



# **NETWORK OF SOCIO-ECONOMIC EXPERTS IN THE ANTI-DISCRIMINATION FIELD**

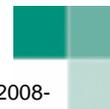
## **SYNTHESIS REPORT 2009**

**25 February 2010**

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## EXECUTIVE SUMMARY

The objectives of the Network of Socio-Economic Experts in the Non-Discrimination Field (SEN) have in many ways been achieved in this first year. The first two national reports by SEN presented substantial information contributing to the understanding of the phenomenon of discrimination in the European Member States. SEN, as one of the networks facilitated by the PROGRESS programme, provided the Commission with independent expertise and advice and up-to-date information on discrimination on the grounds of age, disability, ethnic or racial origin, sexual orientation, religion or belief and on multiple grounds. The actions of the European Commission and the achievements of the 2007 European Year of Equal Opportunities For All have done a lot to raise the awareness of discrimination in the Member States. Other achievements to be mentioned are the implementation of legislation concerning non-discrimination in all Member States and the establishment of equality bodies.

### 1. Discrimination

SEN's reports have presented an up-to-date overview of the groups affected by discrimination in the Member States, as well as which of these may be considered as disadvantaged groups and why. Discrimination in all the EU-27 countries has been described. The contextual differences relate to factors such as the countries' socio-economic situations, their immigration history, their socialist past and their social welfare systems, and these differences are subject to ongoing change. The differences also relate to attitudes to inclusion, exclusion and indifference towards the groups who experience discrimination, as well as whether discrimination is accepted or condoned by the general public and whether there is political and societal commitment to the removal of barriers. An overall commitment to the removal of barriers to discrimination makes a difference. This commitment should be the main target of future activities.

There is a lack of data and information about several groups which are at risk of discrimination, especially lesbian, gay, bisexual and transgender (LGBT) communities. Moreover, definitions of who may be considered to be members of groups affected by discrimination are unclear. Discrimination on grounds of religion is often combined with ethnic background, nationality and immigrant status. The risk of being discriminated against is most frequently linked to a combination of memberships of different groups.

Awareness of discrimination is mostly restricted to specific grounds of discrimination. Apart from gender (not specifically covered in this report), discrimination on the basis of ethnicity is not only the most widespread and most common in the Member States it is also the best known ground for discrimination. Awareness of discrimination on the basis of sexual orientation, disability and also of religion needs to be significantly enhanced.

### 2. Main developments

Employment and poverty data show that the various groups vulnerable to discrimination on the ground of disability, age and racial and ethnic origin are among the most disadvantaged. The disadvantages experienced by these groups, however, cannot be attributed to the effects of the economic crises, there are more and longer term factors involved. It is too early to assess what effects the economic crisis has had on the position of specific groups.

There is some evidence to indicate that one of the effects is the rise of unemployment among young, poorly-educated people (and implicitly for certain ethnic groups, since these are poorly-educated). Specific actions to protect disadvantaged groups against the impacts of the crisis are mostly targeted at young people.

It is migrants who are having to cope with the highest percentage of low-skilled and low-paid work in all the EU Members States where such data were available. Women from migrant backgrounds face a higher risk of being employed in marginalised, part-time jobs.

Education was identified as the key structure for establishing greater inclusion of several groups which risk discrimination within a society. Those who have high educational attainments face fewer barriers in obtaining and maintaining a job and in achieving a social status that guarantees an adequate standard of living. This investigation also reveals that targeted training and employment initiatives are important tools for lowering inequalities, when implemented as part of a broader strategy.

The best way to address structural discrimination and inequalities in all three areas analysed would be to develop strategies aimed at eliminating barriers for vulnerable groups and also by implementing targeted programmes and initiatives to enhance the capacities of marginalised groups, balancing these initiatives in such a way that they contribute to more equality of opportunities for all.

### 3. Governance

The legal basis for combating discrimination in the Member States, required to fulfil the two EU anti-discrimination directives, the Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC), have been implemented in various ways in the Member States. In all Member States the legal basis for anti-discrimination protection is now much improved.

The institutional framework and governance structures in the Member States are critical to the successful implementation of non-discrimination. There needs to be an effective body within each government responsible for coordinating ministerial planning across a range of ministries for effective implementation.

Member States have established equality bodies to fulfil their anti-discrimination missions. The powers that these equality bodies have been given vary considerably from one Member State to another. Strong and independent equality bodies have proved to be very important in ensuring effective implementation of equality legislation and the promotion of a strong supportive culture of equality and non-discrimination.

There are particular challenges in ensuring implementation of anti-discrimination legislation in the new Member States: equality is a concept that has been contaminated by its association with repressive regimes and needs to be re-established. This is one of the reasons that the concept in the context of current EU non-discrimination legislation and policies is often misrepresented and not well understood.

EU legislation may be seen as ‘imposed’ regulation as part of the accession process which means that very often there is a lack of feeling of ‘ownership’ of non-discrimination legislation on the part of the government institutions and judicial authorities.



Hence judges are often hesitant to apply the legislation. Trade unions and employers' organisations equally lack a feeling of ownership of non-discrimination policies.

#### 4. Mainstreaming non-discrimination

Equality and non-discrimination mainstreaming is a relatively new concept for most countries. The implementation of this strategy is still in its early stages. National experts had difficulty in identifying policies and good practices in their countries. Those policies which could be identified mostly concerned gender mainstreaming.

The key equality and/or non-discrimination mainstreaming tools are described as participation, equality impact assessment and equality action plans or schemes.

A first and important step for the countries (or Member States) would be (theoretically) to formulate their strategic goals and to analyse what is already established and what is still missing in order for these goals to be attained. Awareness is needed of the fact that the implementation of non-discrimination and equality mainstreaming strategy should avoid policy duplication and unnecessary costs.

To make effective non-discrimination and/ or equality mainstreaming possible, effective coordination at governmental level is necessary.

#### 5. Diversity

'Diversity' has also emerged as a relatively new concept in the majority of EU countries, especially in the new Member States. Where it is used, in research or in policy, it is primarily used in the context of ethnic or religious changes and mostly associated with new patterns of immigration. The term diversity means different things in different EU countries. In most of them diversity is still predominantly understood as racial/ethnic and cultural diversity. Diversity and multiculturalism in these contexts are considered almost synonymous and act as a suitably euphemised term for race, ethnicity and/or 'visible minority' status. Other minorities, for example people with disabilities and sexual minorities, are less often included within policies towards diversity and consequently the role of NGOs within these sectors is particularly important. This conclusion is in line with the conclusions which can be drawn from other sections of the reports. Ethnic minorities are most visible as a group which can be and is discriminated against.

An important challenge is how to promote the concept in a context where discrimination is part of everyday life and at the same time the concept of diversity is not understood or perceived as an important feature of contemporary society by the majority of the population.

The current economic climate has seen an increase in the level of racism and discrimination against immigrants and ethnic minorities.

While in some countries the recent European electoral campaigns focused little on issues of diversity due to the economic crisis (the debates most often pertained to economic, social or budgetary policies), in other countries the elections proved on the contrary to be important platforms for discussing issues such as diversity and equality. These elections also revealed a radicalisation of opinions and of the general understanding of 'diversity' in some European societies, while seeing the rise of conservative parties and agendas in others.



In some countries it is reported that the greater flexibility introduced into migration policy accounts, at least in part, for the defeat of centre-left parties in Europe.

## 6. Data collection

The availability of reliable data, as was described in this report, is crucial for the implementation of equality policies. Data are necessary to raise awareness, to enable equality plans and schemes to be developed, to implement non-discrimination and/ or equality mainstreaming, to evaluate measures taken and to monitor progress. However, there are a number of issues of which account must be taken, such as protection of identities and avoiding the reinforcement of stereotypes when dealing with data and indicators on discrimination in a public policy context.

The data collection exercise in the national reports revealed a number of issues which require attention. The availability of and access to data differs greatly between the Member States. Access to data is very important in order for anti-discrimination policy to be initiated and mainstreaming to be implemented. The comparability of the data available proved to be limited. It is very important to improve this comparability for the implementation of the European Directives. Another important issue is the way data are interpreted and the relevance of the collected data for the purpose of establishing non-discrimination. It turned out that several Member States have legal constraints in relation to data collection. For instance, several countries prohibit registration of ethnicity.

Not all of the indicators were deemed relevant for all of the grounds of discrimination. In almost all Member States there are legal restrictions regarding data collection, which means that the process can be time-consuming and ways may have to be found for indirect retrieval of data – a process that also runs the risk of introducing biases and other technical problems. Furthermore, the bases for data collection are clear definitions, most importantly a definition of discrimination.

Measuring discrimination is acknowledged in the literature as a difficult challenge. The methodologies currently available were mainly developed in relation to gender, age and ethnic origin. The focus on discrimination on the grounds of disability and sexual orientation is more recent, the consequence being that these grounds are being approached in the same way as gender and ethnic discrimination.

It is important to be aware that indicators used in the field of gender-based discrimination cannot be applied automatically in the field of discrimination on other grounds.



## INTRODUCTION<sup>1</sup>

### **Social agenda and SEN**

In the Renewed Social Agenda of 2 July 2008 the European Commission emphasises that social policies at the level of the Member States and of the European Union must keep pace with changing realities.

The goals of the renewed agenda are three-fold and interrelated: (a) creating opportunities; (b) providing access; and (c) demonstrating solidarity. Promoting equal treatment and combating direct and indirect discrimination are important components of the actions aimed at achieving these goals.

Much progress has been made in the last decade in this field due to the efforts at the level of the Member States and successful EU policies and legislation. Nevertheless, substantial numbers of Europeans feel that discrimination, particularly on the grounds of ethnic origin, sexual orientation and disability, is still a phenomenon which is strongly present in their country and influences their opportunities and position in society. Therefore, in the Renewed Social Agenda the European Commission confirms its commitment to promoting equal treatment and combating discrimination.

Supporting the effective implementation of the principle of non-discrimination and promoting its mainstreaming in all Community policies is one of the main objectives of the PROGRESS programme (2007-2013). The PROGRESS programme provides concrete facilitation and support for actions and events aimed at the effective implementation of the principle of non-discrimination and promoting its mainstreaming in Community policies.

In particular, the aim of the PROGRESS programme is to improve the knowledge and understanding of the situation prevailing in the Member States through analysis, evaluation and close monitoring of policies.<sup>2</sup> The Network of Socio-Economic Experts in the Non-Discrimination Field (SEN) provides the Commission with independent expertise and advice and sustained information on discrimination on the grounds of age, disability, ethnic or racial origin, sexual orientation, religion or belief and multiple grounds.

### **In particular, the objectives of SEN are:**

Objective 1: To provide the European Commission with informed analysis of national situations and policy developments with regard to discrimination on the grounds of age, disability, ethnic or racial origin, sexual orientation, religion or belief and multiple grounds.

Objective 2: To assist the launch and implementation of a series of exchanges of good practices on anti-discrimination policies and practices, with a view to facilitating the exchange of information on anti-discrimination issues and transferability of good practices between countries.

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<sup>1</sup> This report was prepared by Ursula Barry, Ron L. Holzacker, Barbara van Balen, Elizabeth Villagomez and Katrin Wladasch, using the 2009 national reports written by 27 national experts.

<sup>2</sup> Article 2 of Decision 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity – Progress.



## **This report**

SEN started its activities in 2009. During the year two sets of national reports were produced for each EU Member State by the Network's experts. One exchange of good practice seminar was organised with 'non-discrimination mainstreaming' as its theme.

The information and analyses in the national reports and the report of the exchange of good practice seminar form the basis and input for this synthesis report.

The first series of national reports (NR1) was intended to provide an overall picture of national trends and societal and economic issues deemed relevant in the context of national and European non-discrimination policy. In addition, the reports were meant to provide a description and analysis of policy, legislation and practice in the country regarding non-discrimination mainstreaming.

The second series of national reports (NR2) was intended to give an update of the overall picture presented in the first reports, provide an analysis of current debates in the country on the benefits and challenges of a diverse society and provide data on the situation of discrimination on all grounds and give feedback on indicators for assessing discrimination.

National Workshops (NW) were held in each EU Member State to validate, elaborate and specify the findings of the draft national reports. The most important stakeholder groups represented at these national workshops included NGOs, social partners, equality bodies and the national representative in the EU Governmental Expert Group (GEG) on anti-discrimination.

The objective of this synthesis report is to analyse the information presented in the national reports from a comparative perspective with the focus on:

- major trends; and
- scope for EU action

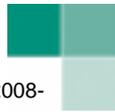
Whereas gender is extensively covered in other reports, gender discrimination is not extensively described in the national reports and this synthesis report. The focus in the report is on the other five grounds of discrimination, i.e. race/ethnicity, age, disability, sexual orientation and religion or belief, as well as multiple discrimination which includes gender discrimination.

The structure of the report is the following. This synthesis report consists of two parts.

Part I presents in its first section a general picture of non-discrimination in the 27 Member States. It starts with the identification of groups discriminated against and the main issues which have an impact on equal opportunities.

Part I furthermore contains in Section 2 a description of the institutional framework and governance issues. Recent developments that may have affected the institutional framework and developments in the field of non-discrimination in a positive or negative way are included in this section.

One of these developments was the worldwide financial crises which affected policy and concrete measures, as well as the political support base for special measures for groups at risk of discrimination to encourage them to enter the labour market.



Part II of the report is devoted to three specific themes. The first of these (Section 3) is an up-to-date description of non-discrimination/equality mainstreaming in the EU Member States. This theme was also the subject of the good practice exchange meeting. This section is based on both the content of the national reports and the input from the good practice exchange meeting.

The second theme (Section 4) relates to debates on the challenges and benefits of a diverse society. This section outlines the definitions of diversity used in the Member States, the actual situation and the main actors in the debate. Different concepts and approaches to diversity used in particular countries are explored as well as the scope of what is encompassed by the term 'diversity' and its implications. While in some countries the concept of a diverse society is relatively new or unknown, in others it is well established. However, the debate is often mixed up with debates about the integration of migrants into society.

Last but not least, part II describes in Section 5 the difficulties faced in data collection with the aim of assessing the situation of equality and non-discrimination in the EU Member States. Difficulties found in relation to data collection are highlighted as well as suggestion to remedy the situation. Close consideration is given to a narrow range of specialised indicators for each ground, based on the analysis of issues and of policies. Comments from the experts on the indicators are included. Particular problems with data in specific countries are addressed. The role of academic and other research is highlighted – both qualitative and quantitative.

The report ends with a short summary and concluding remarks. The focus is on major trends and the scope for EU action.



## PART I – GENERAL PICTURE

### 1. IDENTIFICATION OF GROUPS DISCRIMINATED AGAINST AND MAIN ISSUES HAVING AN IMPACT ON EQUAL OPPORTUNITIES

#### 1.1. Identification of the groups discriminated against

##### 1.1.1. Introduction

Discrimination is a fact of daily life for inhabitants of European Union countries, and belonging to specific groups of society increases the probability of facing unequal treatment from members of the majority population. Besides individual discrimination, a major problem identified in the national reports is structural discrimination, which creates barriers for members of vulnerable groups in various fields of society. What differs depending on the national context is the identification of the most vulnerable groups. According to the national reports, however, people from migrant backgrounds are amongst the most at risk throughout Europe. Nevertheless, there are differences – perhaps linked to the history of migration in different countries and/or to the general commitment to equality within society.<sup>3</sup>

Generally, in countries with a long tradition of anti-discrimination policies and with a society that has been known to be ‘diversity friendly’ for a considerable period of time, the situation is different from countries where it is only the introduction of the EU anti-discrimination Directives which started a procedure of raising awareness about discrimination – within society as well as within state institutions. This is of relevance for all grounds of discrimination. Nevertheless, even in countries whose inhabitants would consider themselves as ‘equality driven,’ like in Finland, prejudice and discrimination against anything different still prevails, although they tend to be more silent phenomena.

Countries like the United Kingdom and the Netherlands face the situation that they have an established system of combating discrimination and a high degree of awareness within society, but that this system must be changed to respond to new challenges. Ethnic minorities have started to stand up for their rights and do not wish simply to be silent elements of society. Reports reveal that new generations want to participate while keeping their distinct ethnic and/or religious identity, compared to their parents’ generation who tended to stay within their communities and/or opted for assimilation.

In the Netherlands these tendencies, along with a rise specifically of Islamophobia, have contributed to an increase in negative attitudes towards immigrants and changes in the commitment towards the benefits of a multi-cultural society. On the other hand, in the United Kingdom the need to create a single system for combating discrimination has caused some conflict between different minority groups, where there were previously different systems of protection against discrimination for different grounds (such as gender, disability and race).

France is facing a specific situation, as its political values and judicial system is based on the principle of equality (*égalité*) and has neglected differences for generations.

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<sup>3</sup> For the purpose of this report the term “structural discrimination” refers to policies and implementation thereof by institutions as well as structures and procedure that are neutral in appearance but have the effect of denying access to resources and/or opportunities to a specific group or groups on the ground of sex, sexual orientation, racial or ethnic origin, religion or belief, age, disability or a combination of these grounds.



This means there is no tradition of acknowledging any notion of ‘minority’. This attitude has moreover led to a certain reluctance to recognise and address the facts of discrimination.

General attitudes and policy approaches also differ greatly regarding people with disabilities. Whilst many countries have developed an approach characterised by a commitment to empowerment and inclusion of people with disabilities, in some countries people with disabilities are still encountered with an attitude of “helping people in need”. These differences are reflected in the actual levels of participation in society and inclusion in the labour market of these groups.

One challenge in terms of the identification of groups discriminated against in the national context was the problem of defining the groups at risk of discrimination. Either definitions of groups are unclear (as in Slovakia in relation to groups of people with disabilities), data is lacking or the different levels of risk of discrimination experienced within different groups make it difficult to provide a clear picture of the situation.

### 1.1.2. Reflections on the Eurobarometer Survey

In 2008, a Special Eurobarometer Survey<sup>4</sup> on perceptions and experiences of and attitudes towards discrimination was conducted and this was reflected upon in the different national contexts.

The national reports reveal that ‘discrimination’ is perceived differently throughout Europe. In some former socialist countries there is a certain tendency to consider any kind of injustice as discrimination, which should be taken into account when reflecting upon the findings of the Eurobarometer Survey. Interestingly, findings from new Member States (Bulgaria and Romania) show that in these countries there is a low rate of discrimination experienced, as well as discrimination witnessed. These data must be set in contrast with the high number of discriminatory incidents towards and structural barriers experienced by Roma and lesbian, gay, bisexual and transgender (LGBT) people in these countries and may demonstrate a lack of awareness about various forms of discrimination.

Austria emerges from this survey as the country in which the highest proportion of people have experienced discrimination in the past year (25%). Greece on the other hand shows the lowest figures of personal experience of discrimination and also rates lower than average for discrimination witnessed. These figures reflect the perception of discrimination in the Member States and can not be used as reliable indicators of the actual rate of discrimination. They may be interpreted as an indicator of different definitions and concepts of discrimination and different levels of awareness about these.

Generally, discrimination on the grounds of ethnic background is considered to be the most widespread in the EU. However, people in Latvia, Lithuania and Poland think it is much less widespread in their country. This might be due to their specific history but also to a different perception of what discrimination means and due to a lack of acquaintance with ethnic diversity as such.

<sup>4</sup> European Commission (2008): Special Eurobarometer 296 *Discrimination in the European Union: perceptions, experiences and attitudes*, July 2008, p. 13 ff., [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_296\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_en.pdf) (27.10.2009) (Special EB 296).



Asked about whether they feel comfortable with someone from a different ethnic background, the responses are quite similar within European Union countries (rating around eight out of 10) with lower than average levels of comfort reported for Austria, the Czech Republic and Italy (with around six out of 10).

Discrimination on grounds of religion and belief is perceived as most widespread in Denmark (62%) and France (57%) and at a low level in Latvia (10%), Slovakia and Lithuania (both 11%).

More than half of the Polish population considers discrimination on grounds of sexual orientation to be widespread in their country, which is contrasted by only 6% having personally experienced and 3% having witnessed discrimination. These contrasting figures can only be explained by the deep-rooted disapproval of LGBT people in Poland, together with a fear of revealing one's sexual orientation in this national context.

Sixty-one per cent of the French (compared to an EU average of 45%) believe discrimination on the grounds of disability is prevalent in their country, and they also score high, along with Germany and Finland, in claiming that they themselves or a family member have been the victim of discrimination in the past 12 months. More Hungarians believe discrimination on grounds of age is prevalent in their country compared to any other European country (67% compared to the EU average of 42%). In terms of personal experience of discrimination on the grounds of age, people from the Czech Republic, Austria and Hungary score highest.

France and Italy are the only two countries in which the proportion of citizens who believe that multiple discrimination is prevalent is higher than the percentage of those who believe that such cases are rare (49% compared to 42% and 49% compared to 39% respectively). After the UK, people from these two countries also state that they have been discriminated against most frequently on multiple grounds.

Bulgarians emerge as the least informed about their rights regarding discrimination (17%), immediately followed by Austria, whilst people from Finland (66%) commonly express a high level of knowledge of their rights and the process of fighting discrimination.

The highest proportions who think that enough effort is being made to combat discrimination are found in Finland and Cyprus (both 66%), followed by the Netherlands (64%). Efforts to combat discrimination are perceived as less adequate in some countries, for example 30% of Poles and 31% of Swedes and Latvians feel current efforts are sufficient.

Generally, in countries with a longer history of living in a diverse society (such as France and the Netherlands) people tend to have more acquaintances with people from different groups, tend to be more aware of discrimination and tend to perceive discrimination as prevalent.

In conclusion, it can be said that the data gathered by the Special Eurobarometer Survey reveal a wide range of differences in attitudes, perceptions and experiences regarding different minority groups in society and discrimination.

According to most national experts, the data do not reflect the number of discriminatory incidents but rather reflect the level of awareness of discrimination and what constitutes discrimination.

In countries with a perception of a high level of discrimination against a specific group there was also often a high level of knowledge of methods to combat discrimination coupled with high levels of personal acquaintances with members of the group in question and high rates of approval for the implementation of measures to combat discrimination. In countries with relatively homogenous population structures or in countries where negative attitudes towards specific groups are more or less openly admitted and condoned there is relatively less awareness of discrimination. Furthermore, enhancing the possibilities for action against discrimination is not presumed to be very important. These findings are in conformity with the purpose of the Special Eurobarometer Survey to present data as an indicator of awareness of discrimination in its various forms rather than as indicator of the level of discrimination against specific groups.

### 1.1.3. Religious make-up of the population

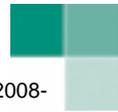
The religious make-up of European Union societies is quite diverse. Christian denominations remain the largest groups of religious affiliation, although a decline in believers and practitioners is taking place all over Europe. The percentage of members of the Muslim faith, on the other hand, is rising. The extent of these developments differs according to the national contexts and also there are differences in how politics and the public react to the changes in the religious make-up of the population.

Generally, discrimination on the grounds of religion is frequently connected with discrimination on the grounds of ethnic background. This is especially true for Western European countries with their long tradition of Christianity, whose mostly Christian population is changing, linked to a rising percentage of Muslims. In most of these countries (Austria, Belgium, Germany, Denmark, the Netherlands and Spain) religious freedom has been upheld to a high degree, linked to special rights for acknowledged religious communities.

Only recently has this openness changed towards Muslims. Public debates about the wearing of religious symbols in public places, and especially in schools, have taken place over the last few years and have mostly crystallised in debates about women wearing headscarves. Interestingly, the level of acceptance of other faiths is comparably higher in Catholic countries. While Spain, Italy, Malta, Portugal and Austria do report on Islamophobia in public debate, the general attitude towards religious practice of different religions is notably more positive. In line with the French principle of *laïcité* (secularism), religious affiliation is considered to be a private topic in France. Consequently, religious symbols were banned from schools and other public places in 2004 under the stated principle of secularism.

The situation is different in the countries of South-Eastern Europe, where the number of Muslims was always higher due to the Ottoman influence. Past suppression of Muslims during the communist regime has created a two-fold atmosphere in Bulgaria, with a tendency to refrain from expressions of religion in the public by the Muslim population and a high degree of religious tolerance on the part of the Christian, Orthodox population. Greece reported a shortage of data in relation to religious discrimination.

In some countries with a communist history the absence of religion from public life for nearly 50 years has led to a much lower level of believers/practitioners in general and a lower level of importance attributed to religious affiliation in everyday life.



This may be a reason why religious discrimination does not seem to be a topic of concern in the Czech Republic and Estonia. The only country which reports on anti-Semitism as the main issue of concern when it comes to discrimination on grounds of religion is Hungary.

#### **1.1.4. Ethnic composition of the population**

Data on the ethnic composition of the population was difficult to collect in most countries. Proxies like nationality or country of origin had to be used, for example, in relation to immigrant minorities. Differences in data availability and proxies chosen do, of course, infringe comparability. Nonetheless, the information provided makes it possible to report on similarities and trends.

Data on recognised national minorities is usually collected through the population census based on self-declaration (for example in Austria, Bulgaria and Slovakia), which results in official numbers lower than factual ones as people may prefer not to declare their minority status. Discrimination faced by national minorities is different throughout the EU 27. In most countries members of national minorities face barriers and discrimination, but the readiness of legislation and policies to provide for special rights (see below) and to reduce the barriers is comparatively high. In Sweden and Finland, the Sami population is acknowledged through a special status as an indigenous people and this status is associated with specific privileges, a Sami parliament and a local authority for the Sami region.

The one national minority group whose members experience structural discrimination as well as harassment on a daily basis are the Roma and Traveller communities. They are confronted with stereotypes more than any other minority group. In particular, Romania and Bulgaria (two countries among those with the highest number of Roma) are reported to be dominated by extremely negative attitudes towards Roma, who are negatively stereotyped as thieves, lazy, breaking the law and living off social assistance. In Romania, 23% of the general population is in favour of special classes for Roma children.

In Slovakia, policies have tended to aim at assimilation and to focus on problems, instead of aiming at recognition of minority status and providing for special rights. In Slovenia, Roma are not acknowledged as a national minority but are recognised as a minority with special ethnic characteristics. Independent of their actual legal status, a high percentage of Roma is marginalised, living in segregated and inadequate housing, and suffers from extremely low employment levels (2% in Slovenia).

Similar conditions are true for Hungary, where Roma face significant segregation in schools, have an unemployment rate of 60%, live in deprived housing conditions, are openly discriminated against by municipal authorities and, most recently, are confronted with a rise in violent attacks resulting in the killing of several Roma people. Roma are also identified as the most vulnerable group in Sweden, where Roma girls, in particular, tend not to finish compulsory school.

In Ireland the Traveller community is protected from discrimination under equality legislation but (despite many campaigns) is not defined as a specific ethnic group. Both individual and institutional discrimination against Travellers is widespread, reflected in poor housing, low educational attainment, lack of access to paid employment, high infant mortality rates and low life expectancy.



The current status of immigrant minority groups is very different throughout Europe and most influenced by the different histories of immigration in the various countries.

In the United Kingdom and the Netherlands, countries with a colonial past, the long experience with ethnic and cultural diversity is reflected in a long-standing tradition of anti-discrimination legislation and policies, in data collection and in special rights granted to immigrant minorities. Nevertheless, members of immigrant communities are confronted with discrimination and barriers in education and employment. The situation is different in France, where the 'Republican integration model' has tended more towards assimilation and negligence in tackling discrimination.

Cyprus is deeply stamped by its bi-ethnic structure. The Constitution of Cyprus recognises only two dominant communities with political power in Cyprus, the Greek Cypriots and the Turkish Cypriots. National minorities (Armenians, Maronites and Latins) had to decide to adhere to either the Turkish or the Greek community (and all opted for the latter). Ethnic differences are generally encountered with certain hostility.

Discrimination against immigrant minorities is present in all areas of life and in most EU countries. Exceptions are the new Member States Bulgaria and Romania, whose net migration rate is negative. Barriers are most frequently reported in education and employment. Segregated housing is a topic specifically emphasised in the Swedish report. Discrimination is also evident in relation to access to goods and services, especially admission to bars, restaurants and night clubs, which is frequently denied on grounds of ethnic background or skin colour.

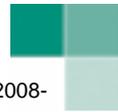
### **1.1.5. Linguistic composition of the country**

There are significant differences concerning the status of equality and the acknowledgement of linguistic rights between so-called *autochthonous (indigenous)* or *national* minorities and new (immigrant) minorities. Whilst the former are assigned special rights, inter alia the use of their minority language in dealing with public authorities and support for the sustaining of their culture, including their language (this applies, for example, to Austria, Slovakia, Slovenia and Romania), immigrant minority groups are not entitled any special rights in this regard.

A more positive approach has been adopted in the Netherlands, which is also reflected in the vocabulary: the term '*allochtoon* minorities' was introduced for people of non-Dutch origin, if at least one parent was born abroad. However, this did not lead to full recognition of the languages of immigrant minorities. Recent developments even led to the abolishment of state support for instruction in immigrant languages in 2004 because it was held to be in contradiction with integration policies.

Slovenia recognised immigrants (and their linguistic identities) from former Yugoslavian countries in the course of establishing its independence in the 1990s. These people are commonly referred to as 'new' national minorities.

The situation is different again in countries which have only recently become independent states. The Baltic States (Lithuania, Latvia and Estonia) are facing a situation where the structure of their population is composed of members of an ethnic majority and a few ethnic minorities and most of the latter settled in the country after the Second World War.



The Russian-speaking population has become the largest minority group, which leads to a great deal of discrimination and barriers. The situation of the Russian-speaking population is also a topic of concern in Finland, where an old national minority of Russian speakers has been recognised whereas the new Russian immigrants (a group which is ten times the size) have not been recognised.

Multilingual countries (Belgium and Luxembourg) are much more experienced at managing a diversity of official languages, with institutionalised rights for speakers of the minority languages in the areas of the country where the other languages are majorities. This does not completely prevent discrimination, however. In 2005 Austrian sign language (ÖGS) was – in Austria - constitutionally recognised as an independent language. In practice, however, users of ÖGS still face considerable barriers.

### **1.1.6. People with disabilities**

There are different approaches to defining groups of people with disabilities – and in many countries (such as Austria and Slovenia) different types of disabilities are defined, which influences access to rights and entitlements. In some countries, such as Finland, there is not even a definition as such.

The level of labour market inclusion is higher for people with physical impairments or long-term illnesses than for those with mental health problems. The percentage of people with any kind of disability, moreover, is generally very much influenced by the availability of targeted employment, subsidised employment and other measures put in place by national governments. In proactive countries (e.g. Austria, Denmark, the United Kingdom and Sweden) the employment rate is comparably high, depending on the intensity of state intervention (in Austria, 67% for people eligible for preferential treatment and 55% for other disabled people). However, high participation rates seem only to result from coherent and overarching strategies and cannot be traced back to single initiatives. There are significant differences in employment rates between, for example, Austria and France (the latter rating only 35% for those with an officially recognised disability), although both have implemented obligatory quota for people with disabilities within the workforce.

In Finland only 20% of disabled people have a permanent job and only half of them have worked at all within a period of 24 months. Similar data is provided for Latvia, where the majority (73%) of unemployed people with disabilities are not seeking employment and, on the contrary, perceive their situation as not allowing participation in the labour market.

In most European countries policies are in place aimed not only at reducing barriers for people with disabilities but also at fostering participation and inclusion in society. Nevertheless, negative stereotypes prevail and disabled people are confronted with discrimination in everyday life throughout Europe. In Romania and Bulgaria people with mental impairments are considered to be one of the most vulnerable groups.

The reforms of the former socialist regimes in the early 1990s reduced the social protection system for disabled people and it is only 10 years later that discrimination in this field is being addressed. The proactive promotion of inclusion in the labour market also only started 10 years later, which has left a gap in protection and led to high risk-of-poverty rates for this group, for example, in Estonia.



In Sweden civil society has recently urged the government to investigate violence against disabled people by carers and others on whom they are dependent.

### **1.1.7. Data on the position of and discrimination against lesbian, homosexual, bisexual and transgender people**

Attitudes towards LGBT people have changed for the better throughout Europe over the course of the last 20 years.

Same-sex partnerships have been legalised in Belgium, the Czech Republic, Germany, the Netherlands, Luxembourg, Portugal, Spain, Sweden and the United Kingdom. In other countries, as in Austria and Hungary, this step has been the subject of political debate for many years. And whilst the general acceptance of same-sex marriages (for example in Spain) or legalised partnerships is high, the adoption of children by same-sex couples is greeted rather critically by some parts of society (Austria and the United Kingdom).

However, being confronted with homophobic attitudes is an everyday experience for many gays and lesbians. Violence linked to homophobic attitudes, hate speech against homosexuals and discriminations on the ground of sexual orientation are specifically reported for Poland, Slovenia, Romania and Bulgaria. Organisers of gay pride events in those countries have been facing administrative problems in recent years, including bans or refusals of authorisation. Moreover, public authorities were either not willing or not able to ensure the safety of participants from attacks by counter-demonstrators.

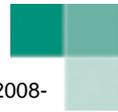
Negative attitudes are not limited to the general public but are reflected in inactivity by public bodies and openly homophobic statements by MPs in Bulgaria, Latvia, Malta and Poland. The general attitude is also very negative in Cyprus, where the Orthodox Church openly agitates against LGBT people and the general atmosphere is such that incidents of discrimination are very rarely reported. No LGBT organisation exists and no pro-gay event has ever taken place. In Lithuania, LGBT people face difficulties in organising public awareness-raising events from municipal administrations, while at the same time the media reproduces stereotypes and high-level church officials express negative attitudes in public.

In other Member States attitudes have been changing towards the positive in recent years. LGBT pride events are attracting thousands of participants and are increasingly supported by the participation of public authorities (the Equality Body of Vienna in Austria), members of government, mayors (in the Netherlands, Spain and Sweden) and even religious communities (the Lutheran church in Sweden).<sup>5</sup>

### **1.1.8. Age as a discrimination ground**

Both older and younger people are facing discrimination in ageing European societies. The proportion of the elderly is increasing but at the same time older people are confronted with more and more disadvantages on the labour market and, in line with this, loss of social status. Older people experience prejudice and are stereotyped as being slow, less flexible and expensive.

<sup>5</sup> European Union Agency for Fundamental Rights (FRA): *Homophobia and discrimination on grounds of sexual orientation and gender identity in the EU Member States – Part II – the social situation*, 2009.



Nevertheless, the number of people over 55 in employment is increasing in Western European countries, due to more women being in employment within the middle and older age groups and reforms of the pension systems which after years of having favoured early retirement are now raising retirement ages. The processes of deprivation and impoverishment of pensioners have been slowed down by the pension systems of the European welfare states, resulting in the situation that in these countries pensioners are comparably wealthy and have benefited most from years of economic growth.

Older people in former socialist countries are a growing group within the populations as well. However, they are among the poorest, especially after they have left the labour market. The levelling down of social protection systems and the shrinking opportunities for older people in the period of reform has had a negative influence on their financial situation, for example in Estonia and the other Baltic States. In Bulgaria age discrimination towards the elderly can be found specifically in the health care system and in the public sector generally.

Young people are most affected by a decline in vocational training posts. While their unemployment rate is the highest all over Europe, they are often forced into flexible work contracts and flexible jobs and many young people were the first to be hit by the economic crisis.

Populations in the new Member States, such as Bulgaria and Romania, have been decreasing since 1989. Shrinking birth rates and emigration have resulted in the loss of large parts of their workforce, leaving the old and the young behind.

### **1.1.9. Concluding remarks**

Discrimination occurs in all EU 27 countries. What differs in the national contexts is the nature and level of discrimination experienced by the groups who are discriminated against. The contextual differences relate to the socio-economic situation of the countries, to their immigration history, their socialist past and their social welfare system and are subject to ongoing change. The differences also relate to attitudes to inclusion, exclusion or indifference toward the groups who experience discrimination and whether discrimination is accepted or condoned in and by the general public, as well as whether there is political and societal commitment to the removal of barriers.

An important finding stemming from the national reports is that it is difficult to identify the level of discrimination on specific grounds, as discrimination on multiple grounds seems to be the prevailing form of discrimination in many national contexts and groups with different combinations of different grounds are confronted with different problems and barriers. The gender dimension was identified as a crucial one in this regard. It is hard to compare the situation of migrant women with migrant men and discrimination on grounds of religion and belief looks completely different depending on which religion is involved. Stereotypes expressed about Muslim men are again very different from those expressed about Muslim women and this leads to differences in treatment of people presumed to belong to these groups.

Older people can be very privileged in specific national contexts, if they are white, male, Catholic and well-educated, whilst in other national contexts, and with membership of other additional groups, they count among the groups most at risk of social deprivation.



The situation is similar for young people. And if disability is combined with belonging to other vulnerable groups, this brings yet another dimension.

## **1.2. Main national societal and economic issues having an impact on equal opportunities for all**

### **1.2.1 National developments**

The recent economic crisis is certainly a challenge for policy and for society when taking into account the situation of vulnerable groups. In all countries unemployment rates have risen, reduced working hours have been introduced and social policy initiatives have faced financial cut-backs. Moreover, the crisis has hit labour-intensive industries with a high percentage of lower qualified employees, many of them with migrant backgrounds. However, governments have reacted to the crisis in a number of different ways.

The links between social status and the membership of the minority groups which are the focus of this research are key factors in determining barriers and inequalities in education and follow-on employment, and they are the key criteria for the at-risk-of-poverty rate in all countries. There are differences according to which groups are at most risk of being discriminated against, especially in relation to people with disabilities and the elderly. Immigrant minorities tend to be discriminated against in all countries covered by the research.

### **1.2.2 Impact of economic crisis on governance of anti-discrimination**

There is some indication that the economic crisis is having an impact on the governance of anti-discrimination in Member States. For example, in Greece there is a staff shortage in two out of the three public bodies tasked with the implementation of anti-discrimination law in the country. It is unlikely that more people will be appointed soon because the government has restricted public sector appointments due to concerns about a growing budget deficit. Another example comes from Ireland where the Equality Authority has experienced a dramatic reduction in its budget of 43% because of a rising national budget deficit.

On the other hand, other governments have chosen to intensify their efforts in education and training during these difficult economic times. There is a concern that rising unemployment may hit certain parts of society especially hard. Some countries have responded with universal measures targeted at the young.

For example, the Austrian government, in cooperation with the Austrian Labour Market Service, has introduced guaranteed workplaces and training for young people between 19 and 24 years of age. The programme guarantees to provide each young person with a job, training or vocational retraining within six months.

Most national experts, however, report that it is too early to see the effect of the crisis on non-discrimination. Effects that are currently visible are the rise in unemployment among young, poorly educated people (and implicitly for certain ethnic groups, since these are poorly educated). But some countries report other groups as being vulnerable to the effects of the crisis. Specific actions to protect disadvantaged groups against the impacts of the crisis are mostly targeted at young people.

### **1.2.3 Employment**



Labour market inequalities are experienced by all groups and in all countries covered by the research. Examples given in this section refer to countries for which these factors presented were explicitly stressed, but most of them apply to all countries.

People with disabilities have the lowest level of employment, although there are significant differences between countries (e.g. 22% for Poland, 26% in the Netherlands, 47% in the UK and 55-67% in Austria). In Greece, strategies to foster inclusion of people with disabilities are met with an attitude that perceives disabled people as passive citizens who should be taken care of and this is reflected in a high labour market inactivity rate of 84%.

Migrants are the highest percentage of those in low-skilled and low-paid work. The situation of young migrants<sup>6</sup> is particularly bad in certain countries (e.g. Estonia, France and the Netherlands) in terms of remuneration received, unemployment rate and career opportunities. They face discrimination on grounds of ethnic origin and have to cope with barriers in the labour market grounded mostly in structural discrimination in education and language. Women from migrant backgrounds face a higher risk of being employed in marginalised part-time jobs (e.g. in Germany).

Apart from the official data, it should also be taken into account that high percentages of immigrants work in precarious and undeclared jobs in the 'shadow economy' (e.g. in Greece). The employment rates of immigrants in comparison to the majority population also vary depending on their country of origin (with the highest unemployment rates in France among people from the Maghreb countries and from Turkey). Interestingly, in Italy, which has been characterised by high migration flows in recent years, the proportion of the non-EU-born population in the labour market is higher than average. Most of these people work in low-skilled jobs in manufacturing.

Employment rates among young people in Southern European countries generally tend to be comparatively low (e.g. 24% for Greece), whilst their unemployment rates are high. Young people as well as older people were the first to be dismissed in times of economic decline in Slovenia and Sweden.

In Austria the rise in unemployment and the need for companies to introduce ways of cutting costs through reduced working hours or forced vacation meant that the government was faced with the immediate implementation of specific training programmes for the newly unemployed, extending eligibility for taking educational leave and introducing guaranteed vocational training places for young adults. In Slovenia, which was hit hard by the crisis, the government tried to provide a buffer by partially reimbursing employment costs and increasing vocational training opportunities for workers forced to work part-time or take leave. Greece introduced extraordinary lump-sum payments and specific instruments like the temporary recruitment of 60,000 unemployed people. Latvia has eased access to publicly funded vocational training courses for people at risk of unemployment, specifically targeting people with disabilities, employees over the age of 25 and those who obtained their education more than ten years ago.

Denmark has followed a threefold strategy (in order to enhance labour market participation on the one hand and controlling the costs of social benefits on the other) by encouraging older

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<sup>6</sup> Young people who themselves or whose parents (or even grandparents) have migrated to EU Member States.

people to stay in work, assisting disabled people into employment and forcing unemployed immigrants to work by cutting their access to social benefits. There are fears expressed in the Swedish report that a rise in unemployment might increase xenophobic tendencies within the population.

#### 1.2.4 Poverty

In countries with a comparatively low at-risk-of-poverty rate (e.g. Austria, Denmark and Slovenia) the social transfer rate is high (with up to two thirds of the population receiving some kind of social transfer). In these countries, however, the poverty risk is rising among older women, disabled people, single parents and their children. Poverty risk can be an aspect of structural discrimination.

In France the number of immigrant households considered to be poor is more than double the average, with significant differences depending on where people have come from (e.g. nearly four times higher risks among people originating from the Maghreb countries). In-work poverty is highest within immigrant communities and women within these communities in the United Kingdom.

Low social transfer rates and big differences between household incomes generate high at-risk-of-poverty rates. Older people and young people are most at risk of falling below the poverty line in countries where the at-risk-of-poverty rate is already high for the average population. Portugal, which was rated third among OECD countries with the highest cumulative deepening of inequality in remuneration in 2009, is also the country with the highest differences in living standards, the highest at-risk-of-poverty rate within the EU 15 (20% after social transfers) and the lowest level of social mobility within the EU 25.

In Bulgaria, the groups most at risk of poverty are children and elderly women. In 2007, 22.4% of women pensioners were living below the poverty line. Access to principally free-of-charge health care and education is constrained by the costs of books, medicines and transport services for the poorest. Elderly people also face a high risk of poverty in Lithuania (29.8% for people aged 65 and over compared to 19.1% for the average population), as do young people under the age of 17 (22.1%).<sup>7</sup>

Roma are the most vulnerable and also the poorest group throughout Europe. They are caught in a vicious circle of poor education, high unemployment rates and subsequently lack of financial means to afford adequate housing and/or healthcare. In Romania 67% of the Roma population had an income level below US\$ 4.30 per day according to a UNDP survey published in 2006.<sup>8</sup>

#### 1.2.5 Education

Education is the most important key to greater equality of opportunities but it is also an area with many obstacles for anyone not seen as part of the 'majority' population.

While this is valid for all countries of the European Union, there are some differences among different groups and in different national educational systems.

<sup>7</sup> All data for Lithuania refer to the poverty rate after social transfers, including pensions.

<sup>8</sup> UNDP: *At risk: Roma and the displaced in Southeast Europe*, available at: <http://europeandcis.undp.org/home/show/A3C29ADB-F203-1EE9-BB0A277C80C5F9F2> (04.12.2009)



In countries with a differentiated school system, which segregates children early within their educational career, inequalities prevail and are enforced throughout students' learning processes. In Austria, Germany, the Netherlands and Slovenia data<sup>9</sup> show that children from migrant backgrounds (first and second generation) are less likely to opt for secondary education preparing for university and instead choose to stay within the compulsory school system at an early age (between 10 and 12). This decision is seen to determine their further education and their low status within the labour market. In the United Kingdom socio-economic status is strongly linked to quality of education – and consequently social status and income because of the double structure of the elitist private and the state school systems.

The situation looks very different in countries with a unified education system until the age of 15 or 16, for example Sweden, where most children continue in education after nine years in the compulsory system, resulting in a higher percentage of university graduates (40% in Sweden). In Finland, where most children have another mother tongue as well as Finnish, they attain similar school results as the majority children at high school level. However, in both countries, the school system is not meeting the needs of Roma children.

The Baltic States, with their specific situation of a national ethnic majority and large Russian-speaking minorities, have a system of multilingual education, with diminishing possibilities of obtaining education in Russian or other minority languages. Thus, university education in Estonia, which is publicly funded, is available almost exclusively in Estonian. For ethnic non-Estonians poor knowledge of the national language generally creates a barrier to life-long learning.

The one country where the immigrant population has a higher level of education than its nationals is Ireland which, due to years of economic growth, has attracted highly qualified immigrants.

Children with disabilities are increasingly integrated within the mainstream school system. In Estonia more than 80% of all children with disabilities attend mainstream schools and classes, while in Romania, 25% of children with disabilities attend mainstream schools. However, in Finland very few integrated schools exist.

In Hungary there is no tradition of integrated schools and the overwhelming majority of children with disabilities attend special schools, leading to a situation where 70% of people with disabilities who are over the age of 15 have only attained primary education. Limited access to vocational training is reported for people with disabilities in Lithuania, resulting in difficulties in finding a job. The positive link between having attended mainstream schools with an integrative approach and access to further training and employment is referred to by many of the national country experts.

Education is also the key barrier for the Roma population. In Bulgaria almost one third of young Roma are at least functionally illiterate, whilst their share of higher education graduates was 0.3% in 2001.

In the Czech Republic the probability of being sent to a school for students with special educational needs and for not finishing basic school is five to 10 (boys/girls) times higher for Roma children than for non-Roma students. In Hungary barely one fifth of Roma children

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<sup>9</sup> Data referred to by the national experts includes PISA, national statistics and CERD.

continue their education in secondary schools that offer final qualifications and only 5% attend schools that offer a qualification entitling students to access to tertiary education. The number of Roma children in special schools is six times higher than the average.

A survey in Lithuania revealed that harassment on grounds of sexual orientation was widespread in the education sector, with more than one third of respondents being affected.

### 1.2.6 Concluding remarks

Employment and poverty data show that the various groups vulnerable to discrimination on the ground of disability, age and racial and ethnic origin belong to the most disadvantaged. The disadvantages experienced by these groups, however, cannot be attributed to the effects of the economic crisis – there are more and longer term factors involved.

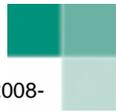
Indeed, most national experts report that it is too early still to assess what effect(s) the economic crisis has had on the position of specific groups. There is some evidence indicating that one of the effects is the rise in unemployment among young, poorly educated people (and implicitly for certain ethnic groups, since these are poorly educated). But some countries report that other groups seem to be vulnerable to the effects of the crisis as well. Specific actions to protect disadvantaged groups against the impacts of the crisis are mostly targeted at young people.

Employment figures for all groups which experience discrimination on one of the prohibited grounds show a disproportionate under-representation in various segments of the labour market. Due to the lack of data the overview cannot be comprehensive and can only provide snapshots, but the situations identified by the national experts give rise to the same kind of concerns in other EU Member States. In several EU Member States where data were available people with disabilities were found to have the highest relative overall unemployment rates. In all the EU Member States where such data were available it was migrants who were experiencing the highest rates of low-skilled and low-paid work. Women from migrant backgrounds face a higher risk of being employed in marginalised, part-time jobs. In several countries it should be noted that large numbers of immigrants work in precarious and undeclared jobs in the ‘shadow economy’.

Education was identified as the key sector for inclusion within society in most country reports. Well-educated people do face fewer barriers in obtaining and maintaining a job and in achieving a social status that guarantees an adequate standard of living. All countries report on deficiencies within their education systems, which are perpetuated in all other areas of life. Even in countries with egalitarian school systems there are groups of people (e.g. Roma in Sweden and people with disabilities in Finland) who are not included. This results in groups in society entering a vicious cycle of marginalised education, employment and social status.

The research reveals that targeted training and employment initiatives (e.g. for people with disabilities in Austria) do lower inequalities, if they are implemented as part of a broader strategy. Attitudes seem to be an important factor, especially regarding people with disabilities.

Employment rates differ significantly between countries where disability is itself considered to be a barrier to labour market inclusion and disabled people are perceived as ill and not able to care for themselves and others, compared to countries where a more proactive approach has been taken, based on empowerment and acknowledgement of the potential of disabled people



in the labour market. Findings also show that high social transfer rates minimise the at-risk-of-poverty rates within countries.

In conclusion, it seems that the best way to address structural discrimination and inequalities in all three areas analysed is to develop strategies aimed at eliminating barriers for vulnerable groups. These strategies should include the implementation of targeted programmes and initiatives to enhance the capacities of marginalised groups and these initiatives should be balanced in such a way that they contribute to more equality of opportunities for all.



## 2. INSTITUTIONAL FRAMEWORK AND GOVERNANCE ISSUES

### 2.1 The institutional framework

#### 2.1.1. Legal basis in the Member States to combat discrimination

The legal basis for combating discrimination in the Member States which is necessary to fulfil the two EU anti-discrimination directives (the Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC)) has been established in various ways in the Member States. Some states have transposed the directives by building on existing non-discrimination statutes, in other states non-discrimination was a new area for legislation. For example, in the Netherlands the government amended the General Equal Treatment Act of 1994, adding new articles concerning harassment and burden of proof, among others, to transpose and implement the EU's anti-discrimination directives. In states with long-standing equality and anti-discrimination measures, some NGOs and experts argued that the decades-long development of case law and experience with existing statutes made modification of existing statutes superior. The UK, for example, first introduced anti-discrimination legislation four decades ago.

Additionally, while some states transposed the two directives with their different scopes of protection, others took the opportunity immediately to extend protection beyond employment for all grounds. This is the approach that Germany took, for example. The German Equal Treatment Act (AGG: Allgemeines Gleichbehandlungsgesetz) is applicable not only in the employment context, but also to social services, education, housing and public housing. In Ireland the Employment Equality Act and the Equal Status Act of 2003 and 2004 provide equality of opportunity and prohibit discrimination in employment and service provision under nine grounds.

In all Member States the legal basis for anti-discrimination protection is now much improved. In some states, prior to the EU directives there was either no protection for a given ground or protection was based on general constitutional provisions or international conventions which were not fully legally enforceable by individuals.

For example, in Slovenia the principle of equality is established as one of the basic constitutional norms in Article 14 of the Constitution. In Cyprus, before accession, discrimination was prohibited on the basis of Article 2 of the Constitution and on the basis of international treaties ratified by the country. In Lithuania Article 29 of the Constitution entrenches the general principle of equal treatment.

In federal states, for example in Belgium, legal texts have been adopted at both the federal and regional levels. Some countries have passed additional laws related to efforts to create a societal climate free from discrimination. For example, with regard to hate crimes, in 2003 France reinforced penalties for infractions of a racist, anti-Semitic or xenophobic nature and for homophobia.

The application of international law is also having an impact on states' responses to discrimination.



For example, it is noted in Finland that the implementation of the UN Convention on the Rights of Persons with Disabilities<sup>10</sup> is proceeding slowly and that a new law is necessary to comply with this treaty. In Ireland institutions such as the Human Rights Commission, the National Disability Authority and the Equality Authority are working together to ensure the Convention is fully implemented.

### 2.1.2. Ministries in charge in the Member States

The implementation of an effective anti-discrimination strategy must often cross the domains of a number of ministries in the Member States, because anti-discrimination legislation and policy are aimed at prohibiting private and public actors (including public authorities, employers, landlords, business people and providers of services) from discriminating against individuals and groups, as well as compelling government institutional structures to assist citizens and residents who have been victims of discrimination. Governments may also establish and guide broader efforts at combating discrimination in society, including efforts to educate businesses about their responsibilities and informing the general public about their rights and responsibilities with regard to non-discrimination.

Thus, ministries of justice are often involved in establishing the mechanisms for adjudicating complaints and ministries of employment and social affairs (or more specialised equality ministries) are involved in promoting non-discrimination in society. In Hungary, for example, the Ministry of Justice develops the legal framework for prohibiting discrimination, while the Ministry of Social Affairs and Labour is responsible more broadly for the implementation of equal opportunities and non-discrimination. The Danish model of ministerial coordination and involvement with civil society should be noted here as a good example, which is discussed in more detail in Section 2.1.4 on coordination issues.

Across the Member States of the EU stability and continuity of leadership in the non-discrimination policy area is a concern. The governance of anti-discrimination often gets reshuffled between ministries. Because of the cross-cutting nature of non-discrimination policies, and the possibilities of specific aspects of this policy area being assigned to different ministries, responsibilities may shift between ministries over time. This may be an organisational distraction for officials working in this policy area, slowing their responsiveness to developments in society and undermining long-term policy and programme development. Sometimes ministerial re-organisations in this policy area follow elections or the stepping down of a prime minister.

For example, in Denmark, when the prime minister resigned to accept the position of General Secretary of NATO, a cabinet reshuffle occurred and anti-discrimination was transferred to a new Ministry of Employment. Another example comes from Latvia. Until the end of 2008 the Secretariat of the Special Assignments Minister on Integration (SMSAI) was responsible for coordinating anti-discrimination issues. After this date a re-organisation occurred and some of these functions were transferred to the Ministry of Children and Family Affairs. After a change of government in February 2009 this ministry was dissolved and its functions divided among a number of different ministries.

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<sup>10</sup> UN Convention on the Rights of Persons with Disabilities: <http://www.un.org/disabilities>

There are also examples of changes in governance in the anti-discrimination sphere following a change in government. For example, in July 2009 in Italy a Commission for LGBT Rights and Equal Opportunities, which had been established (but never actually met) under the government of Romano Prodi at the Department of Rights and Equal Opportunities, was abolished by the new government.

In some countries, although the law pursuant to the EU directives protects people on all six grounds of discrimination, the government has given a narrower mandate to governmental bodies to monitor the implementation of the law. For example, in Finland there are various Ombudspersons, including the Ombudsman for Minorities (ethnic origin) and the Ombudsman for Equality (gender and transgender equality). However, the Finnish expert notes that no equality body deals with discrimination based on grounds of sexual orientation or disability.

The implementation of the EC anti-discrimination directives has encouraged other countries with longstanding anti-discrimination legislation to adapt to new requirements. In 2009 a new equality bill was proposed in the UK with the aim of harmonising existing equality and anti-discrimination legislation and extending their application to new grounds of age, sexual orientation and religion and belief. In Latvia various public agencies have implemented codes of ethics prescribing compliance with the equality principle and the prohibition of discrimination on any ground. Principles of non-discrimination have been included in the codes of ethics for members of parliament, judges and police officers, as well as in the internal codes of ethics of separate ministries and institutions subordinated to them.

National ministries can be very involved in steering and promoting activities to be implemented at regional and local levels. For example, the German Federal Ministry of Family Affairs, Senior Citizens, Women and Youth funds a programme targeted at young people to encourage them to act against right-wing extremism, xenophobia and anti-Semitism. The Ministry provides 19 million Euro per annum for a multitude of projects through local action plans and pilot projects.

In Slovakia, on 13 May 2009, the government adopted an Action Plan for the years 2009-2011 to prevent all forms of discrimination, racism, xenophobia, anti-Semitism and other forms of intolerance. It contains specific tasks to be fulfilled by specific stakeholders, includes the duty to carry out preventative measures and expresses a commitment to monitor and evaluate all measures implemented. A similar desire to focus on evaluation and monitoring can be seen in the UK. The Government Equalities Office in the UK recently published *Towards measures of equality*, an evaluation of existing benchmarks of good practice with respect to equality and diversity in the labour market.

The European Year of Equal Opportunities for All (EYEO) was an important catalyst for the ministries in many countries to work together and to reach out to the public to give greater publicity to anti-discrimination policies. For example, in the Netherlands many activities were targeted at trade unions and employers, youth organisations and schools, as well as local NGOs. An impact assessment conducted afterwards found that Dutch people's awareness of equal opportunities increased during the year. Similar findings were apparent across the EU. It is important that countries develop follow-up plans to the EYEO, to keep these initiatives alive. For example, it was noted in Greece that a follow-up strategy should be created to build on the momentum achieved during the year.



### 2.1.3. Equality bodies

Article 13 of the Race Directive requires the Member States to designate a “body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin”. Some Member States have widened the mandate of their equality body to give them authority across all six grounds of discrimination. The European Commission’s proposal for a new Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (SEC(2008) 2180) (SEC(2008) 2181), which extends protection for these four grounds beyond employment, may result in more Member States expanding the authority of their equality bodies.

The equality bodies can reach out to NGOs, social partners and the public concerning non-discrimination strategies, gather information about the situation across the country and hear specific complaints from individuals and groups concerning incidents of discrimination in the public or private sector.

There is considerable variation between Member States in the powers given to these equality bodies. For example, in Sweden the Equality Ombudsman has broad powers to supervise compliance with the Discrimination Act and he or she may bring a court action on behalf of an individual who consents to it. On the other hand, in Germany the equality body does not have the power to assist individuals to bring a law suit. In Austria the Ombudsman for Equal Treatment (OET) has recently seen an increased readiness of companies to agree to settlements after the initiation of Equal Treatment Complaint (ETC) procedures.

Equality bodies are given a degree of independence from government, so that they can also comment on and criticise the policies and actions of government. However, for example in Slovenia, the Office of Equal Opportunities has been criticised for being too close to the government, possibly impairing its fully independent functioning.

Some states have established multiple equality bodies. For example, in Cyprus the Anti-Discrimination Authority deals with discrimination related to employment, whereas the Cyprus Authority Against Racism and Discrimination deals with matters outside employment. In Sweden there was a concern that people experiencing discrimination on multiple grounds faced delay because of the need to contact several different Ombudspersons. Since 1 January 2009, the four Ombudspersons have been organised into a single authority – the Equality Ombudsman.

Certain equality bodies have been given special mandates also to be active in policy development related to anti-discrimination, for example by being granted a special relationship with the national parliament. In Romania members of the steering committee of the equality body, the National Council for Combating Discrimination (NCCD), are appointed by the parliament.

The NCCD is able to propose affirmative measures and legislative drafts to the government, provide opinions on legislative drafts and coordinate with public authorities or others to prevent discrimination.

Equality bodies are often engaged in raising the profile of anti-discrimination issues within their country.

Article 13 of the Race Directive calls on the equality bodies to be involved in the “promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin”. Article 12, the ‘Dissemination of information’ article of the Employment Equality Framework Directive, calls on Member States to take care that the provisions of the Directive are brought to the attention of those affected by all appropriate means, for example in the workplace. It is not only those who may be discriminated against who need to be aware of the laws and policies in this area, every citizen needs to know about their rights and responsibilities toward others in the sphere of non-discrimination. Thus publicity campaigns and broad educational efforts are an integral part of governance in this policy area. For example, the equality body in Italy, the *Ufficio Nazionale Antidiscriminazione Razziale (UNAR)*, has worked with NGOs and local authorities to promote the dissemination of non-discrimination values. The annual Rome Marathon, involving about 40,000 people, has had a message against discrimination in its official slogan since 2007.

The responsible ministries and government officials at times exercise a monitoring function to make sure that their equality body is fulfilling its mission. For example, in Slovenia in April 2008 the Governmental Committee for National Regulation rejected the annual report of the Advocate for the Principle for Equality. The Committee expressed its concern that the Advocate had failed to recognise discrimination on the grounds of ethnicity in the case of the Roma Strojan family. Subsequently, this Committee asked the Governmental Office for Equal Opportunities to look into these circumstances and called for a revision of the report.

#### **2.1.4. Institutional coordination for non-discrimination policy and implementation**

The institutional framework and governance structures in the Member States are critical in the successful implementation of non-discrimination. There is a need for an effective body within government which is responsible for coordinating ministerial planning across a range of ministries to ensure effective implementation. This allows for a combination of expertise across ministries and also the mainstreaming of non-discrimination in the work of different ministries, along with a coordinating body with political responsibility and public accountability.

Coordination of policy areas which fall within the responsibility of different ministries is always challenging. Certain ministries may view this policy area as being on the periphery of their mission, and political leadership may be weak within a given ministry in relation to a particular policy area. In Hungary for example, coordination between different departments is helped by the Inter-governmental Committee Against Social Exclusion and the Inter-governmental Committee for Roma Affairs. But it is noted that there is no unified equality action plan in Hungary to coordinate planning and implementation between national and regional levels. In Belgium an inter-ministerial committee was created to bring all relevant ministers together, at both the federal and regional levels.

The openness of governmental policy-making bodies and the independent equality bodies to civil society and the public is especially important in this policy area. Whereas other areas of government policy-making may be well supported politically by the majority, non-discrimination may have smaller constituencies within the electorate protecting what may be perceived as ‘minority rights.’

In addition, whereas other policy areas may have strong and well-funded interest representation by professionals in the private economic sector, equality legislation and implementation also needs to hear from grass roots civil society organisations about their concerns and needs, in order to devise effective strategies to combat discrimination. It is noted, for example in Cyprus, that there is no established and systematic consultation between the ministries and NGOs on equality and non-discrimination.

Denmark is an example which demonstrates more precisely these governance principles of ministerial coordination and expertise and openness to civil society. At the governmental policy-making level, Denmark has three ministries responsible for anti-discrimination: the Ministry of Employment, the Ministry for Social Welfare and the Ministry of Refugee, Immigration and Integration Affairs. The independent equality body created to hear complaints is the Board of Equal Treatment. In the area of discrimination based on race Denmark has established an additional body, the Danish Centre for International Studies and Human Rights (DCISM). Among the Centre's various activities, it has been appointed the task of promoting non-discrimination and has the power to initiate investigations on its own initiative and publish reports and recommendations.

In addition to these bodies, Denmark has established a series of councils to provide comment and advice – these are the Council of Ethnic Minorities, the Disability Council and the Equal Opportunities Centre for Disabled Persons. No councils have been established for the other grounds – religion, age or sexual orientation. The interaction between these institutions (ministries, the equality body and the Councils, together with civil society) is further enhanced by a network of NGOs funded in part by the government and in part by membership subscriptions. These include DaneAge, Disabled People's Organisations Denmark (DPOD) and the Danish Gay and Lesbian Association (LBL). There also are numerous smaller organisations dealing with religion, including the Muslim Council in Denmark.

Other Member States have established anti-discrimination institutions only recently. For example, the Czech Republic passed its Anti-Discrimination Act on 17 June 2009. This Act gives the Public Defender of Rights (Ombudsman) the power to assist victims of discrimination, conduct research and issue opinions and recommendations. However, it must be noted here that the system does not provide for legal assistance to victims of discrimination. In addition, the Act provides that NGOs may initiate administrative proceedings, but not judicial proceedings.

In Spain there is no consolidated institutional non-discrimination framework due to the system of joint competencies and the division of responsibilities between different ministries at the central and regional levels. The Sectorial Conference, regular meetings between the Ministries and their respective departments at the regional level, are helpful in discussing policy issues in the multi-level system.

In the Czech Republic there is also a Government Commission for Human Rights, which works on national approaches to the long-term development of human rights as advanced by the international system (UN, Council of Europe and the EU), including non-discrimination. In addition, numerous Government Councils have been established as advisory bodies. There are Government Councils for Human Rights, National Minorities, Roma, Equal Opportunities for Women and Men, Aging, and Disability.

National parliaments can also play an active role in helping the government coordinate and be active in equal opportunities. In Hungary, for example, the Parliamentary Commissions for Human Rights and the Parliamentary Commissioner for National and Ethnic Minorities have pushed for resolutions and other legislative activities for anti-discrimination and equal opportunities.

Monitoring commissions can also play a strong role in assuring the implementation of EU, as well as UN measures. For example, various initiatives have been adopted in most countries in order to enhance accessibility for people with disabilities (e.g. in Austria and Hungary). These are motivated by the obligation imposed by the Framework Directive. In the course of having signed the UN Convention on the Rights of Persons with Disabilities, implementing measures supported by monitoring committees have to be established as well. In the Baltic States new initiatives have been established to improve the labour market inclusion of disabled people by introducing a quota system and targeted training programmes (Lithuania).

In some countries expert groups have been established to provide advice and research to government and others on the extent of disadvantage. For example, in the UK the Equality and Human Rights Commission (EHRC) established expert groups like the National Equality Panel to provide independent analysis. The EHRC also commissions academics and policy institutes to research the nature and causes of discrimination and the most effective way to combat it.

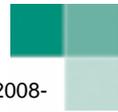
## 2.2 Social partners

Article 11 of the Race Directive calls on the Member States to “take adequate measures to promote the social dialogue between the two sides of industry with a view to fostering equal treatment, including through the monitoring of workplace practices, collective agreements, codes of conduct, research or exchange of good experiences and good practices”. Article 13 of the Framework Directive contains similar language.

The engagement of the social partners in anti-discrimination has varied greatly. The UK appears to be a leader in this regard. In most states anti-discrimination has not been a topic of social dialogue and/or collective bargaining. In Austria it is noted that the social partners have not taken much interest in diversity and non-discrimination issues, although the social partners could play a role in raising the issue among employers and among union stewards and employees. In France there are collective conventions and agreements, as well as sectoral agreements, which have been signed by social partners since the end of the 1990s in an effort to combat discrimination at work. These agreements generally lay down the principles under which recruitment should be managed and also make provisions for training programmes for economic actors.

In Luxembourg trade unions do not broach diversity issues very often in their decision-making structures and diversity and anti-discrimination issues are rarely present in collective bargaining agreements. Nevertheless, each major union has a ‘foreign workers’ section and questions of diversity and discrimination are discussed within these sections. Also, each trade union has a ‘disabled workers’ section. There are also associations within trade unions addressing age discrimination with awareness-raising projects.

Trade unions and the social partners in Sweden have developed programmes for anti-discrimination, mainly based on issues related to working life. In Hungary trade unions are primarily active in promoting equal opportunities based on gender.



The National Association of Hungarian Trade Unions (MSZOSZ) is involved in EQUAL Community Initiatives, as well as some national programmes. In Germany, work councils and trade unions may file lawsuits against companies which violate the AGG – the General Equal Treatment Act.

In Belgium the three recognised trade unions (Christian, socialist and liberal) are committed to combating discrimination. They have diversity consultants, information material and websites. The trade union movement in Cyprus has a general policy commitment to combat discrimination, but the degree to which this is implemented varies. The national expert for Cyprus notes that the majority of trade union organisations fail to include in their governing structures and policy statements concrete measures to combat all forms of discrimination, in particular discrimination based on race, ethnicity and religion. It is also noted that sexual orientation is strikingly absent from the grounds of discrimination on which the trade unions have a policy commitment.

In the Netherlands the Dutch government and the social partners have agreed to increase efforts to stimulate the labour market participation of ethnic minorities and to combat discrimination. A ‘Discrimination Monitor’ was developed, including extensive statistical analyses and focus group interviews.

In Portugal both major trade union confederations, the General Confederation of Portuguese Workers and the General Union of Workers, have special groups concerned with discrimination, mainly focused on women and gender. However, some concern for solidarity with immigrants has arisen, as well as a positive response to invitations to participate in LGBT events. In Latvia trade unions, when active in the area of anti-discrimination, have focused on the rights of employees, principally related to gender equality.

In the Czech Republic the trade unions and social partners have in general been very neutral and passive in the field of non-discrimination and not a single organisation joined repeated petitions for the adoption of the Czech Anti-discrimination Law. In Lithuania the national expert noted that there is little cooperation between the social partners, NGOs and governmental organisations toward combating discrimination.

In Greece a key role is given to the Economic and Social Committee for the promotion of social dialogue and monitoring of the implementation of the Equal Treatment Principle. It is important that employers are also involved in combating discrimination in their workforce. In Sweden the equal opportunities legislation requires employers with 25 or more employees to prepare an Equal Opportunity Plan (EOP) which must be updated every three years.

In Hungary employers in the public sector (with more than 50 employees) have been required to prepare equal opportunity plans since 2004. In addition, there is a new programme of the Ministry of Social Affairs and Labour and the EQUAL Community Initiative to award a Social Label to promote corporate social responsibility on the part of employers.

In Poland an advisory committee of social partners was created to jointly prepare strategies and implement the 2007 EYEO in Poland. Although it was proposed that this committee be transformed at the conclusion of the year into a permanent advisory body to the Ministry of Labour and Social Policy to assist in the implementation of the equality and non-discrimination agenda, this idea was not realised.

In Germany more than 500 large, small and medium-sized companies, as well as public administrations, have signed the Charter of Diversity, by means of which the entities pledge to foster diversity in a business culture which is shaped by mutual respect and esteem. Best practice experiences are regularly communicated among the participating companies. Similarly, in Spain the Diversity Charter Spain encourages diversity management and inclusion practices in Spanish companies and institutions. In France, the Diversity Charter has been signed by over 3,000 enterprises. In Cyprus the major employers' associations are trying to inform their members about the anti-discrimination legislation through seminars and meetings and by publishing a guide to the promotion of equality and diversity in the workplace. In Luxembourg the Union of Luxembourg Enterprises has, together with trade unions, developed a charter to promote equal opportunities and access to employment for people with disabilities.

Governments may also focus attention on employers and the promotion of diversity in the workplace. For example, the Ministry of the Interior in the Czech Republic works together with the NGO, Gender Studies, on a competition called 'Office of the Year Half/Half – respect for equal opportunities' to assure gender mainstreaming in the work and practices of towns and cities. The same NGO also holds a competition called 'Firm of the Year: Equal Opportunities', focused on company human resources and gender. These kinds of promotions could be extended to other grounds of discrimination. For example, the NGO, IQ Roma, in the Czech Republic issues an 'Ethnic Friendly' label to employers professing equal treatment of ethnically diverse members of the population.

### 2.3 NGOs

NGOs play a very important role in informing governments about discrimination in society and the possibilities for combating discrimination. NGOs may also consider the opportunities available in the multi-level political system. For example, in federal systems if NGOs believe that further progress on anti-discrimination at the national level will be difficult in the period following national elections, they may consider what can be done at the state or regional levels for further progress toward implementation. Local government, particularly in larger towns or cities, may be amenable to creating visibility campaigns around anti-discrimination or establishing programmes with local NGOs.

In Bulgaria it is noted that one can divide the main actors involved in discrimination and non-discrimination into three categories.

The first of these is the State and NGOs who strongly defend the rights and individual freedoms of citizens, including the Commission for Protection against Discrimination (CPD), the National Ombudsman and the NGO, Bulgarian Helsinki Committee, as well as several other NGOs focused on Roma people, people with disabilities, LGBT people and people from different religious groups. The second category comprises NGOs and political parties with no stance toward anti-discrimination. Of special concern is the third category, consisting of actors in the Bulgarian public and political space on the extreme right who strongly oppose diversity efforts, including such organisations as the Bulgarian National Union and the National Guards and other informal organisations often prosecuted under Bulgarian law.

In Poland a coalition of NGOs came together to form the Polish Association for the Anti-discrimination Law, to mobilise the authorities to bring the preparation of the anti-discrimination legislation to a successful conclusion.



The Polish expert also notes two organisations which bring academic researchers and NGOs together, with the aim of translating the results of studies into concrete policy recommendations on the theme of migration and integration. These are the Legal Intervention Association and the Institute of Public Affairs. In the Czech Republic NGOs repeatedly called upon the Chamber of Deputies to adopt the Anti-discrimination Act.

In Slovakia the national expert notes that it is highly debatable to what extent, if at all, the research and other results and findings of NGOs, as well as their recommendations, are taken into consideration in decision-making by public authorities. The high-quality nature of the research of a number of Slovakian NGOs is mentioned, including the Institute for Public Affairs, the Centre for the Research of Ethnicity and Culture, the Milan Simecka Foundation, the Roma Institute, the Forum for Minority Research Institute, and Citizen and Democracy. In some countries these research centres studying diversity and equality are tied to universities, for example, COMPAS at Oxford and the CASE centre at the London School of Economics in the UK.

In Malta one sees a fragmentation of NGOs active in the field of non-discrimination and difficulties experienced by them in working together to combat discrimination across grounds. NGOs in Luxembourg are involved in a project called '4motion', which aims to develop a non-formal education and participatory theatre project for young people from third countries on issues of diversity. NGOs and local groups, such as sports groups, are involved in Germany's programme to combat racism, anti-Semitism and neo-Nazism. The engagement of civil society is seen as an important step in increasing the efficacy of these programmes.

In Greece LGBT organisations have been reacting against the government's draft law on co-habitation, which excludes same-sex couples from its framework. In Belgium LGBT organisations participated in public debate, following a survey published in a sport magazine on homophobia among premier league professionals in the Belgian Football Association.

In Portugal NGOs struggle to bring the issues they deal with on a daily basis to a wider audience. Debates are limited to small-scale insider circles and normally do not reach larger sectors of the society. However, NGOs concerned with poverty and social exclusion in Portugal have raised alarms concerning unemployment among older workers in the current economic climate.

Sometimes actors in society speak publicly against those of another religious faith. For example, the head of the Catholic Church in Portugal warned Portuguese girls that they should think twice before marrying a Muslim because it could get them into a lot of trouble. Similarly, the Catholic Church in the country has spoken out against the proposal to extend marriage to same-sex couples.

In Spain SOS Racismo, with delegations in various Autonomous Communities, provides information about discrimination faced by people in the Spanish regions. The ONCE Foundation in Spain has been active in promoting the visibility of the disabled in mainstream media.

In the Netherlands Amnesty International recently released a report<sup>11</sup>, and local Amnesty sections talked to mayors and aldermen about implementing key aspects of the report.

In some countries there are NGOs which are especially close to political parties, for example, the political foundations in Germany which have played a role in encouraging diversity and non-discrimination. The Heinrich Böll Foundation, close to the green party, Bündnis 90/Die Grünen, focuses on all aspects of diversity and discrimination in its website communication and activities, while the Friedrich Ebert Foundation focuses on the integration issues and social problems of a diverse society and the Rosa Luxemburg Foundation on gender discrimination and right-wing extremism. Neither the Konrad Adenauer Foundation nor the Friedrich Naumann Foundation has shown similar interest.

Many NGOs were involved in the European Year of Equal Opportunities for All. However, their continued involvement is not always systematically assured. In Slovenia NGOs working at the local level to approach individuals and groups was not fully exploited after the end of this year. However, funds currently available through the PROGRESS programme partly alleviate these difficulties.

Some concrete examples of transnational activities between NGOs and unions are also apparent. For example, in October 2008 activists and staff members from UNISON in the UK, AbvaKabo from the Netherlands and GEW and Ver.di from Germany travelled to Warsaw to hold talks with leading members of Polish trade unions concerning the need for unions to be active in combating discrimination against LGBT people in the workplace. The visiting union members first went to see Polish NGOs active in the field, including the Campaign Against Homophobia and Trans-Fusja, to emphasise to the various actors involved the need for NGOs and trade unions to cooperate in non-discrimination.

#### **2.4. Monitoring and evaluation**

Monitoring and evaluation of anti-discrimination and equality legislation and its efficiency in practice are not undertaken with much enthusiasm in most national contexts. One difficulty is the very limited data that Member States collect in this area, a problem discussed in more detail in the section on data issues later in this report.

There are models of regular reporting on challenges and progress to the national parliaments (e.g. in Austria and Lithuania). Some of the independent equality bodies conduct surveys on issues of discrimination (as in Bulgaria) and/or draft expert statements on draft legislation (e.g. Luxembourg) as part of their monitoring duties. In Hungary ministries are in charge of evaluating any projects undertaken within their field of competence. An evaluation of the EYEO was commissioned by the National Implementing Agency in the Netherlands, which resulted in a very positive assessment finding that awareness of equal opportunities within the Dutch population increased significantly during the year, in line with improvements in legislation and infrastructure. The establishment of advisory councils and working groups was reported as the most widespread monitoring mechanism for Latvia. The role of NGOs in terms of monitoring the effectiveness of non-discrimination legislation and practice is stressed in many national contexts.

<sup>11</sup> Amnesty International Afdeling Nederland: Aanpak van discriminatie door Nederlandse gemeenten: 443 kansen voor verbetering *Tackling discrimination by Dutch municipalities: 443 opportunities for improvement*. April 2007.



## 2.5. National equality action plans

National equality action plans are a way for the Member States to plan, coordinate and implement policies to pursue equality and non-discrimination in their societies. National equality action plans are not in force in most of the Member States, nor have many announced plans to develop such a plan.

In Belgium a national equality action plan has been incorporated into the strategic report on social protection and inclusion since 2005. The current action plan defines access to housing, activation, child poverty and good governance as its main objectives and is focussing on cooperation between all institutional actors, the participation of stakeholders and the transfer of knowledge as part of its governance strategy. A National Strategy for Combating Discrimination for the period 2007-2013<sup>12</sup> was issued in 2007 by the Romanian National Council for Combating Discrimination. Among other things, it aims to establish standards in anti-discrimination proceedings, to consolidate cooperation between civil society, local and central authorities and the media, and to raise public awareness.

Some countries have adopted *national action plans to prevent all forms of racism, xenophobia, anti-Semitism and other forms of intolerance* as a follow-up to the 1999 World Conference Against Racism, which provide for the setting of specific aims and the development of strategies to combat discrimination on grounds of ethnicity and race and to some extent also religion (e.g. Slovakia and Denmark). Others (Austria, the Czech Republic, Greece and Ireland) have included equality issues in their National Action plans for Social Inclusion. In the Irish case the National Strategy for Equality (in contrast to Austria, for example, where only disability is tackled) refers to nine grounds of discrimination and implies a mainstreaming approach. Lithuania has drafted and implemented National Anti-Discrimination Programmes for the years 2006-2008 and 2009-2011, which aim to promote the principles of non-discrimination.

In many countries the European Year of Equal Opportunities was a starting point for generating activities in relation to equality issues.

The EU pressure to develop a national strategy for equal opportunities in 2007, in conjunction with the funds provided, motivated the relevant actors to design national concepts, to involve stakeholders in the development procedures and to implement a variety of initiatives and projects. These projects have contributed to raising awareness within the population as well as within the administrative bodies in charge. However, the Year was not able to initiate an ongoing process of change in most countries. Low levels of stakeholder involvement, a lack in evaluation of what was done and a lack of sustainability was reported for Austria, Greece and Latvia.

There is a certain awareness that “something should be done”, however, there is a lack of understanding of what this should be and a lack of knowledge as to how equality issues could be mainstreamed. The existence of action plans and/or national strategies for single strands, with different underlying definitions and concepts, also makes it quite difficult for public authorities in charge of the development of national equality action plans. Ideally, they should be reworked and incorporated into a broader strategy.

<sup>12</sup> National Council for Combating Discrimination, Order No. 286/29.08.2007, published in the Official Journal No. 674/03.10.2007.



## 2.6. Multi-level – reaching down to the regional and local levels

There is a need for engagement in non-discrimination to continue down the institutional hierarchy to reach regional and local levels. For example, in Hungary the National Equal Opportunities Network, composed of regional Houses of Equal Opportunities, was established to facilitate cooperation with regional authorities, assist victims and eliminate stereotypes among the general public. However, the mandate of organisations acting at the regional and local levels, differs at times from EU approaches. For example, the Hungarian Houses of Equal Opportunities do not address LGBT issues.

In Estonia the Peace in the Community programme in the capital is a good example of local government being active in the fight against discrimination, especially issues around ethnic origin. But the general lack of regionalisation is an unsolved and crucial area of concern facing this policy area.

The institutional framework in the Netherlands reaches down to the people through the establishment of local anti-discrimination help centres. The recent Act on Municipal Anti-discrimination Facilities requires cities to have an independent anti-discrimination facility (known as an ADV) where individuals and organisations may obtain information and assist in the lodging of complaints. This may begin with informal mediation with employers or may involve preparing a formal complaint for consideration by the Equal Treatment Commission.

In the Netherlands for a long time the focus has been on an individual right to equal treatment and enforcement has been dependent on individuals coming forward. Recently, however, various institutional actors have begun to take a more proactive stance in combating discrimination and creating a climate for diversity. The Dutch Equal Treatment Commission (ETC), for example, not only hears individual complaints but is active and searches for information itself. It may investigate on its own initiative in specific areas where systematic or persistent patterns of discrimination are suspected.

Also in the Netherlands the City of Amsterdam recently investigated the nature and extent of anti-gay violence in the city.

The Dutch police forces are also involved in diversity programmes to create a more ethnically representative, diverse staff to better serve all groups in society. The Czech police are reported to have adopted an Ethical Code in 2008, binding the police officers explicitly “without discrimination to treat every individual in an equal and proper manner and to respect cultural differences and value the diversity of members of minorities in situations where the law is not broken”.<sup>13</sup> The police have also been a driving force in Denmark, where reporting schemes and mechanisms have been developed to monitor cases involving possible discrimination and to ensure uniform practice in these cases.

In Belgium most provincial administrations have a specific department in charge of equal opportunities. In the Czech Republic it is noted that the anti-discrimination agenda of the government is not decentralised and that there is no representation of it at the level of regions or municipalities. An exception to this, and perhaps a model for future policy-making in areas beyond ethnicity, is the regional coordination which exists for Roma integration.

<sup>13</sup> Article 3 letter c) Ethical Code of the Police of the Czech Republic. Accessible in Czech on <http://www.policie.cz/clanek/eticky-kodex-policie-ceske-republiky.aspx>

In Lithuania it is noted in the National Strategy for 2007 that there is insufficient integration of local governmental policy in this field, despite the Law on Equal Treatment requiring local government to assist in the implementation of equal treatment.

In Spain the Multi-Regional Operational Programme to Combat Discrimination (OPCD) 2000-2006 has been shown to have an important impact in the promotion of equal opportunities and social inclusion, by combining bottom-up and top-down approaches and the involvement of regional government and civil society.

In Germany action plans for diversity have been implemented, but these are often focused exclusively on combating racism because of concerns about right-wing extremism. Only a few municipalities have combined the promotion of diversity, beyond racism, xenophobia and anti-Semitism, to include discrimination on the grounds of gender, sexual identity and age (for example, the cities of Saarbrücken, Hanover and Berlin). It is important to note that the Länder in Germany have their own equality framework, but how developed this is is often dependent on the political majority in the particular Land.

In Bulgaria policy-making in relation to minority ethnic groups is made in conjunction with the National Council for Cooperation on Ethnic and Demographic Issues and involves various ministries and non-governmental bodies. Each regional administration is to establish a Regional Council, presided over by the regional governor. Municipal councils may also establish similar councils for the local situation, but this practice is rare.

Non-discrimination is sometimes combined with broader strategies for social and urban cohesion and the institutional framework is designed to connect with regional and local governmental structures. For example, in France the independent authority, the HALDE, has installed regional delegates in four regions; it also developed its network of voluntary local correspondents, of whom there were meant to be over 125 by the end of 2009. Ten years ago the Ministry of the Interior had already created Commissions of Equal Opportunity and Citizenship (known as COPEC) at the departmental administrative level.

Positions for equal opportunities officers, high up in the administrative hierarchy, have been more recently established in the six Departments believed to be most affected by problems of social and urban exclusion.

Historically, French public action against discrimination developed closely alongside 'town policies', targeted at so-called 'sensitive' areas. Here other actors are also brought in and involved, with the financing of associations and the establishment of local plans to combat discrimination. However, the French expert warns that local authorities need to be aware of possible tensions between policies to combat discrimination on the one hand and integration of immigrants' efforts on the other.

Other countries have also sometimes mixed integration aims and anti-discrimination institutions. For example, in Luxembourg in June 2009 the Luxemburg Reception and Integration Office (part of the Ministry for Family and Integration) was called upon to draw up a national multi-year integration and anti-discrimination plan.

In the UK Scotland, Wales and Northern Ireland have separately developed non-discrimination strategies and policies. In addition, local governments have significant responsibilities for anti-discrimination law and policy and local authorities must publish equality strategy impact statements.

Local education authorities (LEAs) have responsibility for schools, whereas for health and hospitals the primary care trusts (PCTs) have responsibility for assuring anti-discrimination aims in their respective domains.

Schools and education have also been a focus in the Netherlands. The Dutch school system, like some others across Europe, is characterised by tracking and streaming at young ages. This works to the disadvantage of immigrant children. Some local authorities and schools are beginning to consider ways to avoid ethnic segregation in the school system, to assure the success of all pupils.

At times, anti-discrimination matters become an issue between EU countries and one country may express its concern for the treatment of its citizens by another country. For example, in February 2009 seven NGOs asked the Romanian Minister of Foreign Affairs to place the security of Romanian citizens in Italy on the table of the EU General Affairs and External Relations Council.

## **2.7. National workshops based on the national reports**

The national workshops conducted by the Network of Socio-Economic Experts in the Anti-discrimination Field in each Member State were found to be very beneficial for the exchange of information and for their contribution to good governance to combat discrimination. The national workshops were organised to ensure relevant, effective and efficient inputs from stakeholders in the non-discrimination field. It means that the efforts of the national experts in researching and preparing the national reports are not only of benefit in informing the Commission about developments in the Member States, but also facilitates the interaction with national governments, the social partners and NGOs across the various grounds of discrimination.

For example, the economic crisis was discussed and participants noted the lag in governmental statistics. In Latvia a concern about the rapid growth of poverty risk among older people was expressed. In Spain it was noted that the economic crisis has led to an increase in racist attitudes and actions, especially directed against immigrants. In Estonia it was observed that ethnic segregation continues to plague the economy. A number of commentators, for example those from Cyprus, remarked on the rise of undeclared work in the economy currently and the possible exploitation by employers of irregular migrants. In Finland it was noted that the social position of minorities correlates with the vulnerability of being discriminated against. This means that individuals facing discrimination also fear potential retaliation if they complain and the consequences this may have for themselves and their families.

There was discussion around the need to collect better data with regard to discrimination. For example, participants in Bulgaria noted that at times researchers from a particular community may supplement official governmental data. They noted that LGBT organisations often produce data better representative of their community, because the level of trust is high between respondents and such organisations. A 2005 study from this community in Bulgaria shows that the fear of revealing sexual orientation leads some people to refrain from using health services. Participants in Italy noted how important it is to look not only at national statistics but also at regional variations which can be significant. Participants in Malta remarked on the need for more qualitative research, to discover causes and reasons for discrimination found in quantitative data.



For example, they were concerned about the reasons that pupils from minority backgrounds leave school in greater numbers without final diplomas.

In some meetings the role which politics plays in discrimination was also discussed. For example, in Austria it was noted that, because of a high level of political agitation against Muslims, this group faces the highest risk of being discriminated against. Furthermore, it was observed in Romania that political campaigns use statements against the Roma. A number of participants stressed the need to recognise the diversity that lies behind the categories of discrimination. For example, in Romania it was noted that disability comes in many forms and that people with mental disabilities are particularly vulnerable. This area of discrimination needs a very different approach from the ‘access’ issues surrounding the mobility problems of other disabled people. Others, for example in Poland, observed that in the case of sexual orientation the acronym LGBT is often used for lesbian, gay, bisexual or transgender, but that the discrimination faced by transgender people may be quite different at times from that faced by gay and lesbian people.

## **2.8. Concluding remarks**

In this section of the report concerning the institutional framework and governance of non-discrimination it has become apparent that effective implementation of the non-discrimination directives involves a broad array of national governmental institutions – different ministries, national parliaments, equality bodies, regional and local governments and various advisory bodies and councils. We have also highlighted the special role which the social partners – trade unions and employers’ organisations – play in the implementation of the non-discrimination directives in the Member States, particularly in the area of employment.

We have also highlighted the special role which NGOs and civil society may play in diversity and non-discrimination. The social partners and NGOs may find new ways to work more closely together to combat discrimination in their societies. In addition, NGOs may seek ways to form coalitions across the various grounds of discrimination, both domestically and transnationally.

From the national reports we find that coordination between ministries, for example between justice ministries and employment or equality ministries, is imperative in this policy area. In addition, the inclusion of governance mechanisms to listen to and involve the social partners and NGOs is critical to successful implementation. In the following section we discuss the possibilities of ‘mainstreaming’ equality and non-discrimination.

We have seen that the Member States are beginning to work more diligently beyond the capitals, to include regional and local strategies to combat discrimination in a multi-level approach. Member States are also beginning to learn and share information to prepare effective monitoring and evaluation tools to systemically assess their past efforts and to prepare national equality action plans to guide their future plans to build societies based on equality and non-discrimination.



## PART II – SPECIFIC THEMES

### 3. NON-DISCRIMINATION MAINSTREAMING

Promoting equality and/ or non-discrimination mainstreaming is one of the main objectives of the PROGRESS programme. It is, however, a relatively recent development. The newness of the concept is reflected in the sections of the national reports which describe the implementation of non-discrimination mainstreaming in the Member States, where only in a few states is non-discrimination mainstreaming as such fully implemented.

Article 13 of the Amsterdam Treaty (1997)<sup>14</sup> provided the opportunity to combat discrimination across a wider set of grounds – sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation. In 2007 the European Commission published a study: *Non-discrimination mainstreaming: instruments, case studies and the way forwards*. The Resolution of the Council of the European Union on the Follow-up to the European Year of Equal Opportunities for All (adopted at EPSCO Council 5-6 December 2009) invited the European Commission and the Member States to ensure the mainstreaming of equality and non-discrimination issues in the implementation of the Structural Funds, the European Globalisation Adjustment Fund, the Guidelines for Growth and Jobs and the Objectives for Social Inclusion and Social Protection. In its July 2008 Communication the European Commission made a commitment to the systematic incorporation of non-discrimination and equal opportunities concerns into all policies.<sup>15</sup>

The participants of the Good Practice Exchange seminar in Helsinki, on 7-8 September 2009, identified ‘equality and/or non-discrimination mainstreaming’ as the terminology that best fitted with competence at European Union level and that allowed individual Member States to set their own goals for mainstreaming in accordance with circumstances within the Member State or in relation to the particular policy area under consideration. The term ‘equality and/or non-discrimination mainstreaming’ acknowledges and reflects current practice by Member States of using mainstreaming both to ensure compliance with equality legislation (non-discrimination mainstreaming) and to advance equality (equality mainstreaming) across the six Article 13 grounds. It is based on an understanding that best practice in mainstreaming involves a focus on both non-discrimination and equal opportunities. It allows for non-discrimination issues in mainstreaming serving as a starting point and foundation on which to build a wider focus on both non-discrimination and equality issues in mainstreaming.

#### 3.1. What is mainstreaming?

To be able to describe the state of the art of non-discrimination and/ or equality mainstreaming in the Member States, a short introduction to the concept mainstreaming is presented here. This introduction is based on the report on the Good Practice Exchange seminar on non-discrimination mainstreaming in Finland 7-8 September 2009.

Key tools for a successful implementation of mainstreaming are: participation, equality impact assessment and equality action plans or schemes.

<sup>14</sup> Treaty of Amsterdam amending the treaty on European Union, the treaties establishing the European Communities and certain related acts. <http://www.europarl.europa.eu/topics/treaty/pdf/amst-en.pdf>

<sup>15</sup> This section is partly based on the report by Niall Crowley: *Good practice exchange seminar on equality and/or non-discrimination mainstreaming Helsinki, 7-8 September 2009*. Final report, October 2009.

*Participation* of groups experiencing inequality in the process of preparation of new policies, legislation and programmes is crucial for mainstreaming. Participation is more than consultation. It provides an involvement for these groups that enhances the transparency of policy-making.

*Equality impact assessments* are at the heart of equality and/ or non-discrimination mainstreaming. These include assessments where policy alternatives are described and the impact of these alternatives on different groups experiencing inequality is identified. Both qualitative and quantitative information should be available. These issues are dealt with in more detail in Section 5 of this report.

*Equality plans* establish objectives for the organisations in promoting equality and combating discrimination, identify activities that will be carried out to realise these objectives, and establish how this work will be monitored and evaluated. The developments around equality plans in the Member States are documented in Section 2 of this report.

As stated in the study, *Non-discrimination mainstreaming: instruments, case studies and the way forwards*,<sup>16</sup> there are considerable variations with regard to the extent to which a mainstreaming approach is being applied at Member State level. There are short, medium and long-term goals to achieve. It should not replace positive action measures, but rather complement the way government policies can and should eliminate direct or indirect discrimination in the treatment of the groups described under the six grounds. Positive action measures can in this way be an instrument within an equality mainstreaming strategy.

### **3.2. Implementation of non-discrimination and/ or equality mainstreaming in the Member States**

Most SEN members<sup>17</sup> concluded that equality and non-discrimination mainstreaming is a relatively new concept in their country. The implementation of this strategy is still in its initial stages, although most Member States, as described in the preceding sections of this report, have established equality legislation and developed equality plans and positive measures, which can be seen as a first step and a necessary prerequisite for mainstreaming. The Lithuanian expert, for instance, describes the fact that the government has developed equality plans and measurements but that mainstreaming still has to be implemented. Other experts note that gender mainstreaming has had some attention but mainstreaming equality in regard to other grounds of discrimination is not yet developed.

We can learn from the national reports that non-discrimination and / or equality mainstreaming still has to be propagated in most Member States. An exception can be made for Finland, where national and local government has committed it self to implementing equality mainstreaming and several good practices can be described. Ireland is probably also ahead of the other Member States with regard to non-discrimination and / or equality mainstreaming. Many good practices could be described, which can be seen as a sign that equality mainstreaming is widespread.

<sup>16</sup> European Commission: *Non-discrimination mainstreaming: instruments, case studies and the way forwards*, 2007.

<sup>17</sup> Contributions by the members of the Network of Socio-economic Experts in the Non-discrimination Field for the Good Practice Exchange seminar on non-discrimination mainstreaming.



An obstacle for implementation is that the concept of ‘mainstreaming’ is not easy to comprehend. In most EU national languages there is no translation for the word. In the Swedish setting the concept of ‘*Jämställdhetsintegrering*’ has become the most used. Although the concept resembles ‘mainstreaming’, it is not an exact translation of it. It means to integrate the perspective of equal opportunities into all activities and to put equality in focus. In general a description of mainstreaming requires several lines and cannot be given in one ‘sound bite’.

Furthermore, mainstreaming is more a process than a product so the concept can hardly be described by its results.

### **3.2.1. Legislation and measurements by government**

The legal basis for combating discrimination in the Member States is described in Section 2 of this report. Most experts refer to this legislation when describing the legal basis for non-discrimination and / or equality mainstreaming. The non-discrimination laws mostly make special actions or measures possible to ensure equality.

Some experts explicitly describe that there is no legislation at all and no policy concerning mainstreaming either (the Netherlands, Romania and Austria). In Greece there is no law prescribing mainstreaming and, according to the Greek expert, non-discrimination mainstreaming is also not taking place. In Estonia the Law on Gender Equality contains the obligation to implement gender mainstreaming, the other discrimination grounds are covered in a Law of 2008. Other experts also refer to laws and legislation concerning gender equality (Denmark, Bulgaria, Luxemburg and Spain). In Belgium a Gender Mainstreaming Law was established in 2007. In the UK one of the most important ways of combating discrimination has been the public duties. This has required public bodies to prevent discrimination and in the case of race to “promote good relations”, whereas in the case of disability it further allows differential treatment if it is required to treat people as equals. The Equality Bill, which has been published but has not yet passed into law, is very likely to establish a single public duty that creates a common language and legal framework which public bodies will have to pursue across all equality grounds. The proposed Equality Bill harmonises existing equality and non-discrimination legislation and extends their application to three new equality grounds: age, sexual orientation and religion and belief. In Finland the Non-discrimination Act puts the principle of mainstreaming of all fields of public administration at the centre.

Some countries have, despite the absence of legislation, taken measures to facilitate mainstreaming processes. For instance, in Poland the government work plan includes the perspectives and needs of potentially discriminated groups. In Latvia there is no single specific normative act that would determine the mainstreaming of anti-discrimination at all stages of the policy, however, several mainstreaming mechanisms (consultations, impact assessment, reporting procedures, data collection and collation) have been included in the national regulation, which have a universal character and which apply to the policy planning process in the country at large.

In Estonia the European Year of Equal Opportunities raised the awareness of discrimination and the necessity to further non-discrimination. The obligation of mainstreaming (other than gender) was introduced into Estonian legislation in December 2008.



The Law on Equal Treatment made it an obligation for each ministry to monitor compliance with the requirements of the Law on Equal Treatment and to cooperate with other persons and agencies upon promotion of the principle of equal treatment. Other experts also refer to the European Year of Equal Opportunities as a major impetus for the introduction of non-discrimination policies and mainstreaming in their country.

The policy in Belgium can be characterised by two main approaches: promoting gender mainstreaming at all government levels and equal opportunities mainstreaming at the municipality level, thereby targeting gender, ethnicity, religion or conviction, age, disability, transgender issues and sexual orientation.

### 3.2.2. Obstacles

The main obstacle for non-discrimination and / or equality mainstreaming described in the national reports is the lack of **political will**. In several countries mainstreaming is not placed high on the political agenda. Coping with the crisis comes first, according to the Greek expert, for example. Equality mainstreaming and combating discrimination is sometimes seen as a luxury problem. Other experts mention the prejudices in parliament against certain target groups, which influence the effectiveness of mainstreaming, or the negative attitude towards equal treatment displayed by some politicians.

Another obstacle mentioned concerns the **lack of finances**. In Slovakia there is no budget for non-discrimination policy, which makes implementation of mainstreaming difficult. The problem in Latvia is the growing reduction of public funding for implementation of all kinds of measures and programmes. Just a few countries mention specific budgets for equality mainstreaming and / or for structural projects to implement non-discrimination measures (Romania, Bulgaria, Finland and Sweden).

The **availability of data** is crucial for mainstreaming. In the first place data is necessary to identify the groups which face discrimination and the problems they encounter. In the second place both qualitative and quantitative information should be available to carry out impact assessments. Finally, monitoring and evaluation should be part of the mainstreaming process. As will be described in Section 5, the collection and accessibility of relevant data is problematic in many countries.

**Participation by groups** experiencing discrimination is one of the key tools for mainstreaming. The involvement of NGOs representing these groups could be improved in several countries. The NGOs should have more support, according to the Lithuanian expert. In Bulgaria the government should facilitate a dialogue with and between NGOs. In Romania cooperation with NGOs is described in the national strategy for social protection and social inclusion, but without any indication of how and when this might happen.

The Spanish expert reported on some important barriers at national level to an integral and integrated mainstreaming approach. At the administrative level: many levels of administration are hierarchically organised and it is therefore difficult to identify which authority (or authorities) have responsibility for mainstreaming, which is by definition a cross-cutting issue calling for horizontal coordination. There may be vested interests in not coordinating mainstreaming, for example, to defend institutional interests.



Some risks were identified in the national reports in relation to mainstreaming, especially in complex scenarios. One of these is the risk of **segmentation**: a government agency/ authority takes overall responsibility or takes the lead. Furthermore, there seems to be the risk of dilution and not tackling the needs of particular groups. Equality mainstreaming can lead to a fading awareness of the risks specific target groups face as well as a diminishing awareness of the specific needs of these groups.

### 3.2.3. Tools and types

Mainstreaming practices concerning gender and disability are the ones most frequently described in the national reports. The Greek expert mentions the National Action Plan for Gender Equality and suggests that gender mainstreaming can pave the way for non-discrimination mainstreaming. Luxembourg has had a National Action Plan for People with Disabilities since 1997. The Spanish expert also observed progress in mainstreaming especially in the field of gender and disability. The Czech expert added age as a ground to which attention is growing and for which the mainstreaming strategy is applied. In the Netherlands mainstreaming practices are mainly limited to gender and even there it has not always moved beyond good intentions. However, there are also other examples. As mentioned before, in Ireland several practices for several grounds can be mentioned, while in Finland mainstreaming is aimed at non-discrimination in general.

Several experts mention manuals or handbooks supporting the implementation of mainstreaming. In Slovenia the Governmental Office for Equal Opportunities prepared a series of manuals and tools for gender mainstreaming in policy-making. In Belgium several handbooks were published. The Bulgarian expert mentions training manuals and programmes. In Lithuania a mainstreaming manual was distributed among labour market authorities, educational institutions and municipalities.

Impact assessment is mentioned in the reports, especially in relation to gender mainstreaming, but there are also some other examples. In the UK impact assessment and equality schemes have long been part of the work of most local authorities and larger public bodies. The idea was to ensure that policies do not have an adverse effect on the people, even though that is not their intent. Furthermore, by publishing an equality strategy, public bodies not only explain how they will improve opportunities for all, but articulate their commitment to treating all citizens with equal concern and respect.

### 3.3. Good practices

The national experts had difficulties finding examples of good practices in equality/non-discrimination mainstreaming, mainly due to the fact that the concept of mainstreaming is relatively unknown in most countries. In fact many of the examples provided were single positive action measures, not overall mainstreaming initiatives. During the good practice exchange meeting, however, it emerged that more practices can be seen as a good start for the implementation of mainstreaming.

Notably many of the good practices described in the national reports concern initiatives aimed at the police forces in the respective countries.

The Ethno-cultural Diversity Resource Centre (EDRC), a Romanian NGO,<sup>18</sup> has been implementing several projects in multi-ethnic communities mainly targeted at the Hungarian and Roma communities in Romania. Their projects in the past decade have included all aspects of inclusion and intercultural dialogue, including education, community, governance and employment. One of the initiatives with good results and replication as well as positive discrimination measures at the governance level started in 2000 with a training project in 26 Romanian counties for police officers on how to prevent and manage inter-ethnic conflict while respecting human rights. Following the project, EDRC signed a cooperation agreement with the Ministry of Internal Affairs. The Ministry subsequently adopted positive discrimination measures in 2006, whereby special places for ethnic Roma people were offered in police training academies.

The national expert for the Czech Republic<sup>19</sup> described the policy and practice of the Czech police forces. They try to incorporate the equal treatment principle into their strategies and day-to-day services. Based on the government-approved *Strategy for the Work of the Police of the Czech Republic in Relation to Minorities for the Period 2008-2012*, the Police started employing a number of new tools in the application of non-discrimination policies, proper approaches and respect for diversity. The police forces set up a ‘police assistant’ post to work in socially excluded localities on improving communication between the local residents and the police. In addition, so-called ‘contact officers for minorities’ have been established for each of the regional police districts. The contact officer heads a specially selected regional team focusing on minorities and marginalised communities (Vietnamese, Mongolians). Every year the team proposes a regional plan of action and other activities in relation to the minorities.

In 2008 the Czech Ministry of the Interior started a project called Police for Everybody, with the goal of attracting applicants from the minorities. It is estimated that every year around 30 students will be selected who will later graduate from the Ministry of Interior High School in Holešov and subsequently join the police force. The police forces of the Czech Republic make an effort to cooperate with the civil society sector in the advancement of equal treatment. A project called Anti-discrimination Training for Members of the Police in the Czech Republic, facilitated by two non-governmental organisations, the Counselling Centre for Citizenship and Civil and Human Rights and People in Need, has been operating since February 2007.

The use of structural funds in Spain for a specific national programme on anti-discrimination advanced many of the key elements needed to build up the momentum for a mainstreaming strategy to materialise. One of the most important of these elements, for example, was the gathering of baseline data on groups (especially the Roma population) which, because of legal restrictions on registration, cannot be analysed in general surveys.<sup>20</sup>

The city of Århus (Denmark) has included mainstreaming non-discrimination policies covering all six grounds in its Integration Plan, initiated in 2005.

<sup>18</sup> Georgiana Pascu, Delia Luiza Nita: Network of Socio-Economic Experts in the Non-Discrimination Field. Country Report 1, Romania. April 2009.

<sup>19</sup> Miroslav Dvořák: Network of Socio-Economic Experts in the Non-Discrimination Field. Country Report 1, Czech Republic. April 2009.

<sup>20</sup> José Manuel Fresno: Network of Socio-Economic Experts in the Non-Discrimination Field, Country Report 1, Spain. April 2009.



The aim was to create an integration policy based on social citizenship, where mainstreaming of anti-discrimination is regarded as a crucial component.<sup>21</sup> Århus has expanded the concept of discrimination to include both direct and indirect discrimination as well as institutional discrimination.

A significant number of the national expert reports mentioned the initiatives financed during the European Year of Equal Opportunities as key in raising the awareness of equality and non-discrimination issues.

### 3.4. Concluding remarks

As stated in the introductory part of this section, non-discrimination and / or equality mainstreaming is still in its initial stages in most Member States. The first obstacle to overcome when implementing mainstreaming is understanding of the concept. It is not a particularly transparent concept and there is no obvious translation for it in most European languages. Mainstreaming is often seen as a collection of positive measures instead of as an overall strategy. The involvement and dedication of both government and target groups is crucial, but does not often happen in the Member States. Other obstacles mentioned are the lack of political will (especially in recent times with the financial crisis claiming all the attention), the absence of a budget for equality in general and for the support of NGOs, and the lack of data.

The conclusion is that it is important to take small steps to make progress in mainstreaming. It is essential to be aware that the participation of target groups is more than just consultation. Effort needs to be put into gathering knowledge and into capacity building. Furthermore, it is important to set clear targets as outcomes for mainstreaming processes. In addition, opportunities for coordination need to be created.

Even though we were unable to report on mainstreaming initiatives established in every EU country involved, there were many examples of initiatives which would fit very well in a non-discrimination/equality mainstreaming strategy. A first and important step would be for Member States to formulate their strategic goals and analyse what is already established and what is still missing in order to achieve these goals. Awareness is needed that the implementation of a non-discrimination and/or equality mainstreaming strategy could save a lot of duplicated strategies and costs.

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<sup>21</sup> Århus Kommune (2005). Idékatalog, Marts 2005. Århus Kommune (2007). Forslag til Integrationspolitik 2007. Reference in Ruth Emerek and Martin Bak Jørgensen: Network of Socio-Economic Experts in the Non-Discrimination Field, Country Report 1, Denmark.



## 4. DEBATES ON THE CHALLENGES AND BENEFITS OF A DIVERSE SOCIETY

### 4.1. Information provided

#### 4.1.1. Overview

Research and analysis in the field of anti-discrimination and diversity is at an early stage of development in most EU countries. Where research on diversity is available, it is mostly limited to race/ethnicity and the situation of immigrant populations, and in some cases gender and religion is included. Anti-discrimination research and analysis has primarily focused on gender and, more recently, race and its concern has mainly been with the labour market.

The notion of diversity is still new or not well-defined in many countries, particularly in those which have joined the EU more recently. Specific countries, such as the UK and Spain, offer a different scenario. In these countries there is a substantial body of research addressing the benefits and consequences of diversity. The main sources of research are academic institutions and university academics, but significant research is also carried out by NGOs, governmental bodies and private institutions which deal with diversity and non-discrimination. In the majority of countries grounds such as sexual orientation and disability are rarely included as part of the diversity agenda.

Even though it is difficult to measure the perception of diversity within public opinion, there are important reports and case studies produced in most countries in relation to the situation of minority groups. These case studies constitute in many countries the only source of information and analysis in relation to the lived experiences of vulnerable populations. Most countries lack statistical and reliable information about the situation of minority groups, particularly sexual minorities, in part because there are important ethical issues in relation to data collection and specific minorities, for example linked to the question of disclosure of sexual orientation within data collection systems.<sup>22</sup>

An interesting exception is the report, *Equality in Ireland* (2007), published by the Central Statistical Office which provides data on the situation of the nine grounds of discrimination covered by Irish legislation. Even though there are questions about the validity of statistical data in relation to the percentage of sexual minorities in a country, this report constitutes a unique piece of information produced by an official institution.

#### 4.1.2. Important EU sources about diversity

There are several publications about non-discrimination and diversity produced at EU level. The findings of the *Flash Eurobarometer 217* (2008) provides interesting data on Europeans' patterns of interaction with people of different cultural backgrounds and on general attitudes towards cultural diversity. The European Commission studies, *The costs and benefits of diversity* (2003) and *The business case for diversity – good practices in the workplace* (2005), provide further EU-wide comparative material on diversity. The most comprehensive study about homophobia and discrimination within the EU 27 Member States was carried out by the EU Fundamental Rights Agency (FRA): *Homophobia and discrimination on grounds of sexual orientation* (2009).

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<sup>22</sup> See Section 5 for a more detailed discussion of these issues.



## 4.2. Understanding diversity

The term ‘diversity’ means different things in different EU countries.<sup>23</sup> In some countries the term is barely used and denotes sometimes different and contradictory meanings. In contrast, in some EU countries the term ‘diversity’ is widely used and is linked to specific minorities vulnerable to discrimination. The following paragraphs condense the general picture of how EU countries understand diversity. These patterns are not mutually exclusive but rather can sometimes be found simultaneously or co-existing within an individual country.

Some grounds of non-discrimination are either invisible or misunderstood in the debate about a diverse society in specific countries. For instance, disability is sometimes perceived strictly from the medical perspective, while debates on issues affecting the elderly are mainly connected to pensions and the health system as, for example, in Romania. The report on Malta highlights the fact that, although the existence of gender discrimination is generally accepted by Maltese society, some people still express the view that gender equality weakens the family structure and is the cause for marital breakdown.

### 4.2.1. Diversity as a ‘new concept’

The concept of diversity and the potential benefits of a diverse society are relatively new or little known in several EU countries, and do not represent a topic on the agenda of the general public, for example in Austria, Bulgaria, Romania and Slovenia. In some non-English-speaking countries, the English term ‘diversity’ does not have an obvious translation and other terms are more commonly used which come from equal opportunities discourse, such as ‘inclusive’, ‘tolerant’, ‘non-discriminatory’ or the equivalent of ‘pluralistic’ as in the case of Hungary. Elsewhere, for instance, as is highlighted in the case of Slovakia, although the word ‘diversity’ is used quite often, its meaning is unclear. Until recently, in the Slovak language the term was used more in biological or ecological contexts. In its broader meaning, it appeared in the dictionary of contemporary Slovak for the first time in 2006 and was explained either as ‘dissimilarity’ or rather ‘differentiation’ (according to cultural, ethnic or other criteria).

In many of these countries there seems to be a consensus that the notion of diversity has been introduced in an international context, linked to EU and United Nations initiatives. As a result, the concept of diversity has increasingly become a more current issue on their political agendas.

### 4.2.2. Diversity as directly associated with disadvantaged groups

A more specific examination of what is understood by diversity has been reached in some country reports by exploring the key perceptions of different groups which are particularly vulnerable to discrimination, such as ethnic minorities, immigrants, elderly people, women and sexual minorities. Many surveys which deal with diversity, reported for example in Spain, focus specifically on the issue of discrimination and its perception rather than on attitudes concerning diversity in society.

<sup>23</sup> This section is based on 27 country reports.



### **4.2.3. Diversity in traditional ‘homogenous countries’**

One of the challenges highlighted in a number of reports is that countries which have had strong traditions of being culturally and socially homogenous are also countries where differences were considered to be exceptions, for example in Finland, Portugal, Greece and Slovenia. This situation has changed in recent decades because of the increase in their immigrant populations and also their membership of the EU.

As an emblematic case highlighted by the report, Greece is described as an extremely homogenous country until the early 1990s, with 98% of the country’s population being of Greek origin and of the Christian Orthodox religion. This situation has radically changed since the 1990s, firstly with the large numbers of economic immigrants from the neighbouring and former USSR countries and, more recently, undocumented immigrants from Asian and African countries. This situation challenged not only the Greek government but also society as a whole, facing issues traditionally absent from their national agenda.

The report on Slovenia highlighted a ‘national dilemma’ in relation to diversity. On the one hand, Slovenia wants to be perceived as a ‘tolerant’ and ‘cosmopolitan’ country, but on the other there is an urge to preserve as much as possible of what is considered ‘Slovenian’. As a young and small country, Slovenia is portrayed as searching for and constructing its own identity, although past conflicts with neighbouring countries renders the inhabitants wary and cautious about recent migrations to the territory of Slovenia from other EU Member States.

### **4.2.4. Diversity as multiculturalism or race/ethnic diversity**

In most EU countries diversity is still predominantly understood as racial/ethnic and cultural diversity. Diversity and multiculturalism in these contexts are considered almost synonymous and diversity acts as a suitably euphemised term for race, ethnicity and/or ‘visible minority’ status, for example in Poland, Sweden and Latvia. A similar situation is also evident in countries with a long tradition of equality legislation, such as in Denmark, where public discussion has mainly centred on issues of ethnic, racial and religious diversity. In Austria, however, debates on diversity and multiculturalism also tend to include gender and religion.

In a multilingual country such as Luxembourg, one focus of the report is on language diversity as one of the country’s characteristics (‘Luxembourgish – French – German’ officially being the components of a trilingual society), sometimes because this diversity is seen as constituting an obstacle to integration, social cohesion or equal opportunities. For example, the Portuguese community (and more generally, the first generations of ‘Latin’ communities established in Luxembourg), are seen as having greater difficulty with instruction in German, and thus suffer from structural disadvantages on the education front. Similarly, the leading written media are mainly in German, although a few French newspapers have appeared more recently.

Under the umbrella of multicultural education, a broad range of initiatives such as courses, seminars and campaigns, as well as activities for children and language teaching, are described in the report on the Czech Republic. However, the providers of multicultural education programmes, this report argues, find it difficult to define the concept of multicultural education and what this term represents.



#### **4.2.5. Diversity as ‘corporation management’**

In many EU countries, the term diversity is closely related to the culture of business and management, particularly among some large international corporations. At the level of economic and social policy, the implicit idea is that the world is a diverse place and countries need to address the importance of managing diversity in order to foster innovation and be ‘competitive’ in the global market. In this sense, diversity and ‘diversity management’ are often used interchangeably and there are examples of this in Austria, Bulgaria, the Czech Republic and Germany. Interestingly, in some non-English-speaking countries, corporations do not use the local word for diversity, but instead employ the English word ‘diversity’, for example in the Czech Republic.

One positive effect of the ‘diversity management’ approach is seen in the French report in which it is stated that it is particularly within the business community that there has been a perceptible move away from the early emphasis on the ethnic and cultural component of diversity towards including other grounds of discrimination as well, such as sexual orientation and disability. However, a suggested negative consequence of this approach is that the understanding of diversity is characterised by a pragmatic discourse that creates a culture of ‘competitiveness’ rather than emphasising the rights and entitlements of minority groups or the need for inclusiveness.

There remains the challenge of introducing the notions of equality and non-discrimination to a broader audience. An additional problem that this approach represents is that it tends to be restricted to a few powerful, multinational companies which are in a position to promote the culture of diversity, whereas local companies face the more immediate challenge of conflicts in relation to religion, sexual orientation, race and ethnicity in smaller, locally based economies. According to an interesting survey by the Bertelsmann Foundation cited in the German report, only 44% of the interviewed German companies practise diversity management, compared to 92% of the Anglo-American and 75% of the European companies.

#### **4.2.6. Diversity as a comprehensive notion**

In a few countries the term ‘diversity’ has become part of the discourse of government, public policy processes, non-governmental and private institutions as well as in the popular media. In these countries ‘diversity’ is understood not only in terms of racial and ethnic issues but is also related to other grounds of non-discrimination, such as sexual orientation, age and disability, as is the case in Spain, Belgium, the UK, Ireland and France.

#### **4.2.7. Diversity as an EU ‘imposition’**

Malta represents an interesting case in terms of the understanding of diversity as an ‘EU imposition’. In Maltese society diversity is not necessarily an accepted principle, but rather the notion is often seen as disturbing the traditional, familiar culture. In this sense, the grounds of diversity identified by EU Directives are not necessarily viewed as priorities by political parties. For example, it is significant that equality on the basis of sexual orientation, although formally recognised under the Employment and Industrial Relations Act of Malta, was seen as the outcome of a direct obligation emanating from the transposition of EU Directives.



Discrimination on the grounds of sexual orientation outside employment is not protected against in Malta nor adequately addressed, and the report highlights instances of public figures expressing degrading attitudes with regard to LGBT groups.

### **4.3. The actual situation**

The debate around the concept of diversity and non-discrimination is viewed as a recent phenomenon in most countries and is not yet seen to have developed to the point where it has reached mainstream society. Discussion within society at large is frequently connected to media debates and sometimes specific reported incidents, such as racist statements or homophobic attacks. Growing diversity with regard to ethnic origin, religion and sexual orientation is not always reported as an experience of enrichment, but sometimes as a loss of familiar references and values.

#### **4.3.1. Debates on diversity and the emergence of nationalism**

With the passage into law of the Lisbon treaty, EU countries will be committed to adhering to the Charter of Fundamental Rights and therefore respect for democracy, the rule of law, peace, the individual right to self-determination, respect for human rights and cultural, religious and linguistic diversity (Article 22, Charter of Fundamental Rights, EU Lisbon Treaty). Countries such as Estonia face the challenge of integrating a large Russian-speaking minority without generating perceived risks to mainstream Estonian (national) identity. In this context, the issue of diversity has tended to be discussed almost exclusively in ethnic terms and in the context of societal integration.

Diversity, based on a need for equality and cultural respect, has become more accepted, and even presented as a resource, it has also generated debate on cultural assimilation. The fear that “too much diversity will undermine social cohesion” and result in a segregated society is an issue articulated in the Danish report. UK academics are reported to have critically questioned whether diversity is a major challenge to community cohesion or sharing public goods and whether diversity is leading to greater social segregation.

Some countries report a renewed interest in national identity. This interest is especially stimulated by the rise of right-wing political parties, for example in the Czech Republic, the UK, the Netherlands, and also by the formation of sectarian groups not affiliated to political parties or formal institutions, such as in Bulgaria. This rise in what can be termed a narrow, ‘nationalist’ perception, or at times xenophobic perspective, largely rejects the idea that we live in a ‘global world’ and that this global world is multi-ethnic.

The report on Greece illustrates a gradual shift from a homogenous society into a diverse one. Its cultural heritage and religious attachment to Eastern Orthodoxy, are stated to have granted Greeks a feeling of uniqueness linked to a tendency to view the rest of the Europeans as ‘others’ who cannot understand the ‘particularity’ of Greek identity. Another reported factor indicating Greece’s attitude towards ‘foreigners’ and multiculturalism is that almost 100% of asylum seekers’ applications are rejected.

In France contemporary debates about diversity focus on the connection between anti-discrimination and diversity – especially as far as private companies are concerned – positive attitudes towards immigration and diversity in society are advocated by stressing the positive effects for the economy of ‘qualified’ immigration and the benefits of diversity for national investment.

#### 4.3.2. Diversity and ‘undesirable others’

A more extreme negative position can be found in some countries where diversity is associated with negative aspects that ‘undesirable others’ might bring to ‘our society’. While the role of the internet and globalisation is seen as important to our understanding and the flow of ideas around notions of diversity and an equal society, it is pointed out that there are also conservative bloggers with racist and homophobic messages who disseminate their ideologies globally.

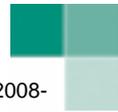
The current economic climate has seen an increase in the level of racism and discrimination against immigrants and ethnic minorities. For instance, in Germany ambiguities regarding diversity are reported as particularly manifested against migrants, who are seen as responsible for a failed process of integration, for insecurity and a threat of terrorism and for the relatively poor performance of the school system.

At times, conservative parties and the media tend to link diversity to criminality and the threat of immigrants or ethnic minorities to existing ‘national values’ such as religion and ‘Western European democracy’. Stereotyped images of immigrants are common. For instance, immigrants have been associated with crimes such as drug dealing, for example in Austria. This situation is increasingly evident in countries with significant immigrant populations and where the current economic recession is reflected in significantly higher unemployment rates and cuts in public services. A new climate of fear in relation to immigrants seems to have developed, for example in Italy and the Netherlands, resulting in stricter migration laws. Diversity, in this context, can be seen to constitute a very sensitive topic for some governments and politicians, due to the strong opposition from right-wing parties and nationalist movements.

Another example of this approach is reported in Slovakia, where research indicates that many Slovaks consider Roma people as ‘highly undesired neighbours’. Gay and lesbian couples and Muslim, migrant, Asian, Ukrainian, Hungarian and Jewish families also belong to categories from which the general population would prefer to keep their distance, though not as strongly expressed as in case of the Roma.<sup>24</sup> This dominant attitude can be viewed as being in contradiction with the high degree of sensitivity and empathy displayed towards people with health problems, those who are physically or mentally disabled, the elderly or victims of physical violence also referred to in the Slovakian report.

The UK report illustrates a common situation in a number of EU countries. Over recent years a negative assessment of diversity has emerged in the context of public services. The argument is that increasing numbers of immigrants are taking advantage of public services, such as housing, education and health provision, but fail to contribute and so leave less for the rest of the population.

<sup>24</sup> Institute of Public Affairs/*Inštitút pre verejné otázky: A survey of civil society and participation in Slovakia 2008*



The report highlights alternative evidence that migrants do in fact contribute more than they take out of the public purse, while also pointing out that migrants do not in fact qualify for most benefits (including housing) and that many (perhaps a majority) leave Britain within five years of arriving and so never draw down the benefits that they have contributed to through taxation and national insurance.

#### **4.3.3. Sexual diversities**

A worrying development has been the use of the ‘right of religion’ in conflict with the rights of sexual minorities, as is evident in examples cited in both the Netherlands and Ireland. The Dutch Constitution guarantees freedom of education, which means that all schools must accept gay students and teachers and teach respect for lesbian and gay people. Christian parties in the Parliament argued that the constitutional ‘freedom of religion’ includes the freedom for religious schools to refuse gay teachers and students, if homosexuality is not permitted according to their religious convictions. In May 2009 a school in the Netherlands fired a teacher because he married another man. The school found that living an openly ‘gay lifestyle’ conflicted with the religious beliefs they wanted to disseminate.

In a similar vein, equality legislation in Ireland allows for religious institutions to claim an exemption from its anti-discrimination provisions if it proves necessary in order to protect their ‘religious ethos’. Gay activists in the Netherlands, Spain and Ireland have objected to the actions of individual schools and to exemptions under legislation. In Ireland the most recent local and European elections were used to openly raise issues such as gay marriage and equality for sexual minorities – the majority of political parties agreed on the need for legislation to establish partnership rights for same-sex couples. Spain, on the other hand has developed comprehensive legislation for same-sex marriage.

In some former communist countries sexual minorities have begun to appear much more frequently in the media than during the communist regime. However, the contexts in which minorities are presented have begun to differ substantially. In the first half of the 1990s reports indicate that the discourse was dominated by negative stereotyping, sexualisation and portrayals in a comic or criminal context. But from about the turn of the millennium sexual minorities in the media are reported to occur more frequently in the context of the general life of society, whether in the news, documentaries or in various television series.

#### **4.3.4. Religious diversity**

A major concern and issue of debate reported within EU countries is the question of the ‘compatibility’ of Islamic belief systems with assumed Western European values of ‘democracy’. There is an expressed fear that Islamic beliefs conflict with established ‘national’ religious values. Debates in the Netherlands or Belgium on religion or belief are mainly focused on Islam. For example, freedom of religion and freedom of speech are often seen to collide and this collision produces subjects for public discussion. Gender equality is also a subject that is connected with debates on religion.

The media tends to stress the negative side of diversity, particularly in relation to religion, and rarely mention any benefits. The use of headscarves has been seen to be controversial in places such as France, Belgium and the Netherlands. Actors in this discussion are found in government, in Parliament, but also among practically every group in society, such as writers, journalists and public policy committees.



Some criticise the use of the headscarf and argue that it is associated with female oppression, however, others argue that these are different topics and that this confusion of the expression of religious freedom by wearing religious symbols with an assumption of discrimination on grounds of gender may be used to reinforce Islamophobia, particularly by extreme right-wing viewpoints.

In countries such as Portugal and Ireland, whose immigrant communities have increased substantially over recent years, religious diversity has not emerged as a particular issue. This is reportedly in part because of the shared religious values of their immigrant populations (predominantly Christian). In Spain ‘cultural criteria’, such as language, religious affinity, customs and lifestyles, are reported as increasingly important in relation to the perception of diversity and acceptance of immigration. In countries such as Estonia and Greece it is reported that religion is often seen as a ‘cultural’ component of one’s ethnic identity.

While in some countries the recent European electoral campaigns focused little on issues of diversity due to the economic crisis (the debates most often pertained to economic, social or budget policies), in other countries, the recent European elections were important platforms for discussing issues such as diversity and equality. These elections have also shown a radicalisation of opinions and of the general understanding of ‘diversity’ in some European societies, and the contrary rise of conservative parties and agendas in others. In some countries it is reported that the ‘permissive’ role of migration policy accounts, at least in part, for the defeat of centre-left-wing parties in Europe.

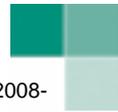
#### **4.4. Main actors in the debates**

The role and involvement of different actors varies greatly across EU countries. While in some countries government, social partners and political parties are the main actors, in other countries NGOs or, in some cases, multinational companies can play a central role. The role of these actors can be that of promoting diversity or of resisting progressive initiatives which challenge the traditional order.

##### **4.4.1. The government and political parties**

The most common approach by governments in the majority of countries is to promote equal opportunities for different groups through the legislative process. In many instances there is a reported lack of a coherent strategy for promoting diversity. In countries such as Germany the federal government plays an important role in promoting diversity in public institutions and among targeted populations. One interesting initiative, referred to in the German report, targets children and young people to raise awareness of the importance of tolerance and democracy for society. However, at a national level there is a reported lack of a clear understanding of diversity, nor is there any consensus on the benefits of diversity. Different ministries have developed strategies and tools to increase diversity but almost all of these initiatives have been limited to a focus on the labour market.

In other countries political parties rarely adopt a proactive approach to diversity. The Czech report highlights the role of right-wing political parties and illustrates a situation also reflected in other EU countries. Politicians representing these tendencies oppose the notion of a diverse society and also any attempt to introduce a multicultural approach.



In Poland politicians reportedly demonstrate a lack of political will in terms of diversity or equality initiatives, which is reflected in the fact that more than five years have passed since work commenced on the Act which would implement EU anti-discrimination laws in Poland. Across Europe, on the other hand, parties such as the Greens and many social democratic and socialist parties, for example in Spain, Portugal and Ireland, engage in debate about the importance of promoting a diverse society.

#### **4.4.2. Municipalities and the local level**

In some cities municipalities constitute the main actors within the political system and therefore in relation to diversity and the integration of diversity concepts. The development of urban diversity policies has reportedly been accelerated by the increasingly diverse ethnic and cultural composition of the population and by demographic change in urban areas. As former minorities become more and more significant in the composition of the cities, urban diversity policy is oriented towards all target groups, including delivering resources and potential benefits to all its residents.

An interesting initiative at local level, reported in the Danish report, illustrates a positive approach to diversity that can be replicated in other EU cities. Copenhagen and Århus have chosen a political strategy which regards diversity as a societal benefit. An example is the ongoing campaign run by the municipality of Copenhagen. It is named VI KBH'R' [We Copenhageners] and has the purpose of demonstrating the diversity in the city and ensuring that more Copenhageners feel accepted as equal citizens. The slogan is: “We are all a part of a unity. We are all Copenhageners”.

#### **4.4.3. NGOs**

Non-governmental organisations are working proactively in many countries on increasing diversity and in seeking to promote a wider acceptance of the benefits of living in a diverse society. There are several international and local NGOs working across EU countries, many of them with very limited economic resources and, in some cases, facing the opposition of important institutions such as religious groups and the state.

Although NGOs play a significant role in awareness-raising activities regarding different aspects of diversity in society, their ability to do so is significantly hampered by the lack of resources. NGO activists and social researchers promote the use of a broader notion of diversity, however, concepts such as ‘inclusive society’ or ‘multicultural society’ are used more often than ‘diverse society’. Initiatives funded by the EU, for example by the European Social Fund and also EU Structural Funds, have played an important role in providing the financial resources for labour market and other programmes that emphasise non-discrimination.

NGOs in places such as Spain reportedly play a pivotal role in raising awareness about discrimination, fighting against racism and xenophobia, providing help and assistance to hate crime victims, taking discrimination cases to court and campaigning against racist violence. One of the very ‘visible’ outcomes of these NGO initiatives is the organisation of gay parades, film festivals, photography exhibitions, workshops and press conferences to address sexual diversity as a key element of a diverse society. In some countries these events also have the support of local authorities.



However, in Bucharest the Mayor's Office is reported to have given permission for counter demonstrations by extreme right-wing organisations and Christian conservative groups, which organised annual marches called March for Normality to coincide with the gay pride parade. Other NGO campaigns have focused on immigrants and ethnic minorities, promoting positive images and advocating inclusive policies and best practices.

#### **4.4.4. Equality bodies and social partners**

The role of equality bodies, especially in countries such as Ireland and Romania, has been particularly important. The Equality Authority in Ireland is a unique example, promoting at all levels the importance of a diverse society and implementing equality legislation which covers a wide range of grounds of non-discrimination in employment as well as in service provision. Unfortunately, the Irish report highlights that this institution has been severely affected by government cuts. It has lost 43% of its budget over the last year, undermining its viability and causing the resignation of its chief executive and many board members. In the case of Sweden and Slovenia the Human Rights or Discrimination Ombudsman is the dominant actor in the debate.

In some countries trade unions hardly participate in the diversity debate, as reported for Germany and Lithuania. In Germany social partners (representatives of trade unions and employers) are reported rarely to address the issues of discouraging discriminatory practices, whereas, in contrast, trade unions in the UK are directly engaged with the rights of minority groups, including people with disabilities, sexual minorities and racial minorities.

#### **4.4.5. The media**

The media plays contradictory and sometimes controversial roles in relation to diversity, equality and non-discrimination. In most countries the media contributes only marginally to the reflection of a diverse society, as reported for example in Austria, Slovenia and Poland. While popular culture seems generally supportive of the benefits of living in a diverse society, evidence in the media, among policy-makers and some researchers is somewhat mixed. In general, academics are more positive about the benefits of diversity and discuss the civic and democratic benefits it can bring. Other parts of the media are much more sceptical, which is especially evident in tabloid coverage of migration and groups such as Roma and Travellers.

An interesting positive example of the role of the media concerns football clubs and sports media and is outlined in the report on Romania. The group targeted by racism in sport is the Roma minority and, more recently, players of colour playing for Romanian teams. In terms of media reaction, the sports media initially refused to recognise that 'anti-gypsy/Roma' phenomena against supporters and players were a reality in football stadiums.

However, its attitude reportedly gradually changed in parallel with the debate on the decisions against football clubs, sanctioning them for allowing racist demonstrations. As campaigns against racism in football developed, racist comments from among club supporters and also racist remarks by football officials were highlighted. As a result, the sports media in Romania apparently deals with discrimination issues to a greater degree than the mainstream media. This is also the case in Spain.

As in the case of NGOs and some equality bodies, the economic crisis has also impacted negatively on the work of progressive media and journalists in relation to equality and non-discrimination.

For instance, Ireland reports the effects that the current recession has had on a recognised ‘progressive’ newspaper (*The Irish Times*) which, with a turnover of around €130 million, experienced a drop in its advertising revenue of €20 million this year. It is also reflected in the dropping of a community-based television programme, *Pobal*, by the national broadcaster (RTE), attributed to budgetary constraints.

#### **4.4.6. Corporate companies: business world**

In some countries, for example Austria, France and the Czech Republic, multinational corporations and the business world in general are reported to be more proactive at times than governmental institutions in promoting creative and innovative initiatives integrating the positive aspects of diversity. These private corporations provide their employees with training courses on diversity issues around specific grounds of non-discrimination and focused on the workplace and, to an extent, the marketplace.

#### **4.4.7. European initiatives**

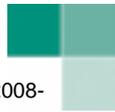
European initiatives are reported to play a pivotal role in promoting equality and diversity in all EU countries, creating space for public debates in relation to a diverse society. Hungary’s EU membership has reportedly given the discourse on cultural, ethnic and regional diversities a completely new perspective and frame of reference. Regional and national cultural diversity are common European values which are widely acknowledged and it is precisely the mixture of unity and diversity that together make up Europe as it is. The European Year for Equal Opportunities played a particularly important role in funding equality and diversity programmes and initiatives in many countries and promoting debate. The question, however, remains as to what can be done to further promote diversity and to arrive at a unified approach to a thematic concept that can be implemented in all EU policy spheres.

Other important initiatives have addressed the question of unity and diversity in European societies. A fitting slogan from recent times is “All different - All equal” from the Diversity, Human Rights and Participation campaign run by the Council of Europe in partnership with the European Commission and the European Youth Forum. It is difficult, however, to assess the impact of such initiatives on the wider public.

#### **4.4.8. Other actors in the debates**

Other important initiatives are diversity awards and competitions to stimulate the implementation of strategies for promoting diversity, for example, initiatives to promote diversity in the UK and Germany.

Some of these awards are linked to the public and/or private sector, usually promoting diversity in the workplace. Examples of specific awards are the Mia Award which rewards the contribution to Austrian society by women from immigrant backgrounds in different categories such as science, the economy, arts and culture; the Corporate Diversity Photo competition (Hungary); the Diversity Truck (Romania). There are also other EU initiatives across different countries, including: the campaign For Diversity: against Discrimination (Lithuania); The Journalist Award; the European Commission Annual Award for Diversity in the Workplace; The Week against Racism; and the European Year of Intercultural Dialogue (EYID) initiative.



An example from within the private sector was reported in Ireland where Microsoft Ireland has earned the title of Best Workplace in Ireland 2009 for its inclusive policy and promotion of cultural diversity.

#### **4.5. Conclusions**

Diversity is a relatively new concept in the majority of EU countries. Where it is used, in research or in policy, it is primarily used in the context of ethnic or religious changes and mostly associated with new patterns of immigration. Other minorities, for example people with disabilities and sexual minorities, are less often included within policies promoting diversity and consequently the role of NGOs is particularly important. European initiatives play a central role in promoting equality and diversity in all EU countries, generating important public debates in relation to a diverse society and engaging social partners in the process of attaining greater equality. This role is all the more important, given that in many countries inclusiveness, equality and diversity are contested concepts in the political and policy arenas as well as the media.



## 5. DIFFICULTIES FACED IN DATA COLLECTION

### 5.1. State of play in the countries

The European Commission published a study report, *The fight against discrimination and the promotion of equality: How to measure progress done*, in March 2008. It contains a number of concerns raised by national statistics offices, independent authorities and NGOs which were consulted. These concerns relate to the relevance of the indicators proposed and also some more technical and conceptual issues. The indicators which have been looked at by the national experts, and summarised in this report, have been extracted from the above-mentioned study report.

There are no comments made here about actual figures, as this exercise might prove entirely inadequate, given the different sources from which the indicators were extracted and their consequent lack of comparability. Instead, comments about what indicators were available as well as other important information about the data that was submitted by the country experts is offered.

The revision of the tables<sup>25</sup> containing the indicators which the experts were asked to collect points to the fact that socio-economic data (indicators that measure inequality) on the five grounds of discrimination are not collected in a systematic way for the purposes of monitoring and/or evaluating the situation of discrimination in most EU Member States. As the following section analyses, there are a number of reasons for the existence of this situation.

Although most Member States have equality or anti-discrimination bodies in one way or another, the registering of complaints based on any of the grounds is not undertaken systematically in all national contexts and cannot be taken as an indicator of the situation on the ground. Although it is defined as an indicator measuring progress of anti-discrimination policies, it cannot be taken as a comparable indicator of the situation between Member States, as this is an indicator which needs more contextualisation and careful interpretation than any other. The registered complaints would, of course, have to be complemented by information on resolutions, recourses, etc. Only around 15 of the reports included data on complaints. In many cases only the total of complaints could be found by the experts, without differentiation for each of the grounds.

In the 27 reports the tables with the most information were those for age and disability and especially in the areas of labour market indicators and education. The former is due to the inclusion of the variable in many of the household surveys (labour force, living conditions or income expenditure, for example) or administrative data, and the latter is due to administrative or specific one-off or baseline surveys.

Even in the cases where the data have not been made available in the reports, the experts point out that it could be extracted from the databases either with more time, money or by permission or direct request to the official statistical offices. However, it is important to keep in mind that, depending on the indicator and the breakdown, the sample size of the surveys might not produce statistically significant indicators. In the following section the possible breach of legislation in order to do this is also discussed.

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<sup>25</sup> The model table appears in the annex to this report.



Ethnicity was, in most cases, proxied by place of birth of the individuals or of their parents. It can also be proxied by place of residence in the country (if the data can be accessed and crossed with other variables) but this usually represents a breach of the existing data protection legislations or restrictions. The only country in the EU where there is no problem in this area from the point of view of data collection is the UK.

The other two grounds, religion and sexual orientation, are indicators for which there were fewer or no data available. A frequent comment made was that in many countries ethnicity/nationality and religion had a very strong correlation. With regard to sexual orientation, the type of socio-economic data requested was in fact non-existent in most country reports.

The data on multiple grounds is in most cases also non-existent. In this case one must keep in mind the fact that survey data will only contain proxy variables for some of the grounds and that the statistical validity of crossing variables will most likely be diminished as sample size is reduced. Although baseline analysis using census data (including use of proxy variables) could also be used, one must also keep in mind that there are a number of EU Member States which do not carry out a population census (Sweden and the Netherlands, for example). Even when censuses are available, only a baseline figure is available and in most countries sexual orientation is not included and in others not even religion or data on race/ethnicity is published (as in Poland). In the following section problems of self-classification are also discussed.

In the reports there was also valuable information as to the different institutions which collected the data, both official and from civil society (especially organisations of people with disabilities and organisations representing Roma people which have carried out specific surveys of their beneficiaries on their own or in collaboration with official statistical offices). The following section discusses the implication of the wide variety of institutions collecting data in terms of the difficulties this can pose in a monitoring and evaluation exercise.

One of the most striking patterns which could be found across the analysis of the tables for the 27 countries was that gender continues to be an important variable to take into account and for which multiple grounds discrimination is basic. However, as discussed in the following section, the indicators which have been used for many years in this area of knowledge cannot be used directly in the analysis of discrimination based on other grounds (for example, occupational segregation and its indices discussed in more detail in the following section). Conceptual clarity is one of the most important areas which can contribute to determining which indicators can be most useful for monitoring and evaluating progress. Taking a look at individual reports, and using the five grounds, SEN focuses on, as the main guide for analysis, the following paragraphs summarise the situation found across the 27 Member States.

### **5.1.1. Age**

With regard to age, as already mentioned, in most countries there was data available (younger and older workers) on job access conditions and representation as well as labour market and working conditions. Data on education were also available in most cases. However, with regard to affiliation with an organisation, work-related benefits and housing, the data were not so readily available in all countries, while others had almost all the data around these areas. Access to transportation and health data is also largely missing in most countries.



### **5.1.2. Disability**

With regard to disability, the data were scarcer than for age, but most countries reported at least some data on work-related issues. The indicators chosen for work-related benefits have, of course a high level of correlation and are in fact used as a variable to identify disabled persons and from there extract other characteristics for the group (for example in a Labour Force Survey or other administrative databases), although some experts pointed out that this was not always possible.

It is also important to note that employment or labour market data for disabled persons has a large bias, as most are classified as inactive given that their status as disabled in many countries is seen as impeding their suitability for paid employment. Furthermore, many of those who are employed may be so under special conditions (special work centres, for example) which also have important implications for analysis and conclusions about discrimination.

### **5.1.3. Ethnicity**

In the case of ethnicity, as already mentioned, the most widely used variable is that of place of birth of the individual or his/her parents. Although there are a number of countries for which some of the indicators were available or existed, the use of proxies, as discussed in the following section, carry many technical and statistical difficulties which cannot be so easily dismissed.

However, in the case of the Roma population this proxy is not valid and in most countries racial categories do not exist or are prohibited by law in surveys or administrative data registries. In this case there is a little more information on access to health and housing, mostly from NGO reports or surveys. But this varies widely across Member States.

Countries with large Roma populations have carried out specific surveys (Spain), have other monitoring mechanisms (Romania and the Czech Republic) or the situation can be proxied by the regions where this group is concentrated. However, one must be very careful with the use of and access to data for this group, which can also be extended to groups on the other grounds. As the Bulgarian and Romanian experts point out, data on the worse educational outcomes or worse labour market position of the Roma can lead to strengthening stereotypes about the Roma in countries where there is already a strong social rejection of the group. This was also pointed out in the Finnish report for all the grounds in general. In addition, in Romania the official statistics where ethnicity is included might be related to areas (such as poverty reduction) where the government wants to show the impact of its policies. Furthermore, all existing studies on education, health and the labour market show that there is in fact a worse situation for the Roma than for the rest of the population.

### **5.1.4. Religion and sexual orientation**

In the case of religion and sexual orientation, the tables reported by the country experts showed very little availability or existence of the data requested for any of the areas. In this case again the main restrictions are of a legal nature. It is pointed out that in these areas there are issues of sensitivity, given the wider discussions on diversity, discrimination, xenophobia, etc. Both of these characteristics would be considered as sensitive by employers, for example, in the UK.



Countries which recognise same-sex couples have registers which are used mainly to deal with issues of equality in pensions, insurance, economic rights and adoption or guardianship rights. However, these types of registers usually do not record other socio-economic characteristics and information (education, health, etc.). Again, existing surveys could be used (for example household composition) to identify households where same-sex couples live, but this would have large biases as households comprising people of the same sex cannot be directly established as a couple relationship. In addition, those who are single or live with family members or in other arrangements would obviously be excluded.

### **5.1.5. State of play by area or issue**

Finally, looking at the indicators from the point of view of area or issue, labour market and education indicators were generally the most available, as already mentioned. However, this must be nuanced in at least three ways: availability by gender as requested (in many cases only totals were provided); other alternative indicators provided; and variety of sources limiting or preventing altogether any cross-country comparisons.

Under job access conditions, experts could report unemployment rate by sex for age groups (sometimes only older workers) for 21 Member States, for disability for 14 and for ethnic origin for 15 (mostly by proxy of nationality or place of birth). The LTU (long-term unemployment) rate is only available in 16 countries by age and only in three by disability or ethnicity. This is the area with the most information. However, some experts believe that unemployment is not an adequate indicator and an employment rate should be used instead. More information on this is given in the following section.

All the other areas have mostly missing or unavailable data. The only indicators for which data could be obtained in more than 10 Member States for the target group of age are: part-time work, wages and percentage of individuals under the poverty line. All the other indicators for all the other grounds are reported for between one and six Member States at the most and almost all are missing values.

Only Romania and Ireland had studies on multiple grounds and the most relevant in terms of discrimination were gender, ethnicity and disability.

## **5.2. Comments on the indicators and advice**

The difficulties in data collection for the purpose of monitoring joint progress in addressing discrimination or in non-discrimination on all five grounds can be divided into five main areas: availability (access); comparability (including the disparity in the range of institutions which could or do collect them and the purpose of collection); interpretation and relevance (which has a number of sub-themes); legal constraints; and, not least, more technical aspects ranging from the correct use of indices to the use of averages and established econometric methodologies to measure discrimination. In addition to this, discrimination on multiple grounds compounds all of these problems. The expert reports provided good examples and arguments around all of these areas. Most importantly, many provided excellent advice and orientation as to how this issue can be addressed in the most rational and useful way.



### 5.2.1. Availability (access)

Availability and access is an important issue highlighted by the reports from some countries, although it should be said that in most countries this is not the most common problem, but rather the issue was the existence at all of the type of data that was requested or the legal restrictions for public use in the case of administrative data.

Tied to the issue of access is frequency. This is a very important issue if indicators are used for monitoring progress. The country reports reflect a number of one-off surveys (many times not official) or the population census that can serve as a baseline, but not for monitoring purposes.

In addition, as the Malta expert points out, the lack of indicators also reflect lack of awareness and political will to do something about the problem (absence of data makes the problem invisible) but can also point to lack of knowledge and resources in the official statistical departments.

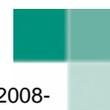
### 5.2.2. Comparability

With regard to comparability, although some of the indicators could in principle be obtained through the SILC (Statistics on Income and Living Conditions), the issue of statistical reliability (in some cases sample sizes would have to be increased significantly), as well as capturing all of the five grounds, clearly poses a great challenge. Important information on the five grounds for discrimination cannot be identified in this Eurostat survey directly and only in some cases through the use of proxies which could have serious statistical biases (for example, using place of birth, composition of the household, location of the household, etc.). Thus, the scope for Eurostat to contribute through the SILC is, in fact, limited.

With regard to the data provided on a number of discrimination complaints, it needs to be highly contextualised as all other sections in this report reflect a very different approach in each country, depending on the remit and sanctioning power of legislation or anti-discrimination bodies.

Other indicators, such as labour market, housing, education, decision-making, etc. also pose a number of comparability problems, depending on the type of data (administrative or survey), the timeliness with which they are collected and the original purpose for which they were collected.

The Irish experts pointed out that, compared to data presented in European reports, Irish national data showed important disparities. They suggest that internal and cross-national inconsistencies in the data should be investigated. As Ireland has one of the few statistical offices which have carried out a report on equality, it is interesting to note that most of the indicators required for the present report did not match those of Ireland and that others were missing (such as mortality rate, life expectancy, risk of poverty, rate of employment, knowledge of rights, etc.). This must, of course, be tempered by the fact that in Ireland the number of grounds covered exceeds those covered by present EU legislation, but it does point to the challenges in building up a set of comparable and meaningful indicators.



### 5.2.3. Interpretation and relevance

Interpretation and relevance of the data is one of the areas where country experts provided the most ample methodological and conceptual guidance, as well as highlighting the importance of context for the interpretation of the data. On one level the discussion dealt with technical issues of determining whether the indicators chosen could be used as proof that there was a situation of discrimination or not and on the other it tackled what additional information needs to be taken into account.

One of the most relevant questions coming from the expert reports was the issue of what the indicators were going to be used for, as this can have both legal and practical implications.

One of the areas where there was a strong reaction from experts was the relevance of gender for all the socio-economic indicators. In the first place, there was the issue of using concepts and indices that have a very strong academic tradition and base for analysis, such as occupational segregation indices. These indices can only be used when talking about men and women in the labour market in general; they can not be further disaggregated by age or any other variable, as they were conceptually designed to deal with gender differences in the distribution of occupations and sectors. It should also be noted that in some cases breakdown by gender was not readily available and requires a special petition to the data producer.

Another issue brought up by the experts was that of using the gender breakdown for specific groups. For example, there is no information in any country on sexual orientation and labour market indicators. Even if the unemployment rate of each of the subgroups in this group were known, sex and gender<sup>26</sup> issues would not necessarily be directly transferable.

With regard to the relevance of specific indicators, one of those which garnered the most comments was the unemployment rate. This indicator has a number of problems including: definition is based on active population, some of the target groups and women within those groups are not included as active and this biases interpretation and does not take into account discouraged workers; employment rate is the Jobs and Growth Strategy indicator and should also be used here, not least because it is measured on the target population(s); and some in the target groups might be working in the undeclared economy.

Comments were also made on the interpretation of housing indicators. In Poland it is difficult to give a percentage of residents in areas deemed sensitive or troubled and instead a more objective measure of access to water and sewage would be better. In Sweden, although the local authorities provide accommodation, people also have a choice – immigrants tend to be in overcrowded circumstances not so much because the local authorities do not offer housing, but because immigrants tend to choose housing near relatives or people they know. However, there are housing associations which have included clauses restricting the entry of immigrants into their buildings and some municipalities (because of costs associated with overcrowding) charge immigrants more than Swedish families. Also, there could be difficulties with proportions of rented versus privately owned housing, as there are strong preferences and cultures around this in different Member States.

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<sup>26</sup> The category of gender is applied to the social differentiation between women and men that can change across time, history and cultures. Sex is the biological differentiation, which in some cases might not be applicable either.

Another no less important issue around the area of interpretation was the public use of data showing disadvantages. As already mentioned in the previous section, data showing minorities with lower unemployment, health, educational levels, etc. may help to reinforce rather than reduce the stereotypes about minorities. In this case the ‘sensitivity’ of the data is taken very seriously by some Member States who want to avoid opposition to policies conducive to reducing discrimination.

#### **5.2.4. Legal constraints**

Legal constraints and statistical data protection and collection traditions in the different Member States also need to be considered, as in some cases only baseline indicators could be obtained, but these could not become monitoring indicators due to their one-off or infrequent nature. Also, where data were available in databases (be these survey or administrative), data protection legislation tends to limit or prohibit extraction and use by more than a set amount of variables in order to protect anonymity.

By definition and legislation in most countries, there are no restrictions on access to health and social protection as all residents are guaranteed the rights to these, but this does not mean that the actual access is guaranteed, nor is equal treatment in the system (for example, due to stereotypes by medical and administrative personnel in surgeries, clinics and hospitals). The question in the UK relating to health is not access, for example, but unequal outcomes for particular groups in particular areas.

#### **5.2.5. Use and technical aspects**

The use of the indicators is a most important question, as it raises the issues of common objectives and a common monitoring mechanism in place at EU level and within the remit and limits imposed by subsidiarity. It also implies that the indicators used should be SMART (specific, measurable, achievable, relevant and time-bound). In this case we would also argue (especially because of the lack of official data and the emphasis on participation by those affected by discrimination) for SPICED<sup>27</sup> indicators (subjective, participatory, interpreted and communicable, cross-checked and compared, empowering, diverse and disaggregated).

Specific and sound methodologies would have to determine whether their unemployment was due to the fact that they belong to a minority sexual orientation or if other factors such as sex, age, education or health have a higher (or lower) impact. Given the very large body of economic literature on determinants of employment, wage gaps, etc., the conclusion here is whether all the labour market indicators asked for are the best to monitor discrimination on the five grounds<sup>28</sup>.

Furthermore, some experts pointed out that, although labour market statistics were the most numerous and available, other problems such as self-selection, exclusion and poverty traps, which these groups might also be affected by, would need to be taken into account when interpreting data.

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<sup>27</sup> Roche, 2002.

<sup>28</sup> There are a number of methodological tools to determine discrimination in the labour market. One of them is so-called statistical discrimination which is a theory in labour economics that deals with differences in entry pay of minority groups.

In this regard some experts also pointed to the push and pull factors affecting the ‘choice’ (or not) of sector, occupational status or labour market state<sup>29</sup>.

The experts from Poland, Slovenia, Romania, the UK, Malta and a few others pointed to the problem of self-classification as a very important technical issue that is in fact grounded in the situation of the groups. In other words, there might be people under one of the grounds who in surveys and even administrative type data will not classify themselves as Roma, ethnic minority, LGBT, etc. This clearly weakens any statistical analysis aiming to obtain a clear picture for policy purposes and to set specific objectives.

### 5.3. Concluding remarks

The exercise in data collection carried out by the national experts pointed to a number of difficulties, but also provided ideas as to how to address the issue of indicators for monitoring progress on non-discrimination or equality on the five grounds.

Not all of the indicators were deemed relevant for all of the grounds. Also, some of the indicators are not relevant at all, due either to the large biases that they introduce in determining discrimination or to the incorrect use or transfer from the analysis of other types of discrimination.

The fact that in almost all Member States there are legal restrictions as to the use of official survey or administrative databases and that in others existing data might not be comparable or include large biases from self-classification poses the greatest difficulties in using indicators for monitoring and assessing the present situation and tracking policy impact.

The comments by experts on which indicators would be the best and what methodologies to use to determine discrimination are as follows:

- Addition of specific questions on existing surveys, preferably in those that have EU-wide comparability
- Determine which indicators are the most relevant for each of the grounds
- Sensitive data is different depending on the country and depending on who collects and uses the data; therefore political agreements (like in the case of social exclusion) must be arrived at for Member States to comply
- Well-established econometric and statistical methodologies to establish individual or more pervasive cases of discrimination must be kept in mind as well as the statistical soundness of the data itself. How discrimination actually happens in different areas also needs to be understood (labour market, health, etc. is it access, delivery, outcomes, interaction with other situations of exclusion etc.?)
- Qualitative indicators are also very important, especially for policy monitoring.
- Indicators used for gender cannot be directly transferred to all of the other grounds.
- Indicators should also be adjusted to the definition of discrimination and less but more precise indicators should be identified.

<sup>29</sup> There is a very large body of scientific literature on ethnic businesses and self-employment in older workers which challenges whether these are ‘choices’, but less on LGBT reaction in terms of employment and self-employment.



## 6. CONCLUSIONS

The analyses by the independent experts of the situation and the progress made in establishing equal opportunities in the Member States are a valuable addition to the information provided by the governments. There is, however, still a lot to be done to make the information comparable and accessible. A lot can also be gained by more in-depth description of the situation in the Member States on specific themes. In the first part of this final section the conclusions are described of the themes which presented an actual overview of the situation in the Member States. Although discrimination is still a fact in all Member States, a start has been made with the establishment of the necessary infrastructure and strategy to combat discrimination.

In the second part conclusions concerning data collection are presented. Data collection is seen as a necessary prerequisite for further policy development and the necessary first step to implementing non-discrimination and/or equality mainstreaming. This then is the theme described in the last part of this section.

### 6.1. Discrimination, governance and diversity

The information presented in this report shows that discrimination is experienced daily in all Member States. The perception of discrimination, however, differs and the awareness of groups at risk of discrimination varies considerably between the Member States. Perception appears to be very much dependent on actual knowledge of discrimination issues. In particular, awareness of discrimination on the basis of sexual orientation and also religion could be improved in many Member States.

The best way to cope with discrimination and inequality would be to develop strategies aiming at removing barriers for vulnerable groups by enhancing their capacity. Education is therefore crucial. Efforts to improve access to all forms and levels of education for vulnerable groups should be the first objective of an effective equality policy.

Non-discrimination legislation is established in all Member States. The institutional framework for the implementation of non-discrimination legislation and policies is, according to the national reports, also established, although some improvements could be made here. Coordination at governmental level should be guaranteed and the dissemination to local and regional levels could have more attention in several Member States.

Diversity is a new concept for many, but especially for the new Member States. An important challenge is how to promote this concept in a context where discrimination is part of everyday life and at the same time the concept is not really understood, but merely seen as another demand coming from the EU. It will take some time and a lot of small steps before 'diversity' is perceived as an important feature of contemporary society by the majority of the population.

### 6.2. Data collection: working on indicators

The overview of the indicators provided by the SEN, as presented in this report, illustrates that the information is far from complete. As mentioned before, there is a risk of overlooking some groups if administrations and/or society are reluctant to recognise them as vulnerable in terms of discrimination (e.g. LGBT and ethnic groups).

For a successful implementation of policies, data collection is an important first step. As will be described in the next section, the availability of data is essential for the implementation of mainstreaming.

Further involvement of SEN in data collection on non-discrimination requires a clear identification of which data are relevant for what kind of discrimination on what ground. A political agreement on how sensitive data are/ can be collected is also needed, since it has been shown in this report that not all the data relevant to non-discrimination policy were accessible or even allowed to be collected in several Member States. Solid methodologies for data collection need to be developed. Furthermore, an identification of qualitative and not only quantitative data is very useful.

The main problem identified in this report is that minority groups are not clearly defined and not all are registered.

What is needed for the implementation of a meaningful data collection is:

- to use more precise concepts;
- to find key indicators for different grounds;
- adjustment for relevant factors;
- comparative data from official sources – at national and European level.

It is crucial that Eurostat is involved in identifying the kind of data that are needed and available and what indicators can be used, particularly in relation to comparative data.

### **6.3. Prerequisites for mainstreaming**

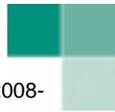
The Commission has a clear view of what is meant by mainstreaming non-discrimination, including a definition of the concept itself, a typology and identification of good practices of mainstreaming. The picture arising from the national reports is, however, that both the concept of mainstreaming and what constitutes good practice is not clear at national level. Follow-up to the Helsinki Good Practice Exchange should help to promote mainstreaming at the national level.

For the implementation of non-discrimination mainstreaming in the Member States, awareness of discrimination is the starting point. A prerequisite for the effective implementation of non-discrimination and / or equality mainstreaming in the Member States is to have access to reliable and specific data. Information is necessary and, as described above, not yet complete.

For new Member States, new legislation and policies against discrimination was a result of EU accession. For them, positive incentives from EU initiatives is of ultimate importance.

The European Year of Equal Opportunities has been identified as a very important positive incentive for development and implementation of non-discrimination measures. The experts reported that civil society in new Member States plays a crucial role. In order to safeguard and strengthen this role it needs direct (financial) support from the Commission.

To make non-discrimination and/ or equality mainstreaming possible, effective coordination at governmental level is needed. As described, the institutional framework for non-discrimination implementation is established in the Member States.



However, continuity can be a problem, for example when government is changing following parliamentary elections. Exchange of practices and coordination at European level can help to address this problem. SEN can contribute to increasing the exchange of good practices in the field of governance for non-discrimination between the Member States.

The role of equality bodies could be strengthened by extending their mandate to all six grounds and by extending their remit to the support of both individuals and groups. Equality bodies can play a more important role in policy development and in reaching out on the one hand to NGOs and on the other to regional and local government.

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## ANNEX I Model table

'Factualisation of inequalities' indicators		National average		Average target group	
		M	F	M	F
<b>A.</b>	<b>Job access conditions</b>				
1.	Unemployment rate				
2.	Percentage of long-term unemployed among job-seekers				
<b>B.</b>	<b>Representation</b>				
3.	Presence of the target group in media and culture				
4.	Representation in high positions of authority in public administration and government agencies				
5.	Percentage of elected officials				
6.	Make-up of boards of large corporations				
<b>C.</b>	<b>Labour and working conditions</b>				
7.	Percentage of individuals working part time (less than 30 hours/week)				
8.	Percentage of workers in insecure work (temporary workers, substitute and day workers, seasonal workers, informal work, domestic labour)				
9.	Horizontal segregation – distribution of jobs via sector of activity				
10.	Vertical segregation – percentage of executives by target group				
11.	Compensation – hourly salary / target group				
<b>D.</b>	<b>Affiliation with an organisation</b>				
12.	Percentage of individuals from target groups affiliated with trade union or professional organisation				
13.	Proportion of political-party members from target group				
<b>E.</b>	<b>Work-related</b>				
14.	Percentage of recipients of welfare income				
15.	Percentage of individuals living below the poverty line				
16.	Rate of work-related disability and incapacity				
17.	Level of retirement pensions				
<b>F.</b>	<b>Education</b>				
18.	Secondary education: percentage having left school without diploma or secondary qualification				
19.	Secondary education: orientation – technical / general education track distribution				
20.	Higher education – university segregation – percentage leaving higher education without a degree				
<b>G.</b>	<b>Housing</b>				
21.	Occupant's status – share of owners, first-time home owners and renters				
22.	Occupancy ratio – average number of occupants per housing unit				
23.	Type of housing – percentage of residents in areas deemed 'sensitive' or troubled				

<b>H.</b>	<b>Transportation</b>				
24.	Autonomy – mobility – rate of possession of driving licence				
<b>I.</b>	<b>Health</b>				
25.	Prevention and access to social protection – percentage of individuals with public or private medical insurance				
26.	Access to information for health-related issues				
<b>J.</b>	<b>Access to credit</b>				
27.	Share of individuals having had a credit request denied				
<b>Indicators for measuring the progress of anti-discrimination policies</b>					
<b>B1.</b>	<b>Victim complaint data</b>	<b>Total</b>	<b>Target group</b>		
1.	Number of discrimination complaints issues and reports made to relevant institutions				
2.	Number of complaints leading to legal proceedings				
<b>B2. Action by independent authorities</b>					
3.	Ability to issue legally binding decisions/ codes of practice				
<b>B4. Tools and measurements</b>					
4.	Recognition of the use of statistical testing and proof in legal proceedings				
5.	Existence and effective implementation of monitoring with regard to the labour force employed by private companies and government organisations				
6.	Existence and implementation of an equality action plan				
<b>Indicators measuring the effects of anti-discrimination policies</b>					
1.	Existence of survey of the public's perception of inequality				