

**Data collection and research  
activities on racism and  
xenophobia by the EUMC  
(2000-2006)**

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**Lessons learned for the EU  
Fundamental Rights Agency**

**Working Paper**

**FRA 2007**

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# 1. Introduction

[1] The Council Regulation establishing the European Union Agency for Fundamental Rights (FRA), as successor of the European Monitoring Centre on Racism and Xenophobia (EUMC), came into effect on 1 March 2007. The FRA was established to provide assistance and expertise to the European Union and its Member States, when they are implementing Community law, on fundamental rights matters. The aim is to support them to fully respect fundamental rights when they take measures or formulate courses of action. The FRA was established through Council Regulation (EC) No 168/2007 of 15 February 2007<sup>1</sup>.

[2] The Regulation describes the Agency's tasks, as follows:

[3] *“(a) collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data, including results from research and monitoring communicated to it by Member States, Union institutions as well as bodies, offices and agencies of the Community and the Union, research centres, national bodies, non-governmental organisations, third countries and international organisations and in particular by the competent bodies of the Council of Europe;*

[4] *(b) develop methods and standards to improve the comparability, objectivity and reliability of data at European level, in cooperation with the Commission and the Member States;*

[5] *(c) carry out, cooperate with or encourage scientific research and surveys, preparatory studies and feasibility studies, including, where appropriate and compatible with its priorities and its annual work programme, at the request of the European Parliament, the Council or the Commission;*

[6] In the light of the fact that the Agency should continue its work on racism and xenophobia, but should also collect data on new areas of fundamental rights and on broader grounds of discrimination, it is an appropriate time to reflect critically on the methodologies employed in the data collection and research activities of the EUMC. Therefore, the aim of this working paper is to describe the evolution of the work of the EUMC in gathering and analysing data and information on racism, xenophobia, discrimination and anti-discrimination since 2000, to reflect critically on how these techniques and methodologies have contributed to the drive for data reliability and comparability, and to show what lessons have been learned in order to improve methodologies of data collection in the future.

[7] It should be emphasised that this paper is not a strategy document and is drawing only on the experience of the EUMC. The EU Fundamental Rights Agency will review the data collection and research methodologies in accordance to its specific needs.

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<sup>1</sup> EN L 53/4 Official Journal of the European Union 22.2.2007

## **2. The scope of the FRA's work on racism**

[8] When dealing with the phenomena of racism and discrimination, the Agency for Fundamental Rights uses definitions which are clearly defined in international law. The work of the Agency is oriented towards international minimum standards that all EU Member States have signed up to (see Appendix for more details on international definitions in this area). However, it should be noted that, as with the EUMC, the work of the Agency is not restricted to phenomena narrowly related to racism as defined in such international documents. For one thing, some types of racial/ethnic discrimination (such as indirect discrimination) are not necessarily caused by racism, but could result from outdated provisions and practices. The Agency is also concerned, for example, with issues and policies related to integration, and with broader factors that make migrants and minorities more or less vulnerable to racist behaviour, and to both direct and indirect discrimination.

[9] It should be noted that, when looking at phenomena such as racism or anti-Semitism, it is not part of the Agency's role to look for their underlying deep-rooted causes. This is the kind of 'basic research' undertaken normally by universities and research institutions. However, it is part of the scope of the Agency to examine contributory factors which can affect the occurrence of racism and discrimination, and identify developments and policies which may have consequences for the development of racist or xenophobic attitudes, or for practices of discrimination. A very important part of the Agency's role is also to collect data and information on a variety of positive initiatives, which demonstrate actions against racism and discrimination.

## **3. The importance of data collection**

[10] The collection of objective and reliable data is necessary for awareness-raising and for sensitising the public and policy makers as to the extent and nature of racism, discrimination, and related injustices. It is often only when data have been assembled which have not been brought together before, or when specific research has been carried out, that public attention is drawn to phenomena which until then have not been easy to see. Data are also necessary for guiding and supporting the implementation and development of policy initiatives to combat inequality, exclusion and social injustice. Furthermore, data are useful for public and private sector organisations to ensure that their own policies are fair, efficient and comply with equal treatment laws, and for judicial processes in proving or rebutting claims of unfair treatment.

## 4. Methodologies employed in data collection, research and analysis

### 4.1. Developing the RAXEN network

- [11] In order to collect reliable, objective and comparable data at European level the EUMC was tasked by Article 2, 2 (h) of its Regulation<sup>2</sup> to develop “...a *European Racism and Xenophobia Information Network (RAXEN) consisting of the Centre's own central unit, which shall cooperate with national university research centres, non-governmental organizations and specialist centres set up by organizations in the Member States or international organizations*”. Creating such a network was an important and early priority of the Centre, which initiated in 1999 a broad consultation process with key stakeholders in order to examine their specific needs and identify existing data collection activities and structures, so as to create synergies and thus avoid duplication and competition. In addition, a study to this effect was also commissioned from Professor Karmela Liebkind of Helsinki University. Based on the outcome of the consultation process and the *Liebkind Report* the EUMC developed the concept of the RAXEN network of National Focal Points (NFPs), which was put in place in 2000.
- [12] The RAXEN NFPs, one in each Member State,<sup>3</sup> are national organisations, typically anti-racist NGOs, national specialised bodies for equal opportunities or anti-racism, institutes for human rights, or university research centres networking with other key stakeholders in the field. NFPs are selected on the basis of an international tender and contracted by the EUMC to provide data and information in a variety of reporting formats at different time intervals. NFPs are tasked to work closely with other key actors at national level in order to ensure that data collection is comprehensive. Data and information are collected by the National Focal Points according to common guidelines provided by the EUMC, and cover five thematic areas:
- employment
  - education
  - housing
  - legal initiatives
  - racist violence and crime
- [13] A sixth thematic area, that of health and social care, was added in 2006, with data on this to be collected as from 2007.
- [14] RAXEN is a unique and pioneering effort to collect reliable data and information systematically, based on common guidelines, through a

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<sup>2</sup> Council Regulation (EC) No 1035/1997

<sup>3</sup> In 2007 there are 27 National Focal Points. The list of organisations acting as NFPs can be found on the EUMC's website <http://www.eumc.europa.eu>

network of civil society organisations. These work closely together to document phenomena of racism, xenophobia and anti-Semitism in the European Union, thus contributing positively to its transparency and political credibility. The EUMC approached RAXEN from the start as a "learning process": feedback provided regularly by the NFPs together with expert consultations has supported a routine annual revision of the guidelines. In addition, two major reviews of RAXEN involving NFPs, stakeholders and external experts were conducted in 2003 and in 2005 aimed at streamlining the network's deliverables and making them more directly relevant to the needs of the EUMC's primary stakeholders.

- [15] The EUMC supported and followed closely the work and activities of the NFPs by organising frequent meetings, through training and through e-mail and telephone communication. This has ensured that RAXEN reports follow the guidelines closely and are delivered on time. High profile experts and representatives of stakeholders, such as the European Commission, the Council of Europe, the OSCE/ODIHR, EU civil society umbrella organisations, etc. have also participated on occasion in such meetings providing valuable feedback and expertise, particularly regarding the development and review of guidelines.

## 4.2. The work of RAXEN

- [16] Since 2000 a large and unique body of data has been assembled by the EUMC, collected systematically and on the basis of common guidelines by the NFPs of the RAXEN network. First of all NFPs conducted a mapping exercise providing an overview in each Member State of organisations or bodies, both public and non-governmental, involved in the fight against racism and xenophobia, their activities, publications and other details. This material is constantly updated, and much of it is available on the EUMC's on-line database 'InfoBase'.<sup>4</sup>
- [17] Each NFP provided yearly since 2000 national data collection reports setting out the available statistical and descriptive data on incidents and developments relating to racism and discrimination, and initiatives in the fight to combat it. In each thematic area the NFPs collect several kinds of data, for example:
- Statistical data from official, semi-official and NGO sources
  - Information on racist incidents and court cases
  - Information on relevant legal provisions
  - Case studies and information on positive initiatives against racism and discrimination
  - Descriptive and analytical information, such as from research activities, opinion polls, etc.
- [18] The data in the NFP reports form the background material used to compile the EUMC Annual Report. The EUMC's Annual Reports are

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<sup>4</sup> Available at <http://www.eumc.eu.int/factsheets/>

major reports that presents an overview of events and developments regarding racism and xenophobia in all the Member States each year, in each of the thematic areas of employment, education, housing, legal initiatives, and racist violence and crime. The report also provides a separate section of Opinions on policies and measures for combating racism and xenophobia.

- [19] In addition the NFPs produced in 2002-2003 a series of analytical studies covering each of the thematic areas. Based on these studies the EUMC then published between 2003 and 2006<sup>5</sup> a series of major Comparative Thematic Studies providing a unique overview covering all EU Member States.<sup>6</sup> These set out common trends and national differences, and identify gaps in the data, using a great deal of qualitative explanatory material of national context.
- [20] Other deliverables provided by the NFPs are Special Thematic Studies and *ad hoc* Rapid Response reports. These also feed into EUMC comparative analyses. Recent examples are the reports on Roma and Travellers in public education published in 2006, the report on victim support organisations published on the 'InfoBase' and the report on trends and developments in the EU 1997-2006 to be published in 2007. Rapid Responses are instruments to respond to urgent data collection needs. These have fed into EUMC overview reports. Examples of such reports are the "Summary Report on Islamophobia in the EU after 11 September 2001", "Manifestations of Antisemitism in the EU 2002-2003" published in 2004, "Policing Racist Crime and Violence" published in September 2005 and "The Impact of 7 July London Bomb Attacks on Muslim Communities in the EU", published in 2006.

### 4.3. Quality of data

- [21] The EUMC's Regulation specified that the data collected by the Centre should be 'objective, reliable and comparable'. The term '**objective**' indicates that the information should be collected with as much scientific rigour as is possible, according to good canons of social science methodology. The term '**reliable**' can have more than one interpretation. For example, one relates to a more 'every day' usage, and another has a more specific meaning in social science methodology. The more common sense usage of the term sees data as 'reliable', if it is accurate and does not present a misleading picture of what it is trying to describe. However, in the literature of social science methodology, the concept of 'reliability' in research relates to the idea of 'replicability', namely the assumption that, if the research is repeated under the same conditions, any similar sample of respondents, it will produce similar

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<sup>5</sup> Copies of the European Comparative Reports on employment, education, legislation, housing and racist violence, can be downloaded from the EUMC website: <http://www.eumc.europa.eu>

<sup>6</sup> Depending on the EU membership status of European countries during data collection

results.<sup>7</sup> The EUMC reasonably aspired to collecting data which is reliable according to both of these definitions.

- [22] In order to ensure that the secondary data collected by the NFPs presents an accurate reflection of what it is meant to describe, precise and common guidelines are provided to the NFPs to direct them to collect the kinds of data required. The guidelines are extensively discussed during annual meetings, which also include training sessions.
- [23] In order to facilitate the data collection work of NFPs the EUMC developed, together with the OSCE/ODIHR and Jewish organisations, and on the basis of consultation with experts, a guide<sup>8</sup> to data collection on anti-Semitic incidents. (This followed on from an earlier report in which it had identified the lack of both legal and operational definitions regarding anti-Semitism). The guide includes a proposal for a non-legal working definition to be used at national level by primary data-collecting agencies. Following feedback by the NFPs and other stakeholders the guide, which is considered as ‘work in progress’, will be reviewed.
- [24] The accuracy and quality of the data in NFP reports is carefully scrutinised and verified. Data collection reports submitted by the NFPs are assessed by in-house experts, and additionally by external experts with specialist knowledge, if in house expertise is not available. Finally, Draft Reports are also sent to the government liaison contacts, one for each Member State, should they wish to comment on matters related to government legislation, policy and practice.
- [25] In order to ensure that the research that the EUMC carried out stands by academic standards of replicability, the EUMC drew internally on programme managers who have had substantial research experience carrying out both quantitative and qualitative surveys and research. Furthermore, during the planning stages of a new research project the EUMC hosted workshops of leading academic experts in the proposed field of study, in order to gain practical guidance on methodological and other issues.
- [26] The term ‘**comparable**’ poses more problems than the other two terms. The implication within the EUMC Regulation is that the units between which comparisons are to be made are the EU Member States. The EUMC has produced a great deal of data on Member States which is *comparative*, in the sense of describing, analysing and commenting on similarities and differences in the occurrence of incidents, policies, and so on, between Member States. However, this information is rarely directly *comparable*. An indicator of comparability has to be able to allow a reasonable judgement that, for example, a particular manifestation of racism or discrimination is greater or lesser in one Member State than another. There are many reasons why data collected

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<sup>7</sup> See Bilton, T., Bonnett, K., Jones, P., Stanworth, M., Sheard, K., and Webster, A. *Introductory Sociology*, MacMillan, London 1993

<sup>8</sup> Available at <http://www.eumc.europa.eu>



by the EUMC is rarely comparable in this sense, for reasons described in detail elsewhere.<sup>9</sup> However, there are ways of improving comparability, and one of these is to collect data in different Member States using a common research method which is specifically designed to produce data which are comparable between them.

- [27] Thus it could be argued that there are three levels in the work of the EUMC in the drive for comparability in its data output:

### **Level 1: Collecting secondary data**

- [28] The EUMC has played a significant role in mapping what data are available in the various Member States, collecting them, identifying the gaps, explaining the reasons why data are *not comparable*, drawing on descriptive, qualitative material to explain differences of national context and their implications for the current lack of comparability between data on discrimination in Member States. This is one of the functions performed by the five thematic Comparative Studies, and by the Annual Reports.

### **Level 2: Researching primary data**

- [29] In order to make up for the lack of **comparable** statistical data the EUMC began gradually to design and implement increasingly more ambitious research projects with comparability built into them, as its human and financial resource capacity allowed. These used a common methodology, applied in the various Member States in order to produce data on discrimination of a comparable nature. Examples of these include the Eurobarometer study on majority attitudes towards minorities, the study on the minorities' experiences of racism and discrimination and the ongoing survey of migrants' minorities' experiences of racist crime, policing and support.

### **Level 3: Encouraging change**

- [30] The EUMC's reports have contributed to the raising of awareness on the need for convergence in Member States' administrative procedures, in data gathering methods, and in definitions used in the various Member States, so that officially-produced data can become intrinsically more comparable. The messages have been disseminated every year in workshops and conferences across the EU, as well as in regular meetings with Member State government officers, and in parliamentary presentations.
- [31] More directly, as part of this process the EUMC has been cooperating with bodies such as EUROSTAT, and with the Commission's *Working Group on Data Collection to Measure the Extent and Impact of Discrimination*. One outcome of the latter has been the production of

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<sup>9</sup> J.Wrench, "The Measurement of Discrimination: Problems of comparability and the role of research" in S. Mannila (ed.), *Data to Promote Equality*, European Commission / Finnish Ministry of Labour, Helsinki, 2005 available at <http://eumc.europa.eu/eumc/material/pub/general/JW-Pres-Helsinki-09Dec04.pdf>

the *European Handbook on Equality Data*,<sup>10</sup> which has drawn extensively upon the EUMC's data collection experiences in order to raise awareness amongst policy makers of the need for better data.

#### 4.4. The reliability and comparability of equality data

[32] The difficulties of reliability and comparability regarding data on discrimination and equality issues that have been faced by the EUMC fall chiefly under three main headings.

##### 4.4.1. Official statistics

[33] Official statistics from Member States come from three types of data source – population censuses, national registers, and official surveys. These can show differences in the circumstances of different minority and migrant groups provided that information on ethnic/national origin, or a close proxy, is available within the data. Such national statistical data can in theory produce patterns which suggest the operation of discrimination. For example, in many EU countries immigrants or ethnic minorities have unemployment rates significantly higher than the majority population. If, in large data sets, it is possible to hold constant variables such as education level, qualifications, experience, age, etc. and significant differences still remain, then this is an *indirect* indicator of discrimination.

[34] There is great variety within the EU in the degree to which a Member State's census or national population register is useful for identifying racial/ethnic inequality, or for operating and judging the effectiveness of anti-discrimination activities. In the UK a question on ethnic background has formed part of the official census since 1991. In some other countries their official population data registers whether the individual's parents were born abroad, thus making possible the identification of second generation immigrants, but no more than this. In most of the ten new Member States which joined the EU in 2004 there is a question on 'nationality' which is understood more in ethnic terms than in terms of citizenship, and can be used to identify members of long-standing ethnic or national minorities within a country's borders (for example, Hungarians in Slovakia, Hungarians in Romania, etc.). However, these are incapable of identifying more recent immigrant groups. Most of the remaining countries ask only about citizenship and place of birth. This means that in most EU countries official data are of limited use for the purpose of identifying groups exposed to racial/ethnic discrimination, and evaluating measures against it, and are of even more limited use for providing comparability between Member States.

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<sup>10</sup> *European Handbook on Equality Data: Why and how to build a national knowledge base on equality and discrimination on the grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation*, European Commission, Luxembourg 2007.

- [35] Some national statistical authorities allow researchers access to national census and register data to carry out more sophisticated analyses relating to migrant or minority populations. The National Reports provided by the NFPs regularly present examples of studies where, for example, multivariate regression analysis applied to statistics on unemployment and earnings indicates a residual amount of disadvantage for migrants and minorities that can be assumed to be due to discrimination. However, this evidence remains ‘indirect’, and at a national level.
- [36] Some transnational European surveys, such as the European Social Survey<sup>11</sup> have the potential to provide more sophisticated and reliable analyses. However, the sample used by the European Social Survey picks up too few migrants and minorities to be of use. EUROSTAT plans an *ad hoc* module for the Labour Force Survey 2008 covering migrants and their descendents, with the aim of showing the degree of their integration in the labour market. It is the first time that such a module will be used, and it is likely to be repeated every three or four years. Although the module will be able to provide some information relevant to those concerned with combating discrimination, it has a limited number of questions and does not directly address experiences of discrimination.

#### **4.4.2. Complaints data**

- [37] This category of evidence comes from complaints reported to specialised bodies for assisting victims, or to Ombudsmen, the police, the courts or NGOs. They might come from victims themselves, or from “whistleblowers” who complain to an agency about discriminatory practices which they have witnessed.
- [38] Complaints are not a good indicator of levels of discrimination because the levels of under-reporting and non-reporting are high. Many victims are not certain that they have been victims of discrimination, and even when they are certain, there are many social and institutional forces which will determine the likelihood of them reporting it. In the past, this has been exacerbated by the fact that in some Member States there was no official agency to receive a complaint. Now, the need to comply with the Equality Directives<sup>12</sup> is expected to gradually improve this situation, with the obligation for Member States to provide specialised bodies to document discrimination and assist with cases. However, even where a complaints mechanism exists, it is well known that only a minority of victims who perceive that they have suffered discrimination are likely to complain. For example, in one year it was thought that only four per cent of people subject to discrimination reported it to the Ombudsman

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<sup>11</sup> See <http://www.europeansocialsurvey.org/>

<sup>12</sup> Council Directive 2000/43/EC (implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) and Council Directive 2000/78/EC (establishing a general framework for equal treatment in employment and occupation on other grounds)

against Ethnic Discrimination in Sweden.<sup>13</sup> In other words complaints data represent ‘the tip of the iceberg’.

#### 4.4.3. Evidence from research

- [39] Research on discrimination can complement official statistics and overcome many of the problems that have been described above. Research projects can be designed so as to include the sensitive categories of ‘race’, or ethnic or national origin, which are often so difficult to find and use in existing statistics. Research can identify the importance of variables which cannot be shown in official statistics, and can produce a range of evidence of different types on discrimination, in its various manifestations and locations.
- [40] From the EUMC’s point of view the most valuable research methods for providing *objective, reliable* and *comparable* data on discrimination have been:
- [41] **Victim surveys**, where people from social groups who are at most risk of suffering discrimination are asked about their subjective experiences of discrimination. The survey might be administered by postal questionnaire, or by direct interview.
- [42] **Discrimination testing**, which utilises two or more testers, one belonging to a majority group and the others to minority groups, all of whom apply for the same job (or other opportunity or service). The applications could be in person, by telephone or by letter. The testers are matched for all the criteria that should normally be taken into account by an employer, such as age, qualifications, experience and education. If over a period of repeated testing the applicant from the majority background is systematically preferred to the others, then this points to the operation of discrimination on the basis of the ground that was tested, in this case ‘race’ or ethnicity. (The method can equally be used to test discrimination on other grounds, such as disability, sexual orientation, etc.)
- [43] **Surveys of the majority population**, either by questionnaire surveys or by qualitative research focusing on those who act as gatekeepers to employment or housing opportunities, or as service providers. These can provide information on attitudes or practices which can have direct implications for the equal or unequal access of migrants and minorities to opportunities and services.

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<sup>13</sup> Ombudsman against Ethnic Discrimination Newsletter 2002: 1, available at <http://www.do.se>

## 5. Conducting primary research

- [44] As well as providing official statistics and complaints data in their data collection reports, the NFPs also provide evidence from research carried out by others. However, while national level research can provide a valuable insight into discrimination within that country, it is ‘patchy’ in terms of its occurrence and may not be able to provide policy relevant information at a time when it is required. Nor can evidence from such research provide comparability *between* Member States.
- [45] In its first years of operation the EUMC focussed only on collecting and analysing secondary data. However, it soon became apparent that there were reasons also to collect primary data via research initiated by the EUMC itself. There are several reasons why primary research can be useful. Firstly, it may be necessary to produce information for a specific policy relevant issue when secondary data are not available. Secondly, it can build comparability into the methodology and produce comparable data across Member States. Thirdly, it can pilot and test innovative and cost-effective transnational research methodologies which can be made available for others to use.
- [46] It is for these reasons that the EUMC initiated ‘level 2’ activities, namely carrying out research across Member States designed to produce comparable data. The EUMC first commissioned two programmes of research, the *Eurobarometer* studies and the *Migrants’ Experiences of Racism and Discrimination*, both using the principle of a common research methodology applied in different Member States.

### 5.1. Eurobarometer

- [47] In 2000 and 2003 the EUMC participated in the *Eurobarometer* surveys,<sup>14</sup> when samples of the majority population in all Member States were asked the same questions relating to their attitudes to minorities. They were asked the extent to which they agreed or disagreed with a series of statements, such as “There is a limit to how many people of other races, religions or cultures a country can accept” or “Legally established immigrants from outside the European Union should be sent back to their country of origin if they are unemployed”. The analysis revealed the level to which the majority population in each Member State support or do not support various dimensions of what has been called ‘ethnic exclusionism’. Because the same questions (sensitively translated to allow for national cultural differences) were employed in the various countries in the same year, and then repeated three years later, the survey produced comparable data both between

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<sup>14</sup> Majorities’ attitudes towards minorities in EU Member States: results from the standard Eurobarometers 1997-2000-2003. This analysis of the standard Eurobarometer for the EUMC has also included data from the Eurobarometer in the Candidate Countries, as well as data from the European Social Survey. The full reports, as well as a summary report, can be found on the EUMC website: <http://www.eumc.europa.eu>

Member States and over time. The FRA plans to repeat the exercise in 2007 in order to further develop its trends analysis.

## 5.2. Pilot project on migrants' experiences of racism and discrimination

- [48] The *Migrants' Experiences of Racism and Discrimination* pilot project began in 2001 as the first primary research project of the EUMC. The aim of the pilot project was to collect data on migrant and minority groups with regard to their subjective experiences of racism and discrimination in everyday life, and to have this in a comparable format by using, as far as possible, a similar methodology for data collection and data analysis. The methodology was based on research initially conducted in Sweden<sup>15</sup> using a postal questionnaire sent to samples of immigrant groups asking whether they had experienced discrimination in a number of areas, including regarding their access to employment, harassment at work, promotion and redundancy.
- [49] However, it turned out in practice that the data produced by this study were not as 'comparable' as was first intended. This is because of practical difficulties encountered by the national researchers in applying the programme, which related to very different circumstances of national context. The model for the "Migrants' Experiences" programme had been earlier studies carried out in three Nordic countries. Yet Nordic countries have the kind of population registers which enable appropriate samples to be defined and postal questionnaires to be dispatched. In most of the other countries such registers do not exist and so for many of the subsequent studies alternative sampling methods had to be devised, such as quota sampling, finding subjects via immigrant organisations, and administering questionnaires personally. This significantly reduced the comparability value of the findings.
- [50] Furthermore, another practical constraint reduced the comparability in these studies, namely *timing*. Since the financial resources of the EUMC were not enough to allow several national studies to be carried out during the same year, only a few countries were covered each year, with the aim to complete the project by the end of 2005. But this meant that a period of several years had passed between the first and last study, which rendered comparisons between Member States even less meaningful.
- [51] The comparative study was finally published in 2006.<sup>16</sup> One of the main lessons of the study was that the way to reduce problems and enhance comparability would have been to launch all national surveys at the same time, and to commission the survey work to one organisation that

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<sup>15</sup> A. Lange *Immigrants on Discrimination II*, CEIFO, University of Stockholm 1997

<sup>16</sup> Pilot Study Migrants' Experiences of Racism and Discrimination in the EU, <http://www.eumc.europa.eu>

could employ the same methodology in every country. This lesson has been applied in the next major study on victims' experiences of racist crime.

### **5.3. Pilot victim survey on 'criminal victimisation and policing'**

- [52] The need for better data on racist crime was highlighted in the EUMC's *Comparative Report on Racist Violence in the 15 EU Member States* published in 2005.<sup>17</sup> The report showed that both official and unofficial data collection on racist crime and violence is inadequate in the majority of Member States, and that data, where available, cannot be compared directly between Member States as 'incidents' or 'crimes' are defined and recorded differently.
- [53] Given this absence of reliable data, one of the key recommendations in the report was to develop surveys on criminal victimisation that can capture vulnerable communities' experiences of criminal victimisation, including any incidents that are 'racially', ethnically or religiously motivated. The advantage of questionnaire-based victim surveys is that they are able to capture a greater range of incidents than those reported to the police, because they are *not* reliant on people's willingness to report to the police or on the police's ability or willingness to record incidents.
- [54] Victim surveys, such as the 'European Crime Survey' already exist, but their sample covers the general population of Member States and therefore 'vulnerable' groups, such as ethnic minorities, foreigners and/or immigrants, are not captured in sufficient numbers by the survey's sampling frame. The EUMC's 2006 pilot victim survey on criminal victimisation, policing and victim support is the first international victimisation survey targeted *specifically* at ethnic minorities and foreigners/immigrants. The survey pioneers sampling and questionnaire application on selected minority groups and thus constitutes an important step towards reliable and comparable data by the European Union. The survey will be tested first in Austria, Belgium, Italy, Slovakia, Bulgaria and Romania, thus producing data in countries with a relatively limited experience of such research.
- [55] As a follow-up to the 2006 pilot project, the FRA plans in 2007 to launch a victimisation survey on migrants and minorities covering all EU Member States. This will not only allow objective, reliable and comparable data to be collected and analysed, but will also provide invaluable sampling and methodological experience that can be applied in future large-scale questionnaire surveys on a range of other subjects concerning minority groups.

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<sup>17</sup> See <http://eumc.eu.int/eumc/material/pub/comparativestudy/CS-RV-main.pdf>

## 5.4. Pilot media project

- [56] A second example of primary research to provide objective, reliable and comparable data is the pilot study planned for 2007 on representations of migrants, minorities and diversity issues in the press.
- [57] An earlier overview of the media<sup>18</sup> indicated a need for more research and further development of adequate methodologies for sampling, categorising and analysing media content across Member States. The *Pilot Media Project* examines the balance of media content and bias related to ethnicity, as well as examining media content which can be seen to be countering discriminatory attitudes and structures.
- [58] The methodological approach involves a combination of quantitative and qualitative analysis, namely a combination of *content analysis* and *discourse analysis*. Common tools and coding schemes are to be applied to enable the description, reporting, categorisation and analysis of data. The pilot survey will be carried out in up to seven Member States, representing both ‘old’ and ‘new’ Member States, different countries’ sizes, geographical spread and migration histories. It will be restricted to the press and the topics to be covered will include migrants, refugees and asylum seekers, ethnic minorities, Jews and anti-Semitism, Muslims and Islamophobia, issues of diversity, multiculturalism, migration and integration, and activities against racial and ethnic discrimination and intolerance.
- [59] As with the *Pilot Victim Survey on ‘Criminal Victimisation and Policing’*, valuable methodological lessons are expected to be learned from this project that will give the FRA the potential to carry out future research in this field, covering all Member States and producing reliable and comparable data. The project will also produce material for awareness-raising and training workshops for journalists.

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<sup>18</sup> Racism and Cultural Diversity in the Mass Media, 2002, available at <http://www.eumc.europa.eu>



## **6. The transformation of the EUMC into the European Union Agency for Fundamental Rights**

- [60] At the 4-5 December 2006 Justice and Home Affairs Council, the EU Member States agreed that from early 2007 the EUMC's mandate will be extended to become the EU Agency for Fundamental Rights. The Agency will be a centre of expertise on fundamental rights, advising the European Union and its Member States on how to better implement fundamental rights-related Union legislation, and other EU activities.
- [61] The objective of the Agency will be to provide the relevant institutions, bodies, offices and agencies of the Community and its Member States, when implementing Community law, with assistance and expertise relating to fundamental rights. The new Agency will assist them, when they take measures or formulate courses of action within their respective spheres of competence, to fully respect fundamental rights.
- [62] The independent Agency will collect, analyse and disseminate data on fundamental rights when implementing Community law. One of its functions is to publish an Annual Report on the state of fundamental rights in the European Union. In particular, the Agency will continue the work of the EUMC relating to racism, xenophobia and anti-Semitism.
- [63] The Agency for Fundamental Rights will have the right to formulate opinions to the Union institutions and to the Member States when implementing Community law, either on its own initiative or at the request of the European Parliament, the Council or the Commission. The Agency will take measures to raise the awareness of the general public about their fundamental rights, and about possibilities and different mechanisms for enforcing them in general, without, however, dealing itself with individual complaints. The Agency will work closely with civil society. A special body, the Fundamental Rights Platform, will be set up to act as a link between the Agency and NGOs.
- [64] As stated in the Introduction, the data on fundamental rights to be collected by the new Agency should also be "objective, reliable and comparable". Thus the Agency for Fundamental Rights will build on the data collection experience of the EUMC, and consolidate and develop the EUMC's methodologies and techniques in its future data collection and analysis activities, covering new grounds of discrimination.

## 7. The emphasis of future research

[65] In the light of the experiences of the EUMC in collecting and analysing data and conducting research, it is pertinent to consider the emphasis of future research within a European Agency covering fundamental rights. One issue here is the question of the balance between quantitative and qualitative research.

### 7.1. Quantitative and qualitative research

[66] Quantitative research can produce objective, reliable and comparable data. Population surveys are a useful quantitative research tool based on representative samples that produce reliable statistical data and support analyses, which then allow comparability, if replicated in more than one country. Furthermore, if they are repeated over time, such surveys can also show trends, which is important when studying people's experiences, their perception of events, or their attitudes to social values.

[67] Surveys usually target the general population, but they can also be designed, using sophisticated sampling techniques, to focus on specific population groups that are difficult to sample. The EUMC's survey on 'criminal victimisation and policing', mentioned earlier, is an example of such a survey targeting migrants and ethnic minorities, with the aim of capturing their experiences of racist crime, victim support and policing.

[68] Whilst it is important to continue to give high priority to producing statistical data, there is also a good argument for adding dimensions of qualitative research. Without denying the political significance of producing quantitative data, there are several reasons why qualitative work is important in the field of discrimination. Firstly, it can provide a whole new dimension of understanding of issues of discrimination, including details and processes of its occurrence and the motives of actors, which cannot be gained from quantitative research. Secondly, in some circumstances it can be used to check the accuracy and relevance of findings from survey data. Thirdly, and perhaps most importantly, it in order to properly design and target *anti*-discrimination measures, it is often necessary to draw on the evidence of qualitative research.

[69] The inherent weakness with qualitative research is that the number of cases that can be studied is far fewer than with quantitative methods. Consequently, it is more difficult to compare between countries and to draw generally valid conclusions. However, in qualitative research, the researcher gets personally closer to the particular phenomenon of discrimination under study, and thus gains more understanding and insight into the *meaning* of the data. The researcher can observe or experience at first hand the particular phenomenon of discrimination that he or she is researching.

- [70] For example, a questionnaire survey on the attitudes or practices of the majority population can produce statistical patterns of responses, which are reliable and comparable, in the sense that this survey could be replicated in another Member State. But how do we know that this reflects the reality of discrimination in practice? There is no way of observing if the stated attitudes or practices of respondents correspond to what the respondent feels or does in reality. Expressed attitudes of discrimination may have little correlation with actual practices of discrimination.
- [71] There is an inherent dilemma in social science methodology – research methods which are high in reliability and which produce quantitative results and comparable indicators, are intrinsically less useful than qualitative methods when it comes to getting close to the reality of discrimination. We can illustrate this point by referring to the two recent EUMC programmes which employed the principle of a common methodology applied in all Member States, so that (in theory) this would produce comparable data across different European countries.
- [72] The *Eurobarometer* surveys produce data on expressed attitudes in their thousands which are statistically significant, and allow comparability between Member States. However, in reality what is being compared may be relatively superficial – there may be relatively little ‘meaning’ in the replies. For example, if in one country the degree of the majority population’s expressed agreement with statements such as “there are too many immigrants in our country” is relatively low, this might simply reflect a greater degree of ‘political correctness’ in that country, where people are more aware of the sorts of things that are not socially acceptable to say on the streets to a researcher.
- [73] Similarly, the kind of material collected in questionnaires for the comparative pilot project *Migrants’ Experiences of Racism and Racial Discrimination* has intrinsic limitations. How do we know that the level of subjects’ perceived discrimination reflects actual discrimination? It is difficult for an individual to know when they have been unfairly discriminated against in recruitment – they may feel that they have suffered discrimination when they have not, or they may not realise it when they have. Furthermore, they may be less likely to ‘open up’ on such a sensitive area during a brief encounter with a stranger with a questionnaire.
- [74] Qualitative research can identify processes of discrimination and the motives of discriminators, which will allow anti-discrimination practice to be targeted more effectively. For example, if employers are found to be rejecting applications for jobs from migrants and minorities, qualitative research can establish the degree of importance of factors such as personal prejudices or ignorance, pressure to discriminate from others, a lack of awareness of the law, a fear of losing customers, etc.

- [75] In conclusion there are arguments for both quantitative and qualitative methods to be employed in future work. This is also the conclusion reached by external consultant Dr Robin Oakley, following his appraisal of the data collection practices of the EUMC in 2005:

*“At present it appears to be widely assumed that, in order to be reliable and comparable, the monitoring data produced by the EUMC needs to be principally, if not exclusively, quantitative. Whilst the production of reliable European-wide statistical data is obviously essential, it is important to recognise the value of qualitative data for understanding the nature and significance of the various forms and manifestations of racism in Europe. It is also a misconception that statistical data are purely quantitative and have no qualitative aspect: for example, the categories used for measurement are inherently qualitative, and all quantitative data collection has a qualitative aspect. ... The EUMC may need to promote a fuller understanding and appreciation of the qualitative aspects of monitoring and data-collection among its political and policy-making target groups.”*

## 7.2. Discrimination testing

- [76] One social science method of researching discrimination, which is able to sidestep some of the problems of both quantitative and qualitative research is *discrimination testing* (sometimes know as *situation testing* or *matched pair experiments*). Such research has been carried out in the UK since the 1960s and in recent years the method has become associated with the International Labour Office (ILO), which sponsored the test first in Belgium, Germany, the Netherlands and Spain. In 2003 the ILO re-started the testing programme with Italy, and in 2006 included France and Sweden. The method has also been carried out independently of the ILO, but guided by its methodology, in Denmark and Switzerland.
- [77] This is a classic method for investigating discrimination, and can be applied in other areas apart from employment, such as in access to housing, health and social services, entertainment services, and so on. It overcomes many of the earlier problems of data on discrimination by identifying ethnic or national origin, controlling for other variables, and carrying out enough tests to produce statistical significance. The researchers are close enough to the phenomena of discrimination to banish any doubts as to the 'truth' of the evidence, particularly when, as often happens, the minority candidate enquires first, is told that, for example, a job is gone, and then a little later the majority applicant is informed that the job is still vacant. The problem associated with some other methods, namely that a victim does not know whether he or she has suffered discrimination when being turned down for a job, is overcome. This is an example of a method producing statistical data on discrimination which, compared to other methods, allows a greater degree of scientific comparability between different countries – i.e. a

comparison of net discrimination rates. It can also be used to test grounds of discrimination other than ethnicity – for example, it can be used for gender, age, disability and sexual orientation.

- [78] This method is one of the most reliable and effective ways of demonstrating the operation of discrimination and provides a high degree of comparability in discrimination data between countries. The FRA will currently examine carefully the possibility of carrying out such testing in the near future.

## 8. Collecting ‘Good Practices’

- [79] Part of the EUMC’s role has been to collect examples of good practices or positive initiatives against racism and discrimination in EU Member States, so as to encourage dissemination and mutual learning by presenting examples which can be used by others. The Annual Reports and other comparative reports and studies have allowed the EUMC to present suggestions regarding criteria of ‘good practice’ in different thematic areas.
- [80] As was clearly indicated in the *Comparative Report on Racist Violence in 15 EU Member States* the term ‘good practice’ requires definition primarily with respect to its goals, ‘success’ stories and possibilities for replication. At a basic level, consideration needs to be given to who defines and interprets practices as ‘good’. In other words, does the agency promoting a project offer it as an example of ‘good practice’, or has the project been independently assessed? Furthermore, when offering examples of ‘good practice’ between different regions and countries, there needs to be sensitivity to and understanding of different socio-cultural practices.
- [81] Specifically in the thematic area of employment, the EUMC has been working with the ILO to identify markers of good practice. The EUMC participated (along with ECRI, ENAR and others) in an ILO-coordinated working group to develop tools to assess integration and anti-discrimination practices.<sup>19</sup> The outcome was an evaluation methodology, consisting of a set of criteria<sup>20</sup> that qualitatively describe good practice. For each of these criteria, one or more descriptive indicators were suggested.
- [82] The kinds of criteria suggested for evaluating good practices are as follows:
- [83] **Adequacy:** Does the practice explicitly or implicitly target discrimination? Target groups should be either those at risk of discriminating, or those at risk of being discriminated against, if in the case of the latter group the aim is to empower them to resist discrimination.
- [84] **Relevance:** Does the practice serve a local and sectoral context whilst at the same time taking wider national and international experience into consideration during planning?
- [85] **Coherence:** Do the measures establish a clear link between the needs, the aims and activities planned or implemented?

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<sup>19</sup> Funded by the European Commission, DG JLS through INTI

<sup>20</sup> See <http://www.ilo.org/public/english/protection/migrant/equality/evaluation/index.htm>

- [86] **Inclusion/Empowerment:** Is there active participation of the target population and the beneficiary population within the project?
- [87] **Effectiveness:** Is there a measurable output? Quantity and quality of the output are important. Is there feedback from participants, clients, etc. on the output?
- [88] **Impact:** What were the intended and unintended outcomes – is the aim being met or furthered?
- [89] **Management/Viability:** Were there adequate resources for the project?
- [90] **Flexibility/Sustainability:** Are the project aims and activities adaptable to changes in the external context? Has self-evaluation been institutionalised to allow this?
- [91] These criteria are to some extent ‘ideal’ and information on them is often not available to RAXEN NFPs. Therefore, the NFPs are presented with rather less ambitious instructions in the guidelines on data collection, and are asked to provide information under these headings when it is available. The guidelines are as follows:
- **Anti-discrimination adequacy:** Does the project target discrimination, either by attempting to change the attitudes or practices of those at risk of discriminating, or by empowering minorities to resist discrimination?
  - **Sustainability:** Is the project more than just a ‘one off’ activity? Does it have the potential for continuing in the future, or being ‘mainstreamed’ into an organisation’s routines?
  - **Effectiveness and Impact:** Is there any evidence of either short term measurable output, or of longer term impact, of the activity?
  - **Transferability:** Does the activity have the potential to be one that others can copy, and that can be transferred to other settings?
- [92] As can be seen, the NFPs are asked to distinguish clearly in their ‘good practices’ between those which are simply ‘one off’ occurrences, such as awareness raising or training events, etc. and those which are enduring institutional policies and measures. They are also encouraged to report developments regarding improvements in the collection of data in this field.
- [93] Apart from criteria to identify components of ‘good practice’, another relevant issue is that of comparability of such practices across the EU. More work will be done on comparisons between Member States on the nature, type, and extent of ‘good practice’ activities. Such comparisons will inevitably entail the use of indicators which are more qualitative than quantitative, and will also require the construction of typologies by which to categorise the activities. This work will be carried out in consultation with other international bodies.

## 9. Encouraging change: The long term impact

- [94] The EUMC has contributed to the drive to increase the reliability and comparability of data in the EU in its field at two levels, firstly by mapping and collecting secondary data along with analyses of its strengths and weaknesses, and secondly by initiating research to produce comparable data and to test comparative methodologies. Both these activities have contributed actively to developments at the longer term ‘third level’, namely encouraging change by raising awareness on the need for convergence in Member States’ administrative procedures, in data gathering methods and in definitions used in the various Member States, so that officially-produced data can become intrinsically more comparable.
- [95] One particular issue, regularly covered in EUMC reports, is that of ‘ethnic data collection’. In order to have reliable and comparable data on discrimination it is necessary to have information on the main relevant variable according to which discrimination occurs, namely on ‘race’, ethnic origin, national origin and religion. From the experience of collecting secondary data and cases of ‘good practice’ against discrimination over many years, it has become clear that the information would be more useful, and data reliability would be enhanced, if more of the publicly available evidence that the NFPs collect contained statistics where variables such as ethnic and national origin were recorded, and also that comparability would be enhanced significantly if in official statistics, such as unemployment statistics or police and court statistics, these variables were recorded by Member States in similar ways.
- [96] This issue is central to questions such as: what are adequate indicators of discrimination, what is the best way to get data that will influence policies, what are the most effective anti-discrimination policies, and how do you measure the impact of anti-discrimination legislation? In general the message of EUMC reports has been to encourage the collection of relevant and more useful data. Particularly significant in this respect has been the coverage of racist violence and crime, as set out in two recent Annual Reports and the *Comparative Report on Racist Violence in 15 EU Member States*. Here, figures and tables categorise Member States according to the quality of their official criminal justice data collection mechanisms on racist crime and violence, showing clear distinctions between those with comprehensive, good, limited and non-existent data.<sup>21</sup>
- [97] The messages of the Annual Reports and other comparative reports and studies of the EUMC on the need for improved data have clearly struck home over the last few years, with regular and increasing references in the mainstream media, as well as in other international and EU reports

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<sup>21</sup> See, for example, EUMC Annual Report 2006 pages 96-97



and European Parliament documents. An analysis in December 2006 of the very extensive media coverage of the launch of the Annual Report 2006 shows that many of the media picked up specifically on this point.

[98] This issue is more relevant today than a few years ago. The concept of indirect discrimination and changes in the burden of proof introduced by the Equality Directives indicate that there is likely to be more pressure on employers themselves to record this type of data, perhaps for ‘self defence’ purposes. There is also a growing awareness in Europe of ‘diversity management’. As stated in the European Commission’s *Handbook on Data Equality*, diversity monitoring is likely to be the most effective measure an organisation can take to ensure that it is in compliance with equality laws. An organisation may collect data on the make-up of its workforce in terms of ethnic origin, religion, age, etc. in order to identify and remedy imbalances, which may be problematic. There is also growing interest in ‘positive action’, as a type of anti-discrimination activity, and positive action often requires ethnic monitoring.

[99] According to the recent EUMC overview of ‘Trends and Developments’<sup>22</sup> there has been evidence in recent years that more Member States are moving in the direction of including ethnic origin as a variable in data. Ireland has decided to include a question on ethnic origin in its 2006 census for the first time. In Belgium there has been a recent shift in the attitude towards collecting ethnic data in the Flemish region and at the national level, so as better to target labour market equality policies. In France, certain INSEE (*Institut National de la Statistique et des Études Économiques* – French National Institute for Statistics and Economic Studies) general surveys have included variables which allow for the identification of the children of immigrants, enabling further analysis of the situation of ‘second generation’ immigrants in the job market. In the Netherlands in 2004 a new division was introduced in statistics on complaints made to anti-discrimination agencies allowing figures on cases of employment discrimination to be broken down by ‘race’ or ethnic origin.

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<sup>22</sup> *Trends and Developments 1997-2005: Combating Ethnic and Racial Discrimination and Promoting Equality in the European Union*, FRA 2007

## 10. Conclusions

- [100] Since it began data collection the EUMC has highlighted the weaknesses of data in its field, and the ways in which data has not been reliable or comparable. The Annual Reports and other comparative reports and studies have provided insights into the reasons why data are not comparable, and have enabled judgements to be made as to what is needed to enhance comparability. The message of these reports has added to public policy debates on better data. This has been particularly so in the area of statistics on racist crime and violence, and on the issue of ‘ethnic data collection’. Increasingly there is seen to be a need for more officially collected data which record ethnic and national origin, if Member States and European Institutions remain committed to the idea of greater reliability and comparability in statistical data. It is difficult to talk about reliable indicators of discrimination unless there is such data. Such statistics can be drawn on as evidence to support claims of racial discrimination and can have a particular value in illuminating processes of indirect discrimination. They enable positive action targets to be set, and they allow the success or otherwise of anti-discrimination initiatives to be judged.
- [101] The EUMC has also contributed to enhancing the availability of reliable and comparable data by carrying out and improving its own primary research. The lessons learnt from this will allow more objective, reliable and comparable data to be collected and analysed by the FRA. There is a need for continuing research activity, both quantitative and qualitative, by the FRA. In addition to the existing major surveys across Member States, there should also be discrimination testing experiments. In comparison with most other sources of data, these act as a highly reliable indicator of the operation of discrimination. There is also a need for the more qualitative kinds of research, such as on victims of discrimination and amongst members of groups which suffer racism and discrimination, but also on gatekeepers to employment. This allows a greater understanding of all the various ways that discrimination occurs, the processes and relationships involved, and the range of motives, pressures and structures that underlie it.
- [102] With better statistics and the expansion of research in Member States across the range of different methods, a more sophisticated insight into processes of discrimination will be provided, and this will enable more appropriate and targeted *anti-discrimination* policies to be developed. Comparative studies of such anti-discrimination policies in the various Member States will be a further valuable exercise. The EUMC has set out steps for identifying and categorising ‘good practices’ in its thematic areas, and more work will be done on this in the future by the FRA, in cooperation with other international bodies.
- [103] The work of the new Agency for Fundamental Rights will build on the experiences of the EUMC. The specific actions in the next stages of data collection and analysis will be determined once the content of the multi-annual framework for the future work of the Agency is made clear.

Following this, a further paper will be produced covering the methodological implications of the new tasks and projects of the Agency for Fundamental Rights.

## 11. Appendix – Definitions and Concepts

- [104] The FRA undertakes its work on racism and racial or ethnic discrimination on the basis of EU and international standards to combat racism, to promote equality and guarantee human rights. These standards contain definitions and concepts on racism and racial discrimination. These definitions and concepts provide a framework for the FRA's data collection guidelines, research methodology and activities. These definitions and concepts inform FRA work and its support for European Union policy to combat racism, xenophobia and anti-Semitism.
- [105] In its work against racism, the FRA cooperates closely with the Council of Europe, in particular through its European Commission against Racism and Intolerance (ECRI). This cooperation is to avoid duplication, to ensure consistency and coherence in line with European and International standards and to reinforce mutually each other's activities and actions. ECRI publish general recommendations on a variety of issues related to combating racism and intolerance. The FRA incorporates the general recommendations of ECRI into its work.
- [106] The FRA works also with the United Nations (UN) and Organisation for Security and Cooperation in Europe (OSCE) through its interagency cooperation on combating racism and promoting tolerance. The FRA is therefore guided by the comments and observations of the UN Committee on the *Elimination of Racial Discrimination*.<sup>23</sup>
- [107] The right of individuals not to be discriminated against on a range of grounds, including racial or ethnic origin, religion or belief, has long been recognised by international organisations, such as the United Nations (UN), the Council of Europe, the European Union and its Member States. International agreements such as the *UN Covenant on Civil and Political Rights, Economic, Social and Cultural Rights* (1966),<sup>24</sup> the *European Convention on Human Rights and Fundamental Freedoms* (1950),<sup>25</sup> the *UN International Convention on the Elimination of All Forms of Racial Discrimination* (1965)<sup>26</sup> and the *UN Convention on the Elimination of All Forms of Discrimination Against Women* (1979)<sup>27</sup> exemplify the commitment of the international and European communities to guarantee respect for the right to non-discrimination.

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<sup>23</sup> Available at <http://www.ohchr.org/english/bodies/cerd/index.htm>

<sup>24</sup> Available at <http://www.hrweb.org/legal/escr.html>

<sup>25</sup> Available at <http://conventions.coe.int/treaty/en/Treaties/Word/005.doc>

<sup>26</sup> Available at <http://www.ohchr.org/english/law/cerd.htm>

<sup>27</sup> Available at <http://www.ohchr.org/english/law/cedaw.htm>

## EU policy to combat racism and promote equal treatment

- [108] Since the European and international standards have come into force, support at European Community level in combating discrimination has been expressed through a variety of joint declarations, charters, resolutions, and legislation related to the fight against racism and xenophobia and the promotion of equal treatment. Further to the broadening of its powers relating to discrimination in the 1997 Amsterdam Treaty, the Community went one step further in 2000 and gave a specific legal base for action to promote equal treatment through the *Racial Equality Directive*<sup>28</sup> and the *Employment Equality Directive*.<sup>29</sup> These Directives afford a common minimum level of protection to EU citizens against all forms of discrimination. They also supplement and reinforce existing Member State legislative measures implementing the principle of equality that prior to the implementation of the Directives all States had through their constitutional and/or common laws enshrined.
- [109] Legislation sends clear signals about what society regards as acceptable or unacceptable, and the two Directives form an integral part of the Community's strategy in changing attitudes and behaviour. Nevertheless, it is not sufficient on its own. That is why the Community established in parallel with the Directives a *Community Action Programme to Combat Discrimination (2001-2006)* to enable people to build their own actions to tackle discrimination at a local level, where it is often most effective. More information on the specific actions can be found in the Community Action Programme.<sup>30</sup> For the period 2007-2013 the Community has put in place the programme for employment and solidarity *Progress* with a particular section focusing on diversity and combating discrimination. This section will support the effective implementation of the principle of non-discrimination and promote its mainstreaming in EU policies by, among else, improving the understanding of the discrimination situation, in particular through analyses and studies and the development of statistics and indicators.

## Definition of Racism

- [110] The FRA applies the definition of racism from the work of the Council of Europe, namely the European Commission against Racism and Intolerance (ECRI) *General policy recommendation N°7 on national legislation to combat racism and racial discrimination*,<sup>31</sup> that is "racism"<sup>32</sup> shall mean the belief that a ground such as race,<sup>33</sup> colour,

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<sup>28</sup> See [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legisln/2000\\_43\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/2000_43_en.pdf)

<sup>29</sup> See [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legisln/2000\\_78\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/2000_78_en.pdf)

<sup>30</sup> See [http://ec.europa.eu/employment\\_social/fundamental\\_rights/policy/prog\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/policy/prog_en.htm)

<sup>31</sup> See [http://www.coe.int/T/e/human\\_rights/ecri/1-ECRI/3-General\\_themes/1-Policy\\_Recommendations/Recommendation\\_N%B07/3-Recommendation\\_7.asp#TopOfPage](http://www.coe.int/T/e/human_rights/ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%B07/3-Recommendation_7.asp#TopOfPage)

<sup>32</sup> The term "racism" should be understood in a broad sense, including phenomena such as xenophobia, anti-Semitism and intolerance.

<sup>33</sup> Since all human beings belong to the same species, ECRI rejects theories based on the existence of different "races". However, in this Recommendation ECRI uses this term in order to ensure that those persons who are generally and erroneously perceived as belonging to "another race" are not excluded from the protection provided for by the legislation.

language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.

### **Concept of Racial Discrimination**

[111] The FRA applies the concept of racial discrimination from the European Union’s Council Directive 2000/43/EC of 29 June implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Racial Equality Directive):

“**Direct discrimination**” shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin;

“**Indirect discrimination**” shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared to other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

“**Harassment**” shall be deemed to be discrimination, when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. In this context, the concept of harassment may be defined in accordance with the national laws and practice of the Member States.

“**Instruction to discriminate**” against persons on grounds of racial or ethnic origin shall be deemed to be discrimination.