



## **ENAR PRIORITIES FOR THE EUROPEAN PARLIAMENT 2009 ELECTIONS**

May 2008

*The European Network against Racism (ENAR) is a network of some 600 European NGOs working to combat racism in all EU Member States. Its establishment was a major outcome of the 1997 European Year against Racism. ENAR is determined to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local/regional/national initiatives with European initiatives. See: [www.enar-eu.org](http://www.enar-eu.org).*

## Introduction

The European Union faces many important challenges in the 21<sup>st</sup> century, not least the ongoing struggle to overcome racism and discrimination experienced by ethnic and religious minorities across the European Union. Much progress has been made in recent years, not least the emergence of a comprehensive European framework to combat discrimination. Nevertheless, racism remains a deep-rooted problem. The incidents in Italy in November 2007 and May 2008 and the consequent reaction of the Italian government issuing a decree amending laws on the expulsion of EU citizens surrounded by an extensive media campaign activating hatred and evoking racist assumptions about 'Gypsies' in the Italian public cannot be tolerated if our common goal is to build a Union where all its citizens equally enjoy full and uncompromised human rights and freedoms as guaranteed by the Treaties. These incidents could have happened in any EU member state and politicians and other stakeholders must act to ensure they do not happen.

Furthermore, the analysis of ENAR members demonstrates that there is a commonality of experiences of racism across the European Union, even where manifestations may vary. ENAR's most recent Shadow Reports on racism in Europe particularly highlighted the situation of Roma, Traveller and Sinti communities; vulnerable migrant communities (including undocumented workers); asylum seekers; those who experience family reunification; and the diverse Muslim community.

In this context, the European Parliament has an important role to play in furthering the fight against racism and discrimination in Europe and the elections are a key opportunity to show its commitment to anti-racism and anti-discrimination. ENAR believes that the **EU principles** of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities **should be applied during campaigning for the 2009 European Parliamentary elections**. It is essential to ensure that the election campaign does not propagate racist and anti-immigrant sentiments and that anti-racism is given a high priority in the election campaign agenda.

Representation One aspect of this commitment is to ensure that **ethnic and religious minorities are adequately represented** among the election candidates. Currently under 2% of MEPs are from ethnic minorities and yet over 5% of the European population is of ethnic minority origin. The European Parliament should better reflect the increasing diversity of European societies. Related to this is the issue of political **participation of ethnic minorities**. Political parties must ensure that they encourage the political participation of ethnic and religious minorities as much as possible in the 2009 elections; in order to do this, their programme should also address the specific and concrete concerns of this part of the population.

### New political muscles

A much celebrated and welcomed achievement of 2007 is the adoption of the Lisbon Treaty. The **Lisbon Treaty will give the European Parliament increased co-decision powers**, notably in the field of Justice and Home Affairs, and will enable the European Parliament to have a voice in the debates on migration and fundamental rights policies. It will give MEPs the opportunity to show their commitment to anti-discrimination and anti-racism in broader areas, as they have recently done in calling for comprehensive non-discrimination legislation covering *all* grounds.

### An enhanced role as defenders of fundamental rights

Another crucial element of the Lisbon Treaty is the incorporation of the **EU Charter of Fundamental Rights**. Principles of participatory democracy promoting people and civil society's support and involvement in the construction of Europe, protection of the fundamental right of non-discrimination, minority rights, religious freedoms and social rights are now firmly placed as core values of the Union. ENAR strongly hopes that the European Parliament will undertake all necessary efforts in order **to establish the power of the Charter in all policies and actions of the EU**. ENAR calls on the

European Parliament to use all available instruments to make fundamental rights protection a real experience in all Member States of the EU by acknowledging that non-discrimination is a core fundamental right as articulated in Article 21 of the European Charter of Fundamental Rights.

## 1. Ensuring effective legal protection for all ethnic and religious minorities

The European Commission has made significant steps in recognising the existence of gaps in the current anti-discrimination framework at the European level and the need to address this. In its legislative work programme 2008, the European Commission has announced the proposal of a **directive implementing the principle of equal treatment outside employment**. The European Parliament has consistently played a crucial role in calling for **the ‘levelling up’ of protection across all discrimination grounds**. Hierarchies between discrimination grounds undermine the ability of the law to provide effective protection and to achieve coherence, clarity and accessibility, including for those already covered by the higher level of protection. We are therefore convinced that the most effective solution is a single Directive covering the four grounds of age, disability, sexual orientation and religion or belief. At this crucial time, ENAR therefore calls on the European Parliament to continue its work to ensure that the legislative proposal on implementing the principle of equal treatment beyond employment will be taken forward on the grounds of religion, sexual orientation, age and religion building on and securing existing levels of protection and addressing gaps in the current non-discrimination framework.

The European Parliament will also play a crucial role in keeping a focus on the **gaps that remain in the overall legal framework** on discrimination. The Race Equality Directive offers a high level of protection, but the lack of coverage of nationality discrimination, the exclusion of any treatment arising from legal status and the complete exclusion of provisions relating to entry and residence of third country nationals from coverage of the ban on discrimination, leaves third country nationals unprotected from much discrimination in an area where the EU is taking an increasingly important role. Similarly, the lack of coverage of criminal justice, policing and law enforcement more broadly denies protection in key areas and reduces the coherence of the legislative protection on non-discrimination. This is also the case of the Directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services, which, for example, explicitly excludes education and provides for the possibility of justifying direct discrimination. It will therefore be necessary in the future to take stock of the different anti-discrimination directives and examine which provisions need to be aligned or consolidated.

Another key development in ensuring legal protection for ethnic and religious minorities has been the adoption by the EU Council of the **Framework Decision on combating racism and xenophobia by means of criminal law**. ENAR has long advocated for the adoption of an effective European instrument on racism as a crime, and believes that such an instrument is essential in the European context. Despite the weaknesses in the text of the current proposal, ENAR believes that the adoption of this instrument is crucial for the fight against racism and xenophobia in the EU and the report of the European Parliament calls for the adoption of the. It is essential that the European Parliament ensures that this instrument provides effective protection against hate crimes.

*For more information, read [ENAR’s response to the European Commission consultation concerning a possible new initiative to prevent and combat discrimination outside employment and the report of ENAR’s ad hoc expert group on anti-discrimination](#).*

## 2. Strengthening the role of Europe’s social dimension

ENAR strongly believes that a **new social vision and Social Agenda** must take account of the needs and experiences of communities across Europe that are vulnerable to racism and discrimination

including amongst others, Roma, Sinti and Travellers; migrants including EU nationals and third country nationals, particularly undocumented migrants and asylum seekers; the Jewish community and the Muslim community, long-standing ethnic minority communities and national minorities as well as more recent migrants.

A comprehensive, sustainable and coherent policy framework must be developed that is tailored to the experiences and needs of ethnic and religious minorities taking into account the impediments that hinder ethnic minorities and migrants to enjoy 'well-being' and building on a strong human rights based approach, **which places non-discrimination, anti-racism and social inclusion at the heart of the Social Agenda.**

One of the main findings of the ENAR ad hoc expert group on social and economic inclusion of disadvantaged ethnic and religious minorities held in March 2007 points out that as a general trend across Europe governments do recognize the need for interventions to enable those most disadvantaged to escape poverty and social exclusion but links between discrimination and structural disadvantage as factors of continuing social exclusion are not established. Consequently the social exclusion experienced by ethnic minorities is not addressed appropriately, different experiences of the many groups commonly referred to as 'disadvantaged groups' are not taken into account, disaggregated data is not available, meaning that social exclusion of ethnic minorities remain invisible and thus social inclusion policies are not delivering for the most disadvantaged and excluded in Europe.

Europe's social agenda provides an opportunity which has not yet been fully realised to reduce inequalities and combat the phenomena of poverty and exclusion of ethnic and religious minorities. The Open Method of Coordination on social inclusion and social protection, National Reform Programmes and the Employment Guidelines, and the active inclusion strategy are core tools enabling Member States and civil society to ensure that poverty and social exclusion experienced by religious and ethnic minorities are adequately addressed.

*For more information, read [ENAR comments on the European Commission Communication consultation on 'Opportunities, access and solidarity: towards a new social vision for 21<sup>st</sup> century Europe'](#), [ENAR Response to the European Commission's Consultation on 'Modernising social protection for greater social justice and economic cohesion: taking forward the active inclusion of people furthest from the labour market'](#), and [the Report of the Ad Hoc Group on the social and economic inclusion of ethnic and religious minorities](#).*

### **3. Towards a positive migration policy for the EU**

It is a fundamental principle of human rights that they apply to 'Everyone... without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social group, property, birth or other status'.<sup>1</sup>

Equal treatment is an integral part of the fundamental right to non-discrimination. Although, in principle, every person is entitled to this right regardless of his/her legal status, the effective exercise of rights can be, and is, undermined by differential treatment based on citizenship or immigration status. In the European Union, **equal treatment of third country nationals** is both an obligation, under the general principle of respect for fundamental rights, and a political commitment. The Tampere Presidency conclusions in 1999 stated that: "The European Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States." The same commitment was reaffirmed implicitly in the Common Basic Principles on Integration adopted by the European Council in 2004.

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<sup>1</sup> Article 2 of the Universal Declaration of Human Rights

Many of the recent developments in the broad agenda of migration policy including the proposed Directive on common standards and procedures in Member States for returning illegally staying third-country nationals and the proposed EU directive providing for sanctions against employers of irregular third country nationals nonetheless have the potential of undermining the basic human rights of third country nationals. While the framework directive on the basic socio-economic rights for all third country workers aims to fill the rights gap, there are concerns that the priority given to immigration control in bringing forward proposals on regular and irregular migration distorts the framework. **Employment and broader socio-economic rights should be provided equally to every member of European societies, without any artificial division based on legal statuses.**

These legislative proposals are illustrations of the current discourse which sees migration as a utilitarian and short-term solution to demographic change, whereby migrants are welcome to contribute to the European economy but are treated differently and are restricted in exercising basic human and socio-economic rights. ENAR urges the European Parliament to pay particular attention to the fundamental rights of third country nationals and **to follow a rights-based approach which ensures equal treatment of all third country nationals, including undocumented migrants.** In addition, policy coherence must be achieved between non-discrimination, social inclusion and migration strategies.

*For more information, read the [concept paper of ENAR's conference on migration](#).*

#### **4. Making counter-terrorism and anti-racism measures mutually reinforcing**

Since the 11 September 2001 terror attacks in the USA, and then the London and Madrid bombings, **counter-terrorism measures** have shot up the international and European agendas. For some time concerns have been expressed regarding the link between racism and counter-terrorism measures. The dominant rhetoric has a disturbing tendency to link terrorism and illegal immigration leading to stereotyping and racism. Terminology such as 'Islamic terrorism' has led to a growing perception that there is somehow an inherent link between Islam and terrorism - a perception which is contradicted by the facts, but which has led directly to increased Islamophobia and a disproportionate impact of counter-terror measures on Muslim communities. The challenge is to secure the effectiveness of the counter-terrorism policy by ensuring that it **is carried out within the context of the international human rights framework and in a non-discriminatory manner.**

The fight against racism and the fight against terrorism are intrinsically linked. Both racism and terrorism are the product of intolerance and present serious threats to fundamental rights. While there is no inherent contradiction between these two imperatives, it is clear that the fight against terrorism is having a detrimental impact on broader efforts to overcome intolerance. Legal, policy and practice developments in the fight against terrorism have contributed to an environment whereby direct and indirect forms of discrimination are increasingly tolerated and even mandated. Official actions, such as the use of racial profiling, present direct manifestations of racial discrimination, while the overall tone of public debate and political action has contributed to increasing prejudice and subsequent discrimination across the whole range of social spheres. Recent developments and trends in the fight against terrorism are undermining integration and social inclusion contributing to a context whereby a small minority justify terrorism. Anti-racism is not a right to be sacrificed in the context of a broader security agenda, but rather should represent a key element of any strategy aimed at enhancing security in Europe.

ENAR therefore calls on the European Parliament to ensure that counter-terrorism policies are developed and implemented in the framework of human rights and anti-discrimination and **that anti-racism is a key element in counter-terrorism strategies.** Counter-terrorism measures should be designed, implemented and evaluated in an open and transparent manner, which takes into account the perspectives of all religious or ethnic communities in the EU. Active measures and standards should be promoted to prevent the 'racialisation' of the European security agenda, including adopting common standards on **preventing the use of racial and religious profiling** in counter-terrorism and policing.

The European Parliament should also recognise racism, and in particular **Islamophobia**, as a source of exclusion and promote the rights of all ethnic minority communities, as a key element of any strategy aimed at preventing radicalisation.

*For more information, read [ENAR's General Policy Paper on counter-terrorism and combating racism](#).*