

# **TRENDS AND DEVELOPMENTS 1997-2005**

COMBATING ETHNIC AND RACIAL DISCRIMINATION AND  
PROMOTING EQUALITY IN THE EUROPEAN UNION

Trends and Developments 1997-2005 –  
Combating Ethnic and Racial  
Discrimination and Promoting Equality in  
the European Union

2007

European Union Agency for Fundamental Rights (FRA)



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## Foreword

This report on trends and development in selected fields of racism and racial discrimination is the first publication under the Fundamental Rights Agency of the European Union (FRA). Its content builds on work done over the years by the European Monitoring Centre on Racism and Xenophobia (EUMC). The EUMC's mandate was extended in February 2007 to turn it into the European Union Agency for Fundamental Rights. In many ways this report represents a summary of the data and information collected by the EUMC since it became operational in 1998. Yet more importantly it identifies phenomena of racism and xenophobia that sadly still require data collection and analysis by the new Agency. It is thus at the same time a testimony to the work of the EUMC and a handover document for FRA.

Racism and xenophobia will remain a core business for FRA, an important strand within the multi-annual framework which is being fleshed out at this very moment and which will identify the new areas of activities of FRA. The report on trends and development will be complemented later in the year by an overview of the EUMC's Opinions on the key fields of its data collection, studies and analysis. Taken together both documents should provide FRA with a good grounding of the scale and scope of the issues that it is inheriting from the EUMC.

The FRA will take over the EUMC's data collection activities and the experience and expertise which has been developed over these nine years should serve it well as it moves into other areas. The task of encouraging EU Member States to give greater emphasis to data collection as a rich source of information for policy making has been difficult at times but, for me, as the Director of the EUMC, rewarding. I can definitely say that I have seen progress and a greater acceptance by Member States of the importance of data collection and statistical evidence to support the fight against racism. I sincerely hope this will be translated into the fields of fundamental rights.

There remains a lot to do and I am confident that FRA will take up the challenge and push out the boundaries of data collection even further to the benefit of many of those living and working within the European Union. Personally, it has been a privilege to have played a role in this campaign for more objective, reliable and comparable data and information on racism. The EU needs to remain vigilant to prevent the scourge of racism taking hold again or even being given a respectable hearing under its many guises. We all know very well where it has led us in the past and it has no place in the future of the Europe that we are all engaged in building.

In reading this report you will find many things that highlight the scale of the challenge that remains. Equally I hope that you will leave its pages with a sense that action by governments, international institutions, civil society and EU citizens

can have a positive effect, can change long held attitudes of prejudice and suspicion and, finally, can triumph over the ignorance and fear that feed racism.

Finally, I would like to take the opportunity to thank the Management Board of the EUMC for their comments and feedback.

Beate Winkler  
Interim Director

## Introduction

The European Monitoring Centre on Racism and Xenophobia (EUMC) was set up in 1997<sup>1</sup> with the prime objective to provide the Community and its Member States with objective, reliable and comparable data at European level on the phenomena of racism, xenophobia and anti-Semitism in order to help them when they take measures or formulate courses of action within their respective spheres of competence.

In order to collect data and information from the Member States of the European Union the EUMC developed in 2000 a European Racism and Xenophobia Network (RAXEN) consisting of national focal points in all EU Member States. These are organisations selected through open international competition and contracted by the EUMC in order to provide data and information on the situation regarding racism, xenophobia, anti-Semitism and related intolerances at national level. RAXEN reports form the background material for the EUMC comparative analyses.

During 2006 RAXEN was extended to cover Bulgaria and Romania in the context of an EU enlargement project funded by the European Commission.

Since 2000 the EUMC has published a large number of studies and reports relying mainly on a formidable body of evidence collected by RAXEN on a variety of issues related to racism and xenophobia. Based on this material and additional data and information provided by RAXEN in 2006 the present report attempts for the first time to trace trends and developments in the Member States and provide an overview of key Community policies and initiatives covering the period from 1997 to 2005.

The availability and quality of reliable data on racist crime, as well as on ethnic or racial discrimination in key areas of social life differs significantly among the Member States. This not only makes any direct data comparison difficult, but also entails the risk that Member States with effective data collection systems will appear, as though they have a more serious problem, which is not necessarily the case.

The identification of noticeable trends and developments is sometimes difficult. Whilst in some fields, such as legislation, legal developments against discrimination are relatively concrete and are easily identifiable, in other fields data on discrimination are imperfect and related developments are less tangible. Here, the identification of trends must be based on the best evidence available, combined

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<sup>1</sup> Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, Official Journal L 151 , 10/06/1997 P. 0001 - 0007

with reasonable judgement. In addition, it should be noted that the field of housing was only added to the other four thematic areas in 2003, and so in this particular thematic area it is more difficult to come to meaningful conclusions about trends over time.

# 1. Community policies and initiatives

Racism and xenophobia within Europe were identified by the then European Economic Community as a serious concern in the late 1970s. In 1977 the first important action by the European Economic Community was the Joint Declaration on Fundamental Rights. From 1986 onwards this action was intensified with the first report by the European Parliament and the Joint Declaration against Racism and Xenophobia by the Parliament, the Council, and the Commission. This was followed periodically by joint declarations and resolutions, as the fight against racism and xenophobia became more integral to the development of the Community. The year 1994 marked a watershed. At the Corfu Summit, the European Union initiated a series of decisions which aimed to look at the phenomena in more depth and to develop specific policy responses. The culmination of the Union's deliberations was to declare 1997 as the 'European Year Against Racism', to establish the European Monitoring Centre on Racism and Xenophobia and to begin the process of developing a legislative response to combating discrimination.

The information below sets out a summary of the Union's key legislative and policy actions to combat racism from 1997 onwards, and highlights a continuing trend within the Union to mainstream racism across a variety of legislative and policy areas. A key development of the Union's response is to recognise that legislative measures in themselves can only have limited impact. Legislation must be backed by a whole series of supporting actions, from political leadership, education, analysis and research in nearly all related fields, capacity building and awareness-raising to broader engagement with civil society and social partners. Effective communication is increasingly seen as a tool in itself, an important factor in reacting to racism and in translating the Union's anti-racism language for a variety of audiences; in effect, creating an environment which best enables legislation and policies to have an effective impact.

## 1.1. Community action based on Article 13

A crucial legislative development was the Treaty of Amsterdam (1997) which introduced a new Article 13 to the EC treaty. For the first time it gave the Community the power to take legislative action to combat discrimination "based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation". Article 29 of the European Union Treaty (TEU) stressed the importance of preventing and combating racism and xenophobia. The Amsterdam Treaty also included a new title on employment, according to which promotion of employment is a "matter of common concern" for the Member States and one of the

Community's goals. In order to make the most of these new provisions, the Heads of State and Government decided immediately to apply a coordinated employment strategy before entry into force of the Treaty (1 January 1999).

The 'European Year Against Racism' (1997) was the first major step to combat racism at European Union level through a broad range of initiatives targeting civil society. It established a European platform of anti-racism non-governmental organisations and launched major information and communication campaigns. Furthermore, the Council adopted joint action to combat racism and xenophobia (1996). This set out rules in order to prevent the perpetrators of racist and xenophobic offences from exploiting the fact that such activities are considered differently in different Member States. The aim was to prevent perpetrators by moving from one country to another in order to escape criminal proceedings or avoid serving sentences, and thus pursue their activities with impunity.

Building on initiatives undertaken in previous years, in 1997 the European Council tasked the European Monitoring Centre on Racism and Xenophobia (EUMC) with supporting policy responses and supplementary measures to combat racism and xenophobia in the European Union by providing the Community and its Member States with evidence based analyses, conclusions and opinions on the situation of racism, xenophobia and anti-Semitism in the Union. In addition, the EUMC has developed strategies which very much reflect the general thrust of the Union's development and the needs of the Union's decision-makers. These strategies consist of enhanced cooperation with EU Institutions and Member States and greater coordination and reinforcing action with international organisations working in the field of racism, in particular the Council of Europe, the UN and the OSCE. A specific component of the EUMC's approach is to strengthen the work with civil society and social partners. The media and their influence and impact on perceptions are also the subject of EUMC action and engagement.

In 1998, the Action Plan against racism, which resulted from Commission Communication, proposed to bring together in a partnership all the players (the Member States, non-governmental organisations, the social partners, local authorities, the media and sports bodies and personalities) involved in the fight against racism throughout the European Union. The action plan against racism proposed four main strands:

1. Paving the way for legislative initiatives;
2. Mainstreaming the fight against racism;
3. Developing and exchanging new models by granting funding to projects and initiatives;
4. Strengthening information and communication work.

The Vienna Action Plan (1998) on how best to implement the provisions of the Treaty of Amsterdam in an area of freedom, security and justice referred to racism and xenophobia as one of the specific forms of crime and identified how it could be best combated using an EU approach. The Commission made an initial

contribution in its communication of 14 July 1998 and the Vienna Action Plan gave substance to the concepts of freedom, security and justice by defining the priority objectives for the next five years and setting out a timetable of measures necessary for realising the area of freedom, security and justice envisaged by the Treaty of Amsterdam. “An area of freedom”, defined as free movement of persons, according to the Schengen model, but also protecting fundamental rights and combating all forms of discrimination, became a target for programming and legislative action later on.

The European Parliament adopted on 16 March 2000 a Resolution on “countering racism and xenophobia in the European Union”, which underlined the fact that the Amsterdam Treaty marked a major milestone by ending the controversy over the competence of the EU institutions concerning the implementation of anti-racism policies. The European Parliament stressed the fact that for the first time, with the new Article 29 of the EU Treaty and the new Article 13 of the EC Treaty in place, the fight against racism and xenophobia had become an explicit European Union objective. The European Parliament also urged all political parties to sign and observe the ‘Charter of European Parties for a non-racist society’. On the same day, the European Parliament adopted another Resolution on countering racism, xenophobia and anti-Semitism in the candidate countries.

Following the request from the European Parliament in its resolution of 5 September 2000 that a Framework Decision on combating racism and xenophobia replace the Joint Action against Racism, the Commission in November 2001 presented a proposal for a Framework Decision aiming to approximate the laws and regulations of the Member States regarding racist and xenophobic offences. “The purpose of this Framework Decision is twofold: first, to ensure that racist and xenophobic criminal acts are punishable in all Member States by effective, proportionate and dissuasive criminal penalties, which can give rise to extradition or surrender, and second, to improve and encourage judicial cooperation by removing potential obstacles.” (Section 4 of Explanatory Memorandum, COM (2001) 664 of 28 November 2001). Discussion on the Commission’s proposal started in 2002 under Spanish Presidency, and was abandoned in 2003, following difficulties in finding consensus on the text. The Luxembourg Presidency re-launched the discussion but finally, at the JAI Council of June 2005, no agreement could be reached.

Following the entry into force of the Amsterdam Treaty in 1999, the European Union is empowered to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 13 of the EC Treaty). The Community Action Programme to combat discrimination (2001-2006), adopted by Council Decision of 27 November 2001, put forward a broader action programme aimed at combating all forms of discrimination referred to in the Treaty, other than discrimination based on sex, in order to support and supplement the Member States’ action aimed at combating all forms of discrimination. Following on the requirement of a coordinated employment strategy introduced by the Amsterdam Treaty, the Vienna European Council (11-12 December 1998) emphasised greater synergy between the

employment guidelines and the broad economic policy guidelines. According to the European Council, employment policy should fit in with a comprehensive approach embracing macroeconomic policies geared to growth and stability, economic reforms designed to increase competitiveness and employment guidelines to increase employability, adaptability, equality of opportunity and entrepreneurship.

## 1.2. Racial Equality Directive and Community Action Programme

Using the powers granted by Article 13 of the Amsterdam Treaty, the European Union unanimously adopted the Racial Equality Directive in June 2000 (2000/43/EC) and the Employment Equality Directive in November 2000 (2000/78/EC). These prohibit direct or indirect discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation. They contain definitions of direct and indirect discrimination and of harassment. They also allow certain exceptions to the principle of equal opportunities in a limited range of circumstances. A number of EU Member States transposed the Directives and set up Equality Bodies that are mandated to promote equal treatment and expected to provide independent assistance to the victims of discrimination, conduct surveys and studies, and publish independent reports and recommendations. While the legislation refers specifically to bodies concerned with racial discrimination, many Member States set up bodies that cover other grounds of discrimination as well. In order to enhance cooperation and facilitate the exchange of information between Equality Bodies across Europe, and to support the uniform implementation of EU anti-discrimination law and the levelling-up of legal protection for victims, a European network of Equality Bodies, 'EQUINET', was set up.

The conclusions and the plan of action adopted by the Extraordinary European Council meeting held on 21 September 2001 emphasised the need to combat any nationalist, racist and xenophobic drift.

Following on from the Green Paper on equality and non-discrimination in an enlarged Europe (2004), which summarised progress made in the fight against discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation and sought views on how the EU can step up its efforts in this area, the Commission set out in 2005 a framework strategy for the positive and active promotion of non-discrimination and equal opportunities for all. One of the main objectives of this strategy is to ensure effective legal protection against discrimination across the EU through the full transposition of relevant Community legislation by all Member States.

In January 2005 the European Parliament adopted a Resolution on remembrance of the Holocaust where it urged the Council to reach agreement on a ban on

incitement to racial and religious hatred throughout the EU while preserving legitimate free speech.

### 1.3. The 'Lisbon process'

The Lisbon European Council of March 2000 asked Member States and the European Commission to make a decisive impact on the eradication of poverty, by making Europe the world's most competitive region, and to achieve full employment by 2010. The Lisbon European Council aimed to increase the overall employment rate of the EU to 70 per cent and the female employment rate to more than 60 per cent. In its 2005 revision, the European Council took the view that it was vital to re-launch the Lisbon strategy without delay and to refocus on growth and employment. The Council approved the integrated guidelines for growth and employment (2005-2008) proposed by the Commission. The revised Lisbon Agenda makes a direct reference to 'vulnerable groups' that need to be better integrated into the labour market. Specifically, Guideline 19 of the Integrated Guidelines for Employment (2005-2008) aims to ensure inclusive labour markets, "enhance work attractiveness and make work pay for job-seekers, including disadvantaged people, and the inactive".

### 1.4. The 'Tampere' and 'Hague' programmes

A special meeting of the European Council agreed in Tampere in October 1999 to place the establishment of an area of Freedom, Security and Justice at the top of the European Union's political agenda. The Tampere meeting elaborated policy guidelines and practical objectives with a timetable for their attainment.

Among the conclusions of this meeting were a call for the development of a common EU asylum and migration policy, including a more vigorous integration policy to promote the fair treatment of third country nationals, which should enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia. Building on the Commission Communication on an Action Plan against Racism, the Council also called for the fight against racism and xenophobia to be stepped up and for the further strengthening of cooperation between the EUMC and the Council of Europe. The Council also invited the Commission to come forward as soon as possible with proposals for implementing Article 13 of the EC Treaty, and encouraged Member States to draw up national programmes to fight against discrimination.

The Hague Programme adopted by the European Council of 4 and 5 November 2004 is a multi-annual programme that builds on the Tampere process and sets out ten priorities for the Union with a view to strengthening the area of freedom, security and justice in the next five years.

The Hague Programme called for the adoption of common basic principles as the foundation of a European framework on the integration of third country nationals and their descendants. These define integration as:

- a continuous two-way process involving both legally resident third country nationals and the host society;
- including and going beyond anti-discrimination policy;
- implying respect for the basic values of the EU and fundamental rights;
- requiring basic skills for participation in society;
- relying on frequent interaction and intercultural dialogue between all members of society within common forums and activities in order to improve mutual understanding;
- extending to a variety of policy areas, including employment and education.

The JHA Council subsequently adopted, later that month, the 11 Common Basic Principles (CBPs) to “underpin a coherent framework on integration of third country nationals”. These principles provide a first definition of an EU approach to integration and outline the priorities which any integration policy should address, including employment, education and access to services. They also describe the limits of diversity in the EU with respect to European fundamental values and national legislation.

Subsequently the Commission launched in May 2005 its Five-Year Action Plan for Freedom, Justice and Security addressing the need for better integration policies to prevent the isolation and social exclusion of immigrant communities, was identified as an immediate follow up.

The European Parliament expressed its views on the progress made in creating an area of freedom, security and justice, in a resolution adopted in June 2005, where it asked for the adoption of appropriate measures to foster social inclusion of minorities and combat any form of discrimination.

In September 2005, the Commission adopted the Communication “A Common Agenda for Integration – Framework for the Integration of Third-Country Nationals in the European Union”<sup>2</sup> aiming at a coherent EU approach in this field. The Communication provides a framework for the integration of third country nationals in the EU and constitutes a reference point for further actions in the field. The cornerstones of this framework are proposals for concrete measures to put the CBPs into practice, together with a series of supportive EU mechanisms aimed at developing instruments and structures that would facilitate all stakeholders to cooperate and exchange information, experience and best practices on integration. Moreover, the Annual Reports on Immigration and Integration<sup>3</sup> monitor further

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<sup>2</sup> COM (2005) 389 final.

<sup>3</sup> Second Annual Report on Immigration and Integration SEC (2006)892.

developments of the integration policies in the European Union and Handbooks on Integration for Policy-Makers and Practitioners<sup>4</sup> are compiled as a driver for the exchange of information and best practices between Member States in order to structure this exchange and identify good practice on which Member States could draw when developing and promoting relevant policy initiatives.

## 1.5. The extension of the EUMC mandate

At the December 2003 European Council in Brussels the representatives of the Member States adopted the following conclusion: “The Representatives of the Member States meeting within the European Council in Brussels on 12 and 13 December 2003, stressing the importance of human rights data collection and analysis with a view to defining EU policy in this field, agreed to build upon the existing EUMC and to extend its mandate to make it a Human Rights Agency to that effect. The Commission also agreed and indicated its intention of submitting a proposal to amend Council Regulation 1035/97 of 2 June 1997 in that respect (5381/04 EC)”.<sup>5</sup>

In 2005, the Commission after a period of consultation and debate submitted its proposal for the establishment of a Fundamental Rights Agency. On 5 December 2006 the last Justice and Home Affairs Council of the Finnish Presidency reached an agreement on the establishment of the European Union Agency for Fundamental Rights. The Regulation was formally adopted on 15 February 2007<sup>6</sup>, and the Agency started functioning on 1 March 2007. According to its Regulation the objective of the Agency "...shall be to provide the relevant institutions, bodies, offices and agencies of the Community and its Member States when implementing Community law with assistance and expertise relating to fundamental rights in order to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights." The Agency mandate does not extend to the area of police and criminal justice cooperation, although the Council, European Parliament and Commission as well as the Member States may make recourse to the Agency's expertise on a voluntary basis. The Council is committed to reviewing the Agency's mandate in these areas by the end of 2009. However, candidate countries, as well as potential candidate countries (Western Balkans countries) may participate in its work as observers, if the relevant Association Council so decides. The establishment and work of the Agency for Fundamental Rights will not affect the Council of Europe's position as

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<sup>4</sup> See [http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/integration/doc/handbook\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/immigration/integration/doc/handbook_en.pdf)

<sup>5</sup> Press release

[http://www.eu2006.fi/news\\_and\\_documents/press\\_releases/vko49/en\\_GB/177634/](http://www.eu2006.fi/news_and_documents/press_releases/vko49/en_GB/177634/)

<sup>6</sup> Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (Official Journal L 053 , 22/02/2007 P. 0001 – 0014) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:053:0001:01:EN:HTML>

the primary source and interpreter of European human rights standards. One of the Agency's specific tasks is to publish an annual report on the state of fundamental rights in the European Union in the areas covered by its mandate. However, it will not monitor the state of fundamental rights in individual Member States. The Agency will continue the work of the European Monitoring Centre on Racism and Xenophobia on racism, xenophobia and related intolerance. The Agency will work closely with civil society through a special body, the Fundamental Rights Platform.

## 2. Trends and developments in the EU

### 2.1. Legislation on racial or ethnic discrimination

In 2000, most EU Member States already had in place some legal provisions addressing the issue of discrimination on the grounds of race or ethnic origin. For example, by 2000 all Member States of the EU had ratified the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD). Nevertheless, some important differences existed between EU Member States at the time: Some Member States had already systematically applied legislation in the field (as in Belgium, Ireland, Netherlands, Sweden and the United Kingdom); Some others had formally introduced anti-discrimination legislation in the 1970s and 1980s in connection with CERD, which was nonetheless not applied systematically (as in Austria, Denmark, Finland, France, Greece, Italy and Portugal); and finally others did not have adequately detailed anti-discrimination legislation in place (as in the Czech Republic, Cyprus, Germany, Hungary, Estonia, Spain, Latvia, Lithuania, Luxembourg, Malta, Poland, Slovakia and Slovenia).

#### 2.1.1. Strengthening the legal framework

An important development across the EU was the strengthening of the legal framework addressing discrimination on the grounds of race and ethnic origin. For some Member States, this meant only relatively minor changes to existing legislation in order to comply with the Directive because these countries already disposed of significant legislation in the field: Denmark, Ireland, the Netherlands, Sweden and the United Kingdom fall into this group. For other Member States, important new legislation was introduced due to the Racial Equality Directive, as seen in Belgium, Spain, France, Cyprus, Lithuania, Hungary, Austria, Greece, Italy, Portugal, Slovenia, Slovakia and Finland. For some of these countries, it was the first time in their respective history that adequately detailed anti-discrimination legislation covering racial or ethnic discrimination was introduced in their legal system and the Racial Equality Directive played a groundbreaking role for them: Bulgaria, Estonia, Spain, Cyprus, Lithuania, Hungary, Poland, Romania, Slovenia and Slovakia fall into this group.

In some Member States, the Racial Equality Directive only led to sparse or slow developments. In Germany and in the Czech Republic, draft implementing legislation was blocked by the upper houses of Parliament and elections, and the legislative procedure needed to be restarted. Malta, Latvia and Luxembourg have been very slow in adopting the necessary legislation in compliance with the

Directive. Estonia and Poland only introduced anti-discrimination legislation in the area of employment, but have shown no urgency with regard to the issue of addressing in a detailed manner discrimination on the grounds of race or ethnic origin in the other areas covered by the Racial Equality Directive. Poland did indeed adopt legislation protecting certain national and ethnic minorities as defined and enumerated in the legislation, but this legislation does not apply to all victims of discrimination arising due to reasons of race or ethnic origin.

### 2.1.2. Specialised bodies and victim support

Another development in many Member States has been the creation of specialised bodies promoting equal treatment, as envisaged by the Racial Equality Directive. An important function of these specialised bodies is the provision of assistance to victims of discrimination so as to make the legal system more accessible for them, to collect data and information and to focus public attention on this area of law. Some Member States, notably Belgium, Ireland, the Netherlands, Sweden and the United Kingdom, already had specialised bodies focusing on racial or ethnic discrimination prior to the Racial Equality Directive. These pre-existing bodies in fact served as models for the Directive.

In other Member States, the creation of the specialised body or the extension of the mandate of an existing organisation to become such a specialised body, could be seen as the most important consequence of the transposition of the Racial Equality Directive. Prior to this development, racial or ethnic anti-discrimination legislation had not been applied in practice systematically in Bulgaria, Denmark, Greece, France, Italy, Austria, Portugal, Romania and Finland.

Specialised bodies for the promotion of equal treatment were also created in Bulgaria, Estonia, Cyprus, Latvia, Lithuania, Hungary, Romania, Slovenia and Slovakia, which did not have adequately detailed prior anti-discrimination legislation in place. In Spain, a specialised body was created formally by legislation, but it was not operational by the end of 2005. Likewise, no specialised body for the promotion of equal treatment existed by the end of 2005 in the Czech Republic, Germany, Luxembourg, Malta and Poland. Poland had designated a specialised body, but this body ceased to exist by decree of the Polish council of ministers in 2005. In Greece, only victims of racial or ethnic discrimination by public authorities have recourse to a specialised body (Ombudsman). Specialised bodies in Austria, Belgium, Cyprus, Ireland, Hungary, Latvia, Slovakia, Finland, Sweden and the United Kingdom are empowered to offer legal representation to victims of discrimination.

Alongside specialised bodies, the most important assistance offered to victims of racial or ethnic discrimination is provided by civil society organisations. In Germany, Austria and Portugal the Racial Equality Directive has led to the empowerment of important civil society organisations assisting victims of racial or ethnic discrimination. In Italy, since December 2005, 320 associations are entitled

to bring action before a court in the name and on behalf or in support of the person subject to discrimination. In Poland, an agreement between the Ministry of the Interior and Administration and the Union of Citizens' Advice Bureaux (a non-governmental organisation that coordinates Citizens' Advice Bureaux in Poland) was signed in July 2005. According to the agreement the Citizens' Advice Bureaux in Poland commit themselves to providing free and independent assistance to victims of discrimination on the grounds of race or ethnic origin. The Ministry of the Interior and Administration has also signed contracts with three other institutions (research institutions and non-governmental organisations) on the subject of citizens' advice in the sphere of anti-discrimination. There currently is no information available to assess how effective this system is.

### 2.1.3. The concept of harassment

Another important development concerns the introduction of legislation defining racial or ethnic harassment, even in those Member States which already had anti-discrimination legislation on ethnic discrimination in place. The concept of harassment was introduced at EU level by "soft law" instruments (for example recommendations, resolutions, declarations, etc.) concerning gender discrimination in the 1990s. The following countries have introduced legislation concerning racial or ethnic harassment: Austria, Belgium, Cyprus, the Czech Republic, Estonia (limited to relationships of subordination or dependency in employment), Denmark, Finland, France, Greece, Hungary, Ireland, Italy, Latvia (limited to the areas of employment and social security), Lithuania, Malta, the Netherlands, Poland (limited to the field of employment), Portugal, Slovenia, Slovakia, Spain, the United Kingdom and Sweden. Legislation on racial or ethnic harassment had not been introduced by the end of 2005 in Germany and Luxembourg.

The experience in most countries concerning the impact of the legislation on racial or ethnic harassment is still very sparse, as the relevant legislation in most EU Member States is still new. There was a case of harassment against Roma in the Czech Republic where the Supreme Court in its judgment referred to the concept of harassment in the Racial Equality Directive, even though the Racial Equality Directive had not yet been transposed in the Czech Republic. In Greece, the Ombudsman remarked in his 2005 Annual Report that it is unclear what relation between subjective and objective data needs to be proven concerning the occurrence of harassment. There were some cases in the Netherlands which gave the Dutch Equal Treatment Commission the opportunity to develop its own interpretation of harassment. In ruling 2005-167, the Dutch Equal Treatment Commission interpreted harassment as a qualified and aggravated form of discrimination and consequently a single insult does not constitute harassment *per se*. An important aspect of the cases of the Dutch ETC is that there must be adequate and confidential complaint procedures for victims of harassment and that an employer has to ensure a 'safe' working environment, where harassment is not tolerated.

#### 2.1.4. Burden of proof

One of the potentially most important provisions of the Racial Equality Directive concerns the burden of proof. Victims of discrimination need to establish facts from which it may be presumed that there has been discrimination. The burden is then upon the alleged discriminator to prove that there has been no breach of the principle of equal treatment. Provisions for the shift of the burden of proof were implemented in Austria, Belgium, Cyprus, the Czech Republic (for all areas covered by the Racial Equality Directive except housing), Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia (limited to employment), the Netherlands, Poland (limited to employment), Portugal, Slovakia and the United Kingdom. At the end of 2005 no shift of the burden of proof existed in Germany, Lithuania, Luxembourg and Malta.

In Cyprus and Denmark, the shift of the burden of proof applies only to formal court proceedings and not to the procedures of the specialised bodies. This could discourage victims from addressing these bodies or result in a high number of rejections of complaints, where victims cannot prove discrimination. In the case of Denmark, for example, the Complaints Committee for Ethnic Equal Treatment received in the period May 2003-January 2006 186 complaints between May 2003 and January 2006. Apart from 48 cases that were still pending at the end of 2005, 51 were rejected as ill-founded or as outside the Committee's competence. In 50 cases the victims withdrew the complaint or did not respond to requests for more information, and discrimination could not be proven in 26 cases. The Committee was able to establish discrimination in seven cases recommending free legal aid for only one. This particularly low rate could be explained in terms of the non-application of the shift of the burden of proof, as well as by the fact that the Committee does not have the power to hear witnesses, basing its decisions solely on documentary evidence, which is difficult for a victim to provide. The Committee also has no power to compel private entities or persons to give evidence, and as a result, where it cannot obtain adequate evidence, the complaint is dismissed. It is interesting to note that the Committee is only allowed to provide free legal aid after discrimination has been fully proven by the victim, but no full proof of discrimination is necessary before the court as the shift of the burden of proof applies. Thus the requirements for the victim obtaining free legal aid are higher than the requirement for obtaining a favourable judgment.

In Austria and Italy, the rules on the burden of proof in cases of ethnic discrimination differ somewhat from the model provided by the Directive. In Austria, the claimant must establish all the relevant facts, but the standard of proof has been lowered from 'full proof' to 'probability' in discrimination cases. In Italy, the burden of proof was not shifted from the claimant to the defendant, as is the case in gender equality legislation. Instead, the decree transposing the Racial Equality Directive provides for a lower standard of proof, requiring the claimant to produce factual elements that are "serious, exact and consistent" showing that discrimination has occurred. Such elements are then left to the judge to evaluate according to the rule of the civil code allowing for a "prudent appreciation" of presumption.

### 2.1.5. Accessibility of the legal system

Another important trend is the growing number of racial or ethnic discrimination cases, particularly in countries such as Austria, Cyprus, Hungary and Slovakia, where there were practically no such cases before the transposition of the Directive. Improved access to the legal system, action by specialised bodies and empowerment of civil society actors have all contributed to this trend.

Austria created a non-judicial complaints body which permits relatively easy access to the legal system for victims of discrimination; furthermore, the specialised body provides free legal assistance to victims addressing the complaints body. In addition, civil society organisations in Austria joined together in creating an NGO which specialises in providing legal assistance in racial or ethnic discrimination cases.

In Cyprus the Ombudsman was vested with the powers to function as a non-judicial complaints body which is empowered to impose small fines and to issue orders. A special department within the Ombudsman's office, the Cyprus Anti-Discrimination Body, was created, which now deals with a significant number of cases per year.

In Hungary the various anti-discrimination provisions in a variety of statutes and legal acts were thoroughly reformed, prior to accession, implementing the European Union's anti-discrimination *acquis*. The Equal Treatment Authority was created with wide ranging powers to assist victims in anti-discrimination procedures and is vested with the right to impose fines. There is now a list of discrimination cases on the grounds of race or ethnicity which demonstrates the value of the improvements introduced through the transposition of the Racial Equality Directive.

A similar trend can also be observed in Slovakia, where the Slovak National Centre for Human Rights was vested with the power to assist victims of discrimination. Sweden has seen a significant increase in discrimination cases being brought to court in the past eight years.

## 2.2. Discrimination in employment

In the period covered by RAXEN data collection (2000-2005) EUMC reports have underlined the patterns of labour market and employment inequality that exist in the EU for migrants and minorities, who generally suffer worse employment conditions than majority workers, receive lower wages and are over-represented in the most precarious and least desirable jobs. One of the most regularly quoted indicators of labour market inequality is the rate of unemployment, which is consistently higher across EU Member States for migrant and minority workers than for majority workers, and, with a few exceptions, has remained so over the last few years. In the majority of EU Member States, unemployment and other official statistics do not record the ethnic and national origin of individuals, and therefore often the best that can be shown is the unemployment rates of non-nationals compared to nationals. This provides only a part of the picture of those people vulnerable to racism and discrimination at work.

### 2.2.1. Statistics of ethnic and national origin

The official statistics collected in the census or national register vary between Member States as far their usefulness for identifying racial or ethnic inequality is concerned.<sup>7</sup> The most useful data is produced in the United Kingdom, where the national census asks questions about ethnic origin. Some countries note the birthplace of parents in the national register or census, which at least allows the identification of second generation immigrants. Most of the ten Member States which joined the EU in 2004 register ‘nationality’ which refers to long standing national groups – for example Hungarians in Slovakia – but does not allow for the identification of immigrants. Whilst the remaining Member States ask for citizenship status and place of birth, this information is not adequate to give a picture of the circumstances of those groups vulnerable to labour market and other forms of discrimination. In general the availability and quality of reliable data on racist crime, as well as on ethnic or racial discrimination in key areas of social life differs significantly among the Member States. This not only makes any direct data comparison difficult, but also entails the risk that Member States with effective data collection systems will appear, as though they have a more serious problem, which is not necessarily the case.

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<sup>7</sup> The Commission presented in 2005 a proposal for a Regulation on Community statistics on migration and international protection (COM (2005) 375) which is currently being negotiated in the Council and the European Parliament. Once implemented in 2008, it will contribute to an improvement of the quality of the data on migration and citizenship in the European Union. This Regulation, however, will not cover data on ethnicity.

### **Moving towards ethnic data collection**

The gathering of data on ethnic origin is controversial in many parts of Europe. Nevertheless, there has been evidence in recent years that more Member States are moving in this direction. Ireland decided to include a question on ethnic origin in its 2006 census for the first time. In Belgium it is reported that there has been a clear shift in the attitude towards collecting ethnic data in the Flemish region and at the national level, with some ministers arguing openly for more use of statistics on ethnic/national origin in the labour market so as better to target labour market equality policies. In France, for the first time, certain INSEE (French National Institute for Statistics and Economic Studies) general surveys have included variables which allow for the identification of the children of immigrants, enabling further analysis of the situation of 'second generation' immigrants in the job market. In the Netherlands complaints made to anti-discrimination agencies were previously not recorded according to grounds of discrimination. However, in 2004 such a division was introduced, which means that from that point on figures on cases of employment discrimination can be broken down by 'race' or ethnic origin. Recently the Polish Ministry of Justice developed tools to record statistically criminal justice data including *inter alia* racially, ethnically and religiously motivated crimes. However it is too early to assess the effectiveness of the system. Poland also participates in OSCE/ODIHR's *Law Enforcement Program on Combating Hate Crimes* collecting data on racially, ethnically and religiously motivated incidents.

### **Moving away from ethnic data collection**

There was also some movement in the other direction. Whereas Statistics Lithuania used to collect data by ethnic category, which enabled them to monitor unemployment by ethnic origin, this was stopped in 2004. And in Slovakia labour offices that were responsible for keeping a register of the unemployed used to keep a record of ethnic origin, but this practice was stopped in 1999. The reason for ending this had been the abuse of the information regarding the identity of Roma, but this also now means that special employment measures cannot be assessed according to the help they give to Roma because the identity of people on the programmes is no longer being monitored.

## **2.2.2. Awareness of discrimination by authorities**

In 1996 an EU report, *Preventing Racism at the Workplace*, by the European Foundation for the Improvement of Living and Working Conditions reported a widespread ignorance and lack of awareness of the problems of racism and discrimination in employment across most of the then 15 Member States. Since then there is evidence that much has changed, and in many Member States where there had previously been little awareness and activity, there is now a great deal.

### **Growing awareness of discrimination**

For example, in Belgium the work of the ILO in 1997, with its discrimination testing research, had a great effect in getting employment discrimination on the agenda. Between 2000-2005 the awareness of labour market discrimination and the need for policies increased at all political levels. In Finland, a new awareness of the need for policies to address employment discrimination was shown in new government policies such as the 2001 Action Plan to combat discrimination and racism, and the call in 2005 for a ‘zero tolerance’ approach to racism and discrimination. In Sweden the problem has been increasingly recognised over recent years, and a range of measures implemented. It is clear in France that over the last five years the issue of discrimination has increasingly worked its way up the political agenda, a recent illustration of this being the creation of two public bodies to study and fight discrimination. In Ireland a clear increase in understanding of the need for policies to address employment discrimination by both national authorities and employers has been reported, significantly since the introduction of the Employment Equality Act 1998 and the subsequent strengthening of anti-discrimination law in line with the EU Directives. In Malta a slowly growing change in awareness of the need for policies to address employment discrimination has been noted, although it was reported that trade unions rather than employers reflect this. In Poland there has been a change in awareness by national authorities on employment discrimination, notably regarding Roma and refugees. In the United Kingdom, whilst there has already been a longer history of policies and practices against ethnic discrimination than other EU countries, an ambitious policy of addressing ethnic minority disadvantage has been adopted since 1997, with the Prime Minister’s Strategy Unit proposing in 2003 that the government should adopt the target that “in ten years’ time, ethnic minority groups living in Britain should no longer face disproportionate barriers to accessing and realising opportunities for achievement in the labour market”.

### **Little change**

Elsewhere, reports were less promising. In Cyprus, the Czech Republic, Estonia, Italy, Lithuania, Latvia, Portugal and Slovenia it was reported that there was no evidence of awareness by the authorities of a problem of employment discrimination, no evidence of the adoption by employers of policies to counter discrimination at the workplace, no evidence of an awareness of diversity management, and no desire to count ethnic origin in order to better combat discrimination. In Denmark the period in question started badly, with the government in 2002 removing financial support from a range of organisations working against discrimination. The focus of policies in Denmark has been more on ‘integration’, with little growth in awareness or activities regarding anti-discrimination. However, there has in recent years been far more active attention paid to the problem of ethnic discrimination by the larger trade unions. In Germany there are mixed messages regarding the awareness of discrimination in employment. On the positive side, increasing numbers of companies are now adopting voluntary agreements on anti-discrimination and equal opportunities. On the negative side, by the end of 2005 Germany had not transposed the two Equality

Directives due to elections. This reflects a rather low level of political awareness of the problem of employment discrimination, exemplified by the case of the Federal German Employers' Association (BDA) which did not support the need for the Directives, saying that discrimination is not a problem in German companies.

### 2.2.3. Research on discrimination

Often a growing awareness of labour market discrimination proceeds in tandem with the development of research into the subject. One of the most effective kinds of research for raising awareness has been the ILO-sponsored matched-pair discrimination testing, where pairs of equally qualified candidates, one from a minority background, are sent to apply for jobs. Up to the end of the 1990s, research based on (or similar to) the ILO testing method had been carried out in Belgium, Denmark, Germany, Spain, the Netherlands and the United Kingdom. On average, in roughly one third or more of cases where offers were made, the minority candidate had been excluded from the offer. In some cases, notably the United Kingdom and Belgium, the strengthening of laws or policies against discrimination can be linked directly to the results of this research. In recent years the method has been resurrected by the ILO to be carried out in countries which had previously not been willing to engage in it. First, in 2003 the research was carried out by the ILO in Italy. Then, in 2005, both the Swedish and the French authorities invited the ILO to conduct its matched pair testing in several of their cities, with the results set to be presented in 2006. Meanwhile, in 2005 the French Monitoring Centre on Discrimination at the University of Paris I published its own testing survey concerning 258 jobs offers, where they demonstrated that an applicant of Moroccan origin received five times fewer positive answers than the majority applicant.

### 2.2.4. Good practice and diversity management

In 1997 the European Commission published the European Compendium of Good Practice for the Prevention of Racism at the Workplace, which showed that at that time a very high proportion of 'good practices' against discrimination consisted of little more than providing training for immigrants and minorities. Since then, the 'good practice' examples brought to the attention of the EUMC have demonstrated a growing awareness of the broader need to tackle racist attitudes and discriminatory practices of the majority population. In recent years anti-discrimination policies have become more organisationally ambitious in some Member States, including examples of positive action. Most recently there have been signs of a spreading recognition of the value of diversity management as a whole-organisational policy with the potential of mainstreaming anti-discrimination activities and institutionalising the positive value of ethnic and cultural diversity.

### **Growing diversity management awareness**

In the United Kingdom diversity management awareness has been steadily increasing over recent years, with many of the top British companies now seeing a diversity policy as quite normal. In the Netherlands, following the National Action Plan for 2004, the government created the National Diversity Management Centre to assist the progress of immigrants into employment. Whilst the awareness of the practice is much less common in Germany, it was estimated in 2005 that about 50 of the largest companies have adopted elements of managing diversity practices. In Belgium, since 2002, many measures have been taken which encourage the practice. In December 2005, approximately 50 employers (representing almost 150,000 employees) active in the Brussels-Capital Region signed a “Charter for Diversity”. In 2005, the Interministerial Conferences on integration and employment developed a new instrument to promote equality in the labour market, the ‘diversity trademark’, to be awarded to companies in Belgium that can clearly demonstrate the practical ways they promote diversity within and outside their organisation. This is similar to the MIA prize for diversity in Denmark, instituted in 2003 and now awarded annually to companies by the Danish Institute for Human Rights. In France, there has been a considerable increase in the interest shown by the authorities and private sector employers (and the media) in questions regarding diversity over the period, and this was particularly striking in 2005, when more than 250 companies signed the “Diversity Charter” aiming “to support pluralism and to seek diversity through recruitment and management of careers” to the benefit of the company. So far in France, as in the other countries, it seems that diversity awareness and initiatives remain limited to the largest companies, rather than the small and medium-sized companies which provide most employment. In Italy, in the framework of an agreement, signed in 2005, between UNAR (The Italian Office against Racial Discrimination), the trade unions and the employers’ associations, awareness raising campaigns, research, seminars and training courses related to racial integration and diversity management are being carried out.

In 2005 the European Commission published a report on diversity management practices in the EU, *The Business Case for Diversity: Good Practices in the Workplace*. Whilst concluding that companies were making “steady progress” in the implementation of diversity and equality policies in Europe, it also showed that in general the level of responses and good practice submissions received from companies based in the new EU Member States and those from Southern Europe was relatively low. This is also reflected in the data collected by the EUMC over the last five years, which suggests that the awareness and practice of diversity management by companies in Spain, Portugal, Italy, Greece and all of the 10 new Member States is virtually non-existent.

## 2.3. Discrimination in housing

Across Member States, the housing of immigrants and ethnic minorities has become a key issue in overall integration policies. Concerns regarding the extreme deprivation of Roma and Travellers' housing conditions have been placed high on the political agendas of Member States. In this context, a number of programmes counteracting Roma and Traveller exclusion have either been launched or are ongoing. Most of these programmes have a wider scope than simply improving housing conditions, often aiming at implementing measures relevant to employment, health care and education.

In the period covered by RAXEN data collection (2000-2005) evidence for the poor quality of housing conditions of immigrants and ethnic minorities has been provided by research. Poor housing conditions, homelessness and relative disadvantage have contributed to entrenched patterns of social and economic inequality. Furthermore, evidence shows that they are being subjected, in varying degrees, to ethnic and racist discrimination in the housing market. The lack of awareness of racist and ethnic discrimination in housing reflects, to a certain extent, the state of affairs on data collection. Deficiencies in systematic data collection coupled with a wide variety of forms for categorising immigrants and ethnic minorities precludes the collation of reliable and, ultimately, comparable data at European level.

### 2.3.1. Data collection and monitoring mechanisms

The data collected by the EUMC confirms that ethnic discrimination in the housing sector – be it the public sector or the private one – is present in most of the 25 Member States. The establishment of the specialised bodies, following the implementation of the Racial Equality Directive, provides a vehicle for complaints in this area. However, complaints recorded by specialised bodies do not yet reflect the actual number, as can be seen by the gap between complaints received by these bodies and those received by NGOs.

#### **Discrimination testing**

Housing is one of the areas where monitoring discrimination has only slightly improved. Studies conducted on access to housing are also scarce when compared with the wealth of knowledge available for the fields of employment or education, and tend to focus more on housing market dynamics than on direct discrimination and the practices that support it. In the past five years discrimination testing in housing was carried out in six countries (Italy, Hungary, France, Belgium, Germany and the United Kingdom) mostly at a regional or local level. Moreover, most of this research has focused on single groups such as the Turkish community in Germany or the Roma in Hungary, thereby making comparisons between different immigrant or ethnic minority groups difficult. Nevertheless,

discrimination testing appears to be the most robust tool to provide convincing evidence of direct discrimination in housing.

### 2.3.2. Housing disparities and deprivation

The housing of immigrants and ethnic minorities can be seen as a crucial aspect in the overall integration process. However, despite the paucity of official data, evidence from research, government and NGO reports, indicates that across Europe, immigrants and ethnic minorities still live in poorer housing compared with the majority. This situation is complex in terms of the groups most affected and the indicators. Not all groups face the same hardships, nor is their housing situation static. In this context, some significant developments have become noticeable lately.

#### **Immigrant workers**

Often the low socio-economic status of immigrants and the employment precariousness they are typically subject to can restrict their housing options. Increasing deregulation of segments of the housing market has impacted negatively on the already fragile and unprotected housing situation of immigrant workers. In this context, it is possible to tentatively group countries into two main clusters.

The first group consists of countries where state intervention has been the usual practice of reducing housing exclusion. Allocation of social housing is not just a one-off practice in reaction to situations of extreme housing deprivation, but instead is a continuous mechanism to balance market prices and housing affordability. This cluster comprises Austria, Germany, Ireland, Denmark, the Netherlands, Sweden, Luxemburg and, to a lesser extent, the United Kingdom.

The second cluster comprises countries where integration policies have been haphazardly managed or where housing provision is limited, rendering migrants particularly vulnerable. Where the scarcity of housing provision is combined with the high prices of the market, migrant workers are found living in substandard conditions, more often than not in improvised accommodation that can vary from renting basements or balconies to illegally occupying abandoned warehouses, or squatting in buildings to be demolished. Data on the conditions of immigrant workers have shown that housing insecurity is pervasive and directly impinges on their standard of living. Immigrant workers are subjected to higher levels of overcrowding and exploitation through higher comparative rents. Under these conditions, migrant workers were reported to live in substandard accommodation in Greece, Portugal, Spain, Italy, Cyprus and Malta. In sum, in those countries where social housing is still provided according to needs, extremes of destitution and poverty are avoided. In so far as some of the Member States have been replacing regulatory measures with market mechanisms, the sort of situations common to the second cluster have been gradually appearing in the first one.

## **Roma and Travellers**

In spite of broader social inclusion measures, Roma continue to be one of the minorities most affected by inadequate housing conditions. Across Europe they are not only those living in segregated neighbourhoods and settlements with substandard infrastructure, they are also those who are the most discriminated against in the housing market. In Spain, Roma are estimated to constitute approximately 80 per cent of the population living in shanty-towns. In many of the new Member States, Roma settlements lack basic infrastructure, and their residents are often victims of evictions and forced displacements. The intertwining of these factors affects other areas such as education, work and health. In this sense, housing constitutes one of the major factors underpinning Roma exclusion.

Over recent years awareness regarding levels of deprivation that affect the Roma community has been increasing, and Member States have undertaken comprehensive urban rehabilitation programmes in order to relocate Roma and improve their housing, as well as legalising settlements. Bulgaria, Slovakia, the Czech Republic, Hungary and Poland, either at regional or at national level, have recently addressed the poorer housing conditions of Roma. Whilst it is still too soon to evaluate their impact on the overall circumstances of the Roma community, these policies have signalled a growing concern with Roma living standards. Another minority with related problems are the Travellers. The Irish Travellers' situation regarding halting sites and basic facilities still merits some attention, despite State efforts to provide Traveller-specific accommodation. Nevertheless, the number of families still living in unauthorised sites has significantly decreased during the past five years.

## **Asylum seekers and irregular migrants**

The challenges posed by asylum seekers and undocumented migrants are of a special nature and therefore deserve to be singled out. Both groups represent a considerable part of “post-industrial migration”<sup>8</sup> and both are affected by their precarious status. If for asylum seekers the problem lies in the fact that public housing provision has been limited in a number of Member States (United Kingdom, France, Austria, Malta, Greece and Denmark), for irregular immigrants it is their very 'irregular' status that makes their claims for accommodation untenable. The effects of these conditions have been to exacerbate the social exclusion of both groups. In some Member States failed asylum seekers have been swelling the ranks of homeless people, and a similar trend has been observed for irregular immigrants.

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<sup>8</sup> i.e. a mixture of high-skilled labour, clandestine and asylum migration.

### 2.3.3. Segregation: the 'parallel society' discourse

The causes of segregated urban spaces are multifarious, and include factors such as economic conditions, networks or migration history (from abroad as well as from rural regions to urban ones). Studies have shown that direct discrimination does play a role in contributing to segregation, as illustrated in particular the research using the discrimination testing method.

Reports over the last few years suggest that residential segregation is an increasing phenomenon in European cities. Rising levels of urban segregation have been identified in Denmark, Germany, Austria, France, Sweden, the Netherlands and Finland. In Sweden segregation seems to have become consolidated in the major cities and it is further extending to middle-sized towns. The Finnish and Danish governments have prioritised counteracting segregation in their Housing Policy Programmes, with the programme for Finland for 2004-2006 which aimed to prevent social segregation and to diversify the residential structure. Urban mixing policies, actively trying to get a more balanced composition of the population in segregated neighbourhoods, have been introduced in Germany, Denmark and the Netherlands. Concern related to spatial segregation seems to have been increasingly incorporated in Member States' political agendas, against the background of the debate on the shift towards a "parallel society". According to this assessment, ethnic and immigrant minorities are becoming more entrenched in their own cultural milieu, hindering their integration within mainstream society. It is argued that spatial concentration is engendering cultural and social exclusion and is dissociating minorities from the central values of the host society. Distributional policies have therefore taken their main goal as curbing tendencies towards the coalescing of a "parallel society".

Whilst a number of countries have been launching policies to counter the development and consolidation of 'ghettos', it should be borne in mind that such policies should be part of a wider package of measures involving all areas – employment, education, housing, security, and so on – and that forced special distribution merely affects residential patterns whilst leaving the main integration problems untouched.

### 2.3.4. Good practices in housing

There is growing concern in most countries regarding housing deprivation affecting immigrants and ethnic minorities. This concern is mostly revealed by the role that these groups have played of late in the political agendas of local authorities and in National Action Plans against poverty or racism. Programmes that were funded by the European Social Fund and the EQUAL initiative have influenced and, to a certain extent, steered national and local policies. However, if it seems evident that housing has become a key factor in the overall integration policy, it cannot be denied that housing discrimination has not elicited the same attention by national authorities and institutions. Instead the debate centres mainly on spatial integration

and segregation. In observing the National Action Plans, very few countries have taken into account the specificity of the problems that migrants and ethnic minorities have faced in housing. Certainly, countries have taken these problems into consideration when implementing broad measures with a view to combating exclusion in housing. Yet, specific measures set out in the National Action Plans that actually target migrants, ethnic minorities and their particular situation regarding the housing market have been infrequent, the exceptions being Ireland, the United Kingdom, Austria and Cyprus.

Apart from the general integration strategies driven by Member State governments, many were the initiatives to foster the integration of immigrants and ethnic minorities in housing as well as to reverse deprivation situations. At the risk of simplifying this matter, the assortment of these measures can be narrowed down to a set of categories according to different levels of intervention.

At the level of influencing practices and behaviour, codes of conduct and non-discrimination declarations can be found, mostly at local level, though these can also be issued by Ministries at national level. There are awareness-raising campaigns, advisory services and training sessions, as well as mediation services, either between ethnic groups or between groups and institutions of society.

At the level of the urban and social environment, there are national strategies for improving the housing standards of immigrants and minorities, programmes to counteract ‘ghetto’ formation, and general urban regeneration and renovation projects.

At the level of financial and material support, there are schemes which have been set up to offer financial support towards housing, such as mediation to secure houses for rent, buying or taking on apartments for sub-letting, and giving loans for the acquisition of housing. There are also schemes for renovating abandoned buildings, and encouraging self-building or renovation of apartments in collaboration with public bodies. There is the creation of funds to guarantee the payment of rent or, in case of damages, emergency flats or short-term accommodation provided by local authorities.

At the level of community driven initiatives, there are ‘bottom-up’ approaches involving minorities, housing constructed after consulting with the target groups in order to meet their specific needs, and mediation between institutions and communities (such as that between official institutions and the Roma community).

The range of initiatives now in existence shows the rising awareness of the problem of inadequate housing integration of immigrants and ethnic minorities, and its wider impact.

## 2.4. Discrimination in education

In the period covered by RAXEN data collection (2000-2005), the situation as regards racist incidents, discriminatory practices and anti-discrimination measures in the field of education was influenced by a number of political developments, issues and events. Some of the main factors driving policies in education were the following:

- The process leading to the enlargement of the EU by ten new Member States had a strong impact on policies in the accession countries, for example, as regards the recognition of Roma as a group facing severe discrimination in education.
- European education policies were shaped by debates on diversity and multiculturalism and the reformulation of integration policies. In this context, the issue of the presence and use of religious symbols in education was high on the agenda of some Member States.
- While for many of the old Member States of the EU the influx of asylum seekers is a well-known, but still challenging phenomenon, many of the new Member States were for the first time faced the question of how to develop policies that enable children of asylum seekers and undocumented migrants to participate in the education system.
- The publishing of the PISA 2000 and 2003 studies triggered debates on insufficiencies of education systems, and had an important impact on the reformulation of strategies and programmes towards better performance and more equality in education.
- Implicit influence on policies and debates on discrimination in education has been exerted through the presence or absence of relevant data. With few exceptions there is a general lack of data on structures and practices that produce and reproduce inequality. Many Member States have not yet brought themselves systematically to explore the presence and causes of discrimination in and through education systems. This lack of information constrains Member States in their ability to effectively counter discrimination, and in some cases the absence of data collection systems coincides with a general lack of political awareness regarding the presence and effects of discriminatory practices.

### 2.4.1. Availability of data on discrimination

Systematic recording of racist incidents and discriminatory practices in the field of education – like, for example, racist and/or anti-Semitic acts by school teachers or students, discriminatory content in schoolbooks or discriminatory policies by school authorities – is still not a common approach in the European Union. In countries, like Bulgaria, Greece, Spain, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Poland, Romania and Slovakia, there is no official or unofficial statistical data on racist incidents in education available at all. In several countries, such as the Czech Republic, Estonia, Hungary and Austria, it is predominantly NGOs that

record cases of racist incidents. Some Member States, like Germany and France, have a reporting system based on school inspection agencies or education ministries. Official or semi-official bodies collecting discrimination data – of varying scope and quality – operate in Belgium, Denmark, Ireland, Italy, the Netherlands, Portugal, Slovenia, Finland, Sweden and the United Kingdom. A positive development is the increase in the number of NGOs dealing with issues of discrimination. However, most NGOs only partly cover the area of discrimination in education and do not systematically collect data.

In addition to the lack in recording racist incidents, further data on educational attainment of different ethnic and national groups is only insufficiently available in most Member States. Some Member States have no recording system of attainment levels at all; others collect data only on the basis of enrolment rates of nationals and non-nationals. Only a minority of Member States use more differentiated categorisation systems that can be effectively used as instruments to identify disadvantaged groups and take proper action in order to combat roots and causes of inequalities.

Thus, in many Member States the most important source of information on discrimination in education are research studies. The number of research projects dealing with issues such as segregation, discrimination and attainment in education has increased over the past few years, however, the present amount of research only partly compensates for the lack of information through insufficient data collection by EU Member States.

## 2.4.2. Practices at risk of producing inequalities

### **Barriers to accessing education**

Open access to education includes both the right and the obligation to be educated, together with the provision of the necessary means in order to enable all pupils to make use of their rights (and fulfil their obligations). While on a legal basis most Member States secure open access to education, in reality, vulnerable groups face many difficulties. In some Member States discriminatory school admission policies and/or discriminatory activities by teachers and parents prevent children from being enrolled at school. The children of Roma and Travellers are particularly affected by such practices. There is also evidence that children of asylum seekers and undocumented migrants have problems in entering education systems. However, there have also been some improvements in Member States. Some countries have expanded the obligation of school attendance to all refugee children, some have started to provide for transportation of children of asylum seekers to education facilities, and in some Member States children of irregular migrants may finish their school year before being forced to leave the country.

### **Segregation**

A phenomenon that is still prevalent in large parts of the EU is partial or even total segregation in education. Research studies have pointed to the fact that segregation produces and reproduces inequality. This is also true for highly differentiated education systems that lead to a high concentration of socially disadvantaged and migrant pupils in the lowest educational tracks. Highly differentiated education systems of this nature operate in countries such as Belgium, the Czech Republic, Germany, Luxembourg, Hungary, the Netherlands, Austria and Slovakia. Another problem area regards so called special needs schools, where in many cases a high concentration of migrant pupils as well as pupils with a Roma background can be found.

Many Member States have become increasingly aware of the importance of providing integrated education in order to enhance the opportunities of vulnerable groups. In this respect, some Member States have launched education reforms aimed at abolishing segregation. However, integrated education is still neither a common practice nor a common endeavour in all Member States of the European Union.

### **Minority language policies**

Policies on minority languages are an important issue in many Member States. Even in those countries where proper minority rights legislation is in place, minority pupils often face problems making use of their rights. For example, an evaluation report on the situation in Sweden mentions the following problems: (1) municipalities do not inform potential students about their opportunities and rights; (2) there are problems in recruiting teachers with the necessary language abilities; (3) there are few available teaching aids in minority languages; (4) minority groups face prejudices and discrimination.

In some Member States, like in Belgium (Flemish region), Germany, the Netherlands and Austria there has recently been a cutback or even a cessation of funding for mother tongue instruction programmes. On the other hand, in Luxembourg, there is an increased emphasis on mother tongue instruction, and in Slovakia some regional projects on mother tongue instruction were started.

In the Baltic states of Estonia and Latvia, with large Russian-speaking minorities, Estonian and Latvian are about to become or have already become the main languages of instruction in public secondary schools. There is still some concern that transition periods might be too short to ensure equal opportunities for minority pupils.

### **Policies on religious symbols**

The question of permitting or prohibiting the displaying of religious symbols in education has led to recurrent debates and new legislation in the past few years. While before the year 2000 discussions on religious symbols were restricted to just a few Member States, as of 2005 there have been political debates and/or legislative measures on this issue in a rising number of Member States. Current policies range from nationwide prohibition of displaying any religious symbols in public sector schools, as is the case in France, to complete freedom of pupils and/or teachers to wearing any religious symbol (e.g. Denmark, Luxembourg and Austria). In between are policies that leave decisions to federal states (e.g. Germany) or to individual educational institutions (e.g. Belgium, the Netherlands, Sweden and the United Kingdom).<sup>9</sup>

### **2.4.3. Vulnerable groups**

Across EU Member States, a number of different social, national, ethnic and religious groups are at risk of being directly or indirectly discriminated against. Particularly children with a migrant background from (present or former) non-EU-countries are reported as being exposed to discriminatory practices and structures. In addition, some religious minorities, particularly Jews and Muslims, are subject to discriminatory treatment or insults. However, the group currently most vulnerable in the EU as regards direct and indirect discrimination in education are Roma, Sinti and Travellers.

#### **Educational opportunities and attainment**

Discrimination does not only manifest itself through concrete incidents, but also through provisions and structures that lead to unequal opportunities of pupils from different ethnic backgrounds. Available data point to significant attainment gaps between majority populations and certain migrant and minority groups. A particular problem concerns the overrepresentation of certain migrant and minority groups in lower education programmes and in so called special needs schools. For some groups, only small percentages enter secondary schools. Further problems are low attendance and high drop out rates. Only few countries report of significant improvement as regards attainment disparities between different ethnic groups (the United Kingdom), dropout rates of Roma and Muslim minority pupils (Greece) and school attendance rates of Roma (Lithuania and Poland).

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<sup>9</sup> More detailed information on the situation in the Member States is to be found in EUMC Annual Reports.

### **Roma, Sinti and Travellers**

The end of the twentieth century marked a turning point as regards political awareness of discriminatory practices against Roma and recognition of the disadvantaged position of Roma children in education. In the past few years, more and more Member States, particularly in Central and Eastern Europe, have started to develop strategies and programmes for the education and integration of Roma children. At the same time, however, discriminatory policies and practices against Roma remained at a very high level across the EU. Roma, Sinti and Travellers are still confronted with unfit education systems and discriminatory practices leading to segregation, underperformance and racist incidents.

### **Asylum seekers**

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

## **2.4.4. Good practices countering discrimination**

Before discussing important good practice approaches implemented in Member States, some recurring problems diminishing the number and positive effect of good practices shall be addressed in brief: Lack of political awareness and lack of data collection and research are still the biggest obstacles to developing adequate anti-discrimination programmes. Where anti-discrimination strategies are developed, in many cases the impact of measures is diminished through the fact that affected vulnerable groups are not involved in developing and assessing plans and instruments. In addition, the impact of programmes may be diminished through lack of substantial funding – leading to only small scale and/or non-sustainable projects. Finally, in many cases measures are put into practice without monitoring the process of implementation and evaluating impact and effectiveness.

### **Rise of intercultural approaches**

In the past few years, the idea of intercultural education has increasingly become a central element of national policy statements and education plans. In addition, the notion of cultural diversity has been increasingly incorporated into teacher training programmes and teaching material. There are also some awareness raising projects which particularly address the issues of multiculturalism and mutual respect.

## **Main good practice instruments**

The enlargement process of the EU as well as the rising awareness of the problematic situation of certain vulnerable groups, like the Roma, have led to a significant increase of good practice activities in the European Union from 2000 onwards: A growing number of Member States employ support teachers and teaching assistants in order to provide vulnerable groups with improved education opportunities. Some Member States have enhanced their teacher training on dealing with intercultural environments. A number of financial programmes provide grants for socially disadvantaged pupils. Teaching material is being improved, doing justice to critical approaches towards history and heterogeneity of society. On the other hand, however, some Member States still lack adequate good practice programmes, and some have imposed restrictive budgetary measures that lead to diminished funding for existing good practice activities.

Nevertheless, it should be stressed that, as recent PISA studies suggested, in many cases selective support measures alone have not had the desired effect of significantly improving the position of migrants and minorities. Rather, changes in the whole education system – towards a more integrative education system – accompanied by selective support measures bear the potential of reducing barriers and promoting educational success.

## **2.5. Racist violence and crime**

### **2.5.1. Trends in data collection on racist violence and crime**

#### **Trends in official criminal justice data for eleven Member States**

In the period covered by RAXEN data collection (2000-2005) only eleven of the 25 Member States have collected what can be considered as ‘good’ or ‘comprehensive’ official criminal justice data on racist violence and crime for the period 2000-2005. These data allow for a trends analysis of officially recorded incidents/crimes over time, which is presented in Table 1. It should be noted that this table can only show meaningful trends within an individual Member State. No comparisons can be made of recorded data between Member States since each Member State records crime according to different criteria. A detailed overview of existing data collection in each Member State in the area of racist violence and crime is provided in the InfoBase of the newly created European Union Agency for Fundamental Rights, which can be accessed on-line at <http://fra.europa.eu>. This information helps to contextualise the results presented in this chapter.

When looking at the year-by-year percentage changes in Table 1, the following should be taken into consideration:

- Changes in the law and criminal justice recording practices can dramatically alter the number of recorded incidents from one year to the next. For example, Ireland introduced a new definition of a ‘racist incident’ in 2002, which appears to have resulted in a sharp percentage increase in recorded figures in the period 2001-2002.
- The impact of national and international events on manifestations of racist crime should be noted. For example, in France a pattern can be seen with respect to heightened conflict between Israel and Palestine and increased numbers of anti-Semitic incidents in 2000, 2002 and 2004, which make up the bulk of recorded ‘racist’ incidents in France.
- Member States with low actual figures – such as Denmark, Ireland and Slovakia – will often show dramatic upward or downward trends on the basis of a few cases.

Bearing the above in mind, the final column in Table 1 presents a mean average of the year-by-year percentage changes during 2000-2005 for eleven Member States. By doing this we get rid of some of the peaks and troughs in data that can occur from one year to the next, and are left with a more representative overview of racist crime trends for the whole period; which indicates:

Eight of the eleven Member States experienced a general upward trend in reported/recorded racist crime during the period 2000-2005. These were Denmark, Germany, France, Ireland, Poland, Slovakia, Finland and the United Kingdom (England and Wales).

Three of the eleven Member States experienced a general downward trend in reported/recorded racist crime during the period 2000-2005. These were the Czech Republic, Austria and Sweden (although for Austria this downward trend was minimal).

**Table 1: Trends in officially reported/recorded racist violence and crime for the period 2000-2005 by Member State.**

	2000	2001	2002	2003	2004	2005	% change 2000-2001	% change 2001-2002	% change 2002-2003	% change 2003-2004	% change 2004-2005	% change average 2000-2005
Czech Rep	364 crimes	452	473	335	366	253	+ 24.2%	+ 4.6%	- 29.2%	+ 8.7%	- 30.5%	- 4.4%
Denmark	28 incidents	116	68	52	36	85	+ 314.3%	- 41.4%	- 23.5%	- 30.8%	+ 136.1%	+ 70.9% <sup>10</sup>
Germany <sup>11</sup>		14,725 crimes	12,933	11,576	12,533	15,914	<i>No data</i>	- 12.2%	- 10.5%	+ 8.3%	+ 27%	(2001-2005) + 3.1%
France	903 reports	424	1,317	833	1,574	974	- 53%	+ 210.6%	-36.8%	+ 89%	- 38.1%	+ 34.3%
Ireland <sup>12</sup>	72 reports	42	100	62	84	94	- 41.7%	+ 138.1%	- 38%	+ 35.5%	+ 11.9%	+ 21.2%
Austria	450 complaints	528	465	436	322	406	+ 17.3%	- 11.9%	- 6.2%	- 26.1%	+ 26.1%	- 0.2%
Poland	215 crimes	103	94	111	113	172	- 52.1%	- 8.7%	+ 18.1%	+ 1.8%	+ 52.2%	+ 2.3%
Slovakia	35 crimes	40	109	119	79	121	+ 14.3%	+ 172.5%	+ 9.2%	- 33.6%	+ 53.2%	+ 43.1%
Finland <sup>13</sup>	495 incidents	448	364	522	558	669	- 9.5%	- 18.8%	+ 43.4%	+ 6.9%	+ 19.9%	+ 8.4%
Sweden <sup>14</sup>	2,703 crimes	2,785	2,391	2,436	2,414 reports	2,383	+ 3%	- 14.1%	+ 1.9%	- 0.9%	- 1.3%	- 2.3%
UK (England & Wales) <sup>15</sup>	47,829 incidents	53,060	54,858	49,340	54,286	57,902	+ 10.9%	+ 3.4%	- 10.1%	+ 10%	+ 6.7%	+ 4.2%

*NOTE: The absolute figures below are not directly comparable between Member States. The table only indicates trends within a Member State*

<sup>10</sup> Member States reporting consistently low actual figures – e.g. Denmark, Ireland and Slovakia – will often show dramatic upward or downward trends on the basis of a few figures.

<sup>11</sup> Germany introduced a new registration system for racist, xenophobic and antisemitic crimes in 2000.

<sup>12</sup> Two sets of figures are publicly available in Ireland on racially motivated crime; one is the police annual reports and the other the policing plan. The above figures are taken from the police annual reports and are included here as they present the most up-to-date data for Ireland (which might be subject to amendment). Both the police annual reports and the policing plan for Ireland show a general upward trend in recorded crime (11.3 per cent in the period 2000-2004 based on policing plan figures (EUMC calculation)); for information on both data sets see EUMC online InfoBase.

<sup>13</sup> Caution should be exercised when looking at trends as the data collection system on racist violence and crime was taken over by the Police College of Finland in 2003 from the Police Department of the Ministry of Interior.

<sup>14</sup> Caution should be exercised when looking at trends as the data collection system on racist violence and crime changed slightly after 2003

<sup>15</sup> Unlike most Member States, figures for England and Wales are not reported by calendar year. The figures presented in the table refer to the following periods: 2000 = April 1999 - March 2000; 2001 = April 2000 - March 2001; 2002 = April 2001 - March 2002; 2003 = April 2002 - March 2003; 2004 = March 2003 - April 2004; 2005 = March 2004 - April 2005 (clarification offered by Home Office; note: in the Home Office's publication on 'Statistics on Race and the Criminal Justice System - 2005' [published in 2006] tables refer simply to reporting periods as, for example, 2003/04 or 2004/05).

In comparison with these eleven Member States that collected official data for the period 2000-2005, other Member States did not collect and make publicly available official data on racist crime or, where they did, only reported on a handful of cases that were prosecuted in court; namely Cyprus, Estonia, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Portugal, Slovenia and Spain. Official data collection in Belgium and the Netherlands focused on ‘general discrimination’ rather than detailed information on racist crime. This lack of progress in the area of data collection in some Member States is disappointing, and reflects the continued absence of a policy focus on racist crime in these countries (rather than the non-existence of racist violence and crime).

### Trends in racist activities of right-wing extremists

Very few Member States collect official criminal justice data on manifestations of right-wing extremist crimes. As a result it is not possible to determine whether right-wing extremism is playing a greater or less important role in manifestations of racist crime over time in many Member States. For those Member States that do collect official data, Table 2 indicates trends in racist/xenophobic crime with an extremist right-wing motive (based on a mean average of year-by-year percentage changes).

**Table 2: Trends in officially recorded racist/xenophobic crime with an extremist right-wing motive;** note - direct comparisons between Member States of absolute figures should not be undertaken; instead, the table should be read with respect to the trend shown within each Member State

	2000	2001	2002	2003	2004	2005	mean % change <sup>16</sup>
<b>Austria</b> Right-wing extremist motive	291	301	261	264	189	188	- 7.5% 2000-05
<b>Germany</b> Right-wing extremist crimes		10,054	10,902	10,792	12,051	15,361	+ 11.6% 2001-05
<b>Sweden<sup>17</sup></b> White-Power motive		1,201	1,161	1,278	1,266	1,062	- 2.6% 2001-05
	566	392	324	448	306	292	- 9.2% 2000-05

<sup>16</sup> This percentage mean change is calculated on the basis of an average of the year-by-year percentage changes for the period in question for each country.

<sup>17</sup> Sweden: Data published until 2004 by the Swedish Security Service and from 2005 by the Swedish Crime Prevention Council produces different interpretations of White Power crime. The higher figures include incidents that have been identified as having a White-Power motive with evidence of xenophobic, antisemitic or homophobic characteristics *as well as* incidents with a White-Power motive that do not contain information about their xenophobic, antisemitic or possible homophobic nature. The lower figures include only those crimes that have a White-Power motive *and* evidence that the crime was xenophobic or antisemitic in nature. It is possible that some of the cases that are classified with a general White-Power motive (without more detail about the characteristics of the incident) have included racist/xenophobic elements. Comparison of the two sets of figures shows that in over two-

As indicated in Table 2, Austria experienced an overall downward trend in right-wing extremist crime for the period 2000-2005, with the same overall trend for the period 2001-2005 (minus 10.2 per cent). Looking at either the higher or lower recorded figures on White-Power related crime (see footnote in table re Sweden), Sweden also experienced an overall downward trend for the period 2000-2005 and 2001-2005.. In comparison, Germany experienced a notable upward trend for the period 2001-2005. Reflecting official statistics, victim support organisations in Germany, which are supported by the federal programme CIVITAS, indicate that right-wing attacks increased significantly in the period 2004-2005 in eastern parts of the country (from 563 attacks in 2003, 551 in 2004, to 614 in 2005). At the same time, the German Office for the Protection of the Constitution indicates that the number of individuals belonging to neo-Nazi and other right-wing extremist groups increased steadily between 2000 and 2005.

In many Member States – for example Austria, Denmark, Estonia, Greece, the Netherlands, Portugal and Slovakia – there is evidence that right-wing extremist groups increasingly made use of the internet in the period 2000-2005 to distribute racist material (both written and music) and to organise and announce right-wing events and meetings, including attendance at football matches. As a reflection of increased internet use, it is apparent from a number of countries that right-wing extremist groups are becoming more international in their contacts and organisation. The internet is also increasingly used as a forum for expression and dissemination of racist attitudes by individuals who are not affiliated to any extremist right-wing organisation.

### **Trends in targeted victim groups**

Member States generally do not keep official data on ‘who’ victims of racist crime are – as a result, the police continue to be ill-informed in most Member States about victim characteristics. Finland and the United Kingdom are exceptional for having developed detailed criminal justice data collection on victim characteristics. In Finland, ‘who’ is most likely to be a victim of racist crime has remained stable in the period 2000-2004; namely – young men of foreign nationality or immigrant background (typically Somalis, Turks, Iraqis, Iranians and Russians). In addition, some countries collect specific data on anti-Semitic offences (but not victims’ characteristics) that can indicate whether these types of crimes are increasing or decreasing. For example, in France, where comprehensive data are collected on anti-Semitic ‘acts’ and ‘threats’, an analysis of Ministry of Interior data shows a 76 per cent mean average year-on-year percentage increase in recorded incidents for the period 2001 to 2005.<sup>18</sup> In comparison, in Germany, the Federal Ministry of the

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thirds of cases no specific motive is available apart from the incident being White-Power related.

<sup>18</sup> Calculated on the basis of a mean average of the year-by-year percentage changes for the period in question in France (2001 N= 219; 2002 N= 936; 2003 N= 601; 2004 N= 974; 2005 N= 504); see EUMC report ‘Antisemitism (summary overview of the situation in the EU 2001-2005)’, updated version December 2006 at:

Interior's figures on anti-Semitic offences (including non-violent and violent crimes) under the general category of 'politically motivated right-wing' crimes show a 6 per cent mean average year-on-year percentage increase for the period 2001-2005.<sup>19</sup> Other countries, which do not have systematic recording in place, have also witnessed sporadic increases in anti-Semitic offences, many of which are targeting Jewish cemeteries and places of worship.

In the absence of detailed criminal justice statistics on victim groups, NGOs played a valuable role in the years 2000-2005 in documenting the extent and nature of racist crime against particular groups. In general, it appears that the most 'visible' minorities in Europe – namely Africans and other 'black' minority groups, as well as the Roma (particularly in Central and Eastern Europe where their population is greatest) – were consistently most vulnerable to racist violence and crime across the EU in the period 2000-2005; for example: In Austria, the NGO ZARA indicates that Africans and other 'black' people were the main target of racist graffiti in the period 2002-2005 (ranging from being between 66 to 75 per cent of all recorded racist graffiti).

In the absence of official data in most Member States, NGOs have played an important role in documenting three new 'trends' in manifestations of racist violence and crime in Europe in the period 2000-2005. First, an apparent increase in attacks, harassment and insults against Muslim people and Muslim targets, or those thought to be Muslim, in the aftermath of September 11 2001; and also after country-specific incidents – such as the 2004 murder of Theo van Gogh in the Netherlands and the 2005 London bombings. Secondly, as immigration into Europe (both legal and irregular) increased during this period, a corresponding increase was noted in racist violence and crime against vulnerable immigrant communities – notably irregular immigrants, asylum seekers and refugees. Thirdly, NGOs have increasingly brought the plight of the Roma to the attention of the European public and policy makers. The situation of the Roma in countries of Central and South-Eastern Europe, where they represent a sizeable minority, is of some concern, particularly in view of reports on their continued abuse at the hands of public officials (including the police).

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[http://eumc.europa.eu/eumc/material/pub/AS/Antisemitism\\_Overview\\_December\\_2006\\_en.pdf](http://eumc.europa.eu/eumc/material/pub/AS/Antisemitism_Overview_December_2006_en.pdf)

<sup>19</sup> Calculated on the basis of a mean average of the year-by-year percentage changes for the period in question in Germany (2001 N= 1,424; 2002 N= 1,515; 2003 N= 1,199; 2004 N= 1,316; 2005 N= 1,685); see EUMC report 'Antisemitism (summary overview of the situation in the EU 2001-2005)', updated version December 2006 at: [http://eumc.europa.eu/eumc/material/pub/AS/Antisemitism\\_Overview\\_December\\_2006\\_en.pdf](http://eumc.europa.eu/eumc/material/pub/AS/Antisemitism_Overview_December_2006_en.pdf)

### 2.5.2. Policy responses to racist violence and crime

At the national level, encouraging developments can be noted in the period 2000-2005 in a number of Member States that have amended their legislation to enhance criminal law penalties for racist and xenophobic offences. For example: In Estonia, the Penal Code was amended in 2004 to provide enhanced sentencing provisions for repeat offending concerning ‘incitement to social hatred’; in Finland, the Penal Code was amended in 2003 to include ‘racist motive’ as grounds for enhanced punishment; in France, the Penal Code was amended in 2003 to provide for increased penalties for acts of murder, assault or damage to property committed on racial or religious grounds; and in the United Kingdom (England and Wales) the Anti-terrorism, Crime and Security Act 2001 amended the 1998 Crime and Disorder Act (which created ‘racially aggravated offences’) to include provisions for enhanced sentencing for ‘religiously aggravated’ offences. However, it is unclear to what extent these significant legal developments – the ‘law in the books’ – are being implemented in practice – the ‘law in action’.

Apart from amendments to the law, it appears that the specific problem of racist violence and crime is not being addressed at a proactive policy level in many Member States. Most Member States’ policy initiatives concerning minority groups are directed at generic initiatives concerning integration and inter-ethnic relations (for example, in 2003 the Danish government presented the policy paper ‘The government’s vision and strategies for better integration’). In comparison, Germany is notable for its comprehensive range of targeted policies and initiatives, namely ‘CIVITAS’ and ‘entimon’, which come under the federal programme ‘Youth for Tolerance and Democracy – Against Right-Wing Extremism, Xenophobia and Anti-Semitism’ against racist violence and crime that originally went into operation in 2000-2001, but which was due to expire at the end of 2006. The catalyst for these wide ranging initiatives was a dramatic increase in xenophobic and anti-Semitic incidents in 2000.

### 2.5.3. Police responses to racist violence and crime

An important development in the area of policing racist violence and crime relates to initiatives for improving mechanisms for police recording and registration of racist incidents. As data collection is a key indicator of whether the police are responding to racist violence and crime on an equal footing with other crimes, it is encouraging to see that a number of Member States set out to develop or enhance their existing data collection mechanisms in this period; notably: In 2001, Belgium initiated through the Centre for Equal Opportunities and Opposition to Racism (CEOOR) a new policy plan, for monitoring racist crime, in the context of the “Federal ten points plan against racism” that became operational in 2004; in 2001, Germany reorganised its entire system for recording politically motivated, xenophobic and anti-Semitic crime; in 2005, Ireland launched a National Action Plan Against Racism that includes a series of key commitments for effective monitoring and analysis of data on racist crimes; in 2004, Sweden established a

centralised data base for all recorded crimes, including hate crimes; in 2004, Sweden established a centralised database for all recorded crimes, including hate crimes. However, in contrast to these encouraging developments, in many Member States there was no indication that any improvements in data collection had been made during the period 2000-2005.

As part of the demands put on them for entry into the EU in May 2004, many of the countries that joined in 2004 were increasingly proactive in the period leading up to their accession in developing initiatives for improving police and minority community relations. A number of these initiatives were funded through the EC's PHARE programme, and specifically focused on the Roma; for example: In Hungary, police officers in Pest County took part in vocational training in which participants learnt about the Roma language, culture and conflict resolution. While many of these initiatives were directed generally at anti-discrimination policies, some specifically addressed the problem of racist violence and crime as part of targeted police training packages. Apart from those Member States that joined the EU in 2004, other Member States have also been active in promoting specific 'Action Plans' and general policies for enhanced police-community relations during 2000-2005; for example: Ireland and the United Kingdom. It is apparent that many of these police-community initiatives in the newly enlarged EU of 25 Member States were able to develop successfully only as a result of close NGO-police cooperation; particularly in consideration of Roma-centred initiatives.

In comparison with the bulk of generic police-community programmes in this period, a few specific initiatives targeting racist violence and crime can be noted; for example: In Finland – The National Programme for Reducing Violence in Finland, initiated in 2003, includes a number of recommendations concerning the police, racist offenders, and victims of racist crime. In Germany the 'EXIT Deutschland' initiative, launched in 2000, offers former right-wing extremists practical help in starting a new life.

As the police are the main State agents with a responsibility for responding to racist violence and crime, the absence in many Member States of targeted police policies and action in this area – in the period 2000-2005 – is of some concern. Some policing initiatives in the EU10 in the run up to accession were notable, but there remains a tendency throughout the EU for the police to continue to focus on minorities first and foremost as potential criminals, and, second, as victims of racist crime.

### 3. Conclusions

Racism and xenophobia within Europe are key concerns of the European Union, as is evident from the steps it has taken to address them. Particularly since 1986 the Community has intensified its actions, culminating in the declaration of 1997 as ‘European Year Against Racism’, the establishment of the European Monitoring Centre on Racism and Xenophobia and the start of the process of developing an effective legislative response to combating discrimination. The European Union continues its efforts to combat discrimination and promote equality, mainstreaming relevant actions into its work and engaging actors at regional as well as national level so as to ensure that a positive impact is felt.

In the period 1997 to 2005 several events served to highlight debates on exclusion, discrimination and integration of immigrants and minorities, as well as on anti-Semitism and Islamophobia, such as the riots in Spain against Moroccan immigrants in 2000, the terrorist attacks against the US and their impact on Europe, the terrorist attacks in Madrid in 2004 and in London in 2005, the murder of Dutch film director Theo van Gogh in 2004, the heated controversy over the cartoons depicting Prophet Mohammed in 2005, the urban disturbances and fires in immigrant apartment blocks in France in 2005.

The EUMC reported on the effects of high profile events that could impact on minority populations. Nevertheless, its primary aim has been to document discriminatory practices and structures that affect daily life and shape attitudes of many people in key areas of social life focusing particularly on racist violence and crime, anti-Semitism and Islamophobia.

This report shows that in the period from 1997 to 2005 progress has been made in the European Union, but also that much remains to be done, in combating discrimination, integrating immigrants and improving community cohesion.

The hard-won contest of freedom of expression is part of the principles and values that the EU is founded upon, and a fundamental cornerstone of European societies that is not negotiable. However, freedom of expression does not preclude the protection of people from racist and xenophobic language. Freedom of expression is not an absolute right; international law and the legal order of EU Member States lay down certain limits that our democratic societies consider are justified in order to protect other fundamental rights. Freedom of expression and the protection against racist and xenophobic language can, and have to, go hand-in-hand – the two together make democracy meaningful.

The common fundamental principles of the European Union and its Member States under Community law, the Charter of Fundamental Rights of the European Union and the European Convention for Protection of Human Rights and Fundamental Freedoms, must be respected. These values include respect for the uniqueness and

freedom of the individual, freedom of expression, equal opportunities for men and women (including the equal right of women to make individual choices in all areas of life) and equal treatment and non-discrimination on a number of grounds, including, for example, sexual orientation. Efforts to protect those principles may at times clash with the perceptions of religious duties of certain individuals or faith groups. However, this perspective is of fundamental importance and Member States have a positive duty under international human rights law to protect and promote these values, while ensuring that a potential critical stance towards certain attitudes of other groups in society respects the principle of equal treatment. Community cohesion policies should be based upon the respect of the fundamental values of the European Union and seek to build strong relationships between different communities at work, in schools and in residential areas, while utilising positive action in order to enhance equal access to services, housing, employment and education of those in marginalised position.

One recurring finding of all EUMC reports is the paucity of adequate comparable official statistical or quantitative research data that could make transparent or explain certain developments. This lack of data concerns all thematic areas covered by EUMC reports, but is particularly noticeable in the differing quality of data as regards statistics on racist violence and crime, with in some cases a complete absence of such data. The adoption of the Commission's Proposal for a Council Framework Decision on Combating Racism and Xenophobia would approximate the legislation of the Member States and could facilitate the establishment or improvement of data collection mechanisms, while also making such data more comparable.

Furthermore, the specialised bodies established in the Member States on the basis of Art 13 of the Race Equality Directive to promote equal treatment have an obligation to conduct independent surveys on discrimination. It is therefore expected that more reliable statistical data will be available in the future making trends over time more visible and allowing better informed policy development.

The European Union Fundamental Rights Agency (FRA), which will continue the work of the EUMC, will contribute to these positive developments including the support for targeted and effective fundamental rights policies in the interest of all people in the European Union.

## Annex

Chronological overview of European Union policy developments against racism and xenophobia

1977	Joint Declaration on Fundamental Rights signed by the European Parliament, the Council and the Commission.
1986	The European Parliament adopted the first report on its Committee of Inquiry into the Rise of Fascism and Racism in Europe.
	The Council, European Parliament and Commission adopted a Joint Declaration against Racism and Xenophobia.
1989	The Community Charter of the Fundamental Rights of Workers mentioned the importance of combating every form of discrimination, including discrimination on the grounds of sex, colour, race, opinion and beliefs.
1991	The European Council adopted a resolution at the Maastricht Summit promising to act “clearly and unambiguously to counter the growth of racism and xenophobia”.
	The European Council adopted a resolution at the Dublin Summit on the struggle against racism and xenophobia.
	The European Parliament adopted the second report of its Committee of Inquiry calling for increased action at European level.
1992	The European Economic and Social Committee adopted a resolution on racism, xenophobia and religious intolerance.
	The European Council adopted, at the Edinburgh Summit, a third resolution against racism calling for “vigorous and effective measures to be taken throughout Europe to control this phenomenon both through education and legislation”.
1993	Several European Parliament resolutions were adopted on racism, xenophobia, and the danger of right wing extremist violence.
	The European Council adopted a fourth declaration at the Copenhagen Summit, condemning racism and xenophobia. It states that it has “decided to intensify the efforts to identify and root out the causes” of

	racism and pledges “to do the utmost to protect immigrants, refugees and others against expressions and manifestations of racism and intolerance”.
1994	At the Corfu Summit the European Council decided to set up a Consultative Commission on Racism and Xenophobia to make practical recommendations favouring “tolerance and understanding”.
	At the Essen Summit, the European Council asked the Commission “to step up its discussions” in particular in the areas of education and training, information, the media, police and justice.
	The European Commission in its White Paper on Social Policy announced its intention to “press for specific powers to combat racial discrimination to be included in the Treaty”.
	The European Commission issued a Communication on Immigration and Asylum policies and devoted the last chapter to combating racial discrimination and to tackling racism and xenophobia.
	The European Parliament issued a resolution on racism and xenophobia calling for an EU directive to reinforce existing provisions in Member State’s legislation.
1995	The Consultative Commission presented its final reports, containing wide ranging recommendations for action to the European Council meeting in Cannes.
	The European Council asked the Consultative Commission to extend its work, in cooperation with the Council of Europe, to study the feasibility of setting up a European Monitoring Centre on Racism and Xenophobia.
	The European Parliament passed two resolutions on racism, xenophobia and anti-Semitism, urging for safeguards to equal employment opportunities, irrespective of age, race, sex, disability or beliefs.
	The Social Affairs Council and the Education Council adopted resolutions on combating racism in employment, social affairs and educational systems.
	The European Commission proposed a Council Decision to designate 1997 as the ‘European Year Against Racism’ underlining its determination to take action to combat racism, xenophobia and anti-Semitism in its Communication of 13 December 1995 on racism,

	xenophobia and anti-Semitism.
1996	The Consultative Commission completed the feasibility study and was asked by the European Council to continue its work until the EUMC would be established.
	The European Council and the Representatives of the Member States adopted a Resolution proclaiming 1997 as the ‘European Year Against Racism’.
	Joint action/96/443/JHA of 15 July 1996 was adopted by the Council on the basis of Article K.3 of the Treaty on European Union, concerning action to combat racism and xenophobia.
1997	‘European Year Against Racism’
	The European Council Regulation 1035/97 established the European Monitoring Centre on Racism and Xenophobia (EUMC).
	The Amsterdam Treaty, agreed by the European Union's political leaders on 17 June was signed on 2 October 1997.
1998	The European Commission in its Communication of 25 March 1998 concerning the ‘Vienna Action Plan Against Racism’ highlighted ways on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice.
1999	The Tampere Programme was adopted.
2000	Adoption of Race Equality Directive (2000/43/EC) and Employment Equality Directive (2000/78/EC).
2001	The Commission presented a proposal for a Framework Decision, aiming at approximating the laws and regulations of the Member States regarding racist and xenophobic offences.
2003	The European Council decided to extend the mandate of the EUMC to cover fundamental rights.
2004	Green Paper on equality and non-discrimination in an enlarged EU [COM (2004) 379 final - Not published in the Official Journal];
	The European Council of 4 and 5 November adopted the Hague

	<p>Programme;</p> <p>The JHA Council of 19 November 2004 adopted Common Basic Principles (CBPs) on integration of third-country nationals, [Council Document 14615/04];</p> <p>The Commission issued the first edition of “Handbook on Integration for Policy-Makers and Practitioners”.</p>
2005	<p>Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 1 June 2005 – “Non-Discrimination and Equal Opportunities for All – A Framework Strategy” [COM(2005)224 – not published in the Official Journal].</p> <p>The European Commission launched its Five Year Action Plan for Freedom, Justice and Security.</p> <p>The Commission published its proposal for a Council Regulation and Council Decision to establish a Fundamental Rights Agency.</p> <p>The Commission presented the communication “A Common Agenda for Integration – Framework for the Integration of Third-Country Nationals in the European Union”, [COM(2005) 389 final].</p>
2006	<p>Decision to designate 2007 as the European Year of Equal Opportunities for All.</p> <p>The Commission presented the Second Annual Report on Immigration and Integration [SEC (2006)892].</p>

European Union Agency for Fundamental Rights

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