouth recruitment, meaning that immigrants who do not have networks they can draw on are excluded from some sectors. At the same time word of mouth recruitment also works to ensure they become concentrated in certain segments of the labour market, and eventually become identified as suitable only for this type of work. Another example of indirect discrimination mentioned in 2003 was in Austria, where the uniform regulations for the Vienna public transport authority excluded Sikhs from becoming bus or train drivers.

The accession to the EU in 2004 of new Central and Eastern European countries has raised the issue of Roma, Sinti, Gypsies and Travellers for the first time in many peoples' minds. However, many of the 15 EU Member States have had an issue of discrimination against these groups for many years, although this has not always been prominent in public discourse. In Italy unofficial estimates suggest that the unemployment rate for Roma is far higher than any for other segment of the population, and in Spain and Finland the Roma are reported as continuing to face negative attitudes and discrimination in employment. In Ireland the NFP notes that amongst the increasing number employment cases heard by the Equality Tribunal, remarkably few relate to Travellers, probably because

still relatively few Travellers participate in the mainstream labour market.

In terms of good practice, the Greek report describes an integrated action plan using EU money for creating better infrastructure for Roma, and providing training and adult education. A long term Spanish project aims to create jobs for Roma in the conventional labour market, as well as launching services for Roma which themselves may be sources of new employment. With regard to good practice more broadly, there are many examples quoted by the NFPs of initiatives to combat discrimination and broaden employment opportunities for migrants and minorities in general, from governments, local public authorities, the police forces, trade unions, and a range of NGOs, across the Member States. However, it is noticeable that amongst all these examples of 'good practice', virtually nothing is reported regarding the private sector. A very large number of projects under the heading of 'good practice' are supported by EU funds, mainly EQUAL projects, but also several other sources of European funds.

1.3.1. Belgium

In general in Belgium there is a lack of official statistics on ethnic origin stemming from the authorities' fear of 'ethnicising' the labour market. However, in the Flanders region ethnic registration is increasingly regarded rather positively. Correspondingly, the only systematic studies available come from the Dutch-speaking academic world, and these pertain to the labour market in Flanders and Brussels, and not to the Belgian situation in general. The Flanders Region is also developing ethnic registration techniques in order to obtain an overview on the position of ethnic minorities in the labour market.

This registration project is not used in the other regions because they are reluctant to differentiate employees or job applicants in terms of ethnic origin. Nor is this absence of official statistical data compensated by information from NGOs or social partners in the field, and French-speaking research institutes produce little data relating to ethnic origin. Statistics are based at best on nationality and not on ethnic descent. The relative lack of statistical data leads to an incomplete representation of reality regarding the position of immigrants in the labour market.

GOOD PRACTICE

The federal project *Cellule Entreprise Multiculturelle / Cel Kleurrijk Ondernemen* (Unit Colourful Entreprising)⁶⁵ put forward a number of anti-discrimination activities including information meetings on ethnic discrimination in recruitment and at the workplace with the Inspectorate of Social Laws. An information meeting was set up with the chairpersons of the joint industrial committees and subcommittees focusing on academic studies concerning ethnic discrimination, as well as the judicial framework, and ways of including the issue of ethnic discrimination in the negotiations between employers organisations and the labour unions. Information flyers and brochures are used to provide information on how to fight ethnic discrimination, and on possible judicial instruments, sanctions and good practices which a company can apply.

A working group bringing together the Federal Police and the Centre for Equal Opportunities and Opposition to Racism (CEOOR) has been established. This working group is currently elaborating a strategic plan in order to define the concept of ‘diversity’ and its application in the police services. The initiative aims to ensure openness towards diversity in the management of the Federal Police, to increase the quality of the service towards the population, and to obtain a more adequate reflection of the Belgian society in the composition of the police.

1.3.2. Denmark

The latest figures from the Ministry of Refugee, Immigration and Integration Affairs, from January 2003, state that the unemployment rate among immigrants and descendants (16 - 66 years) from third countries was 12 per cent while the unemployment rate for Danes was four per cent. However, with a relative scarcity of examples of research such as multivariate analysis on the statistics, or more qualitative research on discrimination, there is a tendency in public and media debate for these statistics to be interpreted solely in terms of deficits in the minority populations and/or because it may not pay to take employment owing to ‘excessive’ social benefit payments, as well as a lack of appropriate networks, and cultural factors such as wives who ‘stay at home’. One government minister even suggested that ethnic minorities lack the appropriate work ethic.⁶⁶

65 <http://www.meta.fgov.be/> (19.05.2004)

66 Danish Newspaper: “Information” on 06. 05.03, p.1

Data on the extent and nature of racism, xenophobia and discrimination in employment in Denmark is, however, not so readily available. One report from 2002, based on telephone interviews with people from an ethnic minority background concluded that a greater proportion of those interviewed expressed the sentiment that they feel discriminated against in the employment sector today than had been the case the year before⁶⁷, whereas a survey by the same organisation in 2003 found that a smaller proportion of immigrants felt they had experienced discrimination than in the previous year. According to a report published in 2003 most court cases on labour market discrimination are related to discrimination on the grounds of religion, especially on the wearing of the headscarf by Muslims.⁶⁸ The groups most vulnerable to discrimination in the labour market are Somalians, and other black and ethnic minorities. However, no studies were made on the issue of the victims of discrimination in 2003.

GOOD PRACTICE

In 2003 the Ministry of Refugees, Immigrants and Integration produced a new report entitled “The Government’s vision and strategies for a better integration”,⁶⁹ which contains 114 new initiatives on “integration”, emphasising the dissemination of diversity management techniques in order to encourage employers in both the public and private sectors to employ more people with an ethnic minority background.

The European Social Fund EQUAL programme has been used to finance a series of projects which are aimed at improving immigrants and refugees “integration” in the labour market.⁷⁰ In general, strategies in Denmark are characterised by an abundance of efforts to help unemployed ethnic minorities to find work, with initiatives such as “bridging cultures” at the workplace. Many actors within the State, the social partners, and civil society have over the past few years and also in 2003 launched a whole series of strategies, projects and initiatives. However, there does seem to have been a lack of projects, especially from the state actors, directly dealing with discrimination issues. The Danish government’s Action Plan to promote Equal Treatment and Diversity and Combat Racism, launched in November 2003, includes initiatives aimed at gathering information on discrimination.

67 Catinét (2002), Status on integration April 2002

68 DACoRD (2003), Diskrimination på arbejdsmarkedet – Sager fra 1996 til 2003.

69 Denmark, Ministry of Refugee Immigration and Integration Affairs (2003), The Government’s visions and strategies for better integration

70 For a full list of projects that have received funds see – www.sm.dk.

1.3.3. Germany

Germany has no systematic registration and hence no national statistics of cases of discrimination. There is, however, some information on the general circumstances of immigrants in the labour market such as the employee statistics managed and provided by the Federal Employment Services (FES, *Bundesagentur für Arbeit*) and the micro census (a representative questionnaire-based sample survey).

An analysis of the situation of non-German labour clearly shows that they still constitute a disadvantaged group on the labour market, compared to German labour as far as access to jobs, income and working conditions are concerned. In 2003, the unemployment rate for non-Germans (20.4 per cent) was nearly twice as high compared to that of all employees (10.5 per cent). The corresponding rates for 2002 were 19.1 per cent and 9.8 per cent respectively.

Of course, a higher unemployment rate does not necessarily reflect discrimination. The main problem is that qualification levels of non-German workers are still considerably lower than those of German workers. However, several studies and reports from anti-discrimination centres⁷¹ show that there are cases of discrimination in the workplace, and only a few of these come before the courts. Turkish workers in particular have more frequently reported discrimination in employment and at the workplace.

GOOD PRACTICE

The German Association of Trade Unions (DGB) has played an active role in providing information and education campaigns and organising workshops, conferences and other events focussing on discrimination at the workplace and the integration of non-German labour into the job market. The main aim of these projects is to present information on existing discriminatory practices at the workplace and to develop and outline anti-discrimination strategies.

One project called “Migrants in the Public Sector”, organised by the Advice Centre for Qualifying Young Foreign Personnel (BQN) in Bremen, in cooperation with the public sector and police authorities in Bremen, aims to increase the percentage of police officers of foreign

71 for example, Goldberg, A./Mourinho, D. (2000): The Occurrence of Discrimination in Germany, in: Zegers de Beijl, R. (ed.): Documenting discrimination against migrant workers in the labour market. A comparative study of four European countries, Geneva

origin and bring it in line with the percentage of non-German residents of Bremen. Visiting schools, migrant associations and vocational training fairs, they provide information on police careers and the necessary qualities of applicants. Over the last years, the percentage of non-German trainees in Bremen's public sector has risen from 2.7 per cent (1999) to 14.0 per cent, compared to 3.0 per cent nation-wide.⁷²

1.3.4. Greece

It is difficult to get accurate data on immigrants in Greece. The Labour Force Survey is based on a sampling frame which is not *stricto sensu* representative of the migrant population. Consequently this survey cannot be considered as a reliable source of data concerning migrants' employment status. According to the LFS, unemployment rates for Greeks and immigrants are as a whole largely identical.

A probably large, but unrecorded, number of women, particularly from NIS⁷³ countries, are trafficked persons working in the sex industry. The 2003 USA Department of State report on trafficking places Greece among the 15 countries not doing enough to curb the trafficking of human beings. The report describes Greece as "a destination and transit country for women and children trafficked for the purpose of sexual exploitation... (with) as many as 18,000 people trafficked to Greece in 2002".⁷⁴

The social groups which are most likely to become victims of racism and discrimination in employment are registered and unregistered third country nationals, asylum seekers and refugees, Roma, "repatriated" migrant ethnic Greeks from the NIS and migrant ethnic Greeks from Albania (most NIS repatriates have acquired Greek citizenship through a special rapid process and Albanian ethnic Greeks hold a special residence permit), and religious minorities.

72 cf. KAUSA/Pro Qualifizierung (ed.) (2002) Kompetenz in Aus- und Weiterbildung, Info-Brief Sommer 2002, Köln, p.7

73 The newly independent states of Eastern Europe

74 See US Department of State Annual Report 2003 "Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report" available at <http://www.state.gov/g/tip/rls/tiprpt/2003/> (26.06.2003)

GOOD PRACTICE

The Integrated Action Plan for Roma includes measures and practices to be implemented by various national actors including local authorities, prefectures, NGOs and others for the improvement of the social situation of the Roma population in Greece. Actions are aimed at the creation of infrastructure (housing and Roma support centres) and the provision of services (training, employment, adult education, etc).

The National Action Plan for Employment 2002 is co-funded by national sources and EU structural funds (the 3rd Community Support Framework). It includes actions to promote employment among vulnerable groups. The most significant element of the 2001-2003 National Action Plan is that for the first time the need for positive action on combating racism and discrimination was acknowledged and provided for by offering a variety of support options from language training to employment subsidies.

1.3.5. Spain

In Spain there are no statistics concerning racism, xenophobia or discrimination in employment so that these phenomena must be approached through research, such as interviews with migrants and members of ethnic minorities, or through surveys conducted amongst them. The findings are reported mostly by NGOs, the media, trade unions, research organisations and private researchers. It is also worth mentioning that asking for the ethnic origin of individuals is considered 'politically incorrect' in Spain so that this variable does not appear in statistics.

Foreign migrants in a regular but precarious situation and irregular foreign migrants are those most exposed to discrimination and/or exploitation in the labour market. A study conducted all over Spain revealed that black Africans were the most discriminated foreign migrants. Migrant women, broadly speaking, are in a worse position than their male counterparts and have to accept jobs below their level of qualification much more frequently than migrant men, in most cases as home helps. Whilst the existence of discrimination against Roma in job-related matters is universally known, is not demonstrated by statistics: there is not a single study which has researched into the area of employment-related discrimination relating to the Roma population in Spain.

GOOD PRACTICE

One long-term project is that conducted by the *Fundación Secretariado General Gitano, Acceder*, which is co-funded by the European Social Fund.⁷⁵ This aims to create jobs for the Roma population in the conventional labour market as well as to launch local health, social, cultural and educational services which in themselves can be new employment sources for members of this ethnic group. The fact that such an initiative is needed is an indirect indication of the existence of discrimination.

Another project, called *Red Inter-labor@*, under the Spanish Red Cross, is addressed to the labour integration of excluded populations and also co-funded by the European Social Fund. Others include a telematic network created by the Red Acoge (Acoge Network) with a database of job offers addressed to foreign migrants, an EQUAL project *Filoxenia* in the Balearic Islands for the re-skilling and occupational advancement of foreign migrants, and the programme *Entrepreneurs from Other Cultures*, carried out by Barcelona Activa, a body related to the Barcelona town council, in order to promote self-employment initiatives by foreign migrants.

1.3.6. France

In France, there exist no official statistical or NGO data that expressly report on racist cases in employment or discrimination in relation to the victims' origins. The statistical tools allow examination of the situation of foreigners and migrants, but not of French citizens emanating from an immigrant background, or originating from the French overseas territories and 'Départements' (DOM-TOM), who are also susceptible to discrimination because of their origin, colour or surname. On the other hand, the disproportionately high rate of unemployment among foreign individuals who have the same qualifications as French individuals is generally seen as indication of discrimination in employment. Furthermore, one can gain from research projects, mostly in the form of qualitative studies, further indication as to the character and extent of the phenomenon of racism and discrimination in the labour market.

75 <http://www.fsgg.org/acceder/default.htm>

The opinion of the High Council on Integration in 2003⁷⁶ concludes that inner-city youth, often of immigrant descent, experience levels of unemployment that are three times higher than that of other young people. Young people of immigrant origin who have university diplomas (usually a bac+ 5)⁷⁷ experience a greater rate of unemployment than young people of French descent.⁷⁸

The study “*Trajectories of the Unemployed-Local Labour Market*”, conducted by the DARES (TDE-MLT), reveals that for unemployed individuals living in ‘Sensitive Urban Areas’, their neighbourhood constitutes a major handicap; on average, it takes ten per cent more time to find employment for residents of these neighbourhoods regardless of their sex, age, national origin, education, or professional experience.⁷⁹ A Sensitive Urban Area (Zone Urbaine Sensible - ZUS) is one with a high share of underprivileged social housing, badly integrated into the urban structure, with a high concentration of unemployed or people facing a high risk of social exclusion.⁸⁰

GOOD PRACTICE

To increase the number of individuals from areas with a high proportion of population of foreign origin in higher administrations the French government announced an initiative of the ‘grandes écoles’ involving the installation of new preparatory classes in schools located in Priority Education Zones. Additional measures followed the implementation of regional plans to fight discrimination in employment and called for the extension of local actions in ten new towns a year over four years.⁸¹ The ESPERE project, coordinated by the FASILD, aims to transform public employment service practices, and highlight the ways in which the

76 Haut Conseil à l'Intégration (HCI), "Avis du Haut Conseil à l'Intégration (HCI) sur la promotion sociale des jeunes dans les quartiers en difficulté et sur les droits des femmes issues de l'immigration", Paris, HCI, 2 juillet 2003, 24 p. + 45 p. annexes. (“Opinion of the High Council of Integration (HCI) on the Social Promotion of Inner-City Youth and on the Rights of Women of Immigrant Descent”)

77 i.e. the high school baccalauréat plus five years of higher education

78 Mouna Viprey, L’insertion des jeunes d’origine étrangère, op.cit.. See presentation of the results of this report in Le Monde, June 4 2002, “La difficile ascension sociale des diplômés issus de l’immigration”.

79 DARES, Habiter un quartier défavorisé : quels effets sur la durée ?, Ministère des affaires du travail et de la solidarité, Premières informations et premières synthèses, n° 43.1, octobre 2003, 8 p. (Living in Disadvantaged Neighborhoods: What are the Lasting Effects?) <http://www.travail.gouv.fr/publications/picts/titres/titre2020/integral/2003.10-43.1.pdf> (22/04/04)

80 <http://www.travail.gouv.fr/publications/picts/titres/titre2020/integral/2003.10-43.1.pdf>.

81 These plans were experimented with in 2002-2003 by the DIV, the DPM, the DGEFP and the FASILD on six sites.

strategies of employers can contribute to discrimination, by the creation of a training programme and the implementation of a training kit, created in 2003, to help support individuals who are confronted by discriminatory demands of employers. Among the projects sponsored by EQUAL, the LATITUDE project driven by ADECCO (a private employment agency)⁸² targets the practices of employment agencies, sensitising agencies to the issue of discrimination, preparing staff confronted by situations of discrimination, and creating arguments and tools aimed at the clients, the employers who discriminate. The CFDT trade union took up the issue of racial discrimination in its work plan for 2003-2006 through a European EQUAL project entitled “*The Fight Against Discrimination: Reinforcement of Union Practices.*”

1.3.7. Ireland

Concern has been expressed by a number of leading organisations that migrant workers are being subjected to discriminatory practices.⁸³ With regard to Travellers, government and non-government sources agree that strategies aimed at overcoming the specific difficulties they face have not been as successful as may have been hoped; members of the Traveller community remain a very vulnerable group in the Irish labour market.⁸⁴

There has been a significant increase in the number of employment cases referred to the ODEI – the Equality Tribunal - under the employment equality legislation - between 2000 and 2003 under the ‘race’ ground which covers race, colour, nationality, and ethnic or national origin.⁸⁵ In general, there have been very few cases related to Travellers, perhaps because relatively few travellers participate in the mainstream labour market. There were only two in 2003, and both those cases concerned access to employment.

In its Annual Report 2003 the Equality Authority noted that for the first time the ground of race was the largest category representing 30 per cent of case work (it was the second largest category in 2002). The case files reveal that complaints concerned equal pay claims, working conditions, access to promotion and dismissal.⁸⁶

82 This project associates the DPM, the FASILD, the ADIA society and the Institution of Managers in Solidarity (IMS). It involved a hundred of the biggest businesses in France.

83 Conroy, P (2002) *Migrant Workers and their Experiences*, Dublin: Know Racism, p. 24.

84 Pavee Point ‘Travellers and Work’, available at: www.paveepoint.ie/fs_work_a.html (10.05.2004)

85 ODEI, *Legal Review 2003*,

86 Equality Authority, *Annual Report 2003*,

Concerns have also been expressed regarding action taken by recruitment agencies in relation to migrant workers.⁸⁷ In its latest report the National Consultative Committee on Racism and Interculturalism (NCCRI) recorded a number of complaints relevant to this study, including a Sudanese national who claimed that he experienced discrimination on the grounds of race by a recruitment agency in Dublin and that a potential employer asked him questions that were wholly irrelevant to the job in question, such as questions about his religion and country of origin. In 2003 media stories reported the statements of a number of migrant organisations that if an employee took steps to inform the authorities about racial bias, the employer would often threaten not to renew a work permit.⁸⁸

GOOD PRACTICE

The Department of Enterprise, Trade and Employment initiated a strategy in 2003 of publishing the names of those businesses employing migrants on work permits. The move was aimed at enhanced transparency and to help cut down on illegal employment, as it would be easy to establish how many foreign workers were legally working for an employer. The Immigrant Council of Ireland published a handbook on migrants rights and entitlements in Ireland.⁸⁹ Anti-Racism in the Workplace Week, a joint venture between the Equality Authority, Irish Business and Employers Confederation, Irish Congress of Trade Unions and the Construction Industry Federation, continued in 2003 with a week of events to raise awareness. Other examples of good practice include the EQUAL community initiative which seeks to promote new means of combating all forms of discrimination and inequality in connection with the labour market. A number of the EQUAL projects in Ireland have a focus on the integration of minority ethnic groups into the workplace.

1.3.8. Italy

Standard employment data do not concern racism, xenophobia and discrimination in employment. Istat, the national institute of statistics, collects data on various aspects of the work force through quarterly

87 NCCRI (2003), Reported Incidents Relating to Racism: November 2002- April 2003, Dublin: NCCRI, p. 6.

88 Haughey, N (2003) Migrants Reluctant to Report Racism at Work, in The Irish Times (11.07.03) [PUBIE0119]; Duignan, J (2003) Migrant Workers in 'Fear' of Employers, in The Irish Times (23.04.03).

89 Immigrant Council of Ireland (2003), Handbook on Immigrant Rights and Entitlements in Ireland

labour force surveys and the annual data is obtained, for all variables, as averages of the four surveys.⁹⁰ However, this source of information does not provide data broken down by nationality.

There is evidence that migrant workers, asylum seekers, refugees and Roma populations experience various forms of discrimination in employment. According to a survey of the migrant population in the Northern region of Lombardy, carried out by ISMU,⁹¹ the unemployment rate of migrants in the region was 13.4 per cent and this was almost ten percentage points higher than the rate for the entire workforce in the region (four per cent).

In 2003, a discrimination testing research, commissioned by the ILO92, was carried out in various parts of the country, testing three different phases of the employment process. The first phase was the telephone contact in response to a published job offer; second phase was the invitation to an interview for the job and the third and last phase was the offer of the vacant job. The authors conclude that instances of discrimination against unskilled young Moroccans occurred during all three phases, though the most critical was the first phase, and on the basis of this, they conclude that Moroccans are systematically disadvantaged. Before these results were published, discrimination was assumed to account for a part of the difference in unemployment rate between migrants and the entire workforce but such assumptions could not be quantified. This study was a very positive development because its findings confirm what until now was known only from information provided by NGOs monitoring discrimination in local contexts and from interviews of migrant workers.

The prevalence of “word of mouth” as a way of advertising vacant posts can be a source of indirect discrimination against people who do not have links and networks they can draw on, and leads to people from the same background being concentrated in certain segments of the labour market, and this in turn leads to some groups being identified as particularly

90 Istat (2003): Indagine sulle forze lavoro. Serie storica (Labour force survey. Historical series), April 2003; tables 12 and 15.

91 Zanfrini, L. (2003): Il lavoro (Employment), in: Blangiardo G.C. (ed) (2003): L’immigrazione straniera in Lombardia. La seconda indagine regionale: rapporto 2002 (Foreign immigration in Lombardy. Second regional survey: report 2002), Vol. I, Milano: ISMU, 2003.

92 Allasino, E. et. al (2003): La discriminazione dei lavoratori immigrati nel mercato del lavoro in Italia (The discrimination of migrant workers in the Italian labour market), International Migration Papers, Geneva: ILO, September 2003.

suited to certain activities and not others, such as in the case of Filipinos who are employed mainly as domestic workers or servants.

Research findings show that unauthorised migrants are in a worse position than legally resident ones on all variables considered in the study, as it is impossible to use legal measures of protection against discrimination even where they are available. Advantages accrue to the employers who can use their labour at very low costs both in terms of remuneration and social protection.⁹³ Only the position of the Roma appears to be worse than that of unauthorised migrants. Officially, there are no statistics on employment and unemployment of the Roma and even the organisations working closely with them do not have such information. Nevertheless, all estimates indicate that unemployment is higher in Roma communities than in any other segment of the resident population.

1.3.9. Luxembourg

Luxembourg has a particularly high number of foreigners as part of the labour force (64.5%), of which a large proportion (37.5%) is not resident in Luxembourg. Luxembourg's labour market can be considered as *extremely open* to foreigners, even as *dependent* on foreigners. Nonetheless, there is strong segregation, certain sectors and certain functions in companies are 'reserved' to certain nationalities. There is an absence of information on discrimination as such. Certain nationalities (Portuguese, people from Cape Verde and, to a smaller extent, ex-Yugoslavians and French) have precarious employment; this involves issues of both unemployment (ADEM) and income (*Inspection Générale de la Sécurité Sociale*).

For non-EU citizens the system of work permits determines the precariousness of employment. For those who ask for a work permit, acceptance or refusal depends highly on the nationality/countries of origin): for example, the rate of refused permits is much higher for certain country groups in Occidental Asia and Africa. For those who rely on permits type A and B, exclusion from the labour market is possible at

93 For information on unauthorised migrants in Italy see: Reyneri, E. (2001), Migrants' involvement in irregular employment in the mediterranean countries of the European Union, International Labour Organization, IMP Working Papers; Ambrosini, M. (2001), La fatica di integrarsi. Immigrati e lavoro in Italia (The difficulty of getting integrated. Immigrants and employment in Italy), Bologna: Il Mulin

any stage. The employee depends entirely on the employer and on the *Ministère du Travail et de l'Emploi* for his or her work permit.

Asylum seekers have no access to the labour market, and no data exist about any 'illegal' employment activity. Their chances of finding a job (as soon as they have the status of a refugee) dropped in 2003 due to lower employment growth and increasing unemployment.

GOOD PRACTICE

One example is the *Passe-Partout* project, launched by Caritas in 2002/03, which offers young asylum seekers (16 - 25 years) who have no access the labour market a professional full time apprenticeship with one day/week in school (as with the German dual apprenticeship). This has finally developed into a real apprenticeship which until then was inaccessible for asylum seekers. As a result, an asylum seeker obtained a *certificat d'aptitude professionnelle et technique* (CATP) (apprenticeship diploma) in September 2003 - a first step towards significant systematic access for asylum seekers and, in general, access for non-EU citizens. The law on apprenticeship will be modified accordingly. This project is co-financed by the European Refugee Fund.⁹⁴

1.3.10. The Netherlands

Data show that the growth of unemployment among ethnic minority groups is higher than among the native Dutch population.⁹⁵ The difference in employment figures between native Dutch and ethnic minorities points towards 'statistical discrimination': if certain independent variables are disregarded, such as level of education, age, sex or type of work, a difference remains that can not be accounted for by objective factors. This presupposes discrimination. Although this model has its restrictions, it supplies us with a reasonable indication of the existence of discrimination on the labour market.⁹⁶

94 Hartmann-Hirsch, C., Gindrey, V. (2003) Rapport d'évaluation FER exercice 2002, Differdange: CEPS/INSTEAD.

95 Data from Statistics Netherlands (2004).

96 Veenman, J. (2003), "Discriminatie op de arbeidsmarkt", in: Tijdschrift voor beleid, politiek en maatschappij, Vol. 30, nr. 2, pp. 90-100

GOOD PRACTICE

There has been little evidence of new initiatives on the part of the government and public authorities to counter racism and discrimination in the labour market. The approach the current government has chosen in 2002 is aimed at stimulating individual responsibility. This led, amongst other things, to the discontinuation of the Wet SAMEN, the act to promote the participation of ethnic minorities.⁹⁷ However, one activity that was developed in 2003 was the establishment of the Commission on the Participation of Ethnic Minority Women,⁹⁸ which aims at improving the integration of women in various fields, including employment. Furthermore, the Ministry of Social Affairs and Employment developed a training kit for works councils on the topic of equal treatment. This “training basket” has been made available on a wide scale. The Dutch Federation of Trade Unions FNV, in collaboration with the National Bureau against Racial Discrimination (LBR), carried out a research which showed that a large number of organisations favoured a proportional representation of ethnic minorities. At the same time, hardly any company had taken measures in this respect.⁹⁹ The National Federation of Anti Discrimination Bureaus and Hotlines has been carrying out the project “Prijscode-monitor”, an EQUAL-funded project. Its objective is to stimulate intercultural staff policies by awarding prizes for those companies with the best staff policy.

1.3.11. Austria

In 2003, 11 per cent of the Austrian workforce were ‘aliens’,¹⁰⁰ and their unemployment rate was 9.9 per cent, compared to a rate of 7 per cent for the total workforce. Roma, which are one of the six officially recognised autochthonous ethnic groups, are also afflicted with a much higher unemployment rate than the average population. There is no statistical evidence available on this, but counselling units of NGOs such as Caritas find they have many clients of the Roma community looking for a job and being rejected because they are Roma.¹⁰¹ Higher unemployment rates and over-representation in industries subject to seasonal fluctuations,

97 The Act expired on 31 December 2003.

98 Commissie Participatie van Vrouwen van Etnische Minderheden (PaVEM); <http://www.pavem.nl> (14.04.2004)

99 FNV-secretariaat Etnische Minderheden (2003), *Op weg naar een werkvloer zonder racisme*, Amsterdam: Stichting FNV Pers

100 Statistik Austria, *Statistische Übersichten: Beschäftigung und Arbeitsmarkt*, available at: http://www.statistik.at/statistische_uebersichten/deutsch/pdf/k15t_2.pdf, (08.04.2004)

101 Cf. <http://www.ida-equal.at/projekte/157.htm>, (09.04.2004)

tough working conditions and irregular working hours, are, however, only indirect evidence of discrimination. Statistics that allow for the control of variables in order to determine the “residual amount of labour market inequalities”¹⁰² defined as discrimination are still not available.

There is qualitative evidence¹⁰³ of labour market discrimination from the Vienna-based NGO ZARA.¹⁰⁴ According to the cases documented, people of sub-Saharan origin are the most vulnerable group in the Viennese labour market. They were confronted with verbal slander, and one with physical attack. Other vulnerable groups were people of darker complexion (such as from Egypt or Brazil) and Muslim women who refused to remove their headscarves at work. Antisemitism was also an issue at the work place. In all, almost one third of the clients affected wanted only to have their cases documented, but did not want to take further action because they feared the consequences.

The uniform regulations of the Viennese Public Transport Association was criticised for indirectly excluding Sikhs from becoming bus/subway drivers. The dress code has not been changed, but the Transport Association will reconsider the issue as soon as the Viennese Anti-Discrimination Act and the amended Civil Service Regulation come into force.¹⁰⁵

GOOD PRACTICE

Initiatives to counter discrimination are primarily undertaken in the framework of the EU’s EQUAL programme. Most of the EQUAL projects aim at various levels relevant to the labour market, such as local communities, the social partners, personnel managers, and apprentices. Discrimination is actively combated e.g. by training staff members as intercultural mediators, developing methods to make visible migrants’ competences relevant for entering the labour market and making available classification schemes for these competences, and initiating processes within companies that want to become more open towards

102 ICMPD (2003) *Migrants, Minorities and Employment: Exclusion, Discrimination and Anti-discrimination in 15 Member States of the European Union* (on behalf of the EUMC), available at: <http://eumc.eu.int/eumc/material/pub/comparativestudy/CS-Employment-en.pdf>, (08.04.2004), p. 57

103 ZARA documents those cases that either witnesses or victims of discrimination bring to the organisation’s attention. The report does not contain all the cases documented, as in 2003, 219 of the 650 incidents reported were selected for the report.

104 ZARA (2004) *Rassismus Report 2003*, available at: http://www.zara.or.at/download/rassismus_report_2003.pdf, (08.04.2004), pp. 38-40

105 Phone-call to a representative of the Viennese Public Transport Association on 16.04.2004.

inter-cultural values and diversity.¹⁰⁶ One EQUAL project, called *Mri Buti*, aims at the labour market integration of Roma in the Burgenland,¹⁰⁷ providing jobs within their own organisations for some, and helping others to find work.

1.3.12. Portugal

Data concerning discrimination on grounds of ‘race or ethnic origin, religion or belief’ in employment in Portugal are scarce. Statistics concerning this type of discrimination are quite simply non-existent. What little information there is available is for the most part provided by NGOs which support immigrants and ethnic minorities, such as SOS Racismo, Olho Vivo and Solidariedade Imigrante, as well as by the Commission for Equality and Against Racial Discrimination, the Governmental body to which cases of discrimination on racial, ethnic or religious grounds may be submitted.¹⁰⁸ From 2000 to 2003, thirty-six such complaints were filed, only six of which refer to discriminatory actions in a labour context, a very low number out of which it is not possible to infer any trend.

Evidence from the experiences of associations working closely with immigrants and ethnic minorities identify Africans as the most discriminated minority in terms of access to the labour market. The large majority of Roma are inserted in the labour market in such a way that they do not compete directly with other ethnic groups, and are thus not exposed to direct forms of discrimination.

The alleged replacement of immigrants of African origin by those originating from Eastern Europe is a trend underscored in the second report on Portugal by the European Commission Against Racism and Intolerance (ECRI).¹⁰⁹ According to some African workers this trend has been taking place in those occupational sectors where the majority of African workers are inserted, such as construction works, personal and

106 This information is available at: <http://www.equal-esf.at/new/ep/2.html>, (08.01.2003). More detailed information on the projects can be obtained at: http://www.equal-esf.at/new/downloads/_EQUARTAL1_ENGLendversion.pdf, (28.06.2003).

107 <http://www.ida-equal.at/projekte/157.htm>, (09.04.2004)

108 This commission was created by the law against racial discrimination, Law 134/99, which forbids discrimination on grounds of race, colour and ethnic origin on a number of institutional areas, employment .

109 European Commission Against Racism and Intolerance (ECRI)(2002), Second Report on Portugal http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Portugal

domestic service and the cleaning industry. According to these workers, this reflects racist beliefs on the part of the Portuguese population, who tend to see Africans as lacking certain traits and qualities which are highly valued in the labour market, such as pliability, discipline, self-organisation, ambition, intelligence, and honesty, among others.

GOOD PRACTICE

One project consists of promoting the establishment of a national immigrant support system. This system will be composed of local centres in cities, small towns and villages (CLAI - *Centros Locais de Apoio ao Imigrante* [Local Immigrant Support Centres]), by Regional Centres in every district capital (CRAI - *Centros Regionais de Apoio ao Imigrante* [Regional Immigrant Support Centres]) and by two national centres, one in Lisbon and the other in Oporto (CNAI - *Centro Nacional de Apoio ao Imigrante* [National Immigrant Support Centre]).

Another initiative was the programme *Acolhe* (Welcomes), an initiative of the *Instituto de Emprego e Formação Profissional* – IEFP (Institute of Employment and Professional Training). This is a programme that aims to create a better integration of immigrants in the labour market by providing them with knowledge on issues such as the Portuguese language and the rights and duties guaranteed by the Portuguese constitution and legislation, notably with respect to work rights. The beneficiaries of this programme are legalised immigrants.

1.3.13. Finland

Statistics Finland published a survey in 2003 called "*Maahanmuuttajien elinolot. Venäläisten, virolaisten, somalialaisten ja vietnamilaisten elämää Suomessa 2002*" (The conditions of immigrants. The life of Russians, Estonians, Somalis and Vietnamese in Finland in 2002). According to the study, during the last three years every second Somali and every fourth member of other ethnic groups has faced discrimination when seeking a vacancy.

The number of court cases remained extremely low, but this was mainly because the burden of proof in discrimination cases remained solely with the victim in the legislation in force in 2003. This made the threshold for starting judicial action high for the victim. National implementation of the EU 'Racial Equality' and 'Employment' directives (2000/43/EC and

2000/78/EC) will probably increase the number of court cases in the future.

A 2002 study that was based on the views of immigrants showed that discrimination experiences in the labour market were most common within the Somali and “Arab” communities,¹¹⁰ whereas Russians and Estonians had experienced markedly less discrimination.¹¹¹ A 1999 study on the attitudes of employers shows that African immigrants were considered suitable for work mostly in physical jobs, and faced more severe bias than other immigrant groups.¹¹² A 1999 survey on the attitudes of Finns showed that African men and Russians were the least favoured immigrant groups.¹¹³ ‘Visibility’ seems to be the key factor in discrimination in the employment sector. The Roma also face negative attitudes and discrimination in employment.

GOOD PRACTICE

Several small employment and anti-discrimination projects took place in 2003. The projects are mostly local, limited to certain target groups, funded by the Ministry of Labour or from EU resources (e.g. EQUAL projects) and organised by NGOs. Examples of this kind of activity include ETMO, a project working within the EQUAL programme, seeking to promote tolerance and multi-ethnicity in workplaces,¹¹⁴ and another EQUAL project called Majakka-Beacon, which is carried out by cities in the Helsinki metropolitan area together with several NGO’s.¹¹⁵ Its main aim is to develop innovative ways to promote full social inclusion and empowerment of people whose employment and everyday coping is impeded by cultural and language barriers as well as health and social problems. The services are targeted to immigrants living in the Helsinki region who are in severe risk of social exclusion and are in need for special support.

110 15 “Arab” is not a coherent statistical category, but nevertheless it was used in the study. It mainly referred to immigrants from Mid-Eastern countries.

111 Jasinskaja-Lahti, I., Liebkind, K. and Vesala, T. (2002) *Rasismi ja syrjintä Suomessa: Maahanmuuttajien kokemuksia (Racism and Discrimination in Finland: Immigrants’ Experiences)* Helsinki: Gaudeamus

112 Paananen, Seppo (1999) *Suomalaisuuden armoilla. Ulkomaalaisten työnhakijoiden luokittelu. Tilastokeskuksen tutkimuksia 228.* Helsinki: Tilastokeskus. [At the mercy of Finnishness. Classification of foreign labour market recruits. Studies of Statistics Finland 228. Helsinki: Statistics Finland.]

113 Jaakkola, Magdalena (1999) *Maahanmuutto ja etniset asenteet. Työpoliittinen tutkimus 213.* Helsinki: työministeriö. [Immigration and ethnic attitudes. Labour political studies 213. Helsinki: Ministry of labour.]

114 See <http://www.kio.fi/etmo/english/index.htm> (31.3.2004).

115 See <http://www.kuntoutussaatio.fi/majakka-beacon/english/index.html> (31.3.2004).

1.3.14. Sweden

The Integration Board, which annually reports on the situation for immigrants in several areas, uses data compiled in Statistic Sweden's monthly Labour Force Surveys (AKU). Also the Ombudsman against Ethnic Discrimination compiles reported cases on an annual basis.

The Ombudsman against ethnic discrimination reported 349 recorded complaints regarding discrimination in the labour market in 2003, which is an increase of 14 per cent from the previous year.¹¹⁶ The most vulnerable groups on the Swedish labour market are people born in African and Asian countries, as statistics show that these two groups of the population are employed to a lesser extent than other foreign born. In 2003 the employment rate for men and women born in Africa was as low as 50.6 per cent, and for women and men born in Asian countries it was 50.4 per cent, compared to those from EU/EEA countries with an employment rate of 69.4 per cent, i.e. almost as high as for the Swedish-born. Women and men born in Iraq had the lowest ratings, 37.2 per cent.¹¹⁷

Another aspect that has an effect on being employed is length of period of residence. A shorter residential time for a foreign-born person is associated with a greater difference in employment rates between the foreign-born and Swedish-born.¹¹⁸

GOOD PRACTICE

The EU EQUAL project *Real Diversity* was initiated in 2002 and focuses on youth. It is mainly aimed at developing new methods to increase knowledge and to change attitudes to diversity within the organisation or at the work place. In 2003-2004 Real Diversity will organise seminars, courses and conferences about diversity where people from trade and industry and youth organisations exchange knowledge and experiences. Mentors will be used as a method of transferring knowledge, experiences and methods between those employed at companies such as Skandia and Föreningsparbanken and member organisations of the National Council of Swedish Youth Organizations.¹¹⁹ The project will be finalised with the publishing of a handbook in methods to increase diversity at the work place.

116 Ombudsman against ethnic discrimination, *Arsredovisning* 2003, p. 20

117 Statistics Sweden, Labour Force Surveys (AKU), statistics from the second half year 2003.

118 Swedish Integration Board, *Rapport Integration* 2003, p. 239

119 LSU, *Landsrådet för Sveriges Ungdomsorganisationer*

1.3.15. United Kingdom

Overall, most ethnic minority groups still experience some form of disadvantage when compared to the majority white population. Differentials in unemployment rates provide the strongest indicator of continued ethnic minority disadvantage. However, other factors such as occupational attainment and wage differentials also point to disadvantage experienced particularly by Pakistanis, Bangladeshis, and Blacks.

The most comprehensive data on the labour market position of ethnic minority groups is available from the Cabinet Office Strategy Unit's report on *Ethnic Minorities and the Labour Market* as well as the Strategy Unit's interim analytical report and academic work commissioned for this report.¹²⁰ The main conclusions of this study are that ethnic minorities are disadvantaged on a broad range of measures of achievement: employment/unemployment rates, earning levels; progression/occupational attainment in the workplace, and levels of self-employment. The extent and nature of disadvantage differs significantly by ethnic group. While ethnic minorities are disadvantaged on average, the labour market successes of the Indians and Chinese show that the old picture of White success and ethnic under-performance is now out of date.

GOOD PRACTICE

The government's 'Welfare to work' policies aim at moving people away from dependency on state benefits and into employment. Specifically, the Strategy Unit's Final Report describes five main initiatives:¹²¹ the New Deal, Employment Zones, Intermediate Labour Markets, Action Teams for Jobs and Jobcentre Plus. Jobcentre Plus, a new service, is specifically designed to reduce the 17 per cent gap in overall and ethnic minority employment rates.

The Commission for Racial Equality has created specific guidelines for the organisational monitoring of adverse racial effects by public authorities now required under the 2000 Act, as well as a Code of

120 Strategy Unit (2003) *Ethnic Minorities and the Labour Market*, Final Report, London: Cabinet Office; Performance and Innovation Unit (2002) *Ethnic Minorities and the Labour Market: Interim Analytical Report*, London: Cabinet Office, available at <http://www.emlm.gov.uk> (13.06.2003); Heath, A. (2001) *Ethnic Minorities in the Labour Market*, available at <http://www.emlm.gov.uk> (13.06.2003); Heath, A., and Yu, S. (2001) *Explaining ethnic minority disadvantage*, available at <http://www.emlm.gov.uk> (13.06.2003).

121 Strategy Unit (2003) *Ethnic Minorities and the Labour Market*, Final Report, London: Cabinet Office.

Practice for the Elimination of Discrimination and the Promotion of Equality, which provides practical guidance for employers, trade unions, employees, and others to aid in both their understanding of the various Race Relations acts and amendments and their implications, as well as how best to implement policies to eliminate racial discrimination and enhance equality of opportunity.¹²²

In early 2004, the Commission for Racial Equality published its guide for small business, Racial Equality and the Smaller Business – A Practical Guide emphasising the ‘business case’ for diversity. The free guide, available as a CD-ROM, offers practical advice to help business to develop policies and procedures that avoid unlawful discrimination and ensure equality and fair treatment for everyone. It covers important aspects of employment, such as recruitment and selection, and customer service.¹²³

There are several EQUAL and ESF led projects involving minority organisations, local authorities and unions which address unemployment, training, lack of mobility and mentoring. Projects include those encouraging managerial skills among black groups¹²⁴ and recognising and adding minority contributions to business performance (for example, that led by CESEME –the contribution of ethnic minorities in small and medium size enterprises)¹²⁵.

122 Available at: <http://www.cre.gov.uk/pubs/crepubs.html>

123 Commission for Racial Equality (2004) Racial Equality and the Smaller Business: A practical Guide, London: CRE, available at: <http://www.cre.gov.uk/gdpract/sme.html> (18.05.2004).

124 <http://www.equal.ecotec.co.uk>

125 http://www.priae.org/current_projects.htm

1.4. Housing

In the field of housing, the NFPs were asked to provide data and information available, with sources, on racism, xenophobia and discrimination during the year 2003. They were also asked to identify the social groups most vulnerable to racism and discrimination in housing, and to outline any major initiatives or 'good practice', by public authorities, NGOs and others during 2003.

Equal treatment in the access to and the provision of housing is part of the European Council Directive on Racial Equality 2000/43/EC, which was due to be transposed into national legislation in 2003. In the same year, discrimination and anti-discrimination in the area of housing was included in the EUMC's monitoring activities and now appears as a section in the Annual Report for the first time.

Detailed statistical evidence regarding discrimination in housing is scarce in most EU countries, with the exception of the Netherlands, Sweden and to a certain extent Germany. Thus, in most Member States, information is mostly qualitative, such as complaints about incidents of discrimination, and is provided by official ombudspersons, special bodies and NGOs active in the field.

As for the social groups most vulnerable to racism and discrimination in housing, a recurring theme in this section is the fact that Roma, Sinti, Gypsies and Travellers seem to be the minority groups facing the most difficulties. For one thing, surveys show that they are the group least wanted as neighbours by people from the majority population. A common problem is the lack of provision of accommodation sites by the authorities. This often results in these people living in unapproved accommodation, which sometimes lacks basic sanitary facilities. Another social group likely to experience discrimination in housing are immigrants, who have difficulties finding accommodation in almost every Member State. In particular, immigrants coming from non-EU-countries often face discrimination in access to both public and private housing, with the NFP reports making particular reference to evidence of discrimination in Spain, France and Italy. In many EU countries, such as France, the Netherlands, Austria and Sweden, an over-representation of immigrants in socially-deprived suburban areas can be found, reflecting a process of socio-economic segregation.

As is the case with discrimination in the sector of employment, there are certain established ways of investigating whether or not there exists

unequal treatment of persons from an ethnic minority background. One method, well known in the employment sector, is discrimination testing, such as in a study in Austria mentioned in the last EUMC Annual Report¹²⁶ which found widespread resistance on the part of Viennese landlords to let accommodation to Africans.¹²⁷ A similar method was used 2003 in Belgium when, in a programme of test phone calls, proprietors turned down callers with a foreign name or accent, but thereafter answered positively to a person apparently belonging to the majority population. In 58 per cent of the tests the proprietor refused to give further information about the accommodation to a 'foreign' applicant.

Another technique for exploring discrimination, which has also been carried out in the employment sector, is to conduct opinion polls. Questionnaire surveys shed light on people's attitudes to having neighbours from foreign or ethnic minority backgrounds. In 2003, a survey in Germany indicated that the highest level of desired distance was expressed regarding Roma and Sinti, Turkish, Vietnamese, and migrants from Africa, and in Luxembourg the groups mentioned most were 'Gypsies' Muslims refugees, and immigrants in general. There have also been surveys of the minority experiences of discrimination, such as one in Belgium, where 40 per cent of the North Africans and 60 per cent of Black Africans who were surveyed reported that they had been victims of discrimination in housing, or in the UK, where ethnic minority groups reported serious problems of racist harassment in their localities.

Good practices can be found across EU Member States, aimed at tackling the most prevalent forms of discrimination. Government programmes in Greece and Ireland are geared to providing Roma and Travellers with suitable accommodation. In many Member States, both official authorities and NGOs try to make access to public and private housing easier; in Belgium, Greece, France, Ireland and the UK government programmes set codes of conduct for avoiding discriminatory practices among public and private housing providers. Another approach, taken, for example, by NGOs in Spain, Italy, Luxembourg and Austria, is to rent and then to sub-rent housing to immigrants. In order to counteract trends towards socio-economic segregation or "ghettoisation" a neighbourhood association and a housing company in Hannover,

126 Racism and xenophobia in the EU Member States: trends, developments and good practices Annual Report Part 2, EUMC, Vienna. p. 41. This study employed the testing method with regard to the access of Africans to employment, but also applied it to access to housing.

127 See Der Standard 22. January 2003, referring to the report by E. Ebermann (ed.) *Afrikaner in Wien. (Africans in Vienna)*, Münster/Hamburg/London: Lit-Verlag, 2002

Germany, have established a housing estate with 93 apartments designed to meet the needs of residents from various ethnic backgrounds. Two thirds of the tenants are German, and one third are non-Germans. In the Netherlands the government has announced the development of a policy of tackling segregation by building a mix of low-cost and more expensive housing in areas where formerly only low-cost housing existed, and in Vienna inter-ethnic housing projects bring Austrians and migrants together.

1.4.1. Belgium

The Belgian anti-racism law of 30 July 1981 prohibits the refusal to lease or sell on the grounds of 'race', colour of skin, descent, or national or ethnic origin of the tenant. In addition, the general anti-discrimination law of 25 February 2003 also prohibits non-racial discrimination in the domain of housing.

Apart from complaints received by the Centre for Equal Opportunities and Opposition to Racism (CEOOR), a source of discrimination evidence is through the use of matched pair testing, a method more commonly used to test discrimination in access to jobs. In co-operation with the CEOOR, the organisation ALARM (*Action pour le logement accessible aux réfugiés à Molenbeek* - Action for accessible housing for refugees in Molenbeek) organised a practical phone test among 250 housing proprietors. The results were clear - the sound of a foreign name or a foreign accent immediately evoked a range of pretexts in order to avoid renting the property. When, following this phone call from a 'foreigner' a call was made by a 'Belgian', there was in most of the cases found to be no problem in renting the property. In 58 per cent of the telephone calls the proprietor refused to give more information about the house, using the pretext that the accommodation was already let, or simply by explaining that he/she did not let to foreigners. The results indicated that it is mainly asylum seekers who are stigmatised.

The CEOOR and other organisations active in this domain supported the "Désolé, c'est déjà loué" (Sorry, the house is already rented) campaign of MRAX in Brussels during 2002-2003. In the poll nearly 70 per cent of the Belgian participants admitted that racism in housing occurs frequently, and 55 per cent of the Belgians showed understanding for this. Forty per cent of the participating North Africans and 60 per cent of Black Africans stated that they have been victims of discrimination.

GOOD PRACTICE

In 2003 the CEOOR carried out an evaluation of a non-discrimination declaration for housing which had been signed in 1997 in Ghent by several associations of tenants and proprietors, representatives of social housing departments, real-estate agents, the city Ghent, OCMW Ghent, University of Ghent, AROHM-department Oost-Vlaanderen (Housing Department), the Province Oost-Vlaanderen, the League for Human Rights and the CEOOR. The signatories committed themselves not to discriminate against a person, a group, a community or its members on the grounds of race, colour of skin, descent, origin or nationality. The evaluation pointed out that the declaration fulfilled a useful 'sensitising' role both for tenants and for proprietors.

1.4.2. Denmark

When refugees have moved into a municipality chosen by the Danish Immigration Service, they are offered a three-year integration programme prepared by the local authority. Participation in the integration programme is a precondition for receiving an introduction allowance and for applying for permanent residence later on. Consequently, the refugees must remain in the municipality in which they have been housed for the whole three-year integration programme period. Some NGOs feel that this restriction is problematic because it affects the right to choose residence freely, which contravenes international human rights conventions. The government argues that the new system allows better planning, avoids segregation, and promotes the integration of refugees and Danes in daily life in small communities.

GOOD PRACTICE

In May 2000, Parliament (under a social democratic government) adopted a number of amendments of various statutes in the housing area. The amendments formed part of the Government's overall action plan for improved integration of immigrants, thereby constituting some urban and housing policy tools, which local authorities can apply to improve conditions in areas of social deprivation.

Linked to the policy paper "Integration – a common concern" in 2002 the Ministry of Refugee, Immigration and Integration Affairs has started 12 projects aiming at initiating a positive process of improving the physical and social environment in neighbourhoods inhabited mainly by

immigrants, which suffer from high rates of unemployment, drug-taking and crime.

1.4.3. Germany

The main sources of data on housing standards of migrants are representative surveys (e.g. the micro census) and a comparison between housing standards of German and non-German households. Even though housing standards of migrants have improved, the gap between non-German and German residents on the housing market persists. Migrants tend to live in smaller flats with fewer facilities, have to spend a larger proportion of their household income on housing,¹²⁸ and are considerably less likely to live in attractive residential areas or to be homeowners. This gap in housing standards is mainly due to differences in household income and social class. However, several studies have also drawn the conclusion that non-German residents face discrimination on the housing market.

Research on social distance (e.g. the acceptance of different ethnic groups as next-door neighbours) has shown that Germans tend to accept Italians and Greeks, whereas the levels of social distance are highest concerning Sinti and Roma, Turkish and Vietnamese nationals as well as migrants from Africa.¹²⁹

GOOD PRACTICE

The international neighbourhood housing project “Multicultural living in Habitat residential estates” is part of the EXPO estate in Hannover-Kronsberg. The project was funded by the neighbourhood association Habitat e.V. as well as the housing company Gundlach GmbH & Co. In total, the residential estate comprises 93 apartments with 40 different layouts. The apartments were designed according to the migrants’ wishes on the basis of a survey. In addition, a multi-faith prayer room, common rooms with a tea kitchen and a central Boule pitch and playground were provided. Two thirds of the residents are German and one third non-German residents who are entitled to social welfare and have appropriate

128 Statistisches Bundesamt (2001): Im Blickpunkt: Ausländische Bevölkerung in Deutschland (Focus on the non-German Population of Germany), Wiesbaden

129 Steinbach, Anja (2003): Soziale Distanz als Kontextbedingungen im Eingliederungsprozess: Ethnische Grenzziehung und die Eingliederung von Zuwanderern in Deutschland (Social distance and integration of migrants in Germany), Chemnitz

certificates, the lower number of migrants being explicitly determined by the residents.

1.4.4. Greece

The most reliable data on housing concerning the general population and immigrants are contained in the National Census. There is no data collection done by relevant institutions such as the Ministry of Health and Welfare, the Ministry of the Interior and the Workers' Housing Organisation (OEK).

The Greek Helsinki Monitor¹³⁰ produces reports on the infringement of the human and social rights of socially vulnerable groups and provides legal services to them. Their most recent report on asylum seekers suggests that as reception centres can fit only a small number of asylum seekers, most asylum seekers either stay in small overcrowded apartments or they squat deserted buildings. In cooperation with the European Roma Rights Centre the Greek Helsinki Monitor published in April 2003 a report¹³¹ stating among else that the “rate and frequency with which forced evictions of Roma occur in Greece suggest a systematic practice of keeping Roma permanently from long-term settlement and integration in Greece... Roma relocated to a new community often lose the advantage of proximity to schools, businesses and other services... The desperate living conditions in which thousands of Roma are forced to live have a direct impact on their health, with children being particularly vulnerable to the unsanitary conditions and exposure to the elements...”

GOOD PRACTICE

Commissioned by the Interior Ministry in 2002, the Research Institute of Urban Environment and Human Resources¹³² at Panteion University carried out a study for the 5-year “Operational Plan for Integration of Immigrants” which foresees for first time in Greece specific measures for the housing of immigrants. Some actions focus on the reception of refugees whilst others are geared towards vulnerable documented

130 More information available at <http://www.greekhelsinki.gr> (19/09/2003).

131 European Roma Rights Center and Greek Helsinki Monitor (2003) Report “Cleaning operations: Excluding Roma in Greece”: Country Report Series, No.12, available at http://www.greekhelsinki.gr/bhr/english/organizations/ghm/greeceE_2003.rtf (29/09/2003).

132 More information available at <http://www.uehr.panteion.gr/> (23/09/2003).

immigrants, focussing on services enabling access rather than direct provision to housing. The plan was presented in public in February 2003, but its implementation is pending.

The aim of the Ministry of the Interior's Roma project is to ensure that all Roma will be in permanent dwellings by the end of 2005. In order to achieve this aim 1,510 prefabricated houses and 187 permanent dwellings have already been constructed and handed over to beneficiaries in 33 areas and four municipalities. The Ministerial Loan Committee started awarding 3,500 subsidised housing loans (up to € 44,000) having received 2,160 applications by July 2003.

1.4.5. Spain

In Spain there are no public statistics concerning racism, xenophobia or discrimination in housing-related matters. Alternative data is provided by the Ombudsman of Andalusia (a region with a great demand for immigrant workers in agriculture) and various NGOs, such as *SOS Racismo* and *Sodepau*, based in Barcelona. *Sodepau* has been one of the parties involved in an appeal which was lodged at the Representation of the central government in Barcelona concerning the many housing advertisements which directly discriminated against non-European migrants. This appeal has eventually become a major source of information on the bad conditions of rented dwellings inhabited by foreigners in Barcelona.¹³³ The Roma organisation *Fundación Secretariado General Gitano* has shown that more than 80 per cent individuals living in sub-standard forms of housing are members of this ethnic group, which points to discrimination against Roma in housing.¹³⁴

Some local reports based on on-the-spot inspections of the conditions of the housing units occupied by foreign migrants have revealed that foreign migrants employed in rural areas as casual farm workers run a great risk of being discriminated and exploited, particularly if they live next to the farm in which they work and if their employer is also their landlord. The rural shanty town 'cortijos' represent the most extreme form of social isolation and geographical segregation, and when the migrants living

133 Sodepau. Informe sobre la discriminació de la població immigrant en l'accés a l'habitatge (Report on discrimination suffered by the migrant population in housing access), Barcelona: Sodepau (<http://www.sodepau.org/accions/butlleti/butlleti.htm>).

134 Fundación Secretariado General Gitano (2002) La relevancia de la vivienda en los procesos de inclusión social con la comunidad gitana (The significance of housing in processes of social inclusion aimed at the Roma community), in *Gitanos, Pensamiento y Cultura*, October 2002, 24 pp

within them find themselves in an 'irregular' situation the discrimination they are exposed to is even more extreme.

GOOD PRACTICE

Given the fact that the recent enormous rises in housing prices are making housing access increasingly difficult not only for foreign migrants but also for most nationals, and given also the risk of a clash of interests between both populations, most initiatives work on housing access to unprivileged groups in general. Most of them are under the responsibility of associations, trade unions and NGOs. For example, the programme of the *Columbares* association works on improving the accommodation conditions of foreign migrants in Murcia.¹³⁵ The non-profit making association *Provivienda* develops housing programmes in Catalonia, the Balearic Islands and Madrid aimed at foreign migrants who are able to afford to pay housing rents but are nevertheless encountering difficulties related to housing access (a fact which itself suggests the operation of discrimination).¹³⁶ The Madrid-based women's association *Opañel*, is in charge of houses inhabited by migrant women with dependent relatives to care for. There are housing measures being carried out in the Aldea Moret neighbourhood (Extremadura), partly inhabited by members of the Roma population.

1.4.6. France

In France, there are no official statistical data (nor data produced by NGOs) on racism, xenophobia or discrimination in housing. However, the INSEE's statistical data on housing in 2003, based on the 1999 Census, confirm that the immigrant population is over-represented in Sensitive Urban Areas (18.3 per cent of the population while the immigrant population represents only 7.4 per cent of the metropolitan population).¹³⁷ However, the concentration of residents of foreign origin within these Sensitive Urban Areas varies.

¹³⁵ <http://www.columbares.org/> (19.05.2004)

¹³⁶ <http://provinet.provivienda.es/provivienda/> (19.05.2004)

¹³⁷ Délégation Interministérielle à la Ville (DIV), Mission Observation, veille scientifique, évaluation, Le logement des immigrés et des étrangers dans les Zones Urbaines Sensibles, note d'information, 8 décembre 2003, 4p. (=The Housing of immigrants and foreigners in Sensitive Urban Areas)

In its second report in 2003, the NGO *SOS Racisme* observed discriminatory practices in access to private housing.¹³⁸ It highlights discriminatory methods and practices and the complicity of property agencies.

GOOD PRACTICE

The Ministry of Housing, along with *SOS Racisme*, published an information brochure on discrimination in housing¹³⁹ that offers practical and legal advice concerning housing in private and public sectors. In March 2003 the Ministry of Housing implemented, within the National Council of Housing, a working group in charge of elaborating a report on discrimination, intended for release by the end of 2004. The working group focuses on rights and practices concerning different types of discrimination. It aims to identify measures to combat discrimination in access to public or private housing, whether for rental or ownership.

The Social Union of Housing developed an EQUAL programme¹⁴⁰ to devise a plan to prevent discrimination in public housing. The project aims at improving conditions of access by taking into account the housing needs of tenants of foreign origin. It also reinforces the requirement for employees of administrative bodies of public housing to take account of the expectations of immigrant families. This project is supported by a staff training-action programme which includes methods for dealing with discriminatory situations, and ways of resolving problems.

1.4.7. Ireland

Any analysis of complaints in the housing sector is dependent on data from the Equality Authority and qualitative and anecdotal evidence. According to the Equality Authority a greater awareness of the potential of the provisions of the Equal Status Act 2000 is emerging. There is a

138 Thomas, S. (2003) Bilan d'activité de SOS Racisme contre les discriminations dans l'accès au logement privé, Paris: SOS Racisme, <http://www.sos-racisme.org/> (22/04/04)

139 Direction générale de l'Urbanisme, de l'Habitat et de la Construction (2003) La location sans discrimination, The brochure has been distributed in over 200, 000 copies by Court Houses and judicial access schemes. It is available from the Ministry of Housing's website: http://www.logement.equipement.gouv.fr/publi/locaces/doc_pdf/guide_logt.pdf (22/04/04)

140 Project, "Preventing Discrimination in Social Housing", Social Union for the Inhabitant, is driven by the partnership with the National Center of the Functions of Public Territories (CNFPT), the Funding for Action and Support for Integration and the Fight Against Discrimination (FASILD) and other structures of the HLM: The French Association for Insertion Through Housing (AFFIL), AFPOLS, IFMO.

substantial increase in the number of files on accommodation in 2003, ten complaints were made on the grounds of ‘race’, while 26 were made under the Traveller community ground.¹⁴¹

An estimated 685 Traveller families were on the roadside in 2002 without access to water, a toilet and a refuse facility, while 254 did have access to such services. The number of families living in unapproved accommodation in December 2002 was 939. During 2003 the enforcement of provisions of the Housing (Miscellaneous Provisions) Act 2002 by the Gardaí caused much controversy and tension with the Traveller community, as the Act allows for the Gardaí to remove caravans, and the owners to be brought before the District Court charged with Trespass. The owner can be fined € 3,800. The Irish Human Rights Commission, Pavee Point and other organisations have called for a review of the legislation.

In reality many of the vulnerable groups, such as migrants and refugees, are reliant on the private rented sector, where they often have to contend with racial discrimination. The authors of the Clann Housing and Focus Ireland submission to the National Action Plan against Racism point out that refugee interviewees felt that their poor, below standard quality of rented accommodation had been offered to them because they were refugees. In addition there was some evidence that estate agents are exploiting these vulnerable groups, for example by offering to find accommodation at exorbitant fees.

During 2003 a number of complaints were reported to the National Consultative Committee on Racism and Interculturalism (NCCRI) relating to residential racism, including those from a Cameroon man and his family who experienced hostility, racist jokes and verbal abuse at their place of residence, and from a Roma family who suffered hostility at their place of residence in Tralee with verbal abuse such as “go home refugee” coupled with damage to their property.

GOOD PRACTICE

Strategies have emerged in recent years with a focus on the accommodation needs of minority ethnic groups. The second National Action Plan against Poverty and Social Exclusion (2003-2005), commits specific attention to ensuring greater progress in implementing the Traveller accommodation programme, although there are no specific

141 Equality Authority, Annual Report 2003,

statements relating to migrants and ethnic minorities and housing. In 2002 for the first time the Department of the Environment, Heritage and Local Government began to collect data on the number of refugees on local authority waiting lists.

1.4.8. Italy

Migrants and refugees¹⁴² face both direct discrimination in access to public and private housing, as well as indirect discrimination, mainly with regard to public housing. In spite of existing anti-discrimination laws and the successful prosecution of some real estate agents, advertisements for houses for rent are still replete with specifications that “non-EU citizens are not accepted”. Estate agents who put in such adverts claim that they follow instructions from landlords. Others use very high rents to keep out migrants.¹⁴³

Indirect discrimination on the part of public authorities often takes the form of the application of selection criteria (points-system) which disadvantages migrants and Roma applicants for public housing. In 2002, the municipality of Milan was found guilty of unlawful discrimination on grounds of nationality by awarding five points to all Italian applicants for public subsidised housing, thereby putting non-EU applicants at a disadvantage.¹⁴⁴

In October 2003, the Prefect of Milan convened a meeting of various institutions, employers’ representatives, banks, voluntary associations etc. in a bid to coordinate efforts towards solving the pressing need for housing faced by migrants. The Minister of Reforms and leader of the Northern League party, Umberto Bossi, publicly criticised the initiative saying that “there were no houses for migrants and there should be none for them. Houses should first be provided for citizens of Lombardy region and not for the first *bingo-bongo* who came around”. This comment was defined as racist by most national and international commentators and was severely criticised by NGOs and migrants’ organisations.

142 Tosi A. (2003): Gli immigrati, la casa, la città: ricerca e politiche, (Immigrants, housing, the city: research and policy) in: Ismu (2003): La presenza straniera in Lombardia, Milano: Franco Angeli.

143 Rete d’Urgenza contro il Razzismo (2001): Rapporto annuale 2000, Torino; available at: www.reteurg.unimondo.org (20.04.2004).

144 Cfr. Court of Justice of Milano, Sentence 20/21-03-2002 nr. 3614, in: Diritto, immigrazione e cittadinanza, nr. 4/2002, Milano: Franco Angeli.

GOOD PRACTICE

During 2003, all the good practices initiated in previous years to combat discrimination and improve migrants' access to housing continued and new ones were initiated in other parts of the country. Most of such practices took the form of joint initiatives by public institutions, NGOs and employers organisations to facilitate migrants' access to housing on the market by renting available houses on the market and then sub-renting to migrants and thereby overcoming discrimination by those proprietors who would not want to rent to migrants.

1.4.9. Luxembourg

The main sources of data on housing is, next to official registry statistics and the Population Census 2001, the *Observatoire du Logement* led by *Géode* (CEPS/INSTEAD) that daily records the rent/sale advertisements information since April 2003.

The housing market in Luxembourg is characterised by housing shortage and extremely high prices exacerbated by the presence of many international civil servants with high incomes, giving owners the opportunity to 'choose their tenants'. Although the housing observatory has never noted any discrimination against foreigners in housing advertisements, the European Values Study (EVS) revealed the presence of racist or anti-Islamic feelings. Residents were asked to say what kind of neighbours they would not wish to have. Tolerance differs from one nationality to another. On average 12 per cent of the Italians, Belgians, French, Germans and Dutch, 16 per cent of the Luxembourg nationals and 25 per cent of the Portuguese expressed discriminatory opinions towards some ethnic and religious groups. This suggests that immigrants are both victims and offenders. The EVS data reveal that the community that people fear most as neighbours are "Gypsies" (the first community cited by every national group), followed by Muslims,¹⁴⁵ refugees, immigrants in general, and 'other races'.

GOOD PRACTICE

The FDLH reserves 82 places/beds in its subsidised housing for immigrant workers and political refugees. Different NGOs provide

¹⁴⁵ The 11/09/2001 attacks may have increased the negative feelings toward this group. Note that in 1999, 62 per cent of the residents in Luxembourg agreed with the idea of building a mosque for Muslims (there is no proper mosque in the country).

housing for poor families/people. *Caritas* provides some accommodation for adult asylum seekers. In 2003, the CGE offered 2,300 places/beds for asylum seekers, 239 places/beds for recognised refugees for humanitarian reasons, and three homes for immigrant workers (265 places/beds in 2002).

1.4.10. The Netherlands

Information about the demographic, social-economic and socio-cultural situation of members of ethnic minority groups is provided by Statistics Netherlands and research carried out by ISEO. Statistical data show that in the large cities, ethnic minorities are concentrated in low-cost housing areas with a relatively low quality of housing environment. In most of these districts the segregation index is high, especially for persons of Turkish and Moroccan origin. The number of places for the caravans of Roma and Sinti communities made available by local governments has been insufficient, especially for young families.

There is little evidence of direct discrimination with regards to race or ethnic origin in housing. The largest number of complaints submitted to the local Anti-Discrimination Bureaus (ADBs) concerns neighbourhood: racist remarks and other incidents on the street, rows between neighbours or, as a sample incident, the resistance of a neighbourhood against a new family of migrant background in the street. Some banks and other financial institutions are refusing to lend money or to provide mortgages in certain, low-cost housing areas. This phenomenon of “redlining” was considered to be indirectly discriminatory for ethnic minorities, who tend to be over-represented in these neighbourhoods.¹⁴⁶

Persons who have been granted a refugee status are entitled to housing. Despite efforts to supply them with regular housing after their compulsory stay at an asylum centre, around 5,400 persons were waiting for a house in 2003. Local governments and housing corporations, whose task it is to provide housing, have not been willing or able to make adequate housing available. The statutory waiting period of three months had risen to over ten months by the end of 2003. In one case, the CGB (the specialised body that deals with discrimination complaints) was of the opinion that the refusal by a housing corporation to rent a house to a

146 Aalbers, M. (2003), *Redlining in Nederland. Oorzaken en gevolgen van uitsluiting op de hypotheekmarkt*, Amsterdam: Aksant

refugee constituted indirect discrimination, for which no objective justification was found.¹⁴⁷

GOOD PRACTICE

In the last months of 2003, a heated debate developed about the concentration of ethnic minorities in some districts in Rotterdam. A prognosis showed that in 2017 more than 80 per cent of the population of these areas would consist of ethnic minorities, most of whom would belong to the lower economic strata. In a reaction, local government officials proposed to close these districts to “underprivileged” migrants. The federal government announced that it did not support initiatives of this kind as a solution for urban problems. The Minister for Spatial Planning and Housing instead said she would intensify the policy of differentiated building and urban renewal. This policy is aimed at building a mix of low-cost and more expensive housing in areas where formerly only low-cost housing existed.

1.4.11. Austria

More than half of third country nationals live in the ten biggest cities of Austria. Statistical data¹⁴⁸ show a concentration of migrants in flats in privately owned houses. The opening of council housing to third country nationals is an exception. This situation also finds its reflection in segregation indices – which are higher for Turkish nationals than for citizens of the former Yugoslavia.¹⁴⁹ Surveys and research¹⁵⁰ find that housing, in comparison to the labour market and education, is the area in which migrants feel most disadvantaged.

Counselling organisations know of several forms of discrimination migrants may experience on the housing market, with people taking

147 CGB (19.12.2002), nr. 2002-202

148 Kohlbacher, J./U. Reeger (2003) „Die Wohnsituation von AusländerInnen in Österreich“, in: Fassmann, H./I. Stacher (eds.) Österreichischer Migrations- und Integrationsbericht, Klagenfurt: Drava, pp.87-108

149 Giffinger, R./H. Wimmer (2003) „Kleinräumige Segregation und Integration“, in: Fassmann, H./I. Stacher (eds.) Österreichischer Migrations- und Integrationsbericht, pp.109-119

150 Kohlbacher, J./U. Reeger (2002) „Ethnische Segregation aus der Perspektive der Migranten – gruppenspezifische Einstellungen, Wahrnehmungen und Erfahrungen von Ausländern in Wien“, in: H. Fassmann/J. Kohlbacher/U. Reeger (eds.), Zuwanderung und Segregation, pp.233-255, and Kohlbacher, J./U. Reeger (2003) „Xenophobie aus der Perspektive der ‚Anderen‘ – Erfahrungen und Bewältigungsstrategien betroffener AusländerInnen“, in: Fassmann, H./I. Stacher (eds.) Österreichischer Migrations- und Integrationsbericht, Klagenfurt: Drava, pp.445-458.

advantage of their lack of knowledge of the legal situation, with illegal reimbursement of costs¹⁵¹ and fancy excuses for denying access to accommodation, as well as verbal harassment and even violence by neighbours. Antisemitic assaults are also documented.¹⁵²

The situation of asylum seekers in Austria is a continual cause for concern of NGOs¹⁵³ or the UNHCR¹⁵⁴ in many respects, one of them being the frequent homelessness of applicants not accepted into the governmental programme of federal care. Also the EU Network of Independent Experts in Fundamental Rights raised severe criticisms in its Report on Austria in 2003.¹⁵⁵ The change in the asylum law creates a problem of legal status for asylum seekers and the danger of homelessness, and shifts the burden of care on to NGOs.

GOOD PRACTICE

The key area for examples of good practice are projects for the counselling and empowerment of migrants in the housing market, such as “Affordable Housing for Migrants” carried out by the NGO *Volkshilfe* and funded by the City of Vienna, and “living together” supported by *Mosaik-Integrationsbüro Wels*. A special sub-segment of subsidised housing may establish itself in Vienna, where inter-ethnic housing projects bring Austrians and migrants together. The drawback of such projects is that they aim primarily at foreigners already integrated and with a higher income. Nevertheless, the projects have a symbolic value and raise awareness among property developers for different housing needs. Caritas reinforced their activities concerning care and support of asylum seekers, and for the first time the Red Cross of Austria includes care of asylum seekers in its range of activities.

151 Interview with Petra Zeleny, lawyer with the Tenants' Association, conducted by the Austrian NFP on July 29, 2003.

152 ZARA (2004) Rassismus Report 2003, available at:
http://www.zara.or.at/download/rassismus_report_2003.pdf, (08.04.2004), pp. 41-44.

153 As exemplified by the 2003 campaign “Existenzsicherung für Flüchtlinge jetzt”, see:
<http://www.asyl.at>, (26.04.04)

154 See e.g.,: UNHCR (08.10.2003) UNHCR Weltzentrale: Österreichs Gesetz könnte Genfer Flüchtlingskonvention verletzen, press release available at:
<http://www.unhcr.at/index.php/cat/17/aid/1189>, (26.04.2004).

155 E.U. Network of Independent Experts on Fundamental Rights (CFR-CDF) Report on the situation of fundamental rights in Austria in 2003 (CFR-CDF.repAT.2003), submitted to the Network by Manfred Nowak and Alexander Lubich, p. 29, available at:
<http://www.univie.ac.at/bim/download/ChartaReport2002.pdf>, (26.04.2004)

1.4.12. Portugal

As there are hardly any official statistical data about ethnic minorities and housing the *Comissão para a Igualdade e Contra a Discriminação Racia* l- CICDR (Commission for Equality and Against Racial Discrimination) constitutes the primary source of information.

Although there are no Roma victims among the cases filed to the Commission, it is clear from complaints brought before NGOs that the Roma community is the one which endures most discrimination in terms of housing and placement. Reports by the media and by organisations working directly with immigrants give account of their extremely harsh living conditions. News about homeless Eastern European immigrants is also becoming more and more frequent. Roughly speaking, housing discrimination can be divided into three categories: direct discrimination, as displayed by real estate or housing constructors; actions undertaken by local populations either against the placement of Roma families or aimed at forcing out families within this ethnic community from their neighbourhoods and villages; finally, political actions carried out by local politicians, who take advantage of the local populations' negative feelings towards Roma.

GOOD PRACTICE

The most important initiative dealing with housing problems in the last few years was the *Programa Especial de Realojamento* – PER (Special Relodging Programme), launched in 1993, which focused on the Lisbon and Porto metropolitan areas. Although the re-lodging process is still incomplete in many of the municipalities covered by the programme, it has brought about a significant improvement of living and housing conditions for a number of families, including non-nationals.

1.4.13. Finland

It is not possible to identify statistical data on occurrences of racism and discrimination in housing. According to social scientific research, there is some variation in experiences of discrimination and country of origin.¹⁵⁶ The Roma are the ethnic group most likely to suffer from racism and

156 Jasinskaja-Lahti, I., Liebkind, K. and Vesala, T. (2002) *Rasismi ja syrjintä Suomessa: Maahanmuuttajien kokemuksia* (Racism and Discrimination in Finland: Immigrants' Experiences) Helsinki: Gaudeamus

discrimination in housing-related matters, in spite of being citizens of Finland and having Finnish as their mother tongue. Declining home-ownership and the unwillingness of municipalities to build housing reserved for the Roma are major threats to their future housing security. A lack of consideration of the special cultural and ethnic needs of the Roma in housing is also a major challenge. The Roma are under severe threat from cultural prejudice and misconceptions, both from neighbours and the authorities. Greater efforts are also needed to improve the housing conditions of Somalis, not just in terms of quality and suitability of housing, but also with respect to improving the social conditions in neighbourhoods where there are Somali residents.

Homelessness amongst immigrants is a relatively new social problem in Finland. One researcher estimates there are about 1,000 homeless immigrants in Finland.¹⁵⁷ Although there are no homeless immigrants living on the streets, the proportion of immigrants in shelters and temporary dormitories has increased considerably in the last few years. Research¹⁵⁸ has also found that homelessness is more common amongst immigrants than the majority population.

GOOD PRACTICE

As part of the government's housing policy, financial assistance was provided through *Valtion Asuntorahasto* (The Housing Fund of Finland/NFP/FI/0004). In the government's budget for 2003 this support was allocated as 8.4 million euros. It provides grants to, among other social groups, the homeless and refugees.¹⁵⁹ The housing advisor (*asumisneuvoja*) system, run by non-profit organisations, housing funds, municipalities and others, has had some ethnic minority beneficiaries, although its outreach to these groups is still very limited.

1.4.14. Sweden

Most data collected with regard to the housing area is quantitative, mainly being provided by the Integration Board and researchers

157 Rastas, M. (2002) Maahanmuuttajien asunnottomuus Helsingissä (Homelessness of immigrants in Helsinki) Ministry of the Environment: Helsinki

158 Mikkonen, A. and Kärkkäinen, S. (2003) Homeless immigrants in Finland, National Report 2002, European Observatory on Homelessness, Helsinki: National Research and Development Centre for Welfare and Health (STAKES)

159 <http://www.ara.fi/index5.htm> (19.05.2004).

connected to the Institute for Housing and Urban Research at Uppsala University.

Ethnic and socioeconomic segregation in housing in Sweden is mostly visible in the suburban areas of the major Metropolitan areas of Stockholm, Gothenburg and Malmö, which are in socioeconomic terms the most disadvantaged residential areas in the country. They were quickly subjected to a stigmatisation process, which today also has taken on an ethnic dimension, as newly arrived immigrants have moved in and the Swedes moved out. Public opinion has identified the problems of these areas with the residents, to a great extent through media reports, in a process of increasing stigmatisation.¹⁶⁰ In these areas educational levels and participation in elections are lower than in other residential areas, whereas rates in unemployment and in dependency on social benefits are higher.¹⁶¹

Also a segregation process has occurred in Swedish medium-sized cities. During the 1990s there was a great increase of foreign-born residents, mainly due to their reception of newly arrived immigrants. Research shows that the arrival of major refugee groups, e.g. from former Yugoslavia and Iraq, has also played an important part in the emergence of the so called 'Swedish sparse' areas, and the segregation of these areas has increased through this event.¹⁶²

The new Act (2003: 307) banning discrimination covers the housing sector, which increases the possibility of conducting legal proceedings, and the Ombudsman against Ethnic Discrimination has expanded activities with regard to the new Act. According to the annual report for 2003 from the Ombudsman against Ethnic Discrimination there has been during the years an increase in incoming cases. However, the new Act in July has not visibly had effect on the increase.¹⁶³

160 Ericsson, Molina and Ristilammi 2002, Miljonprogram och media,, the Integration Board and the National Heritage Board

161 Swedish Integration Board. Utvecklingen i storstadssatsningens 24 bostadsområden 1997-2001. Uppdatering av statistiken för år 2000 och 2001.

162 Swedish Integration Board, Integration Rapport 2003, p. 33

163 Ombudsman against ethnic discrimination, Arsredovisning 2003, p. 32

GOOD PRACTICE

In Gothenburg the local housing company, *AB Framtiden*, has been given a central position in the fight against segregation, and has taken a greater social responsibility in this than in those other disadvantaged areas.¹⁶⁴

1.4.15. United Kingdom

Data is provided mainly by the Independent Housing Ombudsman and a report on “Housing and Black and Ethnic Minorities” by the Office of the Deputy Prime Minister.¹⁶⁵ While many ethnic minority households are owner-occupiers, they are located very firmly in the lower end of the tenure in terms of property quality. Ethnic minority tenants, particularly from the Pakistani or Bangladeshi group, are more likely to live in overcrowded households and poor housing conditions than white people. Members of ethnic minority groups were four times more likely to see racist harassment as a serious problem in their area than Whites.¹⁶⁶ Generally, such victimisation occurs in outlying areas where minority ethnic families are isolated and removed from familiar networks. Lack of choice about housing, identified as a key issue in reports on community cohesion, applies even more sharply to refugees than other ethnic minority groups.¹⁶⁷

Ethnicity and housing is still a contested area when specific provision is made or considered: for example, Bangladeshi elders in Tower Hamlets attracted media and political attack for being ‘exclusive’ and ‘separate’.¹⁶⁸ Meeting the unmet housing needs of specific groups like minority elders is an issue of major concern in the context of changing demography.

164 Roger Andersson. 2002. Boendesegregation och etniska hierarkier. in *Det slutna Folkhemmet*, Lindberg, I and M, Dahlstedt (eds), Agora, Stockholm, p. 107

165 Office of the Deputy Prime Minister (2003) *Housing and Black and Minority Ethnic Communities. Review of the evidence base*, London: HMSO; available at: www.odpm.gov.uk (04.08.2003).

166 1998-2000 Survey of English Housing Data

167 Cf. Chartered Institute of Housing (2003) *Providing Safe Haven - Housing Asylum Seekers and Refugees*, available at www.cih.org (16.09.2003)

168 London Evening Standard (27.04.2004)

GOOD PRACTICE

The Welsh Assembly Government published its Black, Minority Ethnic Housing Action Plan¹⁶⁹ in September 2002 to promote race equality in housing. By April 2004, all local authorities and Registered Social Landlords were required to have a housing strategy for ethnic minority groups in place. HomePoint, part of Communities Scotland's Regeneration Division, has published the Scottish National Standards and Good Practice for Housing Information and Advice Services which requires that access to services does not disadvantage users whose first language is not English.¹⁷⁰

The Joseph Rowntree Charitable Trust has funded the technical drafting of a Traveller Law Reform Bill. Among other things, the bill as adopted on 10 July 2003 calls for every local authority to provide or facilitate the provision of suitable accommodation (temporary and permanent) for Gypsies and Travellers via specific accommodation programmes.¹⁷¹

The Race and Diversity Awards are organised annually by the Housing Corporation and the Federation of Black Housing Associations. Many entries described initiatives meeting the needs of specific groups such as people with mental health problems or ex-offenders. Others aimed to improve the general housing management service to all tenants from ethnic minorities. An increasing number of minority-led housing associations are developing measures to respond to rising demand for family and elder-specific housing.¹⁷²

169 Welsh Government Assembly (2002) Black, Minority Ethnic Housing Action Plan for Wales.

170 <http://homepoint.ces.co.uk/homepoint/> (28.05.04)

171 For the text of the Bill see <http://www.publications.parliament.uk/pa/cm200203/cmbills/102/2003102.htm> (26.08.2003).

172 <http://www.housingcorp.gov.uk> (07.2004)

2. Racism and discrimination in the Education sector and initiatives on how to prevent it.

2.1. General overview of racism and discrimination in the education sector

Institutional education appears to have a twofold effect on the situation of migrants and ethnic minorities. On the one hand, education offers the opportunity to get ahead in society. Special programmes (e.g. language instruction and intercultural programmes) can facilitate learning and foster the integration process by building bridges between communities and individuals from diverse backgrounds. On the other hand, education reproduces inequalities if discriminatory practices lead to lower educational attainments of disadvantaged minority groups.

Various forms of discrimination may affect the education experiences of migrants and ethnic minorities. The Council Directive (2000/43/EC) on the implementation of the principle of equal treatment between persons irrespective of “racial” or ethnic origin defines the concepts “direct” and “indirect” discrimination, stating that “direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin” and “indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.”¹⁷³ Aside from direct and indirect discrimination, one may also distinguish between personal or face-to-face discrimination and forms of institutional discrimination (i.e. discrimination caused by institutional regulations or practices or by public and private authorities).

Direct measures of discrimination are statistical data or reported individual cases on discriminatory and racist acts and practices, e.g.

¹⁷³ Official Journal of the European Communities, Chapter I, General Provisions, Article 2
19.7.2000; L 180/24

segregation, exclusion, limited access to certain educational institutions, unequal treatment, verbalised prejudice, or harassment by teachers and peers, as well as violence. An indirect measure of discrimination can be educational underachievement of ethnic minority groups (based on enrolment and achievement data or tests results). Indicators are overrepresentation of migrants and ethnic minorities in schools with lower academic demands, overrepresentation in special education, or disproportional early dropout and expulsion rates. Given the lack of research in this area, it is rather difficult to assess whether differences regarding the educational situation of migrants and minorities can be traced back to discrimination or whether they are caused by other factors, such as different social backgrounds or language and cultural differences. Nevertheless, signs of discriminatory attitudes and practices in that regard are low teacher expectations of minority pupils, assignment to special education for reasons other than lack of ability, placement in lower than age-appropriate grades, restricted admittance to more prestigious or private institutions, lack of or low quality of compensatory programmes, lack of effective language programs and of specifically trained language teachers, and lack of intercultural curricula and minority education programmes as well as lack of religious pluralism.

Measurements of discrimination in education vary in the 15 EU Member States. Variability regarding legislation as well as different monitoring and reporting systems and bodies leads to results that are not always truly representative of the national situation. While in some Member States official monitoring bodies collect data on racism and discrimination in the field of education, in others, data is collected by NGOs or not available at all. Thus, countries with a better reporting system are more likely to report cases of discrimination than others. Furthermore, the comparability of educational enrolment and achievement data is low due to different categorisations of groups in the Member States' data collections (e.g. data based on citizenship, ethnicity, birthplace of pupils and parents, native language), differing data availability, and due to varying education systems.

2.2. Direct and indirect indicators of discrimination

Overall, there is little statistical data regarding racism and discrimination in the area of education. Most countries lack an adequate reporting system. Although individual cases on discriminatory and racist acts and practices are often reported, they cannot be regarded as being representative of any countries' situation in that respect. Indirect forms of discrimination influence the educational performance of migrants and ethnic minorities as well. The lack of research in this area makes it difficult to assess other factors as well as that of discrimination .

2.2.1. Direct indicators of discrimination - statistical data and case reports

In **Belgium**, there is some registration of racist incidents and cases, although this is not systematic. Neither complaints that are filed by organisations as the *Centre for Equal Opportunities and Opposition to Racism (CEOOR)*, nor the racist acts that are registered by the police provide a representative image of the real amount of cases concerning racism, xenophobia, and discrimination in education during 2003. Case reports were made about a Jewish student in a school in Antwerp, who was insulted by three youngsters of Maghreb origin. In another incident a group of Jews was insulted by young Moroccans on the campus of the University of Brussels.¹⁷⁴

In **Denmark**, very few cases of discrimination, racism and xenophobia in schools are documented and publicly accessible. Until autumn 2003, there was no centralised body which dealt specifically with incidents of this nature in educational settings.

In **Germany**, there is no systematic registration and hence no national statistics of cases of discrimination. However, individual cases are collected and documented by various organisations that are contacted for assistance by people subject to discrimination. The registered number of cases is much too small to allow for a general statement concerning discrimination in the education system. Only in exceptional cases data relating to xenophobic incidents in schools is available.¹⁷⁵ Studies show that Turkish children in particular often report discriminatory

174 Source: www.antisemitisme.be

175 see e.g. Bürgerschaft der Freien und Hansestadt Hamburg (2001) Einfluss rechtsradikaler Organisationen auf Schülerinnen u d Schüler, Jugendliche und Studierende in Hamburg

experiences. Apart from them, African pupils, especially from refugee families, are confronted with discrimination more frequently than other groups.¹⁷⁶ According to a report by the Open Society Institute (OSI), Sinti and Roma are also affected by discrimination in schools.

In **Greece**, the only available data concerning discrimination, racism, and xenophobia in education are from student records by the Education Ministry. However, no quantitative or qualitative data exists or is planned to be collected on phenomena of racism and xenophobia in education by public authorities. A small number of surveys are available, but their sampling methodology does not allow for conclusions to be drawn concerning national trends. Nevertheless, racist incidents in schools do happen, especially concerning Albanian and Roma pupils and have been reported by the media or NGOs. Teacher unions have also mentioned “racial stress” particularly in inner city schools. There are case reports about angry reactions by Greek parents and pupils to the carrying of the national flag during school parades by high achieving migrant pupils¹⁷⁷ and about parents in a primary school who asked for the expulsion of a 7-year-old Roma girl on the grounds that she was too lively in class and disturbed the learning process.¹⁷⁸

In **Spain**, a report by the Education Authorities of the Madrid Regional Government remarked that acts of xenophobic aggression and graffiti occur frequently in educational settings. In October, several organisations, such as SOS Racism, denounced the fact that the Education Council of the Madrid Regional Government required pupils of foreign origin to show a Foreigners’ ID in order to receive the certificate in Secondary Education. Eventually the Education Council revoked the requirement.

In **France**, for several years, there has been resurgence in racist, xenophobic, and antisemitic/anti-Jewish-related violence and threats committed in academic environments.¹⁷⁹ The Ministry of Education’s Direction of Development and Programs, in charge of collecting

176 see Neumann, U. et al. (2002): *Wie offen ist der Bildungsmarkt? Rechtliche und symbolische Ausgrenzungen junger afrikanischer Flüchtlinge im Bildungs-, Ausbildungs- und Beschäftigungssystem*, Münster

177 Nodaros, M. (2003), “To vilaeti ton aganaktismenon” (The land of the “despaired”), in: *Eleftherotypia* (22.03.2003), PUBGR0055; Nodaros, M. (2003), “Xanahtypian oi Ellinares” (The “real Greeks” are back), in: *Eleftherotypia* (26.03.2003), PUBGR0056

178 Nodaros, M. (2003), “Goneis den adexoun tin 7xroni simmathitria ton paidion tous” (Parents could not stand their children’s 7-year-old classmate), in: *Eleftherotypia* (04.04.2003), PUBGR0049

179 France, CNCDH, *La lutte contre le racisme et la xénophobie* (The Fight Against Racism and Xenophobia), Rapport d’activité, La documentation française, 2003, p.35

statistical data related to schools, does not collect data concerning the ethnic or “racial” origin of pupils. Nevertheless, the data of the Minister of the Interior for 2003 led the Commission Nationale Consultative des Droits de l’Homme (CNCDDH) to conclude that: “the Jewish community is, as in previous years, more targeted by violence in educational environments”. Records show that 23 incidences (2 violent acts and 21 threats) in relation to racism and xenophobia out of a total of 224 took place in schools (10.26%) and 95 incidences related to antisemitism (22 violent acts and 73 threats) out of a total of 581 took place in schools (16.36%).¹⁸⁰ The 73 antisemitic threats or expressions of ill will took the form of graffiti or minor defacement (23 instances), 36 violent, verbal or written acts, and 14 cases of distribution of propaganda material.¹⁸¹ The 21 “anti-North African” racist or xenophobic threats were instances of racist graffiti, eight verbal or phone threats directed at pupils or teachers of foreign descent, and one case of distribution of anti-Arab and African propaganda material at a high school.¹⁸² The arson of the Merkaz Hatorah High School in the Parisian suburb of Gagny on the 15 November 2003, generated major indignation in the Jewish community and the media. As a consequence on the 17 November the French President announced the creation of a council in charge of reinforcing the fight against antisemitism.¹⁸³ On 8 July, 2003, in Paris, an incident involved pupils of the Beth Loubavitch Jewish school, who were beaten with sticks and metal bars by individuals, who had scaled the building’s walls to get in.¹⁸⁴ On 16 May in Givors, two windows of the doors of an Islamic Cultural Teaching Centre were broken with stones.¹⁸⁵

In **Ireland**, in 2002, the Equality Authority dealt with 40 cases in the education area, of which seven invoked the “race” ground and four involved members of the Traveller community.¹⁸⁶ In addition a number

180 France, CNCDDH, *La lutte contre le racisme et la xénophobie*, Rapport d'activité, La documentation française, 2003.

181 France, CNCDDH, *La lutte contre le racisme et la xénophobie* Rapport d'activité, La documentation française, 2003, pp. 62-63. “More than a dozen academic institutions and superintendents received tracts through the mail from the so-called “Deir Yassin Martyrs Brigade” which contain various versions of writings that reek of the anti-Semitism of the extreme right.” (Ibid., p.63)

182 France, CNCDDH, *La lutte contre le racisme et la xénophobie* Rapport d'activité, La documentation française, 2003, p.47

183 France, CNCDDH, *La lutte contre le racisme et la xénophobie* Rapport d'activité, La documentation française, 2003, p.103

184 France, CNCDDH, *La lutte contre le racisme et la xénophobie*, Rapport d'activité, La documentation française, 2003, p.58

185 France, CNCDDH, *La lutte contre le racisme et la xénophobie*, Rapport d'activité, La documentation française, 2003, p.41

186 Equality Authority, *Annual Report 2002*, p.39 [PUBIE0062]. It should be noted that these are instances of casework by the Equality Authority and consequently do not necessarily refer to legal cases.

of high profile cases regarding the access of Traveller children to schools were reported in the media in 2003.¹⁸⁷ The Equality Tribunal heard one relevant case in which the complainants were refused grants from their local Vocational Education Committee because they did not hold EU nationality or have official refugee status. The Equality Officer recommended that the Department of Education and Science should take full account of the provisions of the Equal Status Act 2000 in designing the grant schemes in future.¹⁸⁸ In its Racist Incidents Monitoring Reports, the NCCRI has recorded a number of incidents which relate to the education system in 2003.¹⁸⁹ One involved a South African student who was subjected to racist verbal abuse by four of his classmates over a period of time. In another case a list of student names on a notice board in a Dublin university was covered with white-supremacist graffiti.

In **Italy**, there are no reports about systematic registration of racist incidents and discrimination concerning the field of education. Generally, the groups most vulnerable to discrimination within the education sector are migrants, refugees and asylum seekers as well as Roma and Sinti.

In **Luxembourg**, data concerning discrimination, racism, and xenophobia in education is not systematically recorded. The only reported case involved limited access of asylum seekers to professional training.

In the **Netherlands**, vulnerable groups are first and foremost visible minorities, i.e. those with dark skin, headscarves or (alleged) Jewish origin. Many recorded cases by the *Equal Treatment Commission (CGB)* and the *Anti-discrimination Agencies (ADBs)* are not about bullying, hostile treatment or violence, but cases concerning discriminatory admittance policies applied by schools. A specially vulnerable group are pupils from the Roma and Sinti community. There are known cases of discriminatory admittance policies for these pupils as well.

In **Austria**, the report on racism 2003 by the NGO ZARA includes six cases related to education among 219 published cases of

187 Holmquist, K. (2003) "Making a Case for Equality in Education", in: The Irish Times, (20.05.2003)

188 The most recent report available from the ODEI-The Equality Tribunal is, ODEI, Legal Review 2002 [PUBIE0102]

189 In May 2001 the NCCRI established a procedure for reporting racist incidents in Ireland. The purpose of the bi-annual reports is: to provide an overview of racist incidents reported to the NCCRI. The data contained in the reports is primarily qualitative and does not aim to provide a comprehensive list of all racist incidences, available at: www.nccri.com (21.04.04), [NFPIE0062]

discrimination.¹⁹⁰ The Islamic community registered an increase in the number of reports on discrimination in schools during 2003.¹⁹¹ The Forum against Antisemitism became active in a case where a pianist accompanying violin students at the Vienna *Universität für Musik und darstellende Kunst* was notorious for making antisemitic statements in the presence of his students.¹⁹²

In **Portugal**, statistics on racist incidents and discrimination are scarce and existing data is outdated. The group most vulnerable to racism, xenophobia and discrimination in the educational sector are pupils of Roma ethnicity. In October 2003, a school in the Central Region of Portugal was locked by pupils' parents, who demanded the transfer of 14 Roma children. It was argued that the school was overcrowded and that these pupils, given their area of residence, should be placed in another school. Newspapers reported the presence of racist banners outside the school gates of the new school where these pupils were transferred to on the day of the pupils' arrival. According to the executive committee, this was an isolated incident. The director believes that those children are now fully integrated in their new school environment, but nonetheless underlines the stigma that results from the previous incidents reported.

In **Finland**, it is difficult to locate statistics and data about racism, discrimination, and xenophobia in the education sector because Finnish law prohibits the collection of statistics identifying individuals by "race", ethnicity, or minority status. The results of social scientific research indicate that members of ethnic minority groups physically and culturally more "distant" from Finns are more likely to experience discrimination within the education system. In a survey, Africans and Arabs more frequently experienced racism and discrimination in educational settings than, for example, Estonians and return migrants of Finnish origin (on average 77% of Arabs and Somalis said they had experienced discrimination at an educational institution, compared to 50% of others). The incidence of racist and discriminatory behaviour by pupils is clearly higher than that of teachers and staff.¹⁹³

190 ZARA (2004) Rassismus Report 2003, available at: http://www.zara.or.at/download/rassismus_report_2003.pdf, (08.04.2004), cases nr. 11, 22, 148, 155, 156, 170

191 ZARA (2004) Rassismus Report 2003, available at: http://www.zara.or.at/download/rassismus_report_2003.pdf, (08.04.2004), case nr. 156, p.37

192 ZARA (2004) Rassismus Report 2003, available at: http://www.zara.or.at/download/rassismus_report_2003.pdf, (08.04.2004), case nr. 170, p.40

193 Jasinskaja-Lahti, I., Liebkind, K. and Vesala, T. (2002) *Rasismi ja syrjintä Suomessa: Maahanmuuttajien kokemuksia* (Racism and Discrimination in Finland: Immigrants' Experiences) Helsinki: Gaudeamus

In **Sweden**, in 2003, 12 cases of discrimination in higher education were reported by the Ombudsman against Ethnic Discrimination.¹⁹⁴ The majority of cases concerned alleged discrimination regarding the student's grading by teachers. One case regards a university college demanding a language test in English for applicants from selected countries, such as Jamaica, while the same requirements are not demanded of people from the UK or Australia. The Ombudsman against Ethnic Discrimination dealt with a case involving Malmö University College, which has a particular admission quota for applicants with a mother tongue from a non-Nordic country. The Ombudsman made a policy statement pointing to a possible breach of anti-discrimination legislation. Since nobody filed a complaint, there was no possibility of the Ombudsman taking the case further.

In the **United Kingdom**, incidents of racial harassment in educational institutions often go unreported and there is limited data available about their nature and extent. This is despite the fact that it was a recommendation of the MacPherson enquiry¹⁹⁵ and has subsequently become a requirement under the Race Relations Amendment Act for schools to report incidents of racial harassment to parents, governors, and the LEA. Since none of this data is publicly available, changing patterns of racial harassment in educational settings cannot be identified. Some small-scale action research projects have pointed towards increased racial harassment where local media coverage of asylum issues has been hostile.¹⁹⁶

2.2.2. Indirect indicators of discrimination

Enrolment and achievement data frequently show an overrepresentation of most migrant and ethnic minority groups in educational institutions with lower academic demands as well as early dropout and lower completion rates. Given the lack of research in this area, it is rather difficult to assess the extent to which educational underachievement of migrants and ethnic minority groups can be traced back to forms of discrimination. Many other factors influence the educational attainment of migrant and minority pupils, e.g. language competency, socio-

194 The Ombudsman against Ethnic Discrimination, *Arsredovisning* 2003, p. 34

195 Home Office (1999) Report of an Inquiry by Sir William MacPherson of Cluny (The MacPherson Report), London: Home Office.

196 Rutter, J. (2001) Supporting Refugee Children in the 21st Century: A Compendium of Essential Information, London: Refugee Council. Save the Children (1997) *Let's Spell it Out*, available at: <http://www.savethechildren.org.uk> (16.05.2003).

economic factors, parents' educational background, and cultural values. Institutional factors, such as the availability of special language programmes and intercultural curricula, or teacher expectations are also of relevance.

The interpretation of statistical enrolment and achievement data is complicated by the fact that categorizations used in data collections do not allow sufficient insight into the educational situation of all migrants and descendants or ethnic minority groups. However, phenomena such as overrepresentation of ethnic minorities in special education, segregated classes for minorities, limited access to school programmes, and inappropriate placement are all signs of possible discriminatory treatment.

2.2.2.1. Educational performance of migrants and ethnic minorities

Aggregate data on the educational performance of most migrant and ethnic minority groups indicate lower academic achievements compared to the majority populations in all EU Member States. Migrants and ethnic minorities tend to attain lower educational credentials, finish schooling earlier, and have higher dropout rates. Differentiated data shows that great differences exist in achievements between various migrant and ethnic minority groups. While some ethnic groups achieve significantly above average results or even outperform majority pupils on some educational levels, others are very much behind. For example, in the UK, pupils with Chinese and Indian backgrounds have higher achievements than white majority pupils, while black pupils, who are also more likely to be excluded from school¹⁹⁷, or pupils with Pakistani and Bangladeshi backgrounds achieve below average.

Despite lower success ratings, there are positive developments reported by some countries regarding the starting performance of pupils with foreign backgrounds (e.g. in the Netherlands). Second-generation migrants, in most cases, do better than new immigrants. Studies also show that these pupils often attain higher educational levels than their parents (e.g. in Germany). Across all ethnic groups, female pupils tend to achieve better than males. There are regional differences within countries regarding the academic performance of migrants and ethnic minorities, which in part depend on the differing educational systems and differences in the ethnic composition of the population (e.g. in Germany

¹⁹⁷ Social Exclusion Unit (1998) *Truancy and School Exclusion*, Wetherby: ODPM Publications.

and Spain). PISA¹⁹⁸ study results of pupils' reading, mathematical and scientific literacy skills show that native pupils perform better than pupils with a foreign background (born in the country or abroad). Results from Ireland, indicating that non-native pupils surpassed the average score of native pupils, as well as from Denmark and Belgium, indicating that non-native pupils performed better than native-born pupils with a foreign background, have to be treated with caution because of small and unreliable study samples. In order to draw better evidence-based conclusions, the collection of more differentiated quantitative data as well as qualitative research on the educational achievement of migrants and minorities in the Member States is needed.

2.2.2.2. Over-representation of migrants and ethnic minorities in schools with lower academic demands

Migrant and minority pupils more often enrol in secondary schools that are less academically challenging, provide education of shorter duration, and often more vocationally oriented than pupils of the majority population. In Member States which supply differentiated data, children of migrant workers, such as those with citizenship from former Yugoslavia (e.g. Austria, Luxembourg), from today's Yugoslavia (e.g. Germany), from Turkey (e.g. Austria, Germany) but also citizens of EU Member States (e.g. Italians in Germany or Portuguese in Luxembourg) are less likely to attend secondary schools which allow access to higher education or to university studies.

However, results indicate that in some countries, certain migrant and ethnic minority groups attend academically oriented schools or secondary schools providing education of a longer duration at a higher rate (e.g. pupils from Chinese and Indian backgrounds in the UK or pupils from the Russian Federation, Poland and Croatia in Germany). This illustrates how a lack of differentiated data often leads to the erroneous assumption that all minority groups attain lower levels of education compared to the majority group.

¹⁹⁸ The OECD PISA study, conducted in 2000, assessed the reading, mathematical and scientific literacy of 15 year olds in many countries of the world, including EU Member States.

2.2.2.3. Overrepresentation of migrants and ethnic minorities in special education

Overrepresentation of pupils with a migration background in special education occurs in many countries of the European Union (e.g. Austria, Germany, Belgium). This is of particular concern, because attendance in special education schools negatively affects educational and future employment opportunities. Male migrant pupils are much more likely to attend special school than females, a fact observed across all ethnic groups, including the majority population.

There needs to be more critical assessment of the reasons on which the referrals of migrant pupils to special education are based. It appears that referrals are can be determined by culturally biased test results and low teacher expectations due to pupils' language differences and different socio-cultural models of behaviour, rather than by learning difficulties and low abilities.

2.2.2.4. Educational performance of national minorities

Reports on non-migrant ethnic minority groups from the EU Member States show underachievement in education of several groups. This concerns the Roma (and Sinti) in Austria, Finland, Germany, Greece, Italy, Portugal, Spain, Sweden, and the United Kingdom. Furthermore, Caravan dwellers in Belgium and in the Netherlands, Travellers in Ireland and Northern Ireland, and the Muslim minority in Greece often do not perform well in schools. The reasons for the lower academic achievement of these groups vary and are manifold. For some groups, e.g. the Sámi and the Swedish-speaking Finns in Finland or the Sámi and the Swedish Finns in Sweden, very little or no data on achievement was supplied.

Overall, there is a lack of research and data concerning the educational underachievement of non-migrant ethnic minority groups. However, it seems fair to say that in many cases, a history of social exclusion, assimilationist tendencies, and a monocultural orientation in education lead to a distrust of the educational system and to low expectations about the benefits of educational attainment. Since a large proportion of the groups' older generation has not met basic educational standards, it has been problematic to increase the educational attainment of the younger generation. The socio-economic differences between many national minorities and the majority of the population in the Member States are

still considerable. This creates not only problems relating to education, but also to other aspects such as employment and housing, which also negatively influence the educational situation of these groups.

Several groups, but in particular Roma, Sinti, Gypsies and Travellers, are affected by discrimination in schools. They are at times regarded as a “disturbance to normal school life” by teachers and school administrators and frequently assigned to special needs schools or even to segregated classes. In surveys, Roma generally state that educating their children in schools is desirable, although some do not believe that schooling has much to offer in terms of improved life chances. Even well qualified Roma are often not able to find suitable employment due to employers’ prejudices.¹⁹⁹ The poor school attendance and low academic performance of the Roma have in part been attributed to their perceptions of the value of education. Some Roma even consider the schooling of their children to be harmful since, in their view, it deprives children of their family and socializes them into different cultural values and norms.²⁰⁰ However, this critical attitude towards school as an institution of the majority society has to be seen within the context of centuries of discrimination, exclusion - including exclusion from education - and violent racist persecution by majority societies.

Despite various support programmes, Travellers in Ireland as well as Travellers of Irish Heritage in the UK, still lag behind in education. Various reasons have been stated as explanation for this, such as the lack of acknowledgement of Traveller centres, the lack of expectations by Traveller parents and teachers, withdrawal of male pupils to help out at home, failure to acknowledge and to accommodate Traveller culture, as well as institutional discrimination.²⁰¹ Currently, several studies examine the educational underachievement of the Muslim minority in Greece. High dropout rates and low educational attainment are largely attributed to the socio-economic status of Muslim minority families and their low level of labour market integration.

199 Chryssakis M. (1989) Family investment practices by the poor and non poor and educational inequalities. *Revue of Sociological Research*, Vol. 75, pp. 89 – 120

200 Greek National Focal Point (2003), p. 38

201 Irish National Focal Point (2002), p. 43

2.2.2.5. Segregation, limited access, inappropriate placement

Reports from Denmark indicate that Roma children in the municipality of Helsingør were placed in separate classes for many years. The Roma pupils were described, as "being beyond placement in normal classes or special needs classes".²⁰² After a complaint by *Romano*, a Danish Roma Association, about this practice, it was decided that the "Roma-classes" in Helsingør should be shut down, although this had not happened by the end of 2003.

In Spain, there is limited access to religious education, aside from instruction in the predominant Catholic religion, and some NGOs argue that this constitutes a form of indirect discrimination. In March, the Ministry for Education replied to the Union of Muslim Communities that the teaching of Islam in public schools was not a priority issue.

In Italy, a practice widely considered as discriminatory is the placement of non-Italian pupils in lower than age-appropriate grades. This practice mostly concerns third country nationals (migrants and refugees) with limited knowledge of the Italian language.

In the Netherlands, the local *Anti-discrimination Agency (ADB)* in the east of Holland asked the *Equal Treatment Commission (CGB)* to look into several schools resorting under the same authorisation, which apply an admittance percentage of 15 per cent for non-native Dutch speaking pupils and a restrictive policy for the admittance of pupils from the Roma and Sinti community. The schools claimed that this policy is not discriminatory because it does not select on ethnicity but on language. The CGB stated that, since only ethnic minority pupils are subject to such entry norms, it is an indirect form of discrimination on the basis of "race". With regard to the alleged discrimination of pupils of Roma or Sinti origin, the Council stated that the admittance policy regarding these pupils laid down in a covenant constitutes direct discrimination on the basis of "race".

A legal barrier excludes some foreign citizens in Austria from a segment of vocational education interlinked to an apprenticeship. An apprenticeship counts as a form of employment and the Alien Employment Act²⁰³ applies. This law regulates work permits that are required for foreign citizens who are not EU or EEA citizens or refugees

202 Report: "Børn med særlige behov, Fokus på specialområdet, page 85
http://www.helsingorkommune.dk/bogerservice/udgivelse/helhed/boern_med.pdf.

203 Austria / BGBl 218/1975 as last amended by BGBl I 133/2003, (30.12.2003)

recognised according to the Geneva Convention. Another issue regards the situation of unaccompanied minor asylum seekers, who have particular problems with access to education once they are beyond the age of compulsory schooling.²⁰⁴

In the United Kingdom, small-scale action research conducted by the Refugee Council²⁰⁵ concluded that in 2001 an estimated 2,400 refugee children were unable to secure a school place, despite their clear rights to school education. Some schools deliberately refused places, even though they had vacancies. A small number of Local Education Authorities (LEAs) were also unwilling to discharge their statutory duty to provide school places for asylum seeking and refugee children. Some argued that government funding did not provide sufficient monies for English as an additional language provision. Another issue is unequal access to more prestigious 'old' universities. While Black Africans, Black 'Others', Indians, Bangladeshis and 'Other' are as likely as Whites to receive an offer from an 'old' university, Black Caribbean and Pakistani applicants are less likely and Chinese and 'Asian Other' more likely to gain admission.

2.3. Good practice; programmes for awareness raising

Several initiatives and good practice examples geared towards facilitating equality and fostering integration of migrants and minorities were reported in 2003. They come from governmental and non-governmental organisations.

2.3.1. National and local governmental organisations

In **Belgium** (Flanders), one good practice is found in the area of recognition of diplomas acquired outside the European Economic Area. At the faculty of dentistry at the Catholic University of Leuven, an exploratory meeting is regularly organised for all those who hold foreign degrees. This furthers equal opportunities for them, since they have the

204 See: Freithofer, E. (2002) "Ausbildung und Arbeit", in: Fronek, H. / I. Messinger (eds.) (2002) Handbuch Unbegleitete Minderjährige Flüchtlinge. Recht, Politik, Praxis, Alltag, Projekte, Wien: Mandelbaum Verlag, pp. 122-137.

205 Refugee Council (2001) In Safe Hands, London: Refugee Council.

chance to provide additional information on their studies and if applicable, their professional experience.

In **Denmark**, an educational and employment project for highly educated immigrants and refugees with a natural science background started in Spring 2002 and was completed by June 2003. The aim of the project was to qualify the participants to teach at upper secondary educational institutions and to connect them to the relevant institutions. Their potential as role models for pupils from third countries who rarely find employment in types of jobs that require higher education is emphasised in the project.

In **Greece**, the project “Muslim Children Education,”²⁰⁶ which was launched in 1997 under the auspices of the Ministry's Special Secretariat of Intercultural Education and funded partly by the Community Support Framework, continues in its second phase (2002-2004). The project aims at the improvement of Muslim minority education. The main objectives are to study the causes of the Muslim minority's educational underachievement, to produce textbooks and educational materials and to provide adequate in-service training for teachers. The project is implemented by an interdisciplinary team of 120 experts.

The project “Roma Children Education,”²⁰⁷ which also continues in its second phase (2002-2006), aims to improve the education provided to Greek Roma. The main objectives are the study of their living conditions and causes of their educational underachievement, the development of appropriate curricula and educational material as well as of appropriate means for the integration of Roma children into the educational system and the development of innovative strategies for the school enrolment of nomadic Roma. So far, the project has been considered to be successful in producing textbooks, syllabi and other educational material adapted to the special needs of Roma pupils. However, the actual implementation of the Roma education programme in schools was met in most cases with resistance by local authorities and parents who continue to insist on segregation, which would undermine the programmes' main objectives and philosophy.

206 ACTGR0329

207 More information only concerning the first phase of the project is available at <http://www.uoi.gr/services/epeack/ypoprogram1.html> (28/05/2003); Information for the second phase is expected in 2004, ACTGR0067

The project “Education of Repatriated Ethnic Greek and Foreign pupils”²⁰⁸ aims to develop intercultural education curricula and educational material for repatriated ethnic Greek and foreign immigrants in the context of a “multicultural classroom”. It is not yet known if the project will continue in a second phase as its competences have been transferred to the Institute for Greek Diaspora Education and Intercultural Studies.

In **Spain**, the Ombudsman commissioned the report “*La Escolarización del Alumnado de Origen Inmigrante en España: Análisis Descriptivo y Estudio Empírico*” (Schooling of Pupils of Immigrant Origin in Spain: Descriptive Analysis and Empirical Study). This qualitative study is based on data collected from interviews conducted in 181 primary and secondary schools, either State-owned or under the responsibility of a public-private partnership, in regions with high immigrant density. Teachers interviewed concluded that the presence of immigrant pupils does not bear a negative influence on overall educational results, and the majority of teachers (75.2 per cent) have a positive attitude to immigration, whereas 36.5 per cent of native pupils and 15.6 per cent of foreign pupils have an unfavorable attitude to immigration.

In **France**, during the first meeting of the Interministerial Committee for the Fight Against Racism and Antisemitism in December 2003,²⁰⁹ the French Minister of Youth, National Education, and Research presented an outline of the “Republican Booklet”. Published in June 2004, it is presently being tested by teachers and other supervisory personnel. It consists of a number of programmes intended to modernise civic instruction in primary and secondary school. It will integrate, in its first part, a bibliography and pedagogical films, including one on the history of the Shoah. The second part is an action-based guide for teachers and educational actors to modulate adapted responses to racism or antisemitism. Furthermore, the minister presented a software programme designed to report acts of violence related to antisemitism and improve knowledge of acts too often ignored.

In **Ireland**, the Department of Education and Science established a specific working group to co-ordinate the development of interculturalism and anti-racism at all levels across the education system.

208 More information available at <http://www.keda.gr> (12/05/2002) – at the moment under construction, NFPGR0164

209 Communiqué du Premier ministre (2003), available at:
<http://www.premier-ministre.gouv.fr/fr/p.cfm?ref=41622&d=1> and:
<http://www.premier-ministre.gouv.fr/fr/p.cfm?ref=41626&d=31> (22/04/04)

In July 2002, the Department launched a national consultation on anti-racism and interculturalism. The results of this consultation were published as draft recommendations towards a National Action Plan.

The Equality Authority has been tasked with drawing up a code of practice for schools in order to help them ‘accommodate diverse identities’.²¹⁰ The Equality Authority published a booklet entitled *Schools and the Equal Status Act 2000* in 2003. The Curriculum Development Unit of the City of Dublin Vocational Education Committee is working with three post primary schools to develop a whole school perspective on anti-racism and interculturalism. The National Council for Curriculum and Assessment has initiated a project to develop guidelines on intercultural education at both primary and post-primary level. The aim of the guidelines is to contribute to the development of Ireland as an intercultural society through the development of a shared sense of the value of linguistic, cultural and ethnic diversity.

In Rome, **Italy**, the project of a mobile children’s surgery, O.A.S.I., involves about 60 volunteers, among them doctors and nurses of a main hospital (Umberto I) and local teachers. It is funded and supported by the municipality of Rome, which has opened a centre for the association.²¹¹. The project aims to provide children living in a situation of “clandestinity” with core services, including educational support and medical care.

In the **Netherlands**, the National Bureau against Racial Discrimination (*Landelijk Bureau ter Bestrijding van Rassendiscriminatie, LBR*) launched the projects *Nou en?!* and *So What?!* for secondary and primary schools. *Nou en?!* was developed for children from 10 through 12 years of age who want to prepare a school project or talk about prejudice, discrimination, or racism. *Nou en?!* uses a clear and simple approach to explain what stereotyping, prejudice, discrimination, and racism mean. *So What?!* provides accessible explanations of concepts, such as prejudice, racism, discrimination, culture, immigration and integration, but also suggests what a young person can do to discourage discrimination and prejudice. *So What?!* is intended for young people from age 12 on and focuses on creating work projects, presentations and practical assignments.

210 Coulter, C. (2003) “Equality body plans policy for schools”, in: *The Irish Times*, (27.01.2003), [PUBIE0138]

211 News item reported by *L’Unità*, (19.05.2003).

The Breda anti-discrimination agency has developed educational material on the themes of prejudice, racism, and discrimination. The *'treasure chests'* are full of educational material (such as video films, stories to read aloud, computer programs, exhibitions, interactive CDs, and informative games), suitable to be used by teachers or youth workers and for extra-curricular activities, such as multicultural days or other events. There are four chests (children, young people, parties, bullying) whose contents are adapted to the age of the target group and the theme. Much of the material is accompanied by handbooks for the group leaders and tips on the use of the material.

In **Portugal**, in 2003, the project "*Luta contra o racismo e a exclusão social*" (Fight Against Racism and Social Exclusion)²¹² was launched. It aims to raise pupils' awareness of racism and earn their support to the fight against it. The project was carried out by a partnership between a school in Portugal and a school in Cyprus. Using questionnaires with pupils and interviews with local immigrants, the project participants compared attitudes towards racism. According to the head of the Portuguese side of the partnership, the study's conclusions, which will be published in July 2004, indicate a comparatively greater tolerance on the part of Portuguese pupils as well as a better integration of immigrants in Portugal. The EQUAL Programme's intervention area is geared towards the prevention of racial and ethnic discrimination. Throughout 2003, five projects were in place (*The SUNRISE project, Semear para (A) Colher, Interculturacidade, Migrações e Desenvolvimento, e Sem Fronteiras*), all of which resulted from partnerships between public entities (such as municipalities, local councils, Secretariat of State for Education), non-governmental organisations, and research centres. The main goal was to give immigrants and ethnic minorities access to professional training and integration.

In **Finland**, the Roma Education Unit, formed by the Ministry of Education in 1994, is responsible for improving education levels amongst the Roma. The Unit's action plan for 2002-2003 included the production of teaching material in the Roma language, a nation-wide project on Roma children's education, seminars, cultural events and information sessions about the Roma culture, parenting, and education, the training of cultural mediators, the publication of a regular Finnish-language information bulletin, and participation in the EU-level projects.

212 <http://www.socleo.pt/menu/socrates/socrates.htm>

In **Sweden**, the National Agency for School Improvement has, during the period 2003 – 2005, the remit to work to improve the school and pre-school situation in segregated areas. The project Kista Open Academy is an EQUAL project granted by the Swedish ESF (European Social Fund) council. It is built as a network made up by 24 partners, where universities, municipalities, organisations, and companies are involved.²¹³ The goal is to counteract socio-economic and ethnic segregation by providing quality education adapted to the needs and interests of vulnerable groups in society.

In the **United Kingdom**, following the recommendations of the Stephen Lawrence inquiry and in light of the duty on educational institutions to tackle discrimination as a consequence of the Race Relations Act, the Qualifications and Curriculum Authority (QCA) in England and the Scottish Executive have developed online resources for teachers to promote diversity across the curriculum. These resources draw on substantial expertise developed in the U.K. over the years. Besides offering curriculum guidance, they also deal with other areas, such as establishing entire school policies to support diversity, bilingual pupils, and dealing with racist incidents.²¹⁴ The Commission for Racial Equality (CRE) has produced online resources to assist schools in implementing the Race Relations Act and to develop school policy to promote diversity.²¹⁵

2.3.2. Non-governmental organisations

In **Belgium**, in the French Community, a publisher produced (in co-operation with the CEOOR) several school booklets for children of different age groups. These pedagogical publications (called "*Vaincre l'indifférence*") aim to sensitise children of the unique value of all human beings and support the fight against racism, xenophobia and antisemitism.

In **Germany**, the project “School without Racism – School with Courage“, which is coordinated by Aktioncourage e.V., follows the objectives of sensitising young people to all forms of discrimination and

213 More information on this project can be found in English on <http://www.openacademy.com/main.php.en>

214 QCA resources: http://www.qca.org.uk/ca/inclusion/respect_for_all/ (16/5/03)
The Antiracist Toolkit (Scottish resource):
<http://www.antiracisttoolkit.org.uk/html/mainmenu.htm>
(16/5/03)

215 Commission for Racial Equality: <http://www.cre.gov.uk/duty/index.html> (16/5/03)

racism as well as of promoting their commitment to integration and equal opportunities. The project is supported by the Federal Ministry for Labour and Social Affairs with funds from the European Social Fund. Up to the end of 2003, 185 schools were awarded the title “Schools without Racism.”²¹⁶

In **France**, in March 2003, the National Anti-Racism Education Week included a multitude of local initiatives (concerts, debates, lectures, competitions, etc.) created by academic institutions, local authorities and anti-racist NGOs.

In **Ireland**, Travellers’ organizations, such as Pavee Point and the Irish Travellers Movement have produced a number of resources for schools. An example of such a project is Éist, which continued its work in 2003. This initiative is designed to address the diversity and equity needs of children from all ethnic and cultural backgrounds, through developing an anti-bias approach to early childhood education.

In **Luxembourg**, a *classe de transition* has been launched in 2003 by Caritas (co-financed by MENFPS) in order to provide full time school occupation for asylum seekers who are sixteen to twenty-two years old. This is the first example of an alternative school system for asylum seekers, which integrates people from different continents, is a full time activity (to compensate for the lack of access to the labour market) and provides language instruction and knowledge about life in Luxembourg.

In the **Netherlands**, the *School Adoption Plan* is a police project, where ‘neighbourhood based’ police officers ‘adopt’ a primary school and visit this school several times a year in order to teach lessons on several subjects to children from 10 to 14 years of age. One of the subjects is discrimination. In Rotterdam these lessons are provided by the local anti-discrimination agency. Since 1995, 2,600 primary schools in the Netherlands with approximately 140,000 pupils in 23 regions were ‘adopted’ via the School Adoption Plan.

In **Austria**, a pilot project in anti-discrimination education, *FairPlay goes Education*, was carried out in one school in the year 2002/03 and was continued on a much larger scale in 2003/04. Taking the topic of racism and football as a starting point, pupils of the First Vienna Bilingual Middle School²¹⁷ developed education materials on integration and anti-racism in a programme, which involved pupils, teachers, and a

216 <http://www.actioncourage.de>

217 <http://www.first-vbs.at/>, (21.04.2004)

variety of NGOs as well as football clubs. The materials are now available for other schools, are offered together with a workshop programme, and offer the possibility to participate in a EU funded competition for new school projects, which is administered by the Federal Ministry of Education, Science and Culture.²¹⁸

In the **United Kingdom**, the Runnymede Trust has produced online resources to assist schools to implement the Race Relations Act and to develop a whole school policy to promote diversity.²¹⁹

2.4. Minority education

Different educational provisions exist in the Member States for national minorities and for migrants and descendants. In the following two sections the different provisions and programmes are described.

2.4.1. Educational provisions for migrants and descendants

Various educational provisions for migrants and descendants are in place in the EU Member States. Among these are language programmes (native language and second language instruction), culture of origin courses, and compensatory education. Special teacher training programmes exist in some countries.

In **Belgium**, within the Flemish Policy of Equal Chances in Education, the regulation *Onderwijs in Eigen Taal en Cultuur* (OETC) deals with education in pupils' native language and culture. In 27 schools of primary education and two schools of secondary education it is possible to take classes in native language and culture. Teachers are from the same countries of origin as the pupils and stay a maximum of five years in Belgium. Within the Flemish Educational Council, a framework curriculum has led to the working plan 'Encouragement of Immigrant Language and Identity Development' (specifically for the languages Italian and Turkish). Four schools participated in this program.²²⁰

218 See: http://www.bmbwk.gv.at/schulen/pwi/wb/neu/FairPlay_goes_Education11217.xml, (20.04.2004)

219 See the Runnymede Trust at: http://www.runnymedetrust.org/meb/m_f_s/re_cd.html (16.05.2003)

220 Belgian National Focal Point (2003), pp.10, 27

According to the Flemish Educational Priority Policy in Primary and Secondary School, schools can apply for additional teaching hours, which may include Dutch as a Second Language instruction. There is a team of experts, who support the schools in improving the quality of the offer to immigrant pupils. Two subsidized focal points, namely Dutch as a Second Language and Intercultural Education are responsible for research, training and development of pedagogic materials.²²¹ Reception education aims at Dutch language acquisition in order to stimulate social integration. According to a decree of 2001, in the French Community, newly arrived pupils have the right to attend special classes for the duration of one week to six months, which offer a certain number of French as a Second Language classes.²²² Courses can also be organised in both primary and secondary schools to familiarise pupils with the language and culture of countries which were the source of significant emigration to the French community. These courses are organised on the basis of bilateral agreements between the country of origin and Belgium.

In **Denmark**, up until 2003, bilingual pupils in compulsory education were offered a few hours teaching per week in their mother tongue. The Government's recent controversial decision to cancel all state support for mother tongue teaching in languages not originating within EU countries received strong criticism by experts, who draw attention to the enormous amount of research documenting the benefits of mother tongue teaching.²²³ Currently, local municipalities are only obliged to offer mother tongue teaching to pupils from EU/EEA-countries as well as from the Faeroe Islands and from Greenland.²²⁴ However, the two largest municipalities, Copenhagen and Århus, where a major part of refugees, migrants, and descendants are living, still maintain mother tongue teaching in third country languages.²²⁵

Danish as a Second Language was recognised as a subject in its own right in 1995. It is well rooted within primary schooling, but only tentatively introduced into upper secondary education. There is no minimum number of lessons laid down and thus the provision among schools and municipalities differs. Some pupils are offered lessons in Danish as a Second Language while others are not. Recently, the

221 Belgian National Focal Point (2003), p.18

222 Belgian National Focal Point (2003), p.12

223 Egelund, N. (2003), *Tosprogede og dansksprogede – forskelle mellem faglige og sociale færdigheder for 15-16-årige unge*, Copenhagen: Danmarks Pædagogiske Universitets Forlag

224 Lov om ændring af lov om folkeskolen og lov om friskoler og private grundskoler m.v. (modersmålsundervisning og sprogstimulering) [Act on changes in act on folkeskolen and act on private schools etc. (mother tongue teaching and language stimulation)], 2002

225 Danish National Focal Point (2003), p.10

Minister of Education has regarded increased exposure to Danish language teaching as a preference over mother tongue teaching.²²⁶ The two biggest municipalities in Denmark have decided to allocate a substantial amount of resources to bringing the staff from primary and lower secondary education up to date in teaching Danish as a Second Language. The Municipality of Copenhagen has decided to offer all teachers extensive in-service training.²²⁷ In December 2003, the Ministry of Education published the long awaited “Inspiration for better integration in the folkeskole”.²²⁸ The publication is an attempt to gather and pass on the existing knowledge and best practice regarding the integration of ethnic minority pupils in the primary and lower secondary schooling.

In **Germany**, according to the German Constitution, the responsibility for the system of education lies with the individual Länder. In all Länder, supportive measures are offered for children and young people of migrant backgrounds, but these measures vary greatly with respect to their legal basis, target group and organisational implementation. Additional instruction in the migrants' mother tongue is offered mainly in the Western Länder, primarily for children from Turkey and former Yugoslavia, the former recruitment countries. In the Eastern German Länder, courses are occasionally offered in other languages.²²⁹ Foreign teachers, who are employed by the federal state concerned, primarily carry out teaching in these respective languages. In other Länder, by contrast, the consulates, however, offer teaching within school buildings. Participation in instruction in the migrants' mother tongue is voluntary.

Special support classes are offered in primary school for beginners and in primary and secondary schools for newcomers entering education at a later stage. Pupils who cannot take part in regular teaching due to a lack of German skills are prepared for transition to the regular classes, which in most cases happens after a year. They take mainly German as a Second Language courses, but they also receive subject-related teaching. This integrative model of teaching, with German and migrant pupils being taught together in regular classes, is currently the most predominant in all Länder. If the creation of a special support class is not

226 Danish National Focal Point (2003), p.10

227 Danish National Focal Point (2003), pp.20f.

228 Denmark, The Ministry of Education, *Inspiration til bedre integration i folkeskolen*, 2003

229 cf. Reuter, L. (2001) *Schulrecht für Schüler nichtdeutscher Erstsprache* (School law for pupils with German as a Second Language). In: *Zeitschrift für Ausländerrecht und Ausländerpolitik* 3/2001, S. 111- 119, Baden-Baden, p. 114; (3B0026)

possible due to a low number of participants,²³⁰ then special instruction (support courses, intensive courses, etc.) is being offered.²³¹

In **Greece**, there is no provision for the teaching of immigrant's languages, history or culture. A Ministerial Decision²³² establishes reception classes and tutorial courses for immigrant pupils. A one-year intensive language course in Greek followed by supportive language tuition in subsequent years is offered to all non-native speakers entering the educational system. Schools with such pupils should run special courses four hours a week after normal class.²³³

Schools are designated by law²³⁴ as "intercultural" when the number of pupils with foreign nationality "reaches or exceeds 45 per cent of the total number of pupils". In practice, however, although most inner city schools in the main urban centers of Athens and Thessalonica have far exceeded this ratio they have not been designated as intercultural so as to avoid the increased operational costs. Intercultural schools, mostly catering for the needs of returning Greek emigrants, ethnic Greek immigrants from Albania and the NIS and immigrants of other nationalities, must contain a "balanced mixture of majority and minority pupils" and follow the state curriculum with additional hours devoted mainly to language tuition.

In **Spain**, aside from the teaching of the Autonomous Communities' languages, native language instruction for migrants and ethnic minorities does not appear to be an educational policy. However, in Andalusia, in the academic year 2001-2002, the Education Council of the *Junta* of Andalusia put into practice a Plan for the Educational Attention of Immigrant Pupils. Among the plan's objectives is the facilitation of the study of the mother tongue, with the intention that the pupils do not lose contact with their cultural origin.²³⁵

Two languages are used in the education system in five Autonomous Communities, which have their own language. There are no reports about specific programmes using the Second Language method in any of the Autonomous Communities' languages. Reports were made, however,

230 As a general rule, special classes are created when an average of 10 children cannot immediately be integrated into regular classes.

231 German National Focal Point (2003), pp.8f.

232 Amending Ministerial Decision (Ministry of Education F21378/C1/1124/8-12-1994)

233 Greek National Focal Point (2003), p.22

234 According to Law 2413/1996 - Greece, N. 2413/1996 (FEK 124A/17-06-1996), PUBGR0468

235 Spanish National Focal Point (2002), p.10

that in Catalonia (Catalan) and in the municipalities of Urretxu and Zumarraga (Basque), migrants should receive special training in the Communities' languages next to Spanish.²³⁶ Special Spanish language classes are offered in programs for compensatory education, which are frequently attended by migrants and ethnic minorities. However, many schools with pupils of foreign origin do not have the necessary financial resources to run such programmes.²³⁷ The Community of Madrid has implemented several action plans for foreign pupils (Plan of Attention to Immigrant Pupils, Plan of Attention to Diversity and Plan of Education Compensation). The Programme of Welcoming Schools has also been created to incorporate migrants to the education system. Its main objectives are immersion into the social, cultural, and linguistic contexts through activities or after school programmes. The programme "Education 2002-2004" in Catalonia also aims to support pupils with a reception plan, compensatory education, and vocational training of teachers. The Community of Valencia has set up two plans devoted to the integration of foreign pupils, Action Plans for Diversity and a Compensatory Education Programme. In Andalusia, the Law 9/1999 of Solidarity and Education sets the legal framework for educational activities for foreign pupils. This is a pioneer law in Spain, which tries to compensate for the inequality suffered by some communities.

In **France**, since 1975, courses for languages and cultures of origin (ELCO) were arranged within public schools. This teaching is delivered by teachers from the countries in question, under contract to the French National Education System. While the teaching of certain native languages and cultures of origin was officially implemented to facilitate the integration of foreign pupils, it actually was part of an overall strategy aimed at facilitating the child's predicted future re-integration into their parents' countries of origin. Furthermore, France has developed welcoming systems for newly-arrived pupils. Today, the CASNAV (Academic Centres for the Schooling of Newly Arrived and Travelling Children) provide advice and guidance with regard to developing and disseminating pedagogical material for native-language teaching or for teaching cultures of origin.²³⁸

Newly arrived non-nationals are initially assessed for French language and mathematics proficiency, and prior schooling knowledge before being transferred into special classes within primary and secondary establishments. The CASNAV carry out these evaluations and provide

236 Spanish National Focal Point (2003), pp.30, 39

237 *ibid.*, p.15

238 French National Focal Point (2003), pp.16, 75f.

teachers with necessary pedagogical materials and on-going training in French as a Foreign Language. Initiation classes²³⁹ in primary schools and adaptation classes in secondary schools continue to serve an important function. Initiation classes were created for non-French-speaking pupils of foreign nationality. They provide French as a foreign language to non-French-speaking learners and to francophone learners with insufficient prior schooling, who simultaneously attend ordinary classes. In adaptation classes on the lower secondary level, French as a Foreign Language is offered to pupils who can be simultaneously schooled in ordinary classes.²⁴⁰ However, the national education system appears to be unprepared for a recent influx of newly arrived learners.²⁴¹ Departmental educational authorities manage the welcoming of newly arrived youth into academic institutions for both non-francophone school-aged children in primary schools (CLIN) and middle or high schools (CLA).²⁴² There also exists GRETA, a grouping of local public education institutions which work together on adult training initiatives and encompass newly arrived young people over the age of 16 who lack sufficient training to enter the job market. In April 2003, the Interministerial Committee on Integration²⁴³ adopted numerous new measures for this age group.

In **Ireland**, the National Children's Strategy recommends that ethnic, cultural, and linguistic diversity should be recognised in all policy and service measures.²⁴⁴ However, no reports are made about native language instruction for migrants in schools. Additional teaching and resources are provided to schools to cater for the needs of pupils for whom English is not the native language at primary and secondary levels. Language support is provided for up to two years by language support teachers who withdraw children from mainstream classes to tutor them in English. Integrate Ireland Language and Training Ltd provides training on an ongoing basis for teachers involved with non-national pupils. According to its 2002 Report on Activities, 378 teachers from 325 schools attended primary in-service seminars.

In **Italy**, two presidential decrees^{245,246} require that each school must adopt a Plan of Training Opportunities (P.O.F.), which serves to clarify

239 These were implemented in 1975 and redefined in 1986.

240 French National Focal Point (2003), pp.14-16

241 *ibid.*, p.25

242 ADRI, Guide Pratique de l'intégration, La documentation Française 2002, pp. 137-153

243 Actualités Sociales Hebdomadaires, (18/04/2003), N° 2307, pp. 15-20

244 Department of Health and Children (2002) National Children's Strategy, Our Children – Their Lives, p.70

245 http://www.istruzione.it/argomenti/autonomia/documenti/dpr249_98.rtf (29/01/03)

the fundamental principles on which the school is based. In this way, a school may independently choose to provide intercultural courses and linguistic programmes for foreign pupils, which could also mean programs for the maintenance of the pupils' mother tongue.²⁴⁷ Many schools have resorted to "cultural and linguistic mediators" as external language support providers for pupils who have been in the country for a short time. The use of these mediators as language teachers has been criticized because in most cases, the mediators do not possess any specific competences either as teachers or as experts in teaching languages. There appears to be no common standard on how people who are to serve as Italian as a Second Language teachers are to be educated. The Municipality of Florence has created three centres for learning the Italian language in the districts with the highest numbers of non-Italian speaking pupils. Bilingual or otherwise qualified staff support the activity of regular teachers in the teaching of Italian as a Second Language.²⁴⁸

In **Luxembourg**, up to now, Italian and Portuguese parents have had the opportunity to register their children for integrated courses in their mother tongue.²⁴⁹ Recently, new pedagogical tools for teaching in the mother tongue were developed. In the trilingual Luxembourg school system, the language Lëtzebuergesch is given primary emphasis in pre-school; German is given primary emphasis in primary education, and French in secondary education. This complex linguistic situation is particularly difficult for migrants because on the one hand, the main school languages are often not spoken in society, and on the other hand, Lëtzebuergesch, which many migrants do not speak, is frequently used in daily interactions in schools. New measures aimed at foreign pupils have been introduced during the school years 2002/03 and 2003/04. A *règlement grand-ducal* provided a clear framework for already existing *classes d'accueil* that were mainly run in primary schools in order to provide newcomers with the necessary language skills in French and German. Since 2003, these classes are also run in secondary schools. Four secondary schools offer a curriculum introducing German as a foreign language in a less ambitious version.²⁵⁰ This measure is aimed at pupils who can speak French, but would fail due to insufficient skills in German. In addition, different apprenticeships have for the first time been offered with a French curriculum. Also, more professional training has been offered to teachers.

246 <http://www.istruzione.it/argomenti/autonomia/documenti/regolamento.htm> (29/01/03)

247 Italian National Focal Point (2002), p.26

248 Italian National Focal Point (2002), pp. 13, 35

249 Luxembourg National Focal Point (2002) RAXEN 3 Education Report, p.8

250 Literacy teaching is done in German. It is the most important language during primary school.

The **Netherlands** has a specific programme that provides lessons for certain target groups of pupils in their mother tongue. Initially, lessons in the mother tongue and culture were offered to target groups of pupils with the aim of exposing them to the language and culture of their parents, in order to facilitate their future re-integration into their parents' countries of origin. These lessons were private initiatives, but they became integrated into the primary school curriculum under certain conditions. An adjusted arrangement in the form of "Teaching in the Living Ethnic Minority Languages" (OALT) was introduced in 1998. OALT is no longer part of the school curriculum. Ethnic minority pupils are given lessons in their own language, only if it is seen to contribute to their achievement in Dutch lessons.²⁵¹ "Teaching in the Pupils Own Language"- regulation (OET) in secondary schools continued to be followed during the school year of 2002/03. The continuation of both, the OALT policy for primary schools and the OET policy for secondary schools has been uncertain for the following school year.²⁵²

There is a particular preference for the Dutch as a Second Language method at schools of high ethnic minority concentration. The Dutch policy on educational disadvantage is a generic policy. This means that it is aimed at offering every student an equal range of classes without any specially adapted teaching programme for certain groups. Learning lags are determined by means of the student weight method. A school will receive additional funds for each child with a learning lag. This funding is generally applied to reducing class size, so there are fewer pupils per teacher. At the end of 2001, the policy framework was laid down for the municipal policy on educational disadvantage (GOA-policy) for the period 2002-2006.²⁵³ It defines five points of activity that focus mainly on: reaching target group children for pre-school and supplementary education, supporting the scholastic problem-tackling of school dropouts, mastering the Dutch language and working with the policy on educational opportunities.²⁵⁴

In **Austria**, in principle migrant pupils are not legally entitled to education in their native language. However, native language instruction in some languages has been offered in certain schools for more than a decade. Pupils speaking a mother tongue other than German and pupils

251 See: TooN, 2003,3 p.28

252 Dutch National Focal Point (2003), p.56f.

253 Bulletin of Acts and Decrees 2001, 445 (2001) Decision of 18 September 2001, permanent declaration of the municipal policy on disadvantaged people (Besluit landelijk beleidskader gemeentelijk achterstandenbeleid 2002-2006) Volume 2001.

254 For further information also see: Schriemer, M. (2003) Analytical report Education 2002, Amsterdam: DUMC

who grow up in bilingual families can participate in separate courses outside regular school hours and in team-teaching (integrative instruction) independent of their citizenship. Unfortunately, a lack of training programmes for native language teachers often leads to a shortage of effective native language instruction. Pupils whose primary language is not German have the option to attend German as a Second Language classes. There are either separate courses, which are taught parallel to instruction or after regular school hours, or integrative measures with an additional teacher. Newcomers, who have the opportunity of attending school for a limited amount of time without being graded may receive German as a Second Language up to twelve hours a week in primary education, in special education and in lower secondary schools. The law foresees that teachers of German as a Second Language should have adequate training.²⁵⁵ Teachers with a basic training in teaching at primary schools or main general secondary schools can receive such special training.²⁵⁶

In **Portugal**, Creole, followed by Romanes and French, are the first three foreign native languages most spoken by the school population.²⁵⁷ No reports were made about school programmes offering native language instruction. According to the Decree-Law 6/2001²⁵⁸ schools should promote specific curricular activities directed towards teaching Portuguese as a Second Language to pupils whose native language is other than Portuguese. The study “National Characterization (continental) of ethnic and linguistic minority pupils” concludes that, although the legislation covers the teaching of Portuguese as a Second Language, there is much to be done in terms of its actual implementation. The programmes need to be updated and widened in scope in order to facilitate the full integration of all pupils and give them adequate access to education. In this sense, it becomes imperative to promote a revision of basic teacher training programs.²⁵⁹ There are regional differences regarding language support for minority pupils reaching from no support over some hours of contact with the language to sufficient language training.

255 Österreich, BGBl 242/1962, latest amendment Österreich, BGBl I 132/1998 (18.08.1998).

256 Austrian National Focal Point (2003), p.26

257 Portuguese National Focal Point (2003), p.27 ; Original source : Department for Elementary Education, DEB (2003) “National Characterization (continental) of ethnic and linguistic minority students

258 www.deb.min-edu.pt/legislacao/TempFiles/deb67F.tmp_DL6_01.htm

259 cf. DEB (2003) “National Characterization (continental) of ethnic and linguistic minority students”, p.23

In **Finland**, according to statistics by the National Board of Education, pupils receive lessons in their native language twice a week in 50 different languages. Russian, followed by Somali, appears to be the most widely spread and extensively taught immigrant mother tongue in Finnish schools.²⁶⁰ Training for immigrant children may include a preparatory phase at the basic school level. For newly arrived immigrant children, this means studying in a separate “immigrant classroom” in which there are special teachers and no Finnish pupils. The purpose is to impart the skills necessary for transition into the mainstream classroom as soon as possible. Statutes target the special needs of immigrant children such as offering Finnish as a Second Language courses. Upper secondary and vocational school education for migrants is provided in a similar manner, with teaching in Finnish as a Second Language. Pupils may also receive remedial education to make up for weaknesses in particular areas.²⁶¹ Statutes also provide for the special needs of immigrant children in areas such as religious education.

In **Sweden**, pupils in compulsory schools who belong to one of the countries’ official minorities, or have a first language other than Swedish, have rights associated with their language and origin. The curriculum for Swedish preschools stresses the right of multilingual children to develop all of their languages. Children and young people whose first language is not Swedish, are entitled to first language instruction in compulsory- and upper secondary school. In addition to first language instruction, if necessary, pupils may also receive help in their native tongue for other subjects. Participation in first language classes is not compulsory, but municipalities are required to provide such classes for all pupils who speak a language other than Swedish at home on a daily basis. However, if a suitable teacher cannot be found, or if the number of pupils in the language group is fewer than five, municipalities are not required to arrange this instruction. The right of official minorities to first language instruction is more comprehensive and the above restrictions do not apply.²⁶²

Pupils whose first language is not Swedish also have the right to study Swedish as a Second Language. This right applies to both, compulsory and upper secondary school. The goal is to help pupils develop daily communication skills and to give them the proficiency required to study

260 Finnish National Focal Point (2003), Table 3: Minority native language training offered in Finnish basic and upper secondary schools 2001/2002; Original source: NBE 2003; p.16; available at:
<http://www.edu.fi/pageLast.asp?path=498;526;15650;19135> (25.8.2003)

261 Finnish National Focal Point (2003), pp.10, 17

262 Swedish National Focal Point (2003), pp.12f.

their other school subjects in Swedish. Newly arrived immigrants over the age of 16 are entitled to instruction in Swedish for immigrants (SFI).²⁶³

Concerning the **United Kingdom**, no special reports were made about native language instruction for migrant pupils and ethnic minorities. However, there have been important policy shifts within the four education systems of England, Scotland, Wales and Northern Ireland, with respect to teaching children for whom English is an additional language. By the early 1990s, the trend of mainstreaming EAL (English as an Additional Language) teaching led to the development of the idea of ‘partnership teaching’ between EAL and mainstream teachers. Most teaching of English as an Additional Language, with the exception of recently arrived refugee and asylum seekers, now takes place in mainstream classes. In England the recent *Aiming High* consultation document²⁶⁴ has identified the need for the government to prioritise greater training and support of both specialist and mainstream staff. In Scotland, the Race Equality Advisory Forum’s (REAF) *Education Action Plan* (2001) has proposed the development of a strategy to ensure that EAL teaching can be maintained, developed, and effectively resourced in all schools. Similar commitments have been undertaken by the Northern Irish Department of Education.²⁶⁵ Promises by central government to prioritise and develop EAL have a long history in the UK and it remains to be seen what will emerge from this latest commitment. There appear to be no similar commitments by the Welsh education department to develop a centralised strategy relating to EAL.²⁶⁶

2.4.2. Educational provisions for national minorities

Many EU Member States have ethnic minority groups that are not migrants or descendants of recent migrant populations, but indigenous or national minorities living within the countries for centuries. At times, these groups are referred to as national minorities, at other times as autochthonous minorities, as linguistic minorities or simply as ethnic minorities. The status of these groups varies. The same minority might be officially recognized in some countries but not in others (e.g. the Roma). Some minority groups have special rights and privileges including in the field of education or particular language rights, others do not have special

263 Swedish National Focal Point (2003), pp.9-13

264 DfES (2003) *Aiming High* Consultation Document, London: DfES.

265 DoE (2001) *Racial Equality in Education* Conference Report, Northern Ireland: DoE

266 U.K. National Focal Point (2003), pp.15, 24, 58

group rights at all. The ethnicity and size of the various minority groups vary considerably from country to country.

In **Belgium**, there are no recognised national minorities, but there are estimated to be several thousand caravan dwellers (Manoesj and Roma) in the Flemish and Brussels Capital Region of Belgium, for which some schools offer specific programmes.

In **Denmark** the notion of national minority is not defined in the Danish Constitution, nor is it defined in any other statute. However, certain individual laws deal specifically with the German minority.²⁶⁷ Denmark declared that the Framework Convention for the Protection of national minorities would apply to the German minority in South Jutland (self estimates arrive at 15,000-20,000 people). In education, the German minority has been granted the right to set up private schools and training establishments with German as the teaching language. Today 15 German schools in Denmark receive state subsidy.²⁶⁸

In **Germany**, the Danes (50,000), the Sorbs (60,000), and the German Sinti and Roma (10,000) are legally recognised national minorities. The Frisians are considered to be a separate ethnic group (estimates of North Frisians are 50,000 to 60,000).²⁶⁹ National minorities have the right to set up and to manage their own private educational and training establishments. Hamburg can be named as the only federal state offering Romanes as a school subject in seven schools.²⁷⁰

In **Greece**, the only officially recognised minority is the autochthonous Muslim minority of Thrace (it is estimated that about 85,000 Muslims live in Thrace while more than 15,000 Thracian Muslims live elsewhere in the country). The Treaty of Lausanne ratified by Greece in 1923²⁷¹ constitutes the legal basis of the minority education system. It gives the minority the right to establish private and public schools. In practice,

267 Council of Europe (1999) Report Submitted By Denmark Pursuant To Article 25, Paragraph 1 Of The Framework Convention For The Protection Of National Minorities 1999; available at: <http://www.coe.int/T/E/human%5Frights/Minorities/> (30.7.2003)

268 *ibid.*

269 Estimated figures of national minority groups, Source: Council of Europe (2000) Report Submitted By Germany Pursuant To Article 25, Paragraph 1 Of The Framework Convention For The Protection Of National Minorities; available at: <http://www.coe.int/T/E/human%5Frights/Minorities/> (30.7.2003)

270 Open Society Institute (2002), p.146; (PUBDE0035)

271 Convention Concerning the Exchange of Greek and Turkish Populations (Appendix A, Article 2), Lausanne January 30, 1923 between the Government of the Grand National Assembly of Turkey and the Greek Government. English text available at <http://www.hri.org/docs/lausanne/> (09/09/2002)

minority schools are registered as private schools, but are under the direct control of the state, while a complex system of legal provisions governs their establishment and operation. All minority schools follow a bilingual – half Greek half Turkish – curriculum and use textbooks, which take the religious culture of the community and the fact that Greek is used as a second language into consideration. In the school year of 2001/02, 223 primary minority schools operated with approximately 7,000 pupils and 900 teachers and minority secondary schools had a total of 1,150 pupils and 100 teachers. The Greek-Turkish Cultural Protocol of 1968 regulates the co-operation between the two states for the technical assistance of their mutual minority education. Further binding legal instruments concerning education in the minority mother tongue are also provided by international human rights treaties. Finally, Law 2341²⁷² instituted a system of affirmative action for the Muslim minority: 0.5 per cent of all higher education places (or at least one per department) are reserved for Muslim minority pupils, with the result that 178 Muslim minority pupils enrolled in 2002/03.

The National Action Plan for Social Inclusion 2001-2003²⁷³ refers to the ambitious “Integrated Action Plan” for the Roma minority. Approximately 20 per cent of the plan’s budget sum is earmarked for various training and employment measures. In a further effort to provide incentives to families with a declared income of less than € 3,000 annually (mainly Roma families²⁷⁴) the Education Ministry established²⁷⁵ an annual benefit of €300 for every child enrolled in primary education. The educational needs of the Jewish community were acknowledged through Law 1623. Nowadays, there are only 3 Jewish primary schools operating in Thessalonica, Larissa and Athens connected to the Jewish Communities (public bodies).

In **Spain**, the Constitution does not formally recognise or define ethnic minorities. It was only in the late 1970s when the new Constitution recognised the Roma as citizens and guaranteed their fundamental rights and freedoms. It is estimated that there are between 600,000 and 650,000 Roma in Spain. No reports are being made about specific minority

272 Greece, N. 2341/1995 (FEK 208A/06-10-1995)

273 Ministry of Labour and Social Security, “National Action Plan for Social Inclusion 2001-2003”, available at http://www.europa.eu.int/comm/employment_social/news/2001/jun/napincl2001el_en.pdf (21/06/2002)

274 On October 8, 2002 Vice minister of Finance Mr. Florides in Ministerial statement No 2/54424 in reply to the coordinator of Muslim minority education stated that Muslim minority and registered migrant parents are also entitled to the 300 Euro benefit.

275 Greece, Ministerial Decision 2/37645/0020/8-7-02, PUBGR0145

education provisions for the Roma minority. There are several languages spoken in Spain that are co-official in their respective Autonomous Communities. These are Euskera/Basque spoken in the Basque Country, Catalan in Catalonia, Galician in Galicia, Valencian in the Community of Valencia, Euskera/Basque, in Fuero of Navarre, and Catalan in the Balearic Islands. The Autonomous Communities have the right to their own language and educational models in place to provide for teaching in that language.²⁷⁶

In **France**, the republican imperatives of promoting national unity and secularity work against special group rights that might benefit minority education and integration in the form of subsidized initiatives and laws to protect cultural identity.

In **Ireland**, the Traveller community (population 24,000) are an indigenous group constituting the country's largest national minority. However, it is not a legally recognised national minority. The Government's view is that Irish Travellers do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin.

By the school year 1999/2000, there were 52 Traveller pre-schools catering for 546 Traveller children. The Department of Education and Sciences (DES) funds 98 per cent of the teacher salary and transport costs involved in this service. It also allocates an annual equipment grant to each pre-school. Other assistance comes from statutory agencies and charitable bodies. Further educational support is provided for an estimated 6,000 Traveller children at primary level through the provision of enhanced capitation grants, and 520 Resource Teachers for Traveller children attending ordinary primary schools, in order to support them outside of the general classroom environment. There are approximately 1,600 Traveller children currently attending second level school. Support is provided through the provision of enhanced capitation grants and additional teaching resources. There are three Special Schools for Travellers and three Junior Traveller Training Centres for children aged 12 to 15 years old. Senior Traveller Training Centres aim to provide an integrated programme of general education, vocational training, work experience and counselling services for young people beyond age 15.

There has been some concern from Traveller organisations that withdrawal of Traveller children from class to receive special support has

²⁷⁶ Spanish National Focal Point (2002a) RAXEN 3 Educational System Report Of Autonomic Communities With Own Language In Spain

the potential of becoming *de facto* segregation. However, it is not the policy of the DES to extend this provision. In the longer term the Department aims to phase out special provision for the education of Travellers as it is the policy of the DES to fully integrate Travellers into the education system by enrolling them in normal schools, both primary and post-primary.

In **Italy**, the Constitution recognises and protects “linguistic” minorities, but does not recognize national minorities or makes any reference to “ethnic” minorities. There is a French-language, a German-language, and a Slovenian-language minority, living in different regions throughout the country. Roma and Sinti are either Italian or immigrants from former Yugoslavia, Romania, and Macedonia. No special minority education provisions are reported.

Regarding **Luxembourg**, there are no reports on the existence of national or indigenous minority groups.

In the **Netherlands**, there are some groups speaking regional or local minority languages, such as Frisian, the Lower Saxon language, Yiddish, or the Roma languages. Efforts are under way to ensure that a part of pre-school and primary education is available in Frisian. Caravan dwellers (23,000)²⁷⁷ and Roma and Sinti (3,500)²⁷⁸ are ethnic minorities that have been included in the policy on educational disadvantage. The Netherlands employs a unique system in arriving at figures which determine education subsidy for each individual student. According to this, “weights” are assigned to pupils based on their socio-economic and socio-cultural/ethnic background, which decide on extra funding for schools. Children of caravan-dwellers and Roma and Sinti are given a weight of 1.7, compared to a weight of 1 for “regular” pupils and a weight of 1.9 for disadvantaged non-Western origin ethnic minority pupils.²⁷⁹

In **Austria**, there are six officially recognised autochthonous ethnic minority groups. The estimated sizes of these groups are Slovenes

277 Kamerstukken II [Parliamentary Documents II] 2002/03, 28 612, nr. 2, p. 4; available at: <http://www.overheid.nl> (22/04/2003)

278 The figure concerning the number of Roma and Sinti is taken from: ECRI (2001), Second report on the Netherlands. Strasbourg: Council of Europe, p. 14; ; available at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Netherlands/CBC2_Netherlands.pdf (22.04.2002) The Dutch government estimates the number of Roma and Sinti at 2,000; the National Organization of Roma and Sinti estimates 5,000.

279 Dutch National Focal Point (2003) RAXEN 4 Education Report, p.55

(50,000), Croats (40,000-50,000), Hungarians (30,000-50,000), Roma and Sinti (10,000-20,000), Czechs (15,000-20,000), and Slovaks (5,000-10,000). The legal status of these groups is connected with special language rights, which also apply to education. The foundations for these rights are found in article 7 of the 1955 State Treaty of Vienna, which is of constitutional standing. A basic right of recognized autochthonous minorities is to receive primary and secondary education in the minority languages. Implementations of these constitutional rights in public schools exist in the form of the Minority School Act for Carinthia,²⁸⁰ which applies to instruction in Slovenian, and the Minority School Act for Burgenland,²⁸¹ which applies to instruction in Croatian and Hungarian. Whereas the Croatian and Hungarian minorities in the Burgenland can opt out of bilingual education, the Slovenian minority in Carinthia has to opt into bilingual education. Minority education for Czechs and Slovaks is organised in private educational settings. There are no special schools for Roma and Sinti but educational support programs exist. However, Roma rights activists feel that the need for learning aid to Roma children is increasing while subsidies are not.²⁸²

Portugal does not legally recognize national minorities. The largest ethnic group, aside from immigrants, is the Roma minority. In 2001/02, they were the third largest minority group attending elementary school with a proportion of 10.84 per cent among all minority pupils.²⁸³ The Council of Ministers Resolution 157/96 entailed the Creation of the Workgroup for the Equality and Insertion of "Gypsies". Some educational measures followed this resolution, such as the implementation of Cultural Mediators for Education. Primarily, the objectives are to carry out an analysis of the difficulties concerning the integration of the "gypsy" community into Portuguese society and to elaborate a set of proposals, which will contribute to the elimination of social exclusion.

In **Finland**, there are no legally recognized national minorities, but the Constitution Act of Finland guarantees the right of different "groups" to maintain and develop their own languages and cultures. These groups are the Sámi, Roma, Jews, Tatars, the so-called Old Russians and de facto

280 Österreich, BGBl 101/1959, latest amendment: Österreich, BGBl I 76/2001 (12.07.2001).

281 Österreich, BGBl 641/1994 (19.08.1994), latest amendment: Österreich, BGBl I 136/1998 (18.08.1998).

282 Romano Centro (2004) "Schule, Schule, Schule", in: Romano Centro, Vol. 44, p. 2, available at: <http://www.romano-centro.org/PDFs/ROMA%20Heft%2044.pdf>, (21.04.2004)

283 Portuguese National Focal Point (2003) Most representative minorities in 2001/2002 school year (%); Original source: DEB-ME; p. 28

also the Swedish-speaking Finns.²⁸⁴ For the indigenous Sámi minority (about 6,500 people), the right to education in the mother tongue is guaranteed by law. Sámi-speaking pupils are entitled to primary and secondary education in Sámi within the Sámi region. Certain steps are taken to improve the position of the Sámi in the education sector. The training of teachers speaking the Sámi language is promoted. For example, there are quotas in the training of primary school teachers. In addition, Finnish universities have quotas for students speaking Sámi in fields such as law and medicine.²⁸⁵

The Finnish Roma (about 10,000 people) are legally entitled to education in Romanes. However, most local authorities have not acted on providing teaching in Romanes, nor have any separate educational allocations been made.²⁸⁶ Still, education in Romanes is provided in some basic schools and there is support to foster vocational training skills. The action plan for 2002/03 of the Education Unit for the Roma Population, which has an expert member on the Advisory Committee for the Ministry of Social Affairs and Health, includes the production of teaching material in Romanes and a nation-wide project on Roma children's education.²⁸⁷ Also, the National Education Board has set up initiatives aimed specifically at the Roma minority, in order to improve their position in the education system. Roma communities have been given some level of autonomy in planning their education. This approach has been successful to some degree, because it allowed the communities to take care of their own needs, and improved their motivation.

Swedish-speakers are a minority of about 292,000 people (5.6 per cent of the population) and Swedish is the second national language in Finland. Aside from bilingual regions, there is a Swedish-speaking Autonomous Region of Åland. The Swedish-speaking minority has the right to be educated in its own language. There are Swedish day-care centres, over 300 basic or comprehensive schools, as well as 36 general upper secondary schools, a number of vocational secondary schools, polytechnics, and two universities that operate primarily in Swedish.²⁸⁸ There are also quotas for Swedish-speaking students at Finnish universities in different fields.²⁸⁹

284 *ibid.*, Report Submitted By Finland Pursuant To Article 25, Paragraph 1 Of The Framework Convention For The Protection Of National Minorities ACFS/SR(1999)003

285 Council of Europe (1999) Report Submitted By Finland

286 Finnish National Focal Point (2003), p.9

287 Finnish National Focal Point (2002), p.43

288 Finnish National Focal Point (2003), p.15f.

289 Council of Europe (1999) Report Submitted By Finland

Sweden legally recognises five national minorities - the Sámi, Swedish Finns, Tornedalers, Roma, and Jews. Estimates on the largest groups, which have historically been based in specific geographic regions, are 15,000-20,000 Sámi, 450,000 Swedish-Finns, and 50,000 Tornedalers. Estimates for groups using “non-territorial languages” are 35,000-40,000 Roma. The Jewish community in Sweden consists of 20,000-25,000 people.²⁹⁰ Among independent schools with minority ethnic orientation, there are eight Swedish-Finnish schools, one Jewish and one Tornedalian school. For pupils of Sámi origin, there are State-financed Sámi schools, in which education is conducted from the first to the sixth year of compulsory education.²⁹¹ The National Agency for Education, and from April 2003 the National Agency for School Improvement, supports mother-tongue tuition and bilingual tuition for the national minorities. There is, however, a lack of teaching material in Romanese. The National Agency for School Improvement is at present working on developing such teaching material. Based on the needs described in the report “Roma and the Swedish School”, special resources have been channelled towards pedagogical efforts targeting the Roma community.

While the **United Kingdom** does not legally recognise national minorities, “Gypsies” (Roma) and Travellers in Northern Ireland are considered a “racial” group under the Race Relations Act 1976. The new Vulnerable Pupil Fund, administered by the Department for Education and Skill (DfES), supports educational projects working with “Gypsy” (Roma) and Traveller children.

2.5. Intercultural education

Education systems in the EU Member States have responded to increasing ethnic diversity by implementing curricula changes that not only target minority groups but the entire school population. Different concepts, such as intercultural, multicultural, or antiracist education are used to describe these new programmes and principles. These concepts are understood differently within and between countries and at times are

290 Initial Periodical Report by Sweden presented to the Secretary General of the Council of Europe in accordance with Article 15 of the Charter for Regional or Minority Languages; available at: http://www.coe.int/T/E/Legal_Affairs/Local_and_regional_Democracy/Regional_or_Minority_languages/ (30.6.2003)

291 Council of Europe,(2001) Report Submitted By Sweden Pursuant To Article 25, Paragraph 1 Of the Framework Convention For The Protection Of National Minorities 2001

used synonymously and interchangeably. While intercultural education is said to foster a better understanding of one's own and other cultures, multicultural education is often seen as an appropriate response by the education systems to prepare pupils for life in a multicultural society. Antiracist education focuses to a greater extent on structural issues of inequality and discrimination but also on intolerance at an individual level. All these programmes intend to foster positive attitudes towards others, the learning of cooperative skills, and a better understanding of societal interrelations in order to build bridges between different ethnic communities and individuals from diverse backgrounds. To achieve these goals, new teaching strategies and materials, schoolbooks that incorporate different cultural perspectives in an unbiased manner, special teacher training, and efforts to create a more diverse teacher body are called for.

An assessment of current practices and policies in the EU Member States shows that a change of paradigm from a "pedagogy for foreigners," shaped by the demands of assimilation, to integrative learning processes, which concern members of the majorities just as much as the members of ethnic minorities, has taken place in most countries. However, in the absence of evaluations of the effectiveness of these new models of instruction, there is still little insight into how schools are putting the principles of interculturalism into practice. Systematic efforts to re-write curricula in order to introduce more intercultural dimensions in teaching and efforts to train teachers adequately for the teaching in multicultural classrooms still have to be strengthened. Despite new policies asking for an intercultural approach in teaching, practical implementations to cope with the growing demand to prepare pupils for life in a culturally diverse society are still lacking in all EU Member States.²⁹²

292 The Comparative Report on Education published by the EUMC in 2004 provides an overview of intercultural education policies and practices in all Member States.

2.6. Anti-discrimination legislation and monitoring bodies

Significant differences exist in the EU Member States regarding the existence of legislative measures to combat ethnic discrimination, racism and inequalities. Some countries have specific anti-discrimination or equal treatment legislation pertaining to the field of education, such as Ireland, the Netherlands, Portugal, the United Kingdom, and Sweden in higher education. Other countries lack explicit legislation on this matter or are currently proposing to introduce new laws in accordance with Directive 2000/43/EC. The same is true for monitoring bodies, which are implemented in some countries to oversee the laws on anti-discrimination and to record incidents of discrimination and racism. Such bodies may be official and state-organised, or unofficial and run by NGOs. Reported acts of racism and discrimination are thus not a reliable indicator of their actual frequency of occurrence. Instead, countries with a better functioning reporting system are more likely to report cases than others.²⁹³

2.7. Religious symbols in schools

The issue of using religious symbols in schools has become very controversial in some Member States while it is of lesser relevance in others.

In **Belgium**, there is no general rule regulating the wearing of religious symbols (e.g. the veil) in schools, neither in the French nor in the Flemish community. Each school makes its own decision on this issue according to general school rules.

In **Denmark**, the highly publicised debate and the legislation initiative in France regarding the carrying of religious symbols had a substantial impact. So far no legal initiatives have been made addressing the issue. There are therefore no legal restrictions regarding the displaying of religious symbols by pupils or staff in schools. Local restrictions might exist, but no documented cases are presently reported. A Member of Parliament representing *The Danish People's Party* has put forward the suggestion to abolish religious symbols carried in public schools,

²⁹³ The Comparative Report on Education published by the EUMC in 2004 provides an overview of current anti-discrimination legislation in the field of education in all Member States.

singling out the Muslim headscarf and adding that the Jewish kippah might be exempted. The party has made it known that an official bill will be presented in Parliament within a year.²⁹⁴

In **Germany**, on 24 September 2003, the Federal Constitutional Court (*Bundesverfassungsgericht*) ruled that there is no clear legal basis in the present laws to support the banning of teaching staff wearing headscarves in school. Thus, it overturned a decision of the Federal Administrative Court (*Bundesverwaltungsgericht*) of 4 July 2002. Nonetheless, it remains open to the individual Länder to establish a legal provision which forbids the wearing of headscarves in the classroom (BvR 1436/02). The state administrations in Bavaria, Baden-Württemberg, Lower Saxony, Saarland, Hesse, North Rhine-Westphalia, and Berlin are planning to introduce corresponding laws, with great variety in the content of the drafts. The SPD (Social Democratic Party) in Berlin plans to ban all religious symbols from certain areas of public service. The drafts in the other Länder, which are ruled by the Christian Democratic Party or the Christian Social Union, prescribe banning only the wearing of headscarves by female teachers, whereas Christian and Jewish items of clothing would still be allowed. In Rhineland-Palatinate, Schleswig-Holstein, Hamburg and the five Eastern German states, no such legal provisions are planned at present. No decision has been made as of yet in Bremen.

In **Greece**, the controversial issue of religious symbols has not surfaced yet. The privileged status of Orthodox Christianity in Greek education has so far not been seriously challenged. It is worth noting that the ministry responsible for education is also responsible for religious matters (Ministry of National Education and Religions²⁹⁵). Christian orthodox religious instruction in schools is a compulsory course for Orthodox Christians and subject to examinations. However, believers in other faiths may request in writing their exemption from religious instruction.

In **Spain**, there is no regulation or national law governing the use of religious symbols in classrooms. Also, no reports are made about any regional government regulating this issue. In practice, it is up to individual schools to decide in that matter. When problems arise, such as in the case of a Muslim student expelled from class in 2002 because of

294 Source: www.danskfolkeparti.dk Press release of 16th of April 2004

295 Refer to the Greek NFP's Analytical Study on Education for more information on this subject.

her wearing the traditional headscarf, the lack of a framework of reference results in a broad social debate.

In **France**, the year 2003 was marked by an intense debate on this issue, widely covered by the media. Until 2003, the High Administrative Court (*Conseil d'Etat*) in principle did not consider the wearing of religious symbols in school to be incompatible with the principle of secularity. A regulation could only set rules for the purpose of prohibiting symbols that undermined the dignity or liberty of others or that disrupted ongoing educational activities, the educative role of teachers, and public order within the educational facilities. However, a veil or a turban could not interfere with the identification of the individual or with the exercise of regular student activities (i.e. it may not be too long, hide the face, or incompatible with mandatory sports classes, etc). On 11 December 2003, the *Commission of Reflection on the Application of the Principle of Secularity in the Republic* presented a report concluding that peace in school required a regulation of the conditions relating to the wearing of religious symbols in schools and it proposed that the Parliament adopt a new law. This law was adopted on March 15th, 2004, and while it does not prohibit the wearing of religious symbols per se, it forbids, in public primary and secondary schools, all *ostentatious religious symbols and clothing* by which pupils assert their religious obedience. The implementation of a disciplinary measure for a student breaking this rule must, however, always be preceded by a dialogue with the student. These principles should be put into practice by the beginning of the 2004/05 school year and their enforcement will be evaluated after one year of implementation.²⁹⁶

In **Ireland**, to date, the question of religious symbols in schools has also not been a source of controversy. Dress code policies are considered the remit of individual schools and there has only been a limited amount of anecdotal evidence to suggest that the wearing of headscarves has been problematic.

In **Italy**, discussions have arisen during 2003 regarding religious symbols in light of the non-discriminatory nature of school education. In October 2003, a decision by the Tribunal of L'Aquila, in central Italy created a nation-wide debate on the widespread presence of crosses in State schools. The President of the Union of Italian Muslims applied to the Tribunal for an injunction to the State school in Ofena (a village in the L'Aquila Province, where his children go to school) to have the cross

296 French National Focal Point Report 2003

removed from the classrooms walls, placed on the basis of a law of 1923. The tribunal's decision was based on constitutionally sanctioned principles of non-discrimination, secularity of the State, and impartiality of the State and State education towards religious beliefs, which, according to the deciding judge must lead to the absence of any religious symbols in State schools.²⁹⁷ The tribunal's decision, which upheld his complaint, caused great public debate and was met with strong criticism by government representatives, some of who also called for disciplinary sanctions against the deciding judge, and by Catholic Church representatives.²⁹⁸

In **Luxembourg**, discussions about headscarves worn by pupils²⁹⁹ arose in two secondary schools and were solved in a bilateral way. The guidelines of the Ministry of Education (MENFPS) are that every pupil is free to wear such symbols as long as she or he participates in all school activities (including sports) and that clothing has to be decent (including scarves). However, there is no official text regarding this issue by the MENFPS.

In the **Netherlands**, the school system allows schools and pupils to express their religious beliefs. Many schools are based on a belief system. It becomes controversial when the expression of religion, for example, through dress codes, differs from the religion the school is based upon. For this reason some schools try to ban or limit religious symbols. Such bans, however, are subject to equal treatment legislation, and often not allowed. Over the last years, some cases have been brought to the council regarding discriminatory regulations due to prohibiting the wearing of headscarves. When in 2003 several girls were expelled from school due to wearing a veil, it became apparent that schools and the public are not fully aware of the conditions that the equal treatment act puts on religious dress codes. As a consequence, the CGB issued an advice³⁰⁰ concerning veils and headscarves in schools. Following the Equal Treatment Act, schools are allowed to prohibit veils, if they can provide sound arguments that they pose a problem. Sound argumentations are that veils inhibit communication between pupil and teacher and that schools are not able to identify pupils wearing such veils,

297 The decision referred to precedent decisions by the Constitutional court, including decision no.203 of 12.04.1989 and decision nr. 13, of 14.1.1991.

298 Court of Justice of L'Aquila; Ordinance of 15 October 2003. "Crocefisso nelle aule scolastiche", *La Repubblica* (25.10.2003); " Tribunale de l'Aquila: via I crocefissi dalla scuola", *Corriere della Sera*, (25.10.2003); "Via il crocefisso dalle aule", *la Padania*, (26.10.2003).

299 There has been no incident of teachers wearing religious symbols.

300 Netherlands / CGB / 2003-40 (20.03.2003)

which may lead to unsafe situations, like having unauthorised people in the school. Headscarves, however, can only be prohibited if their wearing contradicts with the actively promoted religious orientation of the school.

In **Austria**, in schools where more than half of the pupils belong to a Christian religion, a crucifix must be put up in every classroom.³⁰¹ No comparable provisions exist concerning other religions. Religious clothing in schools is considered a matter of religious freedom. There are no legal regulations either forbidding or granting a right to wear specific garments like a headscarf or kippah.³⁰² Pupils' clothing only must be adequate to the requirements of the respective classes or school activities in which they (have to) participate.³⁰³ It seems that latent aggressions sometimes break out in conflicts over the Muslim headscarf. In October 2003, a teacher at a school for textile professions tore the headscarf from a Muslim girl's head in front of the other pupils during an ironing class. The girl turned to representatives of the Islamic community, who managed to deescalate the situation in encounters with the teacher and the school's headmistress. The girl agreed to wear a kind of headscarf in the future, which would not constitute a danger for her to get hurt by getting caught in a machine.

In **Portugal**, there is no record of prohibition of religious symbols in schools. Portugal is a lay State and the Constitution of the Portuguese Republic guarantees freedom of religion and religious practice, stating, "No one shall be persecuted or deprived of rights or exempted from civil responsibilities or duties by reason of his or her convictions or religious observance."³⁰⁴

In **Finland**, on the whole, it appears that the issue of using religious symbols in schools has not become very controversial. Finnish legislation does not contain any articles that directly cover the use of religious symbols in public places or schools. There are general articles in the Constitutional Law (§6 and §11) concerning equality and freedom of religion, as well as an article concerning equality in the School Law (§2), which may be significant with respect to the issue of religious symbols. The use of religious symbols is most often an issue involving the Muslim

301 Sec 2b Religionsunterrichtsgesetz, Austria / BGBl 190/1949 as last amended by BGBl 324/1975

302 Mr Stifter, Mr Rochel of the Federal Ministry of Education, Science and Culture, via telephone, 20.04.2004

303 Sec 4 (1) Schulordnung, Austria / BGBl 402/1987, Z4

304 N.º 2 of Atrº 41 of Constituição da República Portuguesa, [Constitution of the Portuguese Republic]
http://www.parlamento.pt/const_leg/crp_port/

minority. In practice, girls can wear headscarves in Finnish schools. Until now, there has not been a single publicly known case of banning the use of headscarves for either pupils or teachers. Schools in Helsinki have, for example, allowed pupils to wear headscarves during sports lessons provided that the scarf is tied in such a way that it does not cause health problems or obstruct movement. In a few cases, there have been problems with the use of the *burqa* or *niqab*,³⁰⁵ because they may prevent the teacher from hearing the student's speech.

In **Sweden**, on the whole, the issue of religious symbols in schools has not become a controversial issue, with one exception. In 2003, there was a public discussion on the use of the *burqa* or *niqab* after a policy decision made by the National Agency for Education that gives Swedish schools the authority to prohibit the use of this garment if it is found to cause disorder in the classrooms.³⁰⁶ Arguments against its use are that the *burqa* or *niqab* interferes with communication between pupils and teachers. After the policy decision was taken, the Ombudsman against Ethnic Discrimination advised schools against prohibiting the use of the *burqa* because prohibiting certain religious clothing might be seen as breaking the law, which forbids discrimination. The issue has been discussed in several municipalities after the policy decision was made, mainly because the xenophobic party Sverigedemokraterna proposed its enforcement in several municipal councils in Sweden.³⁰⁷ Only one municipality adopted the proposal, which drew extensive media attention. The controversy ended when the Board of the municipality Svedala in southern Sweden rejected the proposal to ban the *burqa* in the schools.³⁰⁸ As it turned out, the discussion was entirely hypothetical, as there was not a single girl wearing the *burqa* in the schools of Svedala.

In the **United Kingdom**, there are no national guidelines on the display of religious symbols in schools. Relevant guidelines such as guidance on dress codes are decided upon at the local level by Local Education Authorities (LEA). Each LEA has a Standing Advisory Council on Religious Education. LEAs have a leadership role in informing schools and ensuring that they fully understand their duty under the Race Relations Act. Schools' policy on uniforms has to make allowances for, for example, headscarves.

305 Items of traditional Islamic women's clothing. Niqab covers the face except for a slit at the eyes. Burqa covers the entire body and face (a 'net curtain' prevents other people from seeing the eyes).

306 National Agency of Education, PM 2003-10-23. Dnr 58-2003:2567

307 Sverigedemokraterna has at present 48 municipal seats in different parts of Sweden.

308 Sveriges Radio, Ekot, 2004-03-25

3. Minorities and the education sector in the 10 Accession Countries

The following overview of the situation for minorities and migrants in the education sector of the 10 Accession Countries (later to become new Member States on 1 May 2004) is based on two sources:

- 1) During 2003 the EUMC carried out, with financial assistance from the EU's PHARE Programme, the 'RAXEN_CC' project, working in cooperation with a National Focal Point in each of the 10 PHARE countries (Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia and Slovakia). Within the framework of this project, the NFPs conducted a specific mapping exercise on the subject of education, and prepared 10 reports on minority schooling. These were then brought together in a comparative report summarising their main results, and making comparisons with trends in the educational sector of the 15 EU Member States.
- 2) At the time of the EU enlargement, the NFPs of the 10 new Member States (including Cyprus and Malta) were asked to provide a special contribution focussing on racism, xenophobia and discrimination in education. In the case of the eight new EU Member States of Central and Eastern Europe, these were based on the reports on minority schooling presented in the framework of the above PHARE project. Added to these were two newly commissioned contributions on Cyprus and Malta.

The following report is taken from these two sources. It summarises the policies, provisions and programmes within the new EU Member States regarding ethnic and immigrant minorities in the educational sector, and the role of religious symbols in schools. It identifies inequalities in education and the most vulnerable groups, and discusses indirect and direct indicators of discrimination. In the last section good practice and preventive initiatives are presented.

3.1. Minority education – legal aspects, policy, provisions and programmes

In the **Czech Republic**, national minorities have been, since 2001, defined by the law on national minorities as a community of citizens living on the State territory with ethnic origin other than the Czech population, who differ in language, culture, and traditions and demonstrate the wish to be considered a national minority.³⁰⁹ The legal norms allow for the establishment of schools or classes with mother tongue as language of instruction. Only larger minorities manage to exercise the right to education in their native language. The schools are organised by the minorities themselves and follow either bilingual programmes (German schools), minority language as language of instruction (Polish schools) or they offer additional language classes including minority culture and history (Jewish school).

At present, the Chamber of Deputies of the Czech Parliament is discussing a newly proposed bill on pre-school, primary, secondary, higher vocational and other education (as well as changes to several other bills such as the Bill on initial education). The bill contains special measures concerning the education of members of national minorities and different religious communities and is a response to the fact that the Czech Republic is becoming the home of increasing numbers of immigrants. It declares equal access of all persons to education and respect of individual needs in the educational process. The bill determines that minority schooling is guaranteed if legal conditions are met in those municipalities, where a committee for national minorities has been set up (this relates to municipalities, where the latest census proved that at least 10 per cent of inhabitants claimed affiliation with the given minority). It also defines the minimum numbers of children and pupils at schools and classes of minorities. Further, it introduces the possibility that some subjects are taught bilingually (that is also in the minority language) within the framework of the school curriculum.

The education of Roma is one of the declared priorities of the Ministry of Education in light of the fact that many Roma children achieve the lowest level of education. The new bill creates conditions to ensure that all pupils are provided with education corresponding to their specific educational needs. There will be an emphasis on pre-school education and preparatory classes for children from socio-culturally

³⁰⁹ Charter of Basic Rights and Freedoms, no. 23/1991 Coll. and no. 2/1993 Coll. and the law of 27 July 2001, no. 273/2001 Coll.

disadvantageous environments. Another supportive measure is the provision of educational assistants to teachers.

Schools with the Polish language of instruction and schools where some subjects are taught in Polish are supported by the Polish Pedagogical Centre. Regarding the schooling of Slovaks, there is an agreement between the Ministries of Education of the Czech and Slovak Republics concerning co-operation in the area of education, youth activities, physical science and sport for the years 2002 – 2006. The Czech Ministry of Education also supports nursery schools with a programme focusing on Jewish culture, primary schools where the Hebrew language is taught, and recently a Jewish Grammar School.

According to the new Education Act, a regional authority has to implement free preparatory courses (including Czech language courses) for children of EU citizens who stay permanently in the Czech Republic as well as to support the teaching of the language and culture of their countries of origin, which is to be coordinated with standard basic education. There is no legal provision that would require State authorities and institutions to organise language courses for foreigners who are not of EU nationalities. The Ministry of Education offers asylum seekers the opportunity to take part in a language course within 30 days after they are granted asylum. Some non-governmental institutions occasionally provide language courses for migrants.

The Ministry of Education issued general instructions on how education against manifestations of racism, xenophobia, and intolerance should be carried out in schools.³¹⁰ It is up to the school headmasters to decide what concrete steps will be taken in order to fulfil the objectives stated in the instructions. Czech School Inspection is in charge to control the efficiency of the proposed steps and methods, and has the power to make recommendations to help schools meet the requirements of the Ministerial instruction.

In **Estonia**, the term “national minority” is defined in the “National Minorities Cultural Autonomy Act”.³¹¹ It refers to citizens who reside on the country’s territory, maintain longstanding, firm and lasting ties with Estonia, are distinct from Estonians on the basis of their ethnic, cultural, religious or language characteristics and are motivated to preserve their

310 Regulation 14 423/1999-22 concerning education against manifestations of racism, xenophobia, and intolerance. In: Ministry of Education, Official Journal of the Ministry of Education, issue 5/1999; Prague

311 http://muhu.www.ee/E-LIST/1993/93_11/1993_11_16_20_56_13_0200

cultural traditions, religion or language, which constitute the basis of their common identity.³¹² Foreigners residing in Estonia may participate in the activities of cultural and educational institutions and religious congregations of national minorities, but they may not vote or be elected or appointed to the leadership of the institutions of cultural self-government. National minorities may receive native language instruction at public educational institutions.³¹³ Also, minority schools may offer instruction in the minority language.

There is a distinction between “national” and “ethnic” minorities. To be regarded as a national minority member one has to be an Estonian citizen. Foreign citizens or stateless persons are considered to be ethnic minorities.³¹⁴ Approximately 62 per cent of all minorities do not fall under the legal definition of national minorities and therefore have no access to minority rights.³¹⁵ This also affects the large Russian minority because many of its members are not Estonian citizens. A new regulation aims to clarify an existing ambiguity regarding the teaching of ethnic minorities’ native language as an elective subject at publicly funded educational institutions. Sunday schools organised by NGOs and minority groups currently cover other forms of minority education.

There are two main languages in the Estonian educational system – Estonian and Russian. This corresponds to the demographic make-up of the country, where 67 per cent have Estonian as native language and 30 per cent Russian.³¹⁶ In the academic year 2002/03, there were 526 Estonian-language, 89 Russian-language, and 21 bilingual Estonian and Russian-language schools. Official statistics show that 49,722 pupils studied at Russian-language schools (including 10,499 pupils in the upper secondary classes), which make up 34 per cent of the total number

312 Estonia: Declaration contained in the instrument of ratification, deposited on 6 January 1997 to the Framework Convention for the Protection of National Minorities, <http://conventions.coe.int/Treaty/EN/cadreprincipal.htm> (20.01.2004)

313 Regulation 154 (May 2003) guarantees the right of ethnic minorities to receive education in their minority language at public educational institutions. At least 2 hours elective language classes per week should be arranged if requested (in written form) by a minimum of 10 parents belonging to the minority or on initiative of the school in co-operation with the local municipality.

314 The Estonian State has been asked repeatedly by international monitoring bodies to reconsider the adopted definition, which only grants Estonian citizens minority rights.

315 2000 Population Census: 13% of the population with undetermined citizenship, 7% of the population citizens of other countries; <http://www.stat.ee>. Persons with undetermined citizenship are mostly permanent residents who have declared, that they do not possess citizenship of any country. The actual number of citizens of other countries is not known.

316 Statistical Office of Estonia (2001) 2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II, Tallinn: Statistical Office of Estonia, Table 15.

of pupils in all schools.³¹⁷ Since regaining independence, Estonia aims at the establishment of the State language Estonian as the main language of instruction at the upper secondary school level. According to the provisions of the Basic Schools and Upper Secondary Schools Act, by the year 2007, the curriculum as well as the organisation of operation of schools with instruction in a language other than Estonian should become such as to guarantee for all basic school leavers the knowledge of Estonian on a level that allows them to continue studies in Estonian in upper-secondary school. At the level of upper secondary schools, the language of instruction is Estonian. At the same time, the law also allows the use of another language as a language of instruction at the level of the upper secondary school or in some of its classes. The permission for this is given by the Government of the Republic at the request of the local government. At the level of basic schools, the need for maintaining instruction in other languages is not questioned, in particular concerning education in Russian, given the ethnic composition of the Estonian population.

Beginning with the year 2007, all public schools must provide at least 60 per cent of instruction in Estonian, which poses a special challenge for Russian teachers and pupils. Currently, the use of Russian at advanced levels of education is diminishing. Also, in 2002/03, only 716 pupils studied at private Russian-language schools compared to 3,095 pupils in private Estonian-language schools.³¹⁸

The programme *Integration in Estonian Society 2000-2007*, approved by the government in 2000, aims at addressing the problematic issues concerning the Russian-language schools in Estonia. The sub-programme dealing with education has very broad and far-reaching aims and includes tasks such as the development and elaboration of language teaching methodologies, and curricula and teaching materials for pupils whose mother tongue is not Estonian. It also covers language immersion programmes, continuing education for teachers of Estonian as a Second Language, and the development of curriculum and teaching materials supporting Estonian-language subject teaching.³¹⁹ The European Union has greatly contributed to the implementation of the integration programme through different PHARE projects. The main criticism of the

317 Statistical Office of Estonia (2003) Education 2002/2003, Tallinn: Statistical Office of Estonia, Tables 2.12-2.13.

318 Statistical Office of Estonia (2003) Education 2002/2003, Tallinn: Statistical Office of Estonia, Table 2.51.

319 Available at: http://www.meis.ee/index.php?lang=eng&main_id=109,134,136 (22.2.2004)

integration programme is its underlying understanding of integration, which resembles a policy of assimilation.³²⁰

In **Cyprus**, education was deemed by the Constitution as a ‘communal’ affair and hence given to the ‘Communal Chambers’ of the two main communities, the Greek-Cypriots³²¹ and the Turkish-Cypriots.³²² The Ministry of Education and Culture emerged after the ‘withdrawal’ of the Turkish Cypriots from the administration following the constitutional crisis of 1963-64. Education nevertheless remained ‘communal’ in character for all those citizens who were deemed to be part of the Greek-Cypriot community.³²³ However, it took a ‘national’ character for the Greek Cypriots, as the Turkish-Cypriots withdrew in enclaves and all Turkish communal affairs were in effect outside the legitimate government structure.

There are provisions for Turkish-Cypriot students in the Greek-Cypriot area and for (temporary) migrant labourers and other migrants, most of who came to the country after abandonment of the restrictive policy on migrant labour in the 1990s. The State subsidises the schooling of minorities in schools where instruction is in other languages than Greek (e.g. Turkish-Cypriot schools, schools with English curricula, Armenian or Maronite schools). The Primary Education Authority provides special Greek language programmes for Turkish-Cypriot pupils and migrants. A Ministerial Council decision³²⁴ supplies extra instruction periods in a special teaching programme targeted at assisting illiterate children and children whose mother tongue is not Greek. Moreover, the Ministry of Education and Culture provides special programmes for Turkish-Cypriot children and migrants to learn their mother tongue and to foster their cultural identity. Since January 2003, the State Institutes for Further

320 For criticism of the State Integration Programme see for example Semjonov, A. Estonia: Nation Building and Integration. Political and Legal Aspects. Copenhagen Peace Research Institute Working Paper Nr. 8/2000, available at: <http://www.copri.dk/publications/WP/WP%202000/8-2000.doc> (20.01.2004)

321 The term ‘Community’ is rigidly defined in Article 2 of the Cyprus Constitution, leaving little room for ambiguity and choice for that matter. There are two communities in Cyprus – the Greek and the Turkish communities. Art. 2(1) provides: “The Greek community comprises of all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are members of the Greek-orthodox Church.”

322 Article 2(2) defines the Turkish Cypriot community: “The Turkish community comprises of all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems.”

323 This included the three constitutionally recognised ‘religious groups’, who opted to be part of the numerically larger Greek-Cypriot community (78%) rather than the smaller Turkish-Cypriot community (18%).

324 Ministerial Council Decision 56335 on 28/8/2002

Education offer Turkish language lessons to Turkish-Cypriot children and Greek language courses for repatriated Greek-Cypriot children as well as for children of migrants with Greek Pontian backgrounds.

There are attempts to introduce elements of ‘inter-cultural education’ at schools with larger groups of migrants and other minorities but ultimately there is a conflict between these notions on the one hand and a rather ethnocentric core of the educational system on the other. The Ministry rejects moves to create a genuine multicultural system organised at a national level.³²⁵

In **Latvia**, in 2003, ethnic Latvians represented 58.5 per cent of the population and Russians were the largest minority making up 29 per cent. Significant progress has been made since regaining independence in 1991, such as provisions for minority schools, improvement of the Latvian-language proficiency of teachers and pupils, and introduction of bilingual education. However, there are still tensions over the goals of the education reform 2004 and methods of its implementation. Insufficient participation of minorities in the formulation of the education reform’s aims and methods, lack of transparency and poorly planned reform implementation (i.e. lack of teachers qualified to teach in Latvian and lack of teaching materials) raise concerns about possible deterioration in the quality of minority education. The government largely ignored all these issues until large-scale protest actions started in 2003.³²⁶

The present Language Law, adopted in 1999, re-affirms Latvian as the State language. All other languages (with the exception of the autochthonous Liv language) are considered foreign. The Education Law of 1998 defined that all State and Municipal education is in the Latvian language, except where minority education programmes are implemented. The Constitution of Latvia states that “persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity” (however, there is no definition of minority in the Latvian legislation). The *Children’s Rights Protection Law*, adopted in 1998, provides for equal rights to education for all children, and stipulates the right of minority children to acquire education in their native language in accordance with the Education Law. The Cabinet of Ministers’ Regulations³²⁷ established a ratio of minority language in instruction constituting up to 2/5 of the overall instruction

325 Trimikliniotis, 2001, pp. 30-31

326 Latvian NFP (2004) Contribution to the EUMC Annual Report 2003.

327 Regulation 463 from 2000, Regulation. 260 from 2003 and Regulation 470 from 2003

(which was passed as an amendment in April 2004). They also specify that the State examination language starting from 2007 is Latvian.

In practice, there are three types of schools in Latvia: Latvian-language schools, Russian-language schools (implementing minority or bilingual education programmes), and other minority schools. There are also so-called two-stream schools, where one part of pupils follows the Latvian-language education programme, while the other follows a bilingual (Latvian and Russian) programme. The focus of Minority education is almost exclusively on the language of instruction, although legislative acts include statements on minority education programmes, which foresee subjects related to the maintenance of minority identity and culture.

Opinion polls conducted in 1998³²⁸ show that there is a large consensus among residents, including minorities, in favour of learning Latvian. However, there is wide disagreement about how to achieve this goal and what role should be left for the Russian language in minority schools. Some suspect that reforms are ultimately aimed at the elimination of Russian in all schools. According to 2002 survey data, around half of minority parents, school directors, and teachers support the transition to Latvian as the language of instruction at the secondary level by 2004, while the other half opposes it.³²⁹

In **Lithuania**, the Constitution of the Republic of Lithuania³³⁰ and the 2003 Law on Education,³³¹ the 1989 Law on Ethnic Minorities³³², and the 2002 Provisions of Education for National Minorities³³³ guarantee public and State supported education to national minorities living in concentrated communities in the country. This includes pre-school establishments, general education (e.g. native language lessons), as well as faculties in tertiary education that are involved in training teachers, tutors, and the other specialists, who work with ethnic minority communities. The legal acts define the principles regarding the coordination of official language and native language instruction. In localities inhabited by small ethnic groups that do not comprise a

328 Baltic Data House (1998) On the road to a civic society.

329 Baltic Institute of Social Science (2002) Analysis of the Implementation of Bilingual Education, Riga, p. 20

330 Constitution of the Republic of Lithuania/Official Gazette, 1992, No. 33-1014, (06.11.1992)

331 Law on Education, Lithuania/I-1489/Official Gazette, 1991, No. 23-59; the latest amendments Official Gazette, 2003, No. 63-2853, (28.06.2003)

332 Law on Ethnic Minorities, Lithuania/XI-3412/Official Gazette, 1989, No. 34-485, (10.12.1989)

333 The Provisions of Education for National Minorities, Lithuania/No. 56/Official Gazette, 2002, No. 9-337 (16.01.2002).

concentrated community, classes and optional courses may be organized in public schools. In addition, Sunday schools may be set up.

Polish and Russian schools are run as either monolingual or bilingual. Nine schools follow a multilingual programme (Lithuanian, Polish, Russian). Schools receive funds for the education of national minorities in the form of a “pupil’s basket” and get ten per cent more than Lithuanian schools. The increasing number of pupils from non-Lithuanian speaking background in schools with instruction in Lithuanian has created difficulties. Some Lithuanian schools are not ready to accept pupils with little knowledge of the language.

While there is an education provision regarding minority languages at primary and secondary school levels, teaching at tertiary education level is predominantly carried out in Lithuanian. In vocational education and training schools, the proportion of pupils studying in minority languages decreased from eleven to seven per cent between 1991 and 2000. The situation has also changed considerably at vocational colleges where the percentage of students who study in minority languages declined between 1991 and 2000 from twelve to one per cent. At the university level, the number of students studying in Lithuanian has increased from 90 to 98 per cent in the last ten years.

There are private schools providing general education with the instruction in a minority language. In addition, most minority communities (Armenians, Byelorussians, Greeks, Latvians, Poles, Roma, Tatars, Ukrainians, Germans, Jews and Karaites) have Sunday schools. Up to now, thirty-eight Sunday schools have been established at which the pupils’ mother tongue, history, religion and ethnic culture are taught. There are also non-State higher education institutions that operate in Lithuania and provide teaching in minority languages (e.g. the Baltic Humanitarian Centre in Vilnius, which is a branch of the Baltic Russian Institute based in Latvia).

Pupils who have been granted asylum attend schools and nurseries and participate in extra Lithuanian language courses.

In **Hungary**, minority schools exist at several levels (from kindergarten to secondary level) for different minorities (including one Roma school). Schools are obliged to provide language classes or study groups on the request of at least eight minority members in the school. In general, Hungary provides minority schooling on a qualitatively lower level. The law distinguishes between the three different forms of minority education

based on the number and type of subjects taught in the minority language. Therefore, not all minority schools provide instruction in the minority languages in all subjects. Teachers are trained to teach only language and culture classes in the minority language. Teacher training with regard to subjects other than minority language and culture leaves much room for improvement and extension.

In 2002, the Bureau of the Ministerial Commissioner for the Integration of Underprivileged and Roma Children was set up under the aegis of the Ministry of Education. Since its establishment, the office has taken various measures concerning the education of underprivileged and Roma children, which have focused on combating discrimination and eliminating educational segregation. Among other measures, the *Bureau* introduced concepts for integration and ability development. As a result, as of September 2003, there were 8.776 first, fifth, and ninth graders participating in preparatory programmes for integration nationwide. An additional 24.117 pupils attending primary and vocational schools are now involved in ability development programmes, which have supplanted the remedial courses of the previous period. The population targeted by these preparatory programmes are Roma children, who terminated their formal education before or immediately after completing grade eight and are eligible for a child-protection benefit on the grounds of poverty. The change was motivated by the realisation that the approach to underprivileged status on an ethnic basis did not improve the situation of the Roma. Instead, a National Network of Integration in Education has been set up to implement nationwide modern pedagogical measures to improve the situation of underprivileged pupils. Further measures are to increase the nursery-school capacity, to support tutorial schools providing assistance to Roma children, to increase mother tongue instruction, and to provide financial assistance to grass-roots institutions, in which considerable efforts have been made to advance the development of Roma children's education.

Malta has seen an increase in cultural diversity in the population in recent years. Apart from returned migrants from Australia and Canada, Malta has become home to immigrants, refugees, and asylum seekers, who follow the same curriculum as their peers. A few schools in the Inner Harbour region were provided with a support teacher to help these pupils with their language and basic skills. Apart from assessing and giving extra academic support to the pupils, the teacher is also responsible for activities to promote different cultures and encourage pupils to make their voices heard. State schools do not provide lessons in the children's native language, however, these children are encouraged to

make use of it, both in and outside school. The new National Minimum Curriculum acknowledges that “in a society that is increasingly becoming multi-cultural, the educational system should enable pupils to develop a sense of respect, co-operation and solidarity among cultures”.³³⁴

In **Poland**, immigrants and asylum seekers can attend Polish schools and receive the same education as Polish children (education in elementary and middle schools is available for everyone, but above that level only for those who have regulated legal status). They do not enjoy special privileges provided to Polish citizens belonging to national or ethnic minorities. Pupils belonging to national and ethnic minorities, in accordance with applicable law, may obtain education in their native language or additionally study the minority language, history, geography and culture. Such education is organized on a discretionary basis, which means that the school director is obliged to organize it when minority parents or pupils declare interest therein³³⁵ (the minimum number of declarations must be seven). Thus, Polish law provides for preschools and schools with the native language as language of instruction, with bilingual programmes and with supplementary native language education for minority members.³³⁶ Schools that teach minorities have higher education subsidies than those, which do not conduct such activity (20 per cent per student or 50 per cent in schools where the number of pupils does not exceed 42).³³⁷ School textbooks and auxiliary teaching texts for pupils may be additionally financed.

In accordance with the Constitution, churches and faith unions with regulated legal status may teach religion in public preschools and schools.³³⁸ Further regulations oblige schools to organize teaching of religion upon the request of parents and pupils. Such lessons are organized for groups with at least seven pupils,³³⁹ which in practice only applies to Roman Catholics as well as, in some regions of the country, to Orthodox Christians and Augsburg Evangelicals. If the number of pupils

334 Malta, Ministry of Education (1999), National Minimum Curriculum: Creating the Future Together p.24

335 Currently, members of the following minorities take advantage of the ability to learn in their native language or to learn the language as an additional subject in public schools: Byelorussian, Kashubian, Lithuanian, Lemki, German, Slovak and Ukrainian.

336 Law on the System of Education Poland/ Dz.U. 1996/67/329, (07.09.1996).

337 Ordinance of the Minister of National Education and Sport dated December 28, 2002, regarding the principles of allocating general educational subsidies to local government entities Poland/ Dz.U. 2002/234/1966

338 Constitution of the Republic of Poland – Poland/ Dz.U. 1997/78/483,

339 Ordinance of the Minister of National Education and Sport dated April 14, 1992 – Poland/ Dz.U. 1992/36/155

is smaller, pupils from different classes can be instructed together. Also, religious centres outside of schools provide an alternative.

In **Slovenia**, State provisions cover minority education for the autochthonous Italian and Hungarian national communities,³⁴⁰ whose rights are guaranteed in the Constitution. Besides general educational legislative provisions, the special educational rights of the Italian and the Hungarian ethnic minorities Act³⁴¹ regulate minority education. The Act provides bilingual education in ethnically mixed regions, native language and second language acquisition as well as teaching of the majority and minority culture and history.

Provisions of the Framework Convention for the Protection of National Minorities also apply to the members of the Roma community.³⁴² The Constitution requires that “the status and special rights of the Romany community living in Slovenia shall be regulated by law”. Although until now no such act has been passed, regulations have been introduced into certain laws.³⁴³ Some additional measures were introduced through the Roma Aid Programme and the schooling legislation (e.g. additional lessons for Roma children, resources for study materials, adaptation of workbooks for Slovenian language).

Officially unrecognised ethnic minorities, which do not benefit from the pronounced standards of minority protection, include children of Serbian, Croatian, Bosniac, Albanian, Macedonian, and Montenegrin ethnic origin. Although the Elementary School Act³⁴⁴ provides for supplementary lessons for children of Slovenian citizens whose mother tongue is not Slovenian, this measure has not been implemented broadly and consistently. In 2003, the Bosniac community filed an application for a formal and legal recognition as a minority. This was later followed by a public initiative, filed by a coordination of unions and cultural associations of constitutive nations of the former SFR of Yugoslavia but until now has not merited a response from the authorities. However, some positive measures, which for the most part are examples of self-organisation on the part of minorities, have been introduced. On the

340 The Italian minority amounts to 0.11 per cent and the Hungarian minority to 0.32 per cent according to the Population Census 2002

341 Slovenia / SOP: 2001-01-2046, (11.05.2001)

342 The Roma minority amounts to 0.17 per cent according to the Census 2002 and up to 0.5 per cent according to some alternative estimates.

343 For example, Slovenia / SOP: 1993-01-2629, (31.12.1993), and subsequent modifications; Slovenia / SOP: 1993-01-2630, (31.12.1993), and subsequent modifications; Slovenia / SOP: 1996-01-0567, (29.02.1996); Slovenia / SOP: 2003-01-4928, (20.11.2003)

344 Slovenia / SOP: 1996-01-0570, (29.02.1996)

initiative of the Branko Radičević cultural association from Maribor, lessons of Serbian language, literature, history, and music have been taught since November 2003 to children and young people in the form of afternoon classes at a primary school. The project was introduced without active support from the Ministry of Education, Science and Sport. On the initiative of the Croatian community, Croatian language and culture are taught at three primary schools. The Macedonian language has been taught since 1992 on the basis of an international agreement between Slovenia and Macedonia in the form of supplementary classes. The Albanian and Bosniac community have also initiated processes of introducing minority schooling for their respective communities at early stages.

In **Slovakia**, a law on the status of ethnic minorities has so far not been adopted. The Constitution recognises the right of ethnic minorities to be educated in their mother tongue and to establish educational facilities. However, there is a differentiated approach for the different ethnic minorities based on their size and regional distribution. Depending on the extent of specific minorities' rights, minority languages have been divided into three groups: Hungarian, Ukrainian and Ruthenian; Bulgarian, Croatian, Czech, German, Polish, and Romani. This division leads to unequal opportunities for minorities. For example, while Hungarians unconditionally receive mother-tongue education, other minorities have to request it. Minority language instruction is for the most part offered in Hungarian and in Ukrainian. Roma currently do not receive instruction in their language. A number of schools follow a bilingual approach (Slovak-Hungarian, Slovak-Ukrainian and Slovak in combination with another foreign language). The Czech minority is not provided any minority schooling. Also, minority education at present does not pay attention to recent immigrants.

The most important measures the government adopted in 2003 in the field of minority education were aimed at enhancing the quality of Roma children's education and ensuring an equal access to education for all children. Roma assistant teachers act as mediators between local Roma communities and schools in order to equalize the chances of Roma pupils. Another important measure was the development of new diagnostic methods to prevent the unjustified placement of Roma children into special schools, which took place within the framework of the project Reintegration of Socially Disadvantaged Children from

Special Schools into Standard Primary Education,³⁴⁵ In order to enforce the right to education in the mother tongue, the government in 2002 launched a project called Experimental Verification of the Effectiveness of the Curriculum of Roma Language and Literature at the Primary School and Secondary School Level.³⁴⁶ Within the project several classes have been established in which children are taught the Romany language. The government also launched the Program to Support Romany Students at Secondary Schools and Universities, which provides scholarships to talented Roma children and improves their access to secondary and higher education.

3.2. Religious symbols in schools

In general, there are no legal regulations or recommendations concerning the issue of religious symbols in schools in the EU Accession Countries. Often it is considered a school internal issue, which means that schools can apply their own rules regarding the wearing of religious symbols of pupils. There are no reports about any controversial issues in recent times.

Depending on each country, religious instruction is heavily weighed in favour of the predominant religion (e.g. Christian Orthodox or Catholic religion). Usually arrangements are made in accepting requests by minority groups not to attend religion classes. Religious symbols, such as Catholic crosses, hang in public schools of some countries (e.g. Poland, Malta). Pupils may also be exempted from celebrations and practices, such as Morning Prayer (e.g. in Cyprus). Non-practicing Christians are usually not given the right to exercise similar practices relating to their religion in schools. In Malta, Muslim pupils are allowed to wear headscarves along with the school uniform and to carry on with their fasting during Ramadan. When necessary, Muslim female pupils have been exempted from the Physical Education lessons during Ramadan. In one non-State school Muslim boys are allowed to attend their prayer sessions at the Mosque on Fridays.

345 European Consultants Organisation (2004), Reintegrácia sociálne znevýhodnených detí zo špeciálnych škôl do štandardných základných škôl (Reintegration of Socially Disadvantaged Children from Special Schools into Standard Primary Education), p. 47

346 Slovakia, Štátny pedagogický ústav (2003) Experimentálna verifikácia efektívnosti kurikula rómskeho jazyka a literatúry v základných a stredných školách (Experimental Verification of the Effectiveness of the Curriculum of Roma Language and Literature at the Primary School and Secondary School Level)

3.3. Most vulnerable groups

In the EU Accession Countries, the Roma minority is the group most vulnerable to racism, xenophobia, and discrimination in education. Roma face marginalisation in society in all Accession Countries, except for Malta, where the existence of a Roma community is not reported. Reports show low educational attainment, high level of illiteracy, school segregation and exclusion, discriminatory treatment by teachers, classroom peers, and other pupils' parents, absence of classes taught on Romani culture or history, and insufficient attention from the national governments and municipalities regarding all of these problems.

There are other minority groups that are also affected by manifestations of racism and discrimination. This particularly pertains to asylum seekers, refugees, and "illegal" immigrants. For example, there are indications that among the most vulnerable groups in education are refugees from Chechnya in Lithuania, members of the African, Arab, and Muslim communities living in Malta, or refugees from Bosnia and Herzegovina who formerly held a status of temporary asylum in Slovenia. At times, legal immigrants and other ethnic minorities than the Roma are also at risk. This applies, for instance, to people with Greek Pontian backgrounds³⁴⁷ and Turkish-Cypriots in Cyprus and to some degree also to the Russians in the Baltic States, who go through a difficult phase of transition due to policy changes in education since the Baltic States became independent from the former Soviet Union.

347 The presence of Greeks at the Euxeinus Pontos, the Black Sea, dates back to early times.

3.4. Direct indicators of discrimination - statistical data and case reports

In general, it might be said that the issue of ethnic or ‘racial’ discrimination in education does not receive the required attention in most of the Accession Countries. There is no systematic monitoring or collection and documentation of data on incidents of racism and discrimination by the ministries of education or other public bodies, and also there exists insufficient research on manifestations of racism, xenophobia, and discrimination in education. At times, the school inspectorates inquire into alleged cases of discrimination if they receive complaints by individuals or NGOs.

Among reported incidents are the following cases: In 2003, in **Hungary**, the director of the local school in a town had slapped a Roma pupil so hard that the pupil's eardrum burst. As a result, the child now suffers from a slight hearing impediment. The local mayor — who is also the local district doctor and the person who arranged for the child's hospital treatment — did not launch an investigation into the incident. The councillors of the local government addressed an oral warning to the director. They did not find it necessary to impose a more severe disciplinary penalty for the director's act, although they called on him to refrain from similar actions in the future.³⁴⁸

In addition, according to the report of the Parliamentary Commissioner for the National and Ethnic Minorities Rights,³⁴⁹ Roma children in the village of Pátka are separated from their peers in school, eat at different times and use other cutlery than their schoolmates. The report mentions that the Roma children at the school in Fehér County eat from plastic plates, while the others use porcelain. The State Education Committee relegated 99 per cent of the Roma children, living in the slums at the edge of the village, to special education. As a result they are educated in a separate wing of the school building.

In **Poland**, according to information from Caritas, two children from an Armenian family in one of the provincial cities were the victims of discrimination from pupils and middle-school employees. The pupils physically harassed and teased them, telling them “not to get uppity

348 NEKI (2003), Fehér Füzet <http://www.neki.hu/pdf/ff2003.pdf>

349 Kaltenbach, J. (2004) Report on the activities of the Parliamentary Commissioner for the National and Ethnic Minorities Rights in 2003, Budapest: The Office of Parliamentary Commissioners

because they are not at home". It was reported that the teachers failed to react even though they had witnessed the incidents.³⁵⁰ When visiting Roma communities in the Małopolskie province, representatives of the Crisis Intervention Society and the Roma Women's Association reported incidents of alleged maltreatment of Roma children.³⁵¹

3.5. Inequalities in education and indirect indicators of discrimination

In the Czech Republic, a primary concern is the question of access of members of the Roma minority to education. The current critical educational situation of Roma is a result of long-lasting exclusion from society and biased legislative measures directed at assimilation of the Roma population. There is a high ratio of Roma children in special schools (up to 80 per cent), a relatively low number of secondary school graduates and a minimal number of university graduates. In April 1999, the Czech government passed a resolution,³⁵² which recognises the extent of the problem concerning the placement of Roma in special schools. Consequently, the Ministry of Education has been implementing various measures to promote the education of Roma children, such as making financial resources available to support pupils whose families have difficulties covering the costs of education, and promoting special educational programmes and materials.

Migrants in regular schools at times have lower educational achievements due to a lack of knowledge of the Czech language and different socio-cultural backgrounds. Asylum seekers and refugees in addition encounter difficulties regarding the recognition of previously attained educational credentials, which limits their access to further training and qualified jobs. They are required to produce the original versions of the necessary documents or have to arrange that these documents be sent to them from their countries of origin, which is often impossible.

In Estonia, it is currently possible to acquire pre-school, primary, secondary, vocational, and higher education in Estonian or in Russian. However, the Law on the Pre-school Institutions only protects the right

350 Polish NFP (2004) Contribution to the EUMC Annual Report 2003.

351 Crisis Intervention Society (2003), *Against Hate Crimes*. Project Report, internal publication.

352 Resolution 279

of all Estonian children to receive Estonian language pre-school education.³⁵³ It provides for the possibility of establishing classes in other languages if decided by the local self-government council but no guarantees of minority-language classes exist for the Russian-speaking population or other minorities. Moreover, according to the Article 8 (3), bilingual pre-school groups are prohibited. Through the adoption of the Basic Schools and Upper Secondary Schools Act³⁵⁴, beginning no later than in the school year 2007/08, Estonian is to be the primary language of instruction in upper-secondary schools. Following criticism, the Act was amended in April 2000.³⁵⁵

In the school year 2002/03, the academic success and drop-out rates in Estonian-language schools and in Russian-language schools were similar.³⁵⁶ While there is no significant difference regarding the school achievements of Estonians and non-Estonians, data of the 2000 national census shows under-representation of non-Estonians among students of higher education, in particular at the level of master and doctoral studies.³⁵⁷ There is an increasingly limited opportunity to receive education in Russian in higher education institutions. The percentage of students receiving instruction in Russian has decreased from 17.2 per cent in the academic year 1993/94 to 9.8 per cent in the academic year 2003/04.³⁵⁸ However, at the same time, there is an increase in the number of Russian-speakers studying in Estonian. For example, in the prestigious University of Tartu³⁵⁹, where only a few studies are conducted partly in Russian (Russian and Slavic philology, teachers for Russian-language schools, etc), the number of full-time students who graduated from Russian language-schools has reached 1,760 in 2003 (compared to 661 in 1997).³⁶⁰

353 Koolieelse lasteasutuse seadus (The Law on the Pre-school Institutions) RT I 1999, 27, 387 (18. 02. 1999)

354 Põhikooli- ja gümnaasiumiseadus (Basic Schools and Upper Secondary Schools Act) RT I 1993, 63, 892 (15. 09. 1993)

355 Semjonov, A. (ed.) (2002) Integratsioon Tallinnas 2001, Tallinn: Inimõiguste teabekeskus, p. 19.

356 Statistical Office of Estonia (2003) Education 2002/2003, Tallinn: Statistical Office of Estonia

357 Poleshchuk, V. (2004) Non-Citizens in Estonia: Report 2004, Tallinn: LICHR, pp. 43-44, also available at <http://www.lichr.ee/eng/researchers.analysis/non-citizens.pdf> (09.07.2004).

358 Estonia/Ministry of Foreign Affairs (2004), Estonia Today: Russian-language Education, p.2, available at http://web-static.vm.ee/static/failid/016/Russian_language_education.pdf (09.07.2004).

359 The average number of students in the University of Tartu in the academic year 2002/03 was 17,435. Statistical Office of Estonia (2003) Education 2002/2003, Tallinn: Statistical Office of Estonia, Table 5.24.

360 Estonia/Ministry of Foreign Affairs (2004), Estonia Today: Russian-language Education, p.2, available at http://web-static.vm.ee/static/failid/016/Russian_language_education.pdf (09.07.04).

Some concerns were raised in 2003 about the practice of Estonian language testing before non-Estonian speakers can enrol in public institutions of higher education. According to the regulations of the Public Service Academy (*Sisekaitseakadeemia*), the graduates of Russian-language schools are required to pass an Estonian language test in order to receive a permit to take part in the enrolment examination. As the State language is a language of public service, Estonian proficiency is regarded as crucial from the very beginning of the studies. The problem lies in upper-secondary schools, where there are, apart from the general Estonian language classes, only few subjects taught in Estonian to prepare students to continue studies in Estonian in higher educational institutions. In 2002, only 115 out of 233 non-Estonian speakers were admitted. The Academy explained the results as due to a low level of Estonian language training in Russian-language schools.

The State Language Inspectorate (*Keeleinspeksioon*) makes regular inspections to Russian-language schools to control the level of proficiency of teachers and headmasters in the Estonian language and the use of Estonian in Russian-language schools. In 2003, 86 per cent of inspections in educational institutions showed various violations of legal language requirements.³⁶¹

According to data from the Ministry of Education from the academic year 1996/97, 5.1 per cent of all first grade pupils in Estonian-language schools were from non-Estonian families.³⁶² While non-Russian minority children in Russian schools normally speak Russian quite well, non-Estonians in Estonian-language schools may experience language difficulties. To address the problems for students and teachers, the first teacher training programmes have been started and teacher aids published. There are also extra-curricular language training activities, such as the widespread practice of language camps together with Estonian peers, or language practice in Estonian families in the summer.

In Cyprus, statistics monitoring school performance and ethnic background are lacking. According to interviews with teachers conducted by the Cypriot NFP, pupils from Russian or Slavic background are generally very good at school, while many children of Greek Pontian

361 Estonia/ Language Inspectorate; Data provided at the official web-site at <http://keeleinsp.ee> (09.07.2004).

362 Vadim Poleshchuk (2001) Multiculturalism, Minority Education and Language Policy: ECMI Report no. 10, Flensburg: ECMI, p. 4.

backgrounds experience difficulties.³⁶³ The Ombudsman's Office concludes, based on research conducted by the Limassol Regional Welfare Office that there is a clear pattern of low educational attainment of Turkish Cypriots (of whom 75 per cent are "Gypsies") in Limassol. Severe economic problems faced by these families, bad living conditions, low parental educational level and widespread prejudice against this group leads to a negative attitude of the Turkish Cypriots and Roma toward the educational system.³⁶⁴

Due to a survey research conducted in 2003³⁶⁵ among youths and teachers in the Greek Cypriot community, Turkish Cypriots, "Gypsies" and Arab workers are regarded as "the least favourable communities". A study on the primary education of the children of migrant Pontians indicates that they suffer from discrimination, experience difficulties in fulfilling the required curriculum and in learning the language of instruction, and are concentrated in neighbourhood and school ghettos.³⁶⁶

The Ministry claims to follow a plan of desegregation by allocating minority children to different schools. Recent data disproves the success of such policy.³⁶⁷ There is an inverse relationship between an increased concentration of pupils with ethnic minority background and a decreased enrolment of Greek Cypriot pupils in certain primary schools.

There is little information concerning the educational situation of Greek-Cypriots in the North. Nevertheless, a primary concern for this population is the issue that there is no Greek secondary education permitted to operate in this area.³⁶⁸

In Latvia, according to the study *The Situation of Roma in Latvia*, ten per cent of Roma respondents said that they have faced discrimination at school, both on the part of other pupils and on the part of teachers. Teachers' attitudes are not always favourable, and Roma children tend to

363 See for example Trimikliniotis, N. (2001) *The Educational Problems of the Pontians in Cyprus: Preliminary Research and Report on Primary Education*, Report on behalf of the Cyprus Association of Sociologists submitted to the Ministry of Education 2001.

364 Interview with the Ombudsman's Office Human Rights Officer, Mr. Aristos Tsiartas 16.6.04.

365 *Antisocial Behaviour of Youth in Cyprus and Racist Trends*, Study funded by the Cyprus Research Promotion Foundation and conducted by Frederick College and was (results to be published; See: <http://www.research.org.cy/>, 11.7.2004)

366 Cypriot NFP (2004) Contribution to the EUMC Annual Report 2003.

367 Ministry of Education and Culture: Number of students enrolled in primary education 2003-2004

368 Kyle, K. (1997) *Cyprus: In Search for Peace*, Minority Rights Group International Report, Minority Rights Group, UK.

be isolated from other children. Sometimes Roma classes are organized in a “second shift”, and this only exacerbates the problems of isolation and segregation”.³⁶⁹

Most of Latvia’s Roma residents have not completed elementary education. More than 40 per cent of Roma completed only four grades or less. Only 7.9 per cent of the Roma completed secondary (general or specialised) education compared to 46.2 per cent of the total Latvian population and only 0.4 per cent of all Roma, compared to 12.5 per cent, completed higher education.³⁷⁰

In Lithuania, Roma face many difficulties in education. There appears to be a general downward trend in the number of Roma pupils in secondary schools.

In Hungary, the most important problem concerning the education of ethnic minorities is the segregation of Roma pupils. Although the alleged rationale behind segregation is the need for special methods and more pedagogical help for Roma pupils, in reality, in most cases, they get a lower level of education than their peers. There are two different categories of school segregation: *inter-* and *intra-*school segregation.

Inter-school segregation takes place when due to regional segregation a high proportion of the student body of regular schools are Roma pupils. There are cases where the Roma children’s percentage in a school is higher than in the settlement or the area where the school is located, because non-Roma parents take their children to a school in another settlement. Also, in schools for mentally disabled children the ratio of Roma pupils is inexplicably high. In certain regions there are special schools with more than 80 per cent of Roma pupils. The newest way to segregate Roma children in state-schools is private schooling with tuition fees that most Roma cannot afford.

Intra-school segregation takes place when Roma are assigned predominantly to special classes for disabled children, while only a few Roma pupils are found in regular classes of the same school. There are also parallel regular classes, one with a high proportion of Roma children and another one with no or just a few Roma pupils. In addition, there are divisions between classes with regular teaching and classes offering

369 The Situation of Roma in Latvia (2003), Latvian Centre for Human Rights and Ethnic Studies, Riga, p.30

370 The Situation of Roma in Latvia (2003), Latvian Centre for Human Rights and Ethnic Studies, Riga, p.19

subjects at a higher level, as well as different levels within classes. In both cases, Roma participate in the lower-level groups.

Aside from the segregation of Roma, there are schools in the vicinity of refugee camps with a larger concentration of migrant children, who often are met with intolerance and rejection. Parents and teachers express views similar to opinions often heard in connection with Roma pupils and parents seek the same solution— segregation instead of integration in education.

In Poland, the relatively small Roma minority is the least educated minority group. Only 70 per cent of Roma children attend school regularly³⁷¹ and the majority drop out of school after completing only a few grades. “Roma classes” are gradually being eliminated.³⁷² In 2003, there were still between ten and twenty such classes.³⁷³ They were operated for pupils who, due to their age and postponement of education, cannot or do not wish to study in “regular” classes.

According to information obtained from organisations that provide migrants with social and legal assistance, cases of school directors refusing to accept children of refugees with unregulated legal status do occur. Sometimes such children attend school informally, i.e. they are allowed to participate in instruction, but they do not receive report cards and do not take final examinations.

In Slovenia, segregation and a disproportionate number of Roma children placed in schools for children with special needs seem to be amongst the most pressing issues.³⁷⁴ In general, the level of education among Roma is low and upon entrance to preschool institutions or primary schools, Roma children often lack a good command of the Slovenian language. Schools, on the other hand, do not provide education in the Romany

371 Poland, Ministry of Internal Affairs and Administration (2003), Program for the Roma community in Poland, available at: http://www.mswia.gov.pl/index_a.html, (30.06.2004), p. 11.

372 In the 1990s, there were about 30 such “Roma classes”. They were criticised for having a much lower level of teaching as its assumption, adapted to students of lower skills, which closed the road to continued education for Roma children. It was indicated that the programme in fact led to racial segregation.

373 Poland, Ministry of Internal Affairs and Administration (2003), Program for the Roma community in Poland, available at: http://www.mswia.gov.pl/index_a.html, (30.06.2004), p. 5.

374 In school year 2002/3 the percentage of all children included in special needs schools was 1.48 per cent, while for the Roma children alone, this percentage was considerably higher, 9.3 per cent. See: Delovna skupina za pripravo strategije vključenja Romov v vzgojo in izobraževanje (2004), Strategija vzgoje in izobraževanja Romov v republiki Sloveniji, predlog, p. 11

language. According to the Roma Union of Slovenia, 90 per cent of Roma have not completed elementary school.³⁷⁵

In Slovakia, Roma children often enter into compulsory schooling badly prepared. Pre-school education (Kindergarten) is one way to prepare Roma children for schooling. However, since it is no longer compulsory, their attendance is rapidly decreasing. Roma pupils, in general, attain much lower educational levels than the majority population. There is a low percentage of Roma in secondary schools, in specialised training schools, and in higher education. Most Roma pupils in secondary education are enrolled in vocational schools.

Discrimination of the Roma regarding their access to education can be observed on two basic levels – the violation of their right to receive education in the Romany language and the placement of Roma children in special schools for mentally disabled children. In 2001, the Slovak Republic acceded to the European Charter for Regional and Minority Languages, which gives members of ethnic minorities the right to be educated in their mother tongue. Although the Charter covers the Romany language, the right to education in Romany is still not exercised.³⁷⁶ The issue of placing Roma children in special schools is related to inappropriate methods of school enrolment. In many cases, this practice leads to segregated “Roma schools” or “Roma classes”, which negatively affect their further education.

In 2003, a special case of segregation was reported in a primary school in the Hermanovce district. After reports were made by the non-governmental organisation Slovak Governance Institute to the State School Inspection, the inspection team came to the conclusion that the Roma children in this particular school were subjected to psychological tests based on which not a single child should have been transferred to a special facility for mentally disabled children. The fact that all these children were transferred to the special school constituted a violation of the statute on special schools³⁷⁷. In addition, it was discovered that special classes are located in a building that does not meet the health

375 Delovna skupina za pripravo strategije vključevanja Romov v vzgojo in izobraževanje (2004), Strategija vzgoje in izobraževanja Romov v republiki Sloveniji, predlog, p. 9

376 One should note that this fact cannot be explained flatly as discrimination. Other serious reasons why it is impossible at this point to teach in Romany include the school system's unpreparedness to provide education in Romany, problems related to codification of the Romany language and the lack of interest on the part of some Roma themselves to be educated in their mother tongue.

377 Law 212/1991

standards and that adequate teaching aids and supplies are lacking, which negatively impacts the academic performance of the pupils.³⁷⁸

GOOD PRACTICE AND PREVENTIVE INITIATIVES

In the Czech Republic, the non-governmental organisation People in Need conducts an Intercultural Education project (“Variants”) funded by the EQUAL Initiative of the European Union. The project focuses on the relations between the majority and minorities in the Czech Republic. The objective of the project is to introduce intercultural education into the whole system of education. It aims at the acquisition of respect towards socio-cultural diversity, enhancement of tolerance towards minority groups, and improvement of the social position of persons from different socio-cultural environments.

Within the grant programmes of the Ministry of Education, financial assistance is given to Roma pupils whose families have problems covering the costs of secondary or tertiary education. Financial support provided within this programme should partially or fully cover the costs of school fees, food, accommodation, travel expenses, and textbooks. Other measures are language trainings for national minorities (especially for Roma pupils), educational activities for majority and minority members dealing with the topics of the holocaust, extremism, and relations with the Slovak, Polish, German, and Roma minority as well as with exploring the history and culture of other nations, education for democratic citizenship, and mutual tolerance.

In Estonia, in the framework of the State Integration Program, several programmes were financed to promote the use of the Estonian language in the Russian-language educational system. Simultaneously, the programme supported projects aimed at the preservation of identity of ethnic minorities. In 2003, the subprogrammes “Education” and “The Education and Culture of Ethnic Minorities”, both part of the Integration Programme, received funding for different projects, mostly from the State budget.³⁷⁹ However, the Integration Programme also received significant allowances from the EU. The EU PHARE Estonian Language Training Program 2001-2003 supported language training for children and adults. The new PHARE programme (May 2003 – March 2006) will support similar initiatives (23 per cent of the funding will come from the Estonian State budget). This programme will be concentrated on

378 Slovakian NFP (2004) Contribution to the EUMC Annual Report 2003.

379 Estonia/Minister of Population Affairs; Information available at the official web-site at <http://www.rahvastikumister.ee> (09.07.2004).

teachers' training, on the promotion of language training in kindergartens and professional schools, on drafting of training materials as well as on support for programmes of partial language immersion (teaching of subjects in Estonian) in Russian-language schools.³⁸⁰

In Cyprus, the Ministry of Education and Culture launches a programme for "Intercultural Education and Training" to respond to the inflow of Pontian Greek immigrants and to the educational barriers this group faces. The aim of this programme is the smooth integration of Pontian children in the Cyprus educational system by applying accelerated language programmes and to promote a balanced allocation of these children in several primary education schools.

In Latvia, in October 2003, The Secretariat of the Special Task Minister for Society Integration, in cooperation with the Soros Foundation Latvia, has organised the seminar "Promoting Tolerance in the Education Process". The seminar dealt with the integration of "tolerance" as a topic into the curriculum and the role of cultural diversity in pupils' development.

The book *We are all similar and different. Intercultural Education Anthology*³⁸¹ has been published within the framework of the project Open School, which was implemented by the Soros Foundation Latvia in cooperation with the Ministry of Education and Science and the Naturalisation Board. This is the first book published in Latvia to address issues of intercultural education and domestic policy on fighting racial and ethnic stereotypes in education.

The project Society's Integration Promotion is being implemented by the Secretariat of the Special Task Minister for Society Integration during the period of 2003/04, with the aim of promoting cultural diversity and tolerance. Within the framework of this project intercultural education courses for pupils, teachers and NGO activists have been organised.

In Lithuania, in 2003, a number of projects related to intercultural relations were financed by the Grundtvig 2 programme.³⁸² The projects were implemented by a variety of organisations such as the NGO Baltic Partners for Change Management ("Bridges to Intercultural Understanding"), the NGO Centre for Civic Initiatives ("Knowing me,

380 Estonia/ Integration Foundation; Information of 06.11.2003, available at <http://www.meis.ee> (09.07.2004).

381 *We are all similar and different. Intercultural Education Anthology* (2003), Riga: Soros Foundation Latvia

382 <http://www.socrates.lt>, (28.06.2004).

knowing you”), and the Roma Community Centre (“Minorities and Disadvantaged or Disabled Person Integration and Active Citizenship Building Through and Within Art Education”).

The Foundation for Educational Change is implementing the Roma Support Program, which in 2003 included several topics. The first Roma language textbook was published.³⁸³ Roma language courses were held for twenty teachers, who work with Roma children in primary schools. Also, within the “Multicultural Education Programme”, a teacher’s book called *Tolerance at School* was prepared and will be published in 2004.

The NGO *The House of Memory* studies and commemorates the Jewish Heritage in Lithuania. In 2003, it held the fourth pupils’ writing competition entitled “My Grandparents’ and Great-Grandparents’ Jewish Neighbour” and implemented the project “They have been among us - Knowledge of the History of Lithuanian Jews and the Holocaust”, which included seminars and the publishing of a teacher’s book.³⁸⁴

The governmental International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation leads the National Holocaust and Genocide Education Program. During implementation of the programme a series of seminars were held for teachers, school administrators, and pupils. Also, 32 Tolerance Centres have been established in Lithuanian educational institutions.³⁸⁵

In Hungary, the foundation *Collegium Martineum*, which was established by church organisations based in Hungary and abroad, jointly with private institutions and individuals, provides a programme for underprivileged children, including many Roma. *Collegium Martineum* offers pupils free youth hostel accommodation, financial support and tutoring for educational matters, and helps them to continue their education at secondary level. One of their major tasks is to gain the confidence and support of parents and to create a mutual understanding upon which responsive cooperation can be built.

The Józsefváros Tutorial School in Budapest is an afternoon programme for upper-primary and secondary school pupils. It can be seen as a programme disseminating culture, helping to improve academic achievement through skills-development and value-transmitting courses. It also works towards counteracting segregation of Roma children. (For

383 Bagdonavičienė, T., Prosnjakova, H. (2003) *Romane Bukvi*. Romu Abecele, Vilnius: Kronta

384 Lithuania / The House of Memory, <http://www.atmnamai.lt>, (25.06.2004)

385 <http://www.komisija.lt>, (25.06.2004)

other relevant examples of good practice in this area stemming from the government, see Section 3.1).

In Malta, between July and November 2003, the Ministry of Education initiated two programmes for refugee children and unaccompanied adolescents, which focused on Art and Drama. In formal education, the services of support teachers and facilitators reinforce the learning of literacy, numeracy, and basic social skills by refugee children. Also, Maltese pupils and refugee children are being offered the opportunity to enrich their cultural knowledge by interacting with each other. This is another way of promoting intercultural and global education.

In Poland, as part of the pilot government programme for the Roma community in the Malopolska province for the years 2001-2003, the State has been undertaking activities to improve education for Roma, such as training and employing Roma education assistants and teachers supporting the education of Roma pupils, the organisation of remedial classes, equipping schools with teaching aids, paying for children's meals at schools, covering the costs of transportation and insurance, purchasing textbooks and school supplies, organizing interest circles, school celebrations and trips, and paying for preschool costs and financing kindergartens. In the school year 2002/03, the said programme involved about 500 Roma children (330 primary school pupils, 48 middle school pupils, 69 preschoolers). NGOs as well as Roma associations joined the programme. The issue of Roma education forms one of the priorities within the 10 year "Programme for the Roma Community in Poland", adopted by the Council of Ministers in August 2003, to be implemented from the start of 2004.³⁸⁶

Among other initiatives taken for the benefit of Roma in education, the publication of a guide for middle school instructors entitled *Roma People – Close Encounters*³⁸⁷ deserves mention. In 2003, the programme "Conciliation and integrating Europe: what can students do?", which was co-funded by the EU SOCRATES programme, was implemented. The Polish lyceum, the German middle school, and the French college were partnership schools. The programme included trips to Zakopane, Krakow, and Auschwitz and the establishment of an Internet chat room where students can exchange their ideas. A survey called "What can young people do toward conciliation?" was developed and conducted among Polish, German, and French youth.

386 see www.mswia.gov.pl

387 Milewski, J. (ed.) (2003) *Romowie – bliskie spotkania*, [Roma People – Close Encounters], Suwałki: Stowarzyszenie Integracja.

A multi-party, international project training teachers working with Roma children, which was coordinated in the SOCRATES programme by the Gypsy Research Centre and the Auschwitz Museum, was ongoing in 2003. Its primary goal is to increase contacts between particular educational facilities responsible for Roma education. Work on making an inventory of available educational materials for teachers and other persons involved in training as well as making the results available on the Internet is also continuing.

As part of the Union Youth Program the programme Peace Education as a Tool in Intercultural Learning and Social Inclusion was carried out by The Hope-Hatikvah Polish-Israeli Society in December 2003. It was a training course that enabled 870 representatives of NGOs from European states to obtain skills in working with youth, in conflict resolution as well as in conducting team-work in “peace education”. After completion, training materials were published on an Internet page and mailed to project partners.

In Slovenia, a training programme for Roma assistants in Murska Sobota, which is run jointly by an NGO, a secondary school, and the local employment agency and which lasts until September 2004, targets unemployed Roma. The Roma assistants act within their local Roma communities in helping with the inclusion of Roma children in kindergartens and elementary schools. They also advise members of the community on how to deal with public institutions and work towards decreasing illiteracy.

A similar task was undertaken by the Educational Research Institute and its Step by Step project. Roma assistants were trained and deployed in schools with Roma children. Increased integration of Roma children in the regular school activities was reported. There was noted support from the local non-Roma community for the inclusion of Roma assistants in schools and their overall involvement as mediators.

In Slovakia, in 2003, the government launched the project Education and Assistance to Teachers in Areas of Cultural Ethnic Diversity³⁸⁸, which brings together schools and the State Pedagogical Institute in order to address educational problems of children from various ethnic groups. In the same year, pedagogical centres prepared a number of projects designed for Roma and majority pupils as well as teachers and students at

388 Within SOCRATES COMENIUS 2

universities' pedagogical faculties. They focused on education for tolerance and on improving inter-ethnic relations.³⁸⁹

Many projects that in the past have been implemented by non-governmental organizations turned out to be very effective and applicable on the national level. Beginning in the academic year 2003/04, some of them will be incorporated into the country's education system. One of these projects is "*Mother and Child*", which seeks to involve Roma mothers in the education of their children.

3.6. An initial comparison of issues in the EU15 and 10 Accession Countries

Some initial observations can be made regarding the educational situation for migrants and minorities in the 15 EU Member States and the 10 Accession Countries, particularly with regard to minority education.³⁹⁰

- One difference is that there is a stronger emphasis on minority schooling in the Accession Countries, in contrast to the greater emphasis on intercultural education approaches in the EU15. The characteristic of the latter is that it targets all pupils, not just minorities. Correspondingly, the teaching of ethnic minority culture and history is mainly provided for minorities in the Accession Countries, whereas in the EU15 it is part of the curriculum for all pupils.
- Whilst minority language development is an issue in all 25 countries, it is seen as the central aspect in minority education in 10 Accession Countries.
- In the EU15 the educational situation of immigrants and 'new minorities' is at the centre of educational discussions, whereas this is less of an issue in the Accession Countries.

389 Slovakia, Office of the Government of the Slovak Republic (2004) Záverečné vyhodnotenie Akčného plánu predchádzania všetkým formám diskriminácie, rasizmu, xenofóbie, antisemitizmu a ostatným prejavom intolerancie na obdobie rokov 2002 – 2003, (Final Evaluation of the Action Plan to Prevent All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Displays of Intolerance for the period of 2002 – 2003) available at: <http://www.rokovania.sk/appl/material.nsf/0/80CE2DCC6B871FFAC1256E900038453E> (29.06.2004)

390 Further detail on this comparison can be found in the report Comparison of the reports on national strategies for minority schooling, prepared by the National Focal Points of the Central and Eastern European Candidate Countries by Mikael Luciak and Susanne Binder, to be published on the EUMC website before the end of 2004.

Correspondingly, the debate on the schooling of national or autochthonous minorities is less developed in many of the EU15.

- In the Accession Countries there appears to be a greater number and variety of innovative policies and initiatives directed at countering the discrimination and inequality suffered by Roma, as compared to the EU15.
- Debates on religion, the wearing of the headscarf, etc. are more at the centre of public and educational discussion in the EU15 than in the 10 Accession Countries. There are no substantial Muslim populations in the Accession countries which compare to those in the EU15, and the schooling of Muslims has not developed into a public issue.
- Whilst in some of the EU15 countries antisemitism in schools is mentioned as an issue, this does not seem to be a major concern in the Accession countries. The Jewish population is relatively small in these countries, and there is very little available information at all on antisemitism.³⁹¹

391 The EUMC will be asking its NFPs to seek information on this during 2005.

4. Conclusions

There is a wealth of information, on new and established themes, that can be drawn from this year's report. For the first time, an overview of discrimination in the education sector in the 15 EU Member States *and* the 10 new Accession Countries is presented.³⁹² In addition, the report includes, also for the first time, new information about discrimination in housing in the EU 15 Member States. Several important and topical themes can be extracted that are of particular note, including, for example, examples of discrimination against the Roma in education, housing and employment, new developments in legislation, and actions concerning the wearing of headscarves.

Presiding over all of the themes considered in this annual report is the question of implementing the European Commission's anti-discrimination Directives in the Member States, namely Council Directive 2000/43/EC on equal treatment of persons irrespective of racial or ethnic origin; and Council Directive 2000/78/EC on establishing a general framework for equal treatment in employment and occupation.

LEGISLATION

During 2003, in their efforts to fulfil the legal requirements set out in the two Council anti-discrimination directives (as above), Member States amongst both the EU 15 and Accession Countries were active in drafting or bringing into force new anti-discrimination laws and ethnic equality regulations, or were altering their existing laws. By July 2004, the state of transposition with regard to implementation of the Directives was still varied. With regard to Directive 2000/43/EC, the Racial Equality Directive, new legislation had been adopted³⁹³ by Belgium, Denmark, Estonia, Spain, France, Ireland, Italy, Cyprus, Latvia, Hungary, Malta, the Netherlands, Poland, Portugal, Slovenia, Slovakia, Finland, Sweden and the United Kingdom. Draft legislation was pending in the Czech Republic, Greece, Lithuania, Luxembourg, Austria and Finland. With regard to Directive 2000/78/EC, the Employment Framework Directive,

392 Data for the Annual Report refers to the period prior to the accession of the 10 new Member States to the EU in May 2004. Therefore, when the report refers to 'Member States' it means the EU15, while reference to 'Accession Countries' means the candidate countries prior to May 2004.

393 'New legislation adopted' does not necessarily imply full compliance with the detailed provisions of the Directives.

new legislation had been adopted by Belgium, Estonia, Hungary, Lithuania, Malta, Poland, Spain, France, Ireland, Italy, Cyprus, Latvia, the Netherlands, Portugal, Slovenia, Slovakia, Finland, Sweden and the United Kingdom. Draft legislation was pending in the Czech Republic, Greece, Germany, Luxembourg, Austria and Finland.

In July 2004 the European Commission gave an update on the legal action that it was taking against five Member States which had failed adequately to transpose the anti-discrimination Directives.³⁹⁴ Germany, Greece, Luxembourg, Austria and Finland were referred to the European Court of Justice over their continued failure to pass all the necessary national measures required regarding the Racial Equality Directive, and a “reasoned opinion” was sent to the same Member States for their failure to transpose fully the Employment Framework Directive.

The implementation of each of the Directives in law and practice will be monitored by the EUMC over the coming year. Further information regarding developments on the transposition and implementation of the anti-discrimination Directives can be found on the Commission website.³⁹⁵

RACIST VIOLENCE AND CRIME

The 2003/4 report shows that racist violence and crime remain a problem in all Member States. Those States with legislation in place and effective data collection mechanisms, such as Germany and the UK, revealed numerous incidents of racist violence and crime. Conversely, in some Member States - such as Belgium, Greece and Portugal – there is a persistent problem with ineffectual legislation and monitoring mechanisms that fail to deliver ‘results’ with respect to either convictions or accurate and consistent data collection. Because of this, it continues to be difficult to get an accurate picture of the extent and nature of racist violence and crime across the EU. Encouragingly, in 2003, some Member States, such as Denmark and Finland, introduced new legislation or published recorded figures on racist crimes that contributed to more accurate data collection in this field.

In addition, racist crimes now emerge in different forms via the internet to present criminal justice agencies with new challenges in consideration

394 See press release:

http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/legisln/prinfringe947_en.pdf

395 http://europa.eu.int/comm/employment_social/fundamental_rights/legis/expertrep_en.htm

of their perpetrators. Extreme right-wing organisations continue to exploit the internet as a means of distributing racist propaganda.

EMPLOYMENT

Findings from 2003 indicate overwhelmingly that marginalised minority groups experience discrimination in employment and higher levels of unemployment when compared with majority populations. As most Member States keep official records only in relation to ‘nationals’ and ‘non-nationals’ (because data on ‘ethnicity/race’ is either prohibited or simply absent) the NFP reports were often reliant on findings from research sources. While some Member States, such as France and the UK, have a long research tradition on discrimination in employment, many other Member States suffer from a lack of information in this area. To this end, the 2003 report was able to reveal some interesting findings from sources such as the ILO, which, in Italy sponsored matched-pair discrimination testing for job applicants and was able to reveal the systematic discrimination experienced by Moroccans when compared with Italian nationals.

Unofficial sources, as well as the ECRI/Council of Europe country reports,³⁹⁶ also indicate that the Roma are particularly vulnerable to employment discrimination across the EU. However, some examples of ‘good practice’ were noted in the 2003 report, including job creation and employment infrastructure initiatives in Greece and Spain. And, as the report points out, with the arrival of the new Member States, Roma ‘issues’ in employment and other areas will become ever more important in the EU.

HOUSING

As in other areas, the Roma, Sinti, Gypsies and Travellers were revealed in the NFP reports as experiencing the greatest levels of discrimination in housing. Authorities continue to neglect the accommodation needs of these groups. As a result, Roma frequently resort to unapproved housing that lacks basic sanitation. Surveys also reveal that majority populations consider these groups as their ‘least wanted’ neighbours. Immigrants, and in particular non-EU immigrants, also experience considerable discrimination when looking for housing. NFP reports indicate that these problems are acute in Spain, France and Italy. Because of this, the segregation or ‘ghettoisation’ of immigrants and other vulnerable

³⁹⁶ <http://www.coe.int/T/E/human%5Frights/ecri/1%2DECRI/2%2DCountry%2Dby%2Dcountry%5Fapproach/>

minority groups, such as the Roma, is commonplace across European urban landscapes.

However, against this picture, a range of 'good practice' initiatives can be found across the EU, including government programmes in Greece and Ireland that set out to provide Roma and Travellers with suitable accommodation. Likewise, in many Member States official services and NGOs work in tandem to improve access to public and private housing for marginalised minorities. The NFPs report that government 'codes of conduct' have been established in Belgium, Greece, France, Ireland and the UK to counteract discriminatory housing practices.

EDUCATION

The focus of this year's report has been on education. To this end, an extensive range of information was reported by the NFPs in both the 15 EU Member States and the 10 Accession Countries. In the 15 EU Member States, evidence of direct discrimination related mostly to regulatory or administrative practices. Indirect discrimination was indicated by the fact that migrant and minority groups are disproportionately represented in educational establishments with lower academic demands, early dropout rates, and lower school completion rates. In addition, evidence exists that separate minority language classes persist in many of the EU15. However, the NFPs report a general positive shift from a 'pedagogy for foreigners' towards intercultural education that promotes learning for all pupils.

There is clear evidence that Roma, Sinti, Gypsy and Traveller pupils continue to be discriminated against in both the 15 EU Member States and the 10 Accession Countries. The placement of these groups in 'special needs schools' or in segregated classes, adds to a continuum of discrimination that is reflected in other areas such as employment and housing. Given the large and established population of Roma minorities in the Accession Countries, there is a significant legacy of discriminatory practices that needs to be addressed. The NFPs report a number of encouraging practices in the Accession States that are attempting to rectify this problem.

Finally, while the issue of religious symbols or, more specifically, headscarves in schools is of little significance in some of the EU15, such as Belgium, Greece, Ireland, and Finland, it has become a hotly debated topic in others, most notably in France and Germany. France banned all ostentatious religious symbols and clothing, including the headscarf, in

2004, and in Germany, in 2003, the Federal Constitutional Court ruled that individual Länder were able to establish their own legal provisions regarding the use of religious symbols in schools. In contrast, there are no legal regulations or recommendations concerning the issue of religious symbols in the Accession Countries. Other noticeable differences between the EU15 and the Accession countries in the field of education are a stronger emphasis on the educational situation of national minorities, rather than immigrant minorities, in the Accession Countries, and a greater variety of innovative practices in Roma education in the Accession Countries compared to the EU15, whilst antisemitism in schools appears to be more of a concern in (at least some) EU15 Member States than in the Accession Countries.

Conclusions for Member States and the European Commission

The European Monitoring Centre on Racism and Xenophobia (EUMC):

Recalling the EUMC's remit, under Article 2(e) of Council Regulation (EC) No 1035/97, to formulate conclusions and opinions for the Community and its Member States;

Recalling the legal obligations of all Member States to fully transpose into national law Council Directive 2000/43/EC and Council Directive 2000/78/EC;

Taking into account the information presented in this Annual Report and additional information collected and analysed by the RAXEN National Focal Points;

Recognising that by October 2003, only seven Member States had notified the European Commission of having adopted some form of legislation to transpose Directive 2000/43/EC;

Recognising that the European Commission will continue to monitor the transposition of the Directives and to take steps against those Member States who do not fulfil their legal obligations;

Recognising that certain Member States, despite many examples of good practice identified by the EUMC, still have much work to do to fulfil not only their minimum legal obligations under the Directives, but also to develop a practical culture of equality throughout their societies;

Recognising that many Member States, despite increasing activities in this area, do not yet have sufficiently robust and consistent systems of monitoring and reporting that would enable the EUMC to collect, analyse and compare relevant data to contribute to combating racism and xenophobia in Europe;

Concludes that the following action should be taken by Member States and the European Commission.

IMPLEMENTING THE ARTICLE 13 DIRECTIVES

The EUMC urges those Member States who have not yet fully done so to transpose Council Directive 2000/43/EC, and, specifically with regard to religion, Council Directive 2000/78/EC and to consider going beyond the minimum legal requirements. The EUMC calls on Member States:

- to ensure that the equality body required by Council Directive 2000/43/EC is fully independent (guaranteed by statute) and adequately resourced, as recommended by European Commission experts in the March 2002 report on “Specialised bodies to promote equality and/or combat discrimination”³⁹⁷
- to ensure that the competencies of such a body include the power to carry out investigations and to promote policies and practices to foster equal treatment, as recommended by the European Commission against Racism and Intolerance (ECRI)³⁹⁸
- to ensure that both potential victims and perpetrators of discrimination are fully aware of their rights and obligations under the legislation, and to ensure the full and meaningful implementation of Articles 11 and 12 of Council Directive 2000/43/EC on the involvement of stakeholders, NGOs, social partners and other civil society representatives in a structured, ongoing and inclusive dialogue.

The EUMC calls on the European Commission, when monitoring Member States’ compliance with the legal requirements for establishing an equality body (or bodies),

397 http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/legisl/mslegln/equalitybodies_final_en.pdf

398 ECRI General Policy Recommendations No 2 (adopted 13 June 1997) and No 7 (adopted 13 December 2002).

- to place particular emphasis on the requirement for such a body (or bodies) to act independently, and to ensure that a meaningful interpretation of independence prevails.

Indicators, data and statistics on migrants and minorities

Racial discrimination can be indirect and difficult to recognise. Descriptive statistics on the population that identify different population groups and provide – in the countries where such a process is legally permitted - data disaggregated by ethnicity or race, as well as religion, can highlight areas of discrimination to guide public policymaking, while respecting laws on privacy and data protection.

Recognising the on-going challenges encountered by the EUMC in its efforts to collect from Member States comprehensive, accurate and reliable data on different aspects of racial discrimination, the EUMC calls on all Member States:

- to collect, compile and publish yearly such statistics relating to the following: the labour market, housing, education and training, health and social benefits, public access to goods and services, the criminal justice system, and civic and political participation.

The EUMC welcomes the progress made in incorporating the situation of migrants/minorities in the European Employment and Social Inclusion Strategies. However, the EUMC calls on Member States and the Commission to go further and

- to set clear, quantitative targets and indicators within the employment and social inclusion guidelines that enable them to measure progress in improving the situation of migrants/minorities. They should indicate steps being taken to achieve such targets in their National Employment Actions Plans and the National Action Plans for Social Inclusion.

The EUMC calls on the European Commission and Member States:

- to examine the feasibility of collecting data on the composition of the workforce of all Community institutions and bodies according to ethnicity and religion. The collection of such data, which should be published annually, will be subject to Regulation (EC) No 45/2001 on the protection and confidentiality of personal data.

The EUMC calls on the Council of the European Union and its Member States:

- to move towards agreement of the Commission's Proposal for a Council Framework Decision on Combating Racism and Xenophobia (COM/2001/664 final), which will improve the comparability of data on racist crimes between Member States.

Intentions and follow-up mechanisms

- Given the enactment of new legislation in some Member States concerning the use/wearing of religious symbols, the EUMC intends to closely follow developments in these areas.
- Given the entry of ten new Member States into the EU with considerable Roma populations, and evidence from this year's report of extensive and cross-cutting discrimination against the Roma, the EUMC intends to closely monitor anti-discrimination initiatives that target these groups.
- The EUMC will act in conformity with its remit to monitor implementation of the action points.
- Member States and the European Commission are requested to consider their responses to these action points and make them known to the EUMC in writing.
- The EUMC's government liaison officers group could act as a feedback group for charting the progress of national action on the action points.

Action at EU level will be observed by the EUMC. Other interested parties, including civil society organisations, could also act in this regard.

