



3	Racism, xenophobia and related intolerance	79
3.1.	Refugees, asylum seekers and migrants remain targets of racism and xenophobia	79
3.2.	EU steps up efforts to counter hate speech and hate crime	80
3.2.1.	EU tackles hate speech on social media	81
3.2.2.	EU and Member States target hate crime	82
3.2.3.	Courts confront racist and related hate speech and hate crime	85
3.3.	Tackling discrimination effectively in line with the Racial Equality Directive	86
3.3.1.	Diverse challenges hamper effective functioning of equality bodies	86
3.3.2.	Discriminatory police treatment and ethnic profiling persist	88
3.4.	Member State action plans to fight racism still lacking	89
	FRA opinions	91
	Endnotes	94

UN & CoE

12 January – In *Boacă and others v. Romania* (No. 40355/11), the European Court of Human Rights (ECtHR) reiterates state authorities' duty to take all reasonable steps to unmask racist motives and concludes that the lack of any apparent investigation into a complaint of discrimination violates the prohibition of degrading treatment (substantive aspect) and effective investigation (procedural aspect) and also violates the prohibition of discrimination in conjunction with the right of effective investigation (Articles 3 and 14 of the ECHR)

January

February

1 March – European Commission against Racism and Intolerance (ECRI) publishes its fifth monitoring report on France and conclusions on the implementation of its priority recommendations in respect of Ireland

16 March – ECRI adopts a general policy recommendation on safeguarding irregularly present migrants from discrimination

21 March – ECRI publishes a general policy recommendation on combating hate speech

March

12 April – In *M.C & A.C. v. Romania* (No. 12060/12), the ECtHR holds that the Romanian authorities failed to effectively investigate a homophobic attack, violating the right of effective investigation in conjunction with the prohibition of discrimination (Articles 3 and 14 of the ECHR)

12 April – In *R.B. v. Hungary* (No. 64602/12), the ECtHR holds that the inadequate investigations into the applicant's allegations of racially motivated abuse violated his right to respect for private life (Article 8 of the ECHR)

20 April – Council of Europe Parliamentary Assembly (PACE) adopts a resolution on a renewed commitment in the fight against antisemitism in Europe

April

May

7 June – ECRI publishes its fifth monitoring reports on Cyprus, Italy and Lithuania and the conclusions on the implementation of its priority recommendations in respect of Finland, The Netherlands and Portugal

15 June – Commissioner for Human Rights of the Council of Europe (CoE Commissioner for Human Rights) publishes a report following his visit to Poland

21 June – Committee on the Elimination of All Forms of Racial Discrimination (CERD) publishes concluding observations on the twenty-first to twenty-third periodic reports of Spain

24 June – PACE adopts a resolution on violence against migrants

June

1 July – UN Human Rights Council (UN HRC) adopts a resolution on 'Addressing the impact of multiple and intersecting forms of discrimination and violence in the context of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of all human rights by women and girls'

July

5 August – UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance publishes a report on these issues and on follow up to the Durban Declaration and Programme of Action

August

September

3 October – CERD publishes concluding observations on the twentieth to twenty-second periodic reports of Greece and of the United Kingdom and Northern Ireland

4 October – ECRI publishes its fifth monitoring report on the United Kingdom and the conclusions on the implementation of its priority recommendations in respect of Malta

5 October – CoE Commissioner for Human Rights publishes a report following his visit to Croatia

October

18 November – UN Human Rights Committee publishes concluding observations on the fourth report of Slovakia

23 November – UN Human Rights Committee publishes concluding observations on the seventh periodic report of Poland

November

9 December – CERD publishes concluding observations on the nineteenth and twentieth periodic reports of Italy and concluding observations on the fifteenth to seventeenth periodic reports of Portugal

December

EU

19 January – European Parliament (EP) passes a resolution on the role of intercultural dialogue, cultural diversity and education in promoting EU fundamental values

January

February

March

April

31 May – European Commission and major IT companies (Facebook, Microsoft, Twitter and YouTube) agree on a Code of conduct on countering illegal hate speech online

May

14 June – Launch of the European Union High Level Group on combating racism, xenophobia and other forms of intolerance

June

July

August

September

25 October – EP passes a resolution on human rights and migration in third countries

26 October – EP removes parliamentary immunity of two MEPs for inciting racial hatred

October

November

13 December – EP passes a resolution on situation of fundamental rights in the EU in 2015

13 December – EP adopts new Rules of Procedure strengthening hate speech sanctions

December

3

Racism, xenophobia and related intolerance



Racist and xenophobic reactions towards refugees, asylum seekers and migrants persisted across the EU in 2016. Muslims experienced growing hostility and intolerance, while discrimination and anti-Gypsyism continued to affect many Roma. The European Commission set up a High Level Group on combating racism, xenophobia and other forms of intolerance to support national efforts in this area, as well as to counter hate crime and hate speech. EU Member States targeted hate crime in diverse ways, reviewing classifications of bias motivations, conducting awareness-raising campaigns and providing specialised training to law enforcement officers and prosecutors. Meanwhile, the European Commission continued to monitor implementation of the Racial Equality Directive. Recurring challenges include various impediments to equality bodies' effectiveness and independence, discriminatory ethnic profiling and a lack of national action plans to fight racism.

3.1. Refugees, asylum seekers and migrants remain targets of racism and xenophobia

Racist and xenophobic reactions to the arrival of refugees, asylum seekers and migrants in the EU, which had marked 2015, continued unabated in 2016. These included hate speech, threats and hate crimes. Where perpetrators could be identified, they were most often – but not exclusively – found to be extreme right-wing sympathisers (for more information on asylum, migration and integration, see Chapter 5).

For example, vigilante groups with ties to right-wing extremist groups violently attacked and harassed asylum seekers and migrants in **Bulgaria, Finland, Germany, Greece, Hungary** and **Sweden**.¹ In **Bulgaria** and **Poland**, some authority figures welcomed such groups patrolling areas with large numbers of refugees and asylum seekers, as FRA noted in its November 2016 monthly report on the migration situation in the EU. The available evidence indicates that right-wing

extremists, members of the general population and those with minority ethnic or religious backgrounds can all be perpetrators of racist and xenophobic violence.²

Germany remains the EU Member State that collects the most comprehensive data on hate crime targeting asylum seekers, their accommodation centres or organisations that work for their benefit. The authorities recorded 2,545 hate crimes targeting asylum seekers and refugees between 1 January and 31 December 2016, with another 988 targeting asylum seekers' accommodation and 217 targeting help organisations or volunteers. Nearly all of the identified perpetrators were right-wing extremists.³

Data from the **Netherlands** show that 53 crimes with a discriminatory motive targeting refugees were brought to the attention of the police in 2015. Most of these crimes were recorded in the context of protests against planned asylum seeker centres.⁴ In **Finland**, 15 attacks against reception centres were registered by the police in 2015, including arson.⁵ No data were available for 2016 at the time of writing for either Finland or the Netherlands.

Promising practice

Holding workshops on hate speech and migration

A project, run by the Peace Institute-Institute for Contemporary Social and Political Studies in **Slovenia**, educates young people about hate speech against migrants through workshops at schools. Students first analyse particular cases of hate speech and discuss its effects and potential responses to it. The second part entails a discussion with a person with a migrant background. The main objective is for students to be able to recognise hate speech and set it in the context of migration, human rights and intercultural dialogue. The project is financed by the state budget.

For more information, see The Peace Institute, Institute for Contemporary Social and Political Studies, 'Workshops on hate speech and migration' (Delavnice o sovražnem govoru in migracijah)

Human rights activists, politicians and journalists perceived as 'pro-refugee' were also targeted by extreme right-wing sympathisers in 2016. The most brutal example is perhaps the murder of Jo Cox, a Member of Parliament in the **United Kingdom**, who was shot and stabbed to death in June. The presiding judge noted during sentencing that "[t]here is no doubt that this murder was done for the purpose of advancing a political, racial and ideological cause namely that of violent white supremacism and exclusive nationalism most associated with Nazism and its modern forms", adding that this "is one of the indices of an offence of exceptionally high seriousness for which the appropriate starting point is a whole life term".⁶

Muslims also experienced more hostility and intolerance across the EU in 2016, increasingly perceived as terrorists or sympathisers of terrorism. For example, a survey by the Pew Research Center shows that many Europeans perceive migration as being linked to the threat of terrorism.⁷ On average, in the 10 EU Member States surveyed, 59 % of respondents believe that the presence of refugees in their country increases the likelihood of terrorist attacks. The Member States surveyed were **France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, Spain, Sweden** and the **United Kingdom**.

"In some parts of Europe, and in the United States, anti-foreigner rhetoric full of unbridled vitriol and hatred, is proliferating to a frightening degree, and is increasingly unchallenged. The rhetoric of fascism is no longer confined to a secret underworld of fascists, meeting in ill-lit clubs or on the 'Deep Net.' It is becoming part of normal daily discourse."

Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights (2016), 'Human rights "under unprecedented pressure" world-wide: Zeid calls on people to stand up for rights of others'

There is no concrete evidence that terrorists systematically use the movements of refugees to enter the EU undetected – though isolated cases were identified, as Europol notes.⁸ Nevertheless, some political actors continued to exploit such perceptions to further their agendas in 2016, just as in 2015. For example, the Prime Minister of **Hungary** claimed before a referendum on EU quotas for the relocation of asylum seekers that "migration poses a threat, increases terrorism and increases crime. Mass migration fundamentally changes Europe's cultural make-up. Mass migration destroys national culture."⁹ In **Slovakia**, the Prime Minister stated in May 2016 that "Islam has no place in Slovakia";¹⁰ and the President of the **Czech Republic** said in January that "it is basically impossible to integrate Muslim communities".¹¹

The potential negative impact of such rhetoric is perhaps best illustrated by reactions that followed the **United Kingdom's** referendum on its continued membership in the EU. The National Police Chiefs' Council stressed that "[p]olice forces are working closely with their communities to maintain unity and tolerance and prevent any hate crime or abuse following the EU referendum. [...] We are seeing an increase in reports of hate crime incidents to True Vision, the police online hate crime reporting site."¹² In the four days following the referendum, 57 % more hate crimes were reported to the police than in the same four-day period during the previous month.¹³ Data published by the Home Office in October 2016 further show that there was a clear increase in the number of racially or religiously aggravated offences recorded by the police following the referendum.¹⁴

3.2. EU steps up efforts to counter hate speech and hate crime

The Framework Decision on Racism and Xenophobia penalises racist and xenophobic hate speech and hate crime.¹⁵ In December 2015, the European Commission initiated formal inquiries with Member States in which major transposition gaps remained, with a view to launching infringement proceedings where necessary. This prompted notable legislative developments in **Cyprus**,¹⁶ **France**,¹⁷ **Hungary**,¹⁸ **Ireland**,¹⁹ **Italy**²⁰ and **Slovakia**.²¹

Italy introduced legislative provisions on hate speech and propaganda based on racial and ethnic grounds, an explicit reference to Holocaust denial, crimes of genocide, crimes against humanity and war crimes, providing for a penalty of two to six years of detention. In **France**, a bill making racism, antisemitism and homophobia general aggravating circumstances was under scrutiny in the Senate in 2016. It proposes raising

the maximum punishment for racist or discriminatory insults (currently six months and € 22,500) to the same level as that for provocation and racist or discriminatory slander (one year and € 45,000).

Hungary amended its criminal code provisions relating to the offence of ‘incitement against a community’ to comply with the Framework Decision on Racism and Xenophobia. Similarly, **Slovakia** amended its Criminal Code of Criminal Procedure. Pursuant to the changes, all trials for racist and extremist crimes will be handled by a Special Criminal Court. The amendments also introduce a new type of crime: apartheid and discrimination of a group of people.

In addition to its enforcement actions in 2016, the EU stepped up its efforts to counter hate crime and hate speech in various ways – thereby following up directly on the conclusions of the first Annual Colloquium on Fundamental Rights, which focused on combating antisemitism and anti-Muslim hatred.²² In April, the European Commission set aside € 7,325,000 for grants²³ that meet the objective of combating racism, xenophobia, homophobia and other forms of intolerance under the Rights, Equality and Citizenship Programme.²⁴

Priority funding areas include grassroots projects on preventing and combating antisemitism and anti-Muslim hatred and intolerance; projects promoting the development of tools and practices to prevent, monitor and combat online hate speech; and projects fostering understanding between (religious) communities, and preventing and combating racism and xenophobia through interreligious and intercultural activities. A further € 1,500,000 were earmarked to promote the exchange of best practices on preventing and combating hate crimes among public authorities.

Such exchanges are at the core of the EU High Level Group on combating racism, xenophobia and other forms of intolerance, which the European Commission set up in June.²⁵ The group aims to facilitate the exchange and dissemination of best practices between national authorities to better prevent and combat hate crime and hate speech; foster thematic discussions on gaps, challenges and responses; strengthen cooperation and synergies between key stakeholders, with the ultimate aim of providing guidance to Member States on how to better prevent and combat hate crime and hate speech; and examine national strategies that exist to combat racism, xenophobia and other forms of intolerance.

The high level group brings together all 28 Member States, civil society organisations, community representatives, FRA and other relevant EU agencies, as well as international organisations including the UN, the Organization for Security and Co-operation in Europe and the Council of Europe. It is composed of two

subgroups, with one focusing on countering online hate speech and the other on methodologies for recording and collecting data on hate crime. These subgroups will operate for an initial period of two years.

3.2.1. EU tackles hate speech on social media

With many people using social media platforms as their main sources of information, addressing online hate speech is crucial. As FRA noted in its contribution to the second Annual Colloquium on Fundamental Rights, (unverified) statements posted online can go viral almost instantly and may incite hatred.²⁶ Challenging and removing them is difficult. This can have a corrosive effect, especially when such content is amplified and alternative views are seldom, if ever, expressed.

The European Commission coordinates the subgroup on online hate speech under the High Level Group on combating racism, xenophobia and other forms of intolerance.²⁷ This subgroup aims, among others, to assess the implementation of a voluntary code of conduct on countering illegal hate speech online, agreed in May 2016 between the Commission and four information technology (IT) companies: Facebook, Twitter, Microsoft and YouTube. Though strongly criticised by organisations defending freedom of expression and information,²⁸ the code of conduct was well received by Member States and civil society organisations active in the field of tackling online hate speech. Some civil society organisations working on digital rights and freedom were also critical, citing concerns about private legal entities – such as social media platforms – acting as arbiters between competing fundamental rights. The code of conduct sets out that these companies shall review, remove or disable illicit content within 24 hours of receiving a valid removal notification from users.²⁹

“[T]o prevent the spread of illegal hate speech, it is essential to ensure that relevant national laws transposing the Council Framework Decision 2008/913/JHA are fully enforced by Member States in the online as well as the in the offline environment. While the effective application of provisions criminalising hate speech is dependent on a robust system of enforcement of criminal law sanctions against the individual perpetrators of hate speech, this work must be complemented with actions geared at ensuring that illegal hate speech online is expeditiously acted upon by online intermediaries and social media platforms, upon receipt of a valid notification, in an appropriate time-frame.”

European Commission (2016), Code of Conduct on Countering Illegal Hate Speech Online, pp. 1-2

Although monitoring online content under the code of conduct is a continuous process, results are available for the first monitoring exercise, which covered the six weeks from 10 October to 18 November 2016.³⁰ Ten civil society organisations and two equality

bodies based in nine Member States participated in this exercise (**Austria, Belgium, Denmark, France, Germany, Italy, the Netherlands, Spain and the United Kingdom**). Eight of these organisations are members of the International Network Against Cyberhate; the equality bodies are the Belgian Interfederal Centre for Equal Opportunities and the Italian National Office against Racial Discrimination.

For the first monitoring exercise, the organisations sent IT companies a total of 600 notifications of alleged illegal online hate speech, as defined in national criminal codes transposing the Framework Decision on Racism and Xenophobia. The largest proportion of notifications concerned antisemitic content (23.7 %), followed by content relating to national origin (21 %), anti-Muslim hatred (20.2 %), race (11.7 %) and ethnic origin (9.5 %). The remaining 13.9 % of notifications fell into the category of 'other content', which encompasses colour, descent, religion, sexual orientation and gender-related hatred. The IT companies removed 28.2 % of the content of which they were notified, and 40 % of the notifications were reviewed within 24 hours.³¹

Initiatives taken in Member States in 2016 to counter online hate speech can also be noted here. Largely mirroring the high level group, the **Slovak** government established a working group on hate crimes in June to counter online hate speech, bringing together public authorities, non-governmental organisations and IT companies.³² Since September, the **Danish** Institute for Human Rights has coordinated a Nordic network mapping online sexist speech and hate speech.³³ The Ministry of Culture in **Latvia** issued recommendations in September on how to prevent the dissemination of hate speech in the media, including online. To that end, the ministry recommends, among other things, stricter enforcement of existing legislation; revising outdated definitions of the 'media'; training law enforcement agents; and conducting public awareness campaigns.³⁴

3.2.2. EU and Member States target hate crime

As reported in previous Fundamental Rights Reports, and as [Table 3.1](#) and [Table 3.2](#) on official data on hate crime show, large discrepancies remain in terms of how Member States record incidents of hate crime, preventing meaningful comparisons between countries. Variations and gaps between EU Member States can result from many factors, including how these crimes are defined in criminal law; how incidents or their characteristics are recorded; the willingness and ability of victims and/or witnesses to report incidents; victims' awareness of organisations to which incidents can be reported; the degree of victims' trust that authorities will deal with such incidents appropriately; and the actual occurrence of racist, xenophobic and related crime.

Partly to address these discrepancies, the European Commission asked FRA to coordinate a subgroup on methodologies for recording and collecting data on hate crime under the High Level Group on combating racism, xenophobia and other forms of intolerance.³⁵ This subgroup, set up in October, aims to identify core elements of a methodology with which to record incidents and data on hate crime to enable comparisons between Member States. The initial priorities of the subgroup will be to agree on a monitoring definition of hate crime; develop a set of bias indicators to be recorded; and design a reporting tool that covers relevant bias indicators, victims' perceptions and bias motivations underlying a hate crime. The first outputs of the subgroup are expected in 2017.

Examples from several Member States illustrate the types of steps taken to prevent and counter hate crime, including reviewing classifications of bias motivations; awareness-raising campaigns on hate crime; training law enforcement officers and prosecutors; and enhancing understanding of hate crime through research.

Concerning classifications, the Police and Border Guard Board in **Estonia** began recording three new categories of bias motivations: race, religion, origin; sexual orientation/identity; and other.³⁶ The **Danish** National Police issued national guidelines on how to record hate crime.³⁷ The Danish Director of Public Prosecutions revised instructions to the police and prosecution services on how to process cases of hate crime and ethnic discrimination, which can lead to improving the quality of recorded data.³⁸

Several Member States conducted campaigns to raise awareness of hate crime and hate speech in 2016. In the **Czech Republic**, the focus lay on supporting relevant professionals in tackling hate crime.³⁹ In **Germany**⁴⁰ and **Portugal**,⁴¹ attention was directed at empowering young people to recognise and act against online hate speech. In Austria, the campaign #GegenHassimNetz (#againsthateontheWeb), supported by the Austrian Federal Chancellery, aims to expose cases of hatred and racism on the web and offers ways of dealing with such postings. **Ireland**⁴² and the **United Kingdom**⁴³ ran campaigns on public transport services to encourage people to report racism when they witness it and raise awareness of how and where hate crime can be reported.

Member States also organised specialised training on hate crime for police officers throughout the year – including **Bulgaria**,⁴⁴ **Cyprus**⁴⁵ and **Greece**.⁴⁶ In **Hungary**, the Working Group against Hate Crime arranged several training events for police officers, using videos on experiences of different victim groups, after which participants assessed factors hindering victims from cooperating with police and reporting incidents to them. A forum was established for exchanging good practices related to the investigation of hate crime cases.⁴⁷

Table 3.1: Summary overview of officially recorded data pertaining to hate crime by EU Member State, as of 31 December 2016

Member State	Recorded data (according to recording authorities' definition)	Recording authority	Publication of data
AT	Politically motivated crimes: offences committed and cases reported to the court	Ministry of the Interior, Federal Agency for State Protection and Counter-terrorism	Annual report on the protection of the Constitution
BE	Incidents/crimes recorded by the police	Belgian Federal Police	Criminal statistics of the Belgian Federal Police
CY	Motive in incidents and/or cases of racial nature and/or with racial motive	Office for Combating Discrimination, Crime Combating Department, Police Headquarters	Criminality statistic data - racist incidents - incidents and/or cases of racial nature and/or with racial motive, published by the Cyprus Police
CZ	Crimes with an extremist context	Ministry of the Interior, Security Police Department	Annual report on the issue of extremism in the Czech Republic
DE	Politically motivated crime: criminal offences; acts of violence	Ministry of the Interior	Annual report on the protection of the Constitution
DK	Hate crimes separated into three main categories: racially motivated, religiously motivated and sexually oriented, which are further divided into a number of subcategories	National Police of Denmark	Annual report on hate crimes
ES	Hate crimes distinguished by racial, xenophobic, antisemitic, religious and disability bias	Ministry of the Interior, Forces and Security Bodies	Ministry of the Interior: report on incidents related to crimes of hate in Spain
FI	Suspected hate crimes reported to the police motivated by prejudice or hostility towards the victim's real or perceived ethnic or national origin, religion or belief, sexual orientation, transgender identity or appearance, or disability	Police University College of Finland	Annual report on hate crimes reported to the police in Finland
FR	Cases with racial, antisemitic and anti-Muslim aspects recorded by the police and the gendarmerie	Ministry of the Interior	Annual report on the fight against racism, antisemitism and xenophobia
HR	Hate crime incidents recorded by police by bias motivation: race, colour, religion, national or ethnic origin, disability, sex, sexual orientation, or gender identity.	Police, State's Attorney Office and the Ministry of Justice	Data published in the police annual statistics
IE	National total of reported racially motivated crime (including antisemitism)	Central Statistical Office	Data on reported racist crime published on the website of the Office for the Promotion of Migrant Integration
IT	Hate crimes recorded by police by bias motivation: racism, xenophobia, bias against LGBT people and bias against people with disabilities	Police	Data published on the website of ODIHR
LT	Data collected according to the Criminal Code	Police Department under the Ministry of the Interior and the Prosecutor General's Office	Data published on the website of Information Technology and Communications Department under the Ministry of the Interior of the Republic of Lithuania
NL	Incidents of criminal discrimination	Discrimination incidents recorded by the police	Annual report on criminal discrimination
PL	Crimes of incitement to hatred recorded by the police	Ministry of the Interior and Administration	Data published on the website of ODIHR
SE	Offences reported to the police with an identified hate crime motive	Swedish National Council for Crime Prevention	Annual report on statistics relating to offences reported to the police with an identified hate crime motive

Table 3.1: (continued)

Member State	Recorded data (according to recording authorities' definition)	Recording authority	Publication of data
UK	<p>England, Northern Ireland and Wales: recordable crimes under Home Office recording rules; monitored categories are race, faith and religion, sexual orientation, transgender, disability and antisemitism</p> <p>England and Wales: hate crime offences for the five centrally monitored strands: race, sexual orientation, religion, disability and gender identity</p> <p>Northern Ireland: crimes with a hate motivation recorded by the police of Northern Ireland</p> <p>Scotland: hate crime reported to the Procurator Fiscal: race crime and crimes aggravated by religious, disability, sexual orientation or transgender identity prejudice</p>	<p>England, Northern Ireland and Wales: regional police forces in England, Northern Ireland and Wales</p> <p>England and Wales: Home Office</p> <p>Northern Ireland: Police Service of Northern Ireland</p> <p>Scotland: Crown Office and Procurator Fiscal Service</p>	<p>England, Northern Ireland and Wales: data published on the police-funded website True Vision, designed to provide information about hate crime</p> <p>England and Wales: Home Office annual statistical bulletin on hate crime recorded by police in England and Wales</p> <p>Northern Ireland: Home Office annual bulletin on trends in hate motivated incidents and crimes recorded by the police</p> <p>Scotland: Hate Crime in Scotland, 2015–16 annual report</p>

Source: FRA, 2016

Table 3.2: Official data pertaining to hate crime published in 2016, by bias motivation and by EU Member State

Member State	Racism	Anti-Roma	Antisemitism	Anti-Muslim hatred	Religion	Extremism	Sexual orientation	Gender identity	Disability
AT	323		41	31		523			
BE	1,028		8				169		
CY	5		0		0		0	0	
CZ	54	33	47	5		175			
DE	1,214		1,366		1,112		222		19
DK	104		13	41	6		26	5	
ES	505		9		70		169	24	226
FI	991		8	71	54		55	6	65
FR	797		808	429					
HR	1	1 ^a	2 ^a	1 ^a	1		6		
IE	105								
IT	369 ^a						45 ^a		141 ^a
LT	8				1		32		
NL	2,215		428	439	21		1,574	109	61
PL	133 ^a	26 ^a	50 ^a	42 ^a	12 ^a				
SE	4,765	239	277	558	719		602	62	
UK – EN, WAL & NI	40,744 ^b		629 ^b		3,177 ^b		5,553 ^b	607 ^b	2,350 ^b
UK – EN & WAL	49,419 ^c				4,400 ^c		7,194 ^c	858 ^c	3,629 ^c
UK – NI	853 ^c				19 ^c		210 ^c	12 ^c	74 ^c
UK – SCO	3,712 ^c				581 ^c		1,020 ^c	30 ^c	201 ^c

Notes: Comparisons between Member States are not possible, as they each record different types of data relating to hate crime. Blank entries = no data are collected or published.

ODIHR = Office for Democratic Institutions and Human Rights.

^a ODIHR hate crime reporting.

^b Fiscal year (1 April 2014 to 31 March 2015).

^c Fiscal year (1 April 2015 to 31 March 2016).

Source: FRA, 2016 (based on data published by responsible EU Member State authorities)

EU-MIDIS II: gauging progress

FRA launched its second European Union Minorities and Discrimination Survey (EU-MIDIS II) in 2015. It assesses the actual impact of EU and national anti-discrimination and equality measures on people's lives.

EU-MIDIS II covers all 28 EU Member States and involves about 26,000 randomly selected respondents from different ethnic minority or immigrant backgrounds. The survey focuses on experiences of discrimination, criminal victimisation, and rights awareness. It also collected data on socio-economic conditions and issues relating to social inclusion and participation, addressing employment, education, health and housing.

The survey aims to support policymakers in developing more targeted responses to racism and hate crime, and can also bolster the advocacy work of civil society organisations. Selected EU-MIDIS II findings on the situation of Roma were published in 2016; further outputs, as well as data visualisation on the FRA website, will follow in 2017.

For more information, see FRA (2015), *EU-MIDIS II: European Union Minorities and Discrimination Survey*



Training on hate crime for judges and prosecutors was also organised – for example, in **Belgium**,⁴⁸ **Bulgaria**⁴⁹ and **Poland**.⁵⁰ In **Latvia**, the Judicial Training Centre led a seminar for prosecutors and judges on 'Hate Crimes and Freedom of Expression', addressing what qualifies crimes as hate crimes and outlining relevant ECtHR case law.⁵¹ In **Hungary**, several courses were organised⁵² and an online learning programme⁵³ for legal practitioners was launched in May 2016.

Children at schools can also become victims of racism. In **Cyprus**, the Code of Conduct against Racism and the Guide for Handling and Recording Racist Incidents was applied to at least 73 schools of all levels in 2015-2016.⁵⁴ Primary schools recorded 40 incidents and a secondary school recorded one incident. According to the Ministry of Education, the low number of recorded incidents is affected by underreporting by both schools and by victims, who may be afraid to report incidents or not convinced that doing so would be useful.

3.2.3. Courts confront racist and related hate speech and hate crime

Several ECtHR rulings issued in 2016 concluded that Member States failed to efficiently investigate incidents potentially involving discriminatory motives. At national level, various court decisions further clarified what kind of acts and statements constitute incitement to hatred and insult.

In *R.B. v. Hungary*,⁵⁵ the ECtHR found a violation of Article 8 (right to respect for private and family life) of the ECHR on account of an inadequate investigation into the applicant's allegations of racially motivated abuse. The applicant, a woman of Roma origin, claimed that she was subjected to racist insults and threats by participants in an anti-Roma march and that

the authorities failed to investigate the racist verbal abuse. The court concluded that the authorities failed to take all reasonable steps to determine the role of racist motives, and ordered **Hungary** to pay € 4,000 for non-pecuniary damage and € 3,717 for costs and expenses. It should be noted that the incident at issue occurred before Hungary introduced the legislative amendments referred to at the beginning of Section 3.2, pursuant to which Section 216 of the Criminal Code now prohibits 'violence against a member of a community'.

In *Boacă and others v. Romania*⁵⁶ the ECtHR found that the lack of any apparent investigation by the authorities into a complaint of discrimination amounted to a violation of Article 14 (principle of non-discrimination) in conjunction with Article 3 (prohibition of inhuman or degrading treatment) of the ECHR. Seven applicants of Roma origin claimed that they suffered ill-treatment by the police and that the authorities decided not to bring criminal charges against the police officers, who had beaten them predominantly because of their Roma ethnicity. The court ordered **Romania** to jointly pay the applicants € 11,700. This case belongs to a group of older cases, for which the Council of Europe Council of Ministers' examination was closed by Resolution CM/ResDH(2016)150 in *Barbu Anghelescu v. Romania and other 35 cases*. In this resolution, the Council of Ministers welcomed the measures adopted by the Romanian authorities to enhance the effectiveness of criminal investigations into allegations of ill-treatment by law-enforcement officials, noting the reinforced monitoring of their implementation by the General Prosecutor's Office.⁵⁷

In *M.C & A.C. v. Romania*,⁵⁸ the ECtHR examined a case concerning the police investigation of an attack on two Bucharest Pride March participants. The applicants were subjected to homophobic abuse and were punched and kicked by a group of six people on the metro.

The court found that the Romanian authorities' failure to efficiently investigate the incident and its potential discriminatory motive was in breach of Article 3 of the ECHR, in conjunction with Article 14. The court ordered **Romania** to pay € 7,000 to each applicant for non-pecuniary damage and € 3,863.02 to them jointly for costs and expenses.

Meanwhile, in the **Czech Republic**, the Supreme Court ruled that placing a sticker with the symbol of a Nazi movement on the window of a car and then using the car in regular traffic amounted to a public expression of sympathy with a movement aiming to suppress human rights and freedoms, prohibited by the Criminal Code.⁵⁹

In **Luxembourg**, the Court of Appeal fined a politician € 7,000 for inciting racial hatred by producing and disseminating pamphlets accusing immigrants of being responsible for the "destruction of the country".⁶⁰ In **Malta**, two men were fined € 3,000 each for anti-immigrant hate speech on Facebook.⁶¹

In the **Netherlands**, the Supreme Court ruled that certain statements made by a politician – such as "Ali B. and Mustapha, move to Ankara" and "today we demonstrate against the multicultural terror and for a total immigration stop" – constituted incitement to racial discrimination and insult motivated by racial bias as defined in the Dutch criminal code. In another case, the leader of the Dutch Party for Freedom was tried over statements he made about Moroccans. The District Court of the Hague convicted him of inciting discrimination and "insulting a group", but deemed the evidence insufficient to find him guilty of incitement to hatred.⁶²

3.3. Tackling discrimination effectively in line with the Racial Equality Directive

The European Commission indicated in 2014 that increasing awareness of existing protection and ensuring "better practical implementation and application" of the Racial Equality Directive (2000/43/EC) was a major challenge.⁶³ It continued to closely monitor implementation of the directive in 2016, initiating and pursuing infringement proceedings against Member States found to be in breach of its provisions.

Following up on the CJEU's 2015 judgment in *CHEZ Razpredelenie Bulgaria AD v. Komisia za zashtita ot diskriminatsia*,⁶⁴ the European Commission sent a formal notice to the Bulgarian government, asking it to present the measures it planned to undertake

to bring the national anti-discrimination legislation in line with the Racial Equality Directive. In response, the Bulgarian parliament adopted amendments to the Protection against Discrimination Act and revised the legal definitions of the terms 'indirect discrimination' and 'unfavourable treatment'.⁶⁵

In May 2016, the European Commission sent a formal notice to **Hungary** based on non-conformity with the Racial Equality Directive. The formal notice, which is the first step of an infringement procedure, concerns discrimination against Roma children in the education sector. Specifically, the Commission expressed concerns that legislation and administrative practices in place lead to discrimination against Roma children both by segregating them in mainstream education and by resulting in their over-representation in special schools for mentally disabled children.⁶⁶ The Commission has sent letters of formal notice to two other Member States, the **Czech Republic**⁶⁷ and **Slovakia**,⁶⁸ in relation to similar issues in the recent past, also alleging discrimination against Roma children in educational legislation and practice.

The Council of the European Union also raised concerns over inequalities in education regarding Roma children in the **Czech Republic**,⁶⁹ **Hungary**⁷⁰ and **Slovakia**.⁷¹ In the case of **Hungary**, the Council noted that the lack of equal access to quality mainstream education is particularly acute for Roma children. With regard to **Slovakia**, it stressed that the "recently adopted anti-segregation legislation has yet to be implemented to bring about positive change and increase Roma participation in mainstream education, including pre-school education."⁷²

Meanwhile, to tackle segregation of Roma children in primary and secondary education, **Romania** adopted two framework orders prohibiting segregation on ethnic grounds.⁷³

In addition to the ongoing infringement proceedings noted above, a number of other Member States have been under investigation for discrimination against Roma and Travellers, in particular in the fields of education and housing. For more information on Roma integration, see [Chapter 4](#).

3.3.1. Diverse challenges hamper effective functioning of equality bodies

The European Commission also closely monitors the setting up of equality bodies in EU Member States. Pursuant to Article 13 (2) of the Racial Equality Directive, these bodies should be able to provide independent assistance to victims of discrimination. In that respect, the Commission in 2014 initiated

infringements proceedings against **Slovenia** for failing to set up an independent equality body able to provide efficient assistance to such victims.⁷⁴ In response, the Slovenian parliament adopted the Protection against Discrimination Act, establishing an independent body – the Office of the Government of the Republic of Slovenia for Principle of Equality – without, however, providing the new body with appropriate financial means to perform its function.⁷⁵ Following adoption of the new law, the Commission discontinued its infringement proceedings against Slovenia in July 2016. The Commission carried out similar investigations into the independence and functioning of equality bodies in a number of Member States during 2016.

Strengthening the powers of equality bodies contributes to more effective implementation of the Racial Equality Directive. The European Network of Equality Bodies (Equinet) stressed the need for standards to secure the effectiveness of such bodies. According to Equinet, these standards should address and secure, among other things, adequate financial staff and physical resources, general powers – such as commissioning and conducting research, making recommendations, conducting general investigations and challenging domestic legislation – and specific powers to underpin tribunal-type functions.⁷⁶

A number of Member States adopted legislation aimed at increasing the powers, and extending the mandates, of their equality bodies in 2016. For example, **Greece** adopted legislation making the Ombudsperson the central supervisory authority of the two Equality Directives.⁷⁷ The new law also gives the Ombudsperson the mandate to investigate, as an independent mechanism, incidents of arbitrary acts involving security forces and in detention facilities. In addition, it creates 20 additional staff posts to permit the entity to effectively accomplish its tasks under its new competences as equality body as well as national mechanism for the investigation of incidents of ill-treatment. Moreover, if the ECtHR finds that **Greece** is guilty of violating the ECHR, the Ombudsperson shall review the case at issue and decide whether or not to initiate an investigation. Although the Greek National Commission for Human Rights considered this development to be positive, it noted that the powers allocated to the Ombudsperson do not suffice to guarantee its effective functioning as an independent investigative mechanism.⁷⁸

In **Portugal**, legislation adopted in 2016 refers to the setting up of a National Council for Equality and Non-Discrimination.⁷⁹ This body will coordinate the public bodies and agencies dealing with equality and non-discrimination.⁸⁰ The Commission for Equality and against Racial Discrimination (CICDR) is also empowered to monitor the implementation of laws prohibiting racism and ethnic discrimination.

“The situation of specialised bodies has also been affected in many countries by the general austerity measures and budget cuts. Although the tasks and the scale of the problem continued to increase, the financial and human resources have rarely been adjusted accordingly. Limited resources and expertise can also affect specialised bodies’ ability to fulfil their advisory role to legislative and executive authorities, as well as other stakeholders, which is emphasised in ECRI’s GPR No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.”

European Commission against Racism and Intolerance (ECRI) (2016), Annual Report on ECRI’s Activities, p. 12

In parallel, international human rights monitoring bodies raised concerns that budgetary and staff cuts, as well as legislative amendments relating to the mandates of equality bodies, could affect their effective functioning.

The Committee on the Elimination of All Forms of Racial Discrimination (CERD), in its concluding observations on **Italy**⁸¹ and **Portugal**,⁸² recommended that authorities allocate sufficient human and financial resources to their equality bodies. The UN Human Rights Committee voiced concern about the dissolution of the Polish Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, calling on the authorities to reinstate it or establish an alternative institution.⁸³ Instead, the **Polish** parliament decided to cut the budget of the Commissioner for Human Rights to PLN 35 million – approximately € 9 million – the budget granted to this body in 2011, before extension of its mandate.⁸⁴ This prompted the UN Human Rights Committee to call on the Polish authorities to provide the commissioner the necessary resources to allow the body to implement its mandate effectively, independently and fully.⁸⁵

In the **United Kingdom**, trade unions expressed concerns about the effective function of the Equality and Human Rights Commission (EHRC) after its restructuring. Under the restructuring, the EHRC’s budget would be pared to GBP 17.4 million by 2020 – down from GBP 62 million in 2010 – and its workforce would be reduced by 10 % (20 posts).⁸⁶ CERD in its concluding observations on the **United Kingdom** recommended “that any spending cuts and legislative amendments relating to the mandates of the national human rights institutions should not restrict their independent and effective operation”.⁸⁷

“Our reforms will ensure that we remain a strong and independent voice protecting equality and human rights and challenging government where rights are threatened. We strongly resisted budget cuts at the highest levels but we believe the difficult changes we are making will ensure we can still deliver our ambitious programme. For example, we have produced our biggest report on race, will soon be publishing the most comprehensive assessment ever of disability in Britain, and we will remain a robust and independent voice to protect people’s rights as we leave the European Union.”

Rebecca Hilsenrath, Equality and Human Rights Commission Chief Executive, personal communication, 6 November 2016

In several Member States, equality bodies sought to raise awareness of anti-discrimination legislation by undertaking awareness-raising activities and developing information tools, reports and guidance documents – including in **Belgium**,⁸⁸ **Bulgaria**,⁸⁹ **Croatia**,⁹⁰ **Cyprus**,⁹¹ the **Czech Republic**,⁹² **Denmark**,⁹³ **Estonia**,⁹⁴ **Hungary**,⁹⁵ **Malta**⁹⁶ and the **United Kingdom**.⁹⁷

The **Bulgarian** Commission for Protection against Discrimination published a training curriculum and a handbook on anti-discrimination, both designed for prison staff. The **Croatian** Ombudsman paid several visits to areas populated by Roma, informing Roma inhabitants about his functions and how he could assist them in cases of ethnic discrimination. In **Cyprus**, the Ombudsman offered lectures and seminars on racism and discrimination at schools, youth organisations and trade unions. The Danish Institute for Human Rights (DIHR) set up a new advisory forum called Ethnic Forum, which will operate as a platform via which key actors in the field of non-discrimination can exchange knowledge with civil society organisations. In **Estonia**, the Office of the Gender Equality and Equal Treatment Commissioner published a booklet in English and Russian that clarifies differences between discrimination on the grounds of ethnicity, language and nationality. The Estonian Human Rights Centre organised a seminar on the topic of intolerance and xenophobia in the working environment.⁹⁸ In **Hungary**, the Equal Treatment Authority delivered training to the management of the National University of Public Service on non-discrimination law and on the powers of the Equal Treatment Authority. The **Maltese** National Commission for the Promotion of Equality delivered 16 training sessions addressing discrimination on the ground of race/ethnic origin, amongst other grounds. It also carried out awareness-raising initiatives to promote equality on the basis of race and ethnic origin, through its Facebook page⁹⁹ and YouTube channel.¹⁰⁰

3.3.2. Discriminatory police treatment and ethnic profiling persist

Discriminatory racial and ethnic profiling – an issue already addressed in previous FRA Fundamental Rights Reports – remained a serious issue across the EU in 2016. Such profiling can undermine trust in law enforcement among persons with ethnic minority backgrounds, who may frequently find themselves stopped and searched for no reason other than their appearance.

In **France**, the Court of Cassation in a landmark case reviewed claims by 13 men of African or Arab origin alleging that they were victims of humiliating police checks. None of the men had a police record. The court ruled that the police illegally checked the identities of three of them based on discriminatory ethnic profiling, stating that identity checks based on physical features associated with a real or supposed origin, without any prior objective justification, are discriminatory.¹⁰¹

However, it found that eight other contested identity checks were legal, as they were based on objective elements and therefore not discriminatory. The court did not decide on two other cases, returning them to lower courts for retrial.

The Court of Cassation's decision set more specific rules for identity checks. According to the ruling, alleged victims of discriminatory profiling only have to provide courts with 'elements' that support an assumption of discrimination – the testimony of a single witness, for instance – while police authorities have to prove that 'objective elements' justified the identity checks.

France's *Commission Nationale Consultative des Droits de l'Homme* (CNCDH) also issued an opinion on abusive and discriminatory identity checks, recommending that the authorities ensure the traceability of identity check operations.¹⁰² In addition, the CNCDH launched a survey aiming to collect testimonies and experiences of victims of discriminatory ethnic profiling and police abuse.¹⁰³

The **Finnish** Non-Discrimination Ombudsman called on the Helsinki police to respond to claims that police action in four immigration control operations in Helsinki amounted to racial profiling. In its report, the police called the operations justified to combat illegal immigration and denied all allegations of ethnic profiling.¹⁰⁴

In the **United Kingdom**, the Home Secretary in September re-admitted to the best use of stop and search scheme 13 police forces who were previously suspended from the scheme.¹⁰⁵ These forces had been found to be failing to meet three or more of the scheme's requirements during inspections conducted in 2015 by Her Majesty's Inspectorate of Constabulary. In September, the inspectorate published the findings of its re-inspection, confirming that all 13 forces had been fully compliant with all features of the scheme.¹⁰⁶ Meanwhile, research conducted by the Independent Police Complaints Commission (IPCC) in the **United Kingdom** showed that black and minority ethnic groups (76 %), in particular black respondents (61 %), expressed lower levels of trust in the police to use reasonable force in the course of their duties than the general population (83 %).¹⁰⁷

In parallel, international human rights monitoring bodies stressed the need to tackle discriminatory ethnic profiling and misconduct by law enforcement officials. In its concluding observations on **Greece**, CERD raised concerns that Roma are disproportionately subjected to frequent identity checks.¹⁰⁸ CERD also raised concerns about practices of police discriminatory ethnic profiling in **Italy**¹⁰⁹ and **Spain**.¹¹⁰ Meanwhile, ECRI pointed out to **Cypriot** authorities "that racial profiling by the police is defined and prohibited by law".¹¹¹ ECRI also recommended that the **French** authorities "intensify the training of law enforcement representatives with

regard to the contents of the Code of Ethics".¹¹² Similarly, in its reports on **Italy**¹¹³ and **Lithuania**,¹¹⁴ ECRI called on the authorities to set up independent police complaints services with the task of investigating allegations of racist violence committed by law enforcement officials.

Promising practice

Providing police training on anti-discrimination and diversity

To tackle stereotypes and stigmatisation in the police sector, in particular towards Muslim people, the **Belgian** Federal Police developed a policy note entitled 'Diversity and anti-discrimination'. This initiative aims to make diversity the norm, for it to be integrated into all the work of every police directorate, and for it to be considered in any evaluation. The Belgian Equality Body, Unia, supports the federal police in applying its diversity policy. The police and the equality body are also planning to jointly coordinate an action plan for 2016–2018, strengthening this objective. For instance, training on anti-discrimination legislation will be organised and Unia will define diversity indicators to measure the action plan's impact.

For more information, see Unia (2016), Annual Report 2015: Living together put to the test (Rapport Annuel 2015 – Le vivre ensemble mis à l'épreuve), Brussels, Unia

A number of Member States introduced and pursued educational measures and initiatives to raise human rights awareness among law enforcement officials. Topics covered included legislation in force to counter racism and ethnic discrimination, and policing diverse societies.

As reported in the *Fundamental Rights Report 2016*, the **Dutch** National Police adopted a strategic document to achieve more diversity in the police force, entitled *The Power of Difference*.¹¹⁵ In January 2016, the strategic document was translated into several regional-level policy documents that promote better registration of discriminatory incidents; better cooperation between societal actors, the police and the Public Prosecution Service in tackling discrimination; and the prevention of ethnic profiling by the police. In **Spain**, the Platform for the Police Management of Diversity adopted a Curricular Design on the police management of diversity and non-discrimination.¹¹⁶ This tool aims to train police services on how to deal with cases of discrimination and on how to manage hate crime cases.

In 2017, FRA will update and expand the scope of its guide on avoiding discriminatory ethnic profiling. It will draw on findings from EU-MIDIS II, and take into account new technological developments and their increased use by both law enforcement authorities and for border management.

3.4. Member State action plans to fight racism still lacking

Examining national strategies for combating racism, xenophobia and other forms of intolerance is, as noted above, one of the aims of the EU's high level group dedicated to these issues. However, few EU Member States had dedicated national action plans in place in 2016. Those that do not have such plans in place could draw on the guidance of the Office of the UN High Commissioner for Human Rights, which published a practical guide on developing national action plans against racial discrimination in 2014.¹¹⁷

The UN Durban Declaration and Programme of Action, signed in September 2001, emphasises states' responsibility to combat racism, racial discrimination, xenophobia and related intolerance.¹¹⁸ It further urges states "to establish and implement without delay" national policies and action plans to combat these phenomena. Nearly 15 years later, in August 2016, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance encouraged states "that have not done so to seriously consider developing a comprehensive national plan of action [to counter these phenomena], especially in the global context of a growing rise of xenophobic sentiments in a prolonged migration crisis."¹¹⁹

Five EU Member States had dedicated action plans in place in 2016: **France**, **Germany**, **Slovakia**, **Sweden** and the **United Kingdom**. Some subsume their efforts under more general categories, such as countering discrimination (the **Netherlands**) or promoting social inclusion (**Belgium**, **Finland**). In



Source: Screenshot from FRA video 'A decade of human rights protection: FRA turns 10'

others, dedicated action plans that had expired were not renewed by the end of 2016, with no indication of when they would be reactivated (**Italy**, **Luxembourg**, **Spain**). It should be noted that, even where plans have not been renewed, relevant activities provided for therein can nevertheless continue. Meanwhile, in **Greece**, the National Council against Racism and Intolerance – established in April 2016 – was tasked with developing a dedicated action plan. It had not achieved this by the end of the year.

The **French** government adopted a dedicated action plan to fight racism and antisemitism in April 2015,

covering the period 2015–2017.¹²⁰ Under this plan, operational committees against racism and antisemitism, responsible for ensuring its implementation, must be set up in each *département*. The first step in that direction was taken in June 2016, when a decree establishing these committees was adopted and came into force.¹²¹ Eighty-five such committees were set up between April 2015 and November 2016.¹²²

In January 2016, the government of **Slovakia** adopted an action plan to prevent and eliminate racism, xenophobia, antisemitism and other forms of intolerance, covering the period 2016–2018. The plan's main aims are to prevent racist stereotyping, prejudice and hate crime, as well as to actively combat racism, xenophobia and related intolerance.¹²³

Sweden adopted a national plan against racism, other forms of intolerance and hate crime in November 2016, covering the period 2017–2020.¹²⁴ The plan falls under the responsibility of the Ministry of Culture and targets five bias motivations: Afrophobia, anti-Roma prejudice, antisemitism, anti-Muslim hatred and prejudice against the Sami people. It provides for awareness-raising activities; better coordination among responsible authorities; enhanced dialogue with civil society; online prevention; and reinforcing the criminal justice system's response to hate crime.

In the **United Kingdom**, the Equality and Human Rights Commission (EHRC) in August 2016 called upon the government to create a comprehensive race equality strategy for the UK as a whole. The commission recommended that the strategy should be informed by the experience of all ethnic groups in Britain; that the range and scope of available disaggregated ethnicity data should be improved; and that transparent and effective monitoring arrangements should be put in place.¹²⁵

One of the key principles of the Scottish Government's race equality framework is to complement mainstreaming approaches with lawful positive action to address the impact of disadvantages faced by people with minority ethnic backgrounds.¹²⁶ The equality objectives of the Welsh Government cover racial equality, and aim to reduce all forms of harassment and abuse, including hate crime.¹²⁷ The racial equality strategy of the Northern Ireland Executive establishes a framework for action to tackle racial inequalities and to open up opportunity for all; to eradicate racism and hate crime; and to promote good race relations and social cohesion.¹²⁸

As noted above, the fight against racism, xenophobia and related intolerance can be subsumed under other categories. This is the case in the **Netherlands**, where the government adopted its national action plan against discrimination in January 2016.¹²⁹ The plan aims

to prevent and combat discrimination on all legally recognised grounds, including ethnic discrimination. Specific manifestations of racism, xenophobia and related intolerance addressed in the plan include discrimination on the grounds of origin, skin colour or religion; anti-Black racism; discrimination against Muslims; and antisemitism.

In May 2016, the Ministry of Education and Culture in **Finland** adopted an action plan to prevent hate speech and racism and to foster social inclusion. Under this plan, the ministry grants subsidies to support measures and projects that help prevent racism, with a focus on living together. This includes promoting multiculturalism, a sense of community and inclusion.¹³⁰

Meanwhile, the Minister for Equal Opportunities of the French Community in **Belgium** in August made funding available for educational activities to support the fight against racism, with a particular focus on intercultural dialogue.¹³¹ In July 2016, the **German** federal government adopted a strategy to prevent extremism and promote democracy, covering the period 2016–2019. One of the strategy's aims is to counter racist and discriminatory agendas promoted by right-wing extremist groups. This will be done by supporting civil society organisations active in the field, as well as by educating children, adolescents and adults to advocate social tolerance.¹³²

Promising practice

Promoting anti-racist education

In March 2016, the **French** government mobilised public institutions, civil society organisations, cultural establishments, memorials, public education providers and media organisations to take part in a week of education against racism and antisemitism. More than 70 events took place at the National Museum for the History of Immigration. Another 500 activities took place throughout the country, including film screenings, debates, performing arts, exhibitions and workshops.

For more information, see France, Ministry of Education (2016), 'Week of education and action against racism and antisemitism, 21–28 March 2016' (Semaine d'éducation et d'actions contre le racisme et l'antisémitisme du 21 au 28 mars 2016)

The national equality body in **Italy** has organised annual weeks of action against racism since 2004. Through this, the equality body aims to promote social dialogue to sensitise public opinion to the benefits of a multi-ethnic, open and inclusive society. As in France, a number of activities were organised throughout the country, including seminars, sports competitions and readings.

For more information, see Ufficio Nazionale Antidiscriminazioni Razziali (2016), Open your mind, turn off prejudices (Accendi la mente, spegni i pregiudizi)

FRA opinions

Racist and xenophobic reactions to the arrival of refugees, asylum seekers and migrants in the EU that marked 2015 continued unabated in 2016. They included hate speech, threats, hate crime, and even murder. Yet very few Member States collect specific data on incidents that target refugees, asylum seekers and migrants. This is particularly relevant for the implementation of Article 1 of the EU Framework Decision on Racism and Xenophobia, which outlines measures Member States shall take to punish certain intentional racist and xenophobic conduct. Article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) obliges State parties to make incitement to racial discrimination, as well as acts of violence against any race or group of persons, offences punishable by law. All EU Member States are parties to ICERD.

FRA opinion 3.1

EU Member States should ensure that any case of alleged hate crime or hate speech – including those specifically targeting asylum seekers, refugees and migrants – is effectively investigated, prosecuted and tried. This needs to be done in accordance with applicable national provisions and, where relevant, in compliance with the provisions of the EU Framework Decision on Racism and Xenophobia, European and international human rights obligations, as well as ECtHR case law on hate crime and hate speech. Member States could also collect more detailed data on incidents that specifically target refugees, asylum seekers and migrants.

Few EU Member States had dedicated national action plans to fight racial discrimination, racism or xenophobia in place in 2016. This is the case even though the United Nations Durban Declaration and Programme of Action resulting from the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance assigns states primary responsibility for combating racism, racial discrimination, xenophobia and related intolerance. Implementing such plans would provide EU Member States with an effective means for ensuring that they meet their obligations under the Racial Equality Directive and the Framework Decision on Racism and Xenophobia. The EU High Level Group on combating racism, xenophobia and other forms of intolerance – formed in June 2016 – provides EU Member States with a forum for exchanging practices to secure the successful implementation of such action plans.

FRA opinion 3.2

EU Member States should adopt specific national action plans to fight racism, racial discrimination, xenophobia and related intolerance. In this regard, Member States could follow the exhaustive and practical guidance offered by the Office of the United Nations High Commissioner for Human Rights on how to develop such specific plans. In line with this guidance, the action plans should set goals and actions, assign responsible state bodies, set target dates, include performance indicators, and provide for monitoring and evaluation mechanisms.

Systematically collecting disaggregated data on incidents of ethnic discrimination, hate crime and hate speech can contribute to better application of the Racial Equality Directive and the Framework Decision on Racism and Xenophobia. Such data also facilitate evaluations of policies and action plans to prevent and combat racism, xenophobia and related intolerance. However, evidence collected by FRA shows that persistent gaps remain in how EU Member States record incidents of ethnic discrimination and racist crime. Unreported incidents remain invisible and preclude victims from seeking redress. This is particularly relevant considering EU Member States' obligation to actively ensure the effective protection of victims and guarantee their access to effective protection and remedies under Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. Through the EU High Level Group on Combating Racism, Xenophobia and other forms of intolerance, FRA continues to work with Member States, EU institutions and international organisations to improve the recording of and data collection on hate crime.

FRA opinion 3.3

EU Member States should make efforts to systematically record, collect and publish annually comparable data on ethnic discrimination and hate crime to enable them to develop effective, evidence-based legal and policy responses to these phenomena. These data should include different bias motivations as well as other characteristics, such as incidents' locations and anonymised information on victims and perpetrators. Any data should be collected in accordance with national legal frameworks and EU data protection legislation.

Evidence from 2016 shows that a number of equality bodies faced budgetary and staff cuts or legislative amendments relating to their mandates, which could affect their effective functioning. Article 13 (1) of the Racial Equality Directive requires all EU Member States to designate an equality body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. However, the directive only provides minimum standards for the competences of equality bodies. In the context of data protection, EU law refers explicitly to independence and defines what such independence requires. The General Data Protection Regulation, adopted in 2016, calls for sufficient “human, technical and financial resources, premises and infrastructure” for data protection authorities.

FRA opinion 3.4

EU Member States should allocate to equality bodies the human, technical and financial resources, premises and infrastructure necessary to allow them to fulfil their functions and deploy their powers within their legal mandate effectively and independently.

Members of ethnic minority groups continued to face discriminatory ethnic profiling by the police in 2016, against a backdrop of heightened tension caused by terrorist attacks in EU Member States. This practice contradicts the principles of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 14 (prohibition of discrimination) of the European Convention on Human Rights, relevant jurisprudence of the European Court of Human Rights, as well as primary and secondary EU law. Training and internal monitoring could help to detect disproportionate targeting of ethnic minorities and lead to corrective action by the relevant authorities.

FRA opinion 3.5

3.5 EU Member States should end discriminatory forms of ethnic profiling. This could be achieved through providing systematic training on anti-discrimination law to law enforcement officers, as well as by enabling them to better understand unconscious bias and challenge stereotypes and prejudice. Such trainings could also raise awareness on the consequences of discrimination and on how to increase trust in the police among the public. In addition, EU Member States could consider recording the use of stop-and-search powers, and in particular recording the ethnicity of those subjected to stops, in accordance with national legal frameworks and EU data protection legislation.



Index of Member State references

EU Member State	Page
AT	82
BE	82, 85, 88, 89, 90
BG	79, 82, 85, 86, 88
CY	77, 80, 82, 85, 88
CZ	80, 82, 86, 88
DE	79, 80, 82, 89, 90
DK	82, 88
EE	82, 88
EL	77, 79, 80, 82, 87, 88, 89
ES	77, 80, 82, 88, 89
FI	77, 79, 88, 89, 90
FR	77, 80, 82, 88, 89, 90
HR	77, 88
HU	77, 79, 80, 81, 82, 85, 86, 88
IE	77, 80, 82
IT	77, 80, 82, 87, 88, 89, 90
LT	77, 89
LU	86, 89
LV	82, 85
MT	77, 86, 88
NL	77, 79, 80, 82, 86, 89, 90
PL	77, 79, 80, 85, 87
PT	77, 82, 87
RO	77, 85, 86
SE	79, 80, 89, 90
SI	80, 87
SK	77, 80, 81, 82, 86, 89, 90
UK	77, 80, 82, 87, 88, 89, 90

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