

MEASURE,

PLAN,

ACT



How data collection
can support racial
equality



european network against racism

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Foreword



According to a Eurobarometer survey, over one in two Europeans believe that discrimination because of one's racial or ethnic origin is widespread. Yet there is no European-wide data available on exactly how many persons experience unequal treatment because of their racial or ethnic origin. Without measuring and quantifying the extent of discrimination and inequalities in Europe, it becomes very difficult to tackle them effectively.

Equality data collection, disaggregated by discrimination grounds, would support efficient design and evaluation of equality policies. Currently, the lack of relevant equality data collection across the EU means that non-discrimination policies and laws are not implemented as efficiently and cost-effectively as they could if they were better targeted.

This publication aims to contribute to closing the knowledge gap on the positive effects of equality data collection.

It provides a state of play of equality data collection in the EU and gives evidence that it is legally permitted both in EU and domestic law, subject to reasonable conditions. Many States in fact collect data on other criteria revealing racial or ethnic origin, outside of the necessary safeguards. States should instead focus on collecting useful data according to self-identification of individuals at risk of discrimination. A case study of how the United Kingdom collects and uses such data in equality policies, shows what other EU Member States could achieve.

The publication also gives insight into minorities' perspectives on equality data collection. It concludes that it is essential to work with ethnic and religious minorities to build trust, raise awareness and ensure their meaningful participation in equality data collection in order to encourage their self-identification. Some good practices on the grassroots level from Ireland and Romania offer inspiration on how this could be realised.

I very much hope this publication will prove useful to ensure that equality data collection can be achieved across the European Union, but above all can be used to support equality policies and ensure equality in outcome.

Sarah Isal
ENAR Chair

Executive summary

Equality data refer to all types of disaggregated data used to assess the comparative situation of a specific discriminated group or group at risk of discrimination, design public policies so that they can contribute to promoting equality and assess their implementation.

Equality data collection has been increasingly recognised as the ‘missing link’¹ to ensure equality, both by international organisations including the European Commission and by groups affected by discrimination. Equality data disaggregated by discrimination grounds, regularly collected and published, would support efficient design and evaluation of equality policies according to relevant indicators. It would also empower groups affected by discrimination to advocate based on inequalities identified.

The goal of this publication is to contribute to closing the knowledge gap on the effects of equality data on combating discrimination, in order to inform and support advocacy activities. It is not intended to be an exhaustive overview of all data collection practices. Rather, this is a collection of snapshots of good practices.

When it comes to ensuring race equality, there are misconceptions about what equality data collection entails, whether it is legally allowed, and what it costs to collect equality data. Equality data collection does not equal racial profiling. Equality data collection should be based on voluntary self-identification and serves to promote equality. Subject to reasonable data protection safeguards and for a specific purpose, disaggregated data collection is legally permitted both in the EU and domestic law, even on the grounds of religion, race or ethnic origin. In some Member States, equality data are collected based on self-identification, at manageable costs. In other Member States, data are *de facto* collected based on other criteria which reveal religion, racial or ethnic belonging, but outside of data protection and fundamental rights standards.

Good practices of equality data collection have emerged and are used in policy. In particular, the United Kingdom has long been recognised as a success story, by adopting a public sector duty and collecting equality data to monitor progress, working with minorities to encourage their self-identification, and using data in equality policies.

Minorities across the EU have been ambivalent toward equality data collection. On the one hand, many realise the need and use for such data. But on the other hand, many have had negative experiences of neglect or racial profiling and do not trust the State in ensuring that

1 Jozefien Van Caeneghem, Vrije Universiteit Brussel, see comments: <http://www.opensocietyfoundations.org/voices/making-big-data-work-equality-0>.

data will be collected and used according to the highest protection standards. There is a pressing need to work with ethnic and religious minorities and migrants to raise awareness, build trust and ensure their meaningful participation in equality data collection processes. There is also a role for the EU in this process.

Good practices by civil society organisations offer inspiration and lessons. In Ireland and Romania, grassroots work among minorities to encourage their self-identification in the census proved effective. In Ireland, disaggregated data have highlighted glaring inequalities faced by Traveller communities and also impelled official attention to their plight.

Data are not a substitute to effective equality policies but rather tools to support equality policies and populate indicators to evaluate progress in combating discrimination and ensuring equality. Equality data collection must therefore be part of a larger positive duty to ensure equal treatment, both on the national and the EU levels.

1. Introduction

1.1 Background

Equality data refer to all types of disaggregated data used to assess the comparative situation of a specific discriminated group or group at risk of discrimination, design public policies so that they can contribute to promoting equality and assess their implementation.

Equality data can be powerful tools against discrimination and exclusion, shedding light on the situation of groups that are at risk of discrimination but are invisible in general statistics or surveys.

A number of reports from EU bodies – including from the European Commission² and the EU Fundamental Rights Agency (FRA)³ – have extensively detailed the reasons why disaggregated data would help advance the anti-discrimination agenda. These reasons have been endorsed by most of the equality actors in Europe. Comparable sets of disaggregated data would help by:

- providing evidence of systemic discrimination in courts;
- informing and designing effective public policies;
- providing a baseline against which any changes can be measured;
- assessing equality and integration policies, and
- populating indicators to monitor progress of policies over time.

The lack of disaggregated data on racial and ethnic origin has been undermining discrimination claims in court, NGOs' and equality bodies' advocacy, and the effectiveness of public policies tackling discrimination and promoting equal treatment throughout Europe.

The overall goal of ENAR's publication 'Measure, plan, act: How data collection can support racial equality' is to contribute to closing the knowledge gap on equality data in the EU, in order to inform and support better ways to both advocate for equality data collection and start collecting secured, inclusive and useful equality data.

1.2 Methodology

This publication is not intended to be an exhaustive overview of all data collection practices that exist. Rather, it provides snapshots of **existing practices** on ethnicity, race and religion data⁴ that may be relevant for articulating common standards, advocating for equality data collection in specific fields/countries, or working with groups at risk of discrimination or exclusion across Europe.

² European Commission, 2014.

³ EU Fundamental Rights Agency, 2012. *The Racial Equality Directive: Application and Challenges*.

⁴ The publication discusses these types of data as these are the focus of ENAR's work.

The research has comprised the review of national and international standards, academic literature and NGO publications, as well as interviews with different stakeholders in the EU Member States, and an online survey of ENAR members across the EU.⁵ The case studies are intended to give an overview of data collection processes in selected EU Member States and to review the work carried out with minority groups to raise awareness of the benefits of data collection and ensure their meaningful participation in this process.

While the models discussed in the case studies may not necessarily be applicable to all legal systems or minority groups, they nevertheless highlight essential elements for ensuring that equality data collection processes respect underlying human rights, that minority stakeholders actively participate in data collection, and that equality data result in better policies.

1.3 The challenge of definitions and evolving realities

Terminology around equality data collection is generally fraught with uncertainties and controversy. It is beyond the scope of this publication to delve into the merits of different racial or ethnic categories.

There is no definition of what constitutes a 'minority' under international or European law, nor on what constitutes 'nationality' or 'ethnic/racial origin', despite attempts by the European Court of Human Rights.⁶ Racial or ethnic categories in the 28 EU Member States differ in accordance with diverse traditions, realities and political context.⁷

Categories designed to measure racial equality must take into account multiple discrimination and intersectionality of prohibited discrimination grounds. New forms of inequalities appear at the intersection of race, national origin, legal status, age, religion, gender, class and social origin.⁸ Disaggregating these grounds which are in actual fact intertwined can be a difficult exercise but for equality purposes it is essential to be able to identify and isolate factors such as racial and ethnic origin.

Data collection and racial profiling

Equality data collection promotes equality by proving discrimination and helping evaluate policies; it respects individuals' self-identification and privacy.

Racial profiling perpetuates inequality by stigmatising entire groups of people. It does not respect self-identification, nor provides privacy safeguards.

⁵ The survey is available at: <http://www.esurveyspro.com/Survey.aspx?id=53f75a10-db9f-424d-8c6f-9c8e8f10b772>.

⁶ See for example *Timisher v. Russia*, 2005.

⁷ See Open Society European Policy Institute, 2013.

⁸ See European Network Against Racism, 2013.

All equality data categories, including racial and ethnic ones, are dynamic concepts which evolve with changing social realities. Societies change, and statistical categories should reflect these changes eventually, while grounded in sufficient stability to allow comparability over time. Equality categories are social constructions and have evolved to reflect changes in the understanding of gender identity for instance. In the United Kingdom, ethnic categories have also evolved including in public statistics.⁹

Experience shows that equality data collection can only be effective in the long run if based on self-identification. Unlike third-party identification, **self-identification** is the variable that distinguishes equality data collection from racial profiling and other data abuses, by ensuring not only that it is accurate, but also full **awareness** and active participation of the data subject. Self-identification methods may also take into account the self-identification of perception by others.

⁹ The UK Guide on ethnic statistics stresses: 'ethnic groups, however defined or measured, will tend to evolve depending upon social and political attitudes or developments'. See Office for National Statistics, 2003: 7.

2. Equality data collection in the EU: A state of play

In a nutshell, there are misconceptions both on the national and EU levels about the legality of equality data collection. However, subject to reasonable conditions, equality data collection is legally permitted both in EU and domestic law. Disaggregated data are collected in many EU Member States, albeit not in a systematic fashion, and the costs of such data collection are manageable. Good practices of equality data collection and their use in policy have also emerged.

2.1 Data protection legislation

One of the obstacles to articulating and implementing data collection standards for the purpose of equality monitoring is the widespread perception that data protection legislation prohibits the collection of ‘sensitive’ data revealing racial or ethnic origin or religion. In fact, national data protection laws **authorise ‘sensitive’ data collection under specific and regulated conditions** in all EU Member States.

National data protection laws are the result of the transposition of Directive 95/46/EC, known as the ‘Data Protection Directive’. The Directive foresees that the **processing of personal data** – information relating to an identified or identifiable natural person (‘data subject’) who can be identified, directly or indirectly – **is legitimate under strict circumstances**, including when the data subject has given his or her express consent.¹⁰ Truly anonymous statistics are not personal data if it is not possible to cross-reference anonymised data with other information or identify the data subject.¹¹ Therefore, specific legislation or provisions regulate the processing of personal data for the purpose of public statistics.

There are further restrictions to the processing of sensitive data, including data revealing ethnic or racial origin and religion, which can only be legal under special exceptions, such as express consent or protection of vital interest of the data subject, or data collection on an association’s members.¹²

The Data Protection Directive also provides for flexibility in States’ appreciation of their national context, allowing national legislation to authorise the processing of sensitive data ‘for reasons of substantial public interest’.¹³

The EU Data Protection Directive stipulates exceptions to prohibition of processing sensitive personal data (such as data revealing ethnic or racial origin or religion):

- ➔ when express consent is given
- ➔ when the State has obligations in the field of employment law
- ➔ for protection of the rights of others
- ➔ for reasons of ‘substantial public interest’

10 Council Directive 95/46/EC, Articles 2a and 7.

11 See Article 29 Data Protection Working Party, *Opinion 4/2007 on the concept of personal data*.

12 *Ibid.*, Article 8.

13 ‘Subject to the provision of suitable safeguards, Member States may, for reasons of substantial public interest, lay down exemptions in addition to those laid down in paragraph 2 either by national law or by decision of the supervisory authority’. *Ibid.*

The interpretation of EU law differs in the legislation of EU Member States. For example, while the United Kingdom considers the promotion of equality as a justification for equality data collection, therefore adding exceptions to their data protection law, Sweden¹⁴ and France¹⁵ have not yet considered that combating discrimination and promoting equality is a reason of public interest.

2.2 Equality and non-discrimination legislation

The hallmarks of EU legislation on equality are Directives 2000/43/EC (the 'Race Equality Directive') and 2000/78/EC (the 'Employment Equality Directive'), which have been transposed by Member States. While the EU Equality Directives do not require Member States to collect equality data, the use of statistical evidence is encouraged, in particular to prove indirect discrimination.¹⁶ The EU legal framework falls short of obliging Member States to collect such evidence or to produce disaggregated equality data to demonstrate their compliance with EU law. Similarly, national equality and non-discrimination legislation and provisions do not include an explicit requirement to collect equality data on the grounds of race/ethnic origin and religion. However, in the United Kingdom, there is a common understanding that public sector organisations must collect equality data in order to fulfil their equality duty.¹⁷

2.3 Data collection practices

In practice, **all EU countries collect data that reveal racial or ethnic origin using alternative categories (proxies)**, such as citizenship, country of birth, country of birth of parents, language spoken at home, migration background and name. Table I (Appendix 1) indicates data collection in public data (census, surveys, administrative registers) in each of the 28 EU Member States.

- 100%, or all EU countries legally collect data on **citizenship**
- 100%, or all EU countries legally collect data on **country of birth**
- nearly 66% (19 out of 28) legally collect data on **religion** and as many (66%) on **language** (mother tongue)
- nearly 63% (18 countries of 28) legally collect data on some ethnic groups/minorities¹⁸
- about 22% (six countries: Denmark, France, Germany, Italy, the Netherlands, Sweden) use data collected on country of birth, citizenship, citizenship of parents and grandparents to create migration related categories

These categories may provide for indications and trends but are not precise enough to establish a clear picture of racial and related discrimination. For instance, data on country of birth of parents would not allow measuring the comparative situation of migrants from the second generation

¹⁴ See Al-Zubaidi, 2012.

¹⁵ Simon and Clement, 2006.

¹⁶ Preamble, para. 15.

¹⁷ For more information, see case study 1 below.

¹⁸ In some EU Member States, specifically in Western and Northern Europe, the concept of 'nationality' is synonym of 'citizenship'. In others, particularly countries in Eastern and Central Europe which used to be part of the multi-ethnic empires of the past (Austro-Hungarian, Ottoman or Russian), 'nationality' is often synonym of 'ethnicity'. The latter collect data on some recognised official minorities or ethnic groups.

onwards in Germany. Likewise, names are not always a proper indication for ethnic or racial origin. In the case of French overseas citizens, who have been French citizens for several generations and usually have 'French sounding' names, these criteria are useless to establish the discrimination they face on their racial or ethnic origin. On numerous occasions these criteria are used as a proxy for race while these data are collected without the consent of the data subjects. For example, in Germany, language is used as a proxy to separate children in different, sub-standard classes.¹⁹

Table 2 (Appendix II) summarises the official use²⁰ of disaggregated data, where available. Data on self-identification through censuses are mainly used to determine the size of specific, recognised, national minorities. Likewise, law enforcement and criminal justice are two sectors where data revealing racial or ethnic origin and religion are used. Unfortunately, identification of data subjects in this context is usually not voluntary but performed by third party agents. Data collected through public statistics or specific enquiries are therefore rarely used for purposes of equality and non-discrimination, especially in access to economic and social rights.

Discriminatory practices, such as racial profiling, and improper use of personal sensitive data by the police are common in Europe and contribute to minorities' lack of trust in data collection. However, in the field of criminal justice, data have also been used in some countries towards positive objectives, such as monitoring hate crime.

2.4 Data collection methods and costs

In recent years, there has been a trend towards harmonising data collection processes in the EU. The EU Census Regulation 763/2008²¹ contains provisions on the timing and data content of censuses. Further, EU Regulation 1201/2009²² lays down definitions and specifications for the census topics and their breakdowns to achieve Europe-wide comparability of data. In 2011, the first EU-wide census with consistent contents took place in all EU Member States. The role of the EU statistical office, Eurostat, in increasing comparability and transparency of public data in Europe is crucial.²³

Existing mechanisms for data collection are rather similar across EU Member States. The main types of data are: **population censuses** (conducted in most EU Member States); **administrative registers** (collected in all Member States); and **household surveys**, conducted on an ad hoc basis in selected fields (in all Member EU States).

Despite similarities in the methods, comparability is far from being a reality on equality data collection, in particular on the grounds of ethnic or racial origin.

Population censuses provide the most comprehensive data on the size, composition, socio-economic and demographic characteristics of the population. Participation in the census is often mandatory,

19 See Open Society Justice Initiative, *Submission to the Universal Periodic Review of Germany*, 2013.

20 The data in Table 2 refer to *officially* collected data. There are, however, numerous examples and indications that States collect sensitive data unofficially (or illegally), often used under the guise of 'security'.

21 Regulation (EC) No 763/2008.

22 Regulation (EC) No 1201/2009. Also, Regulation (EU) No 519/2010 requires the data that Member States transmit to the Commission to comply with a defined programme of statistical data (tabulation) and rules concerning the replacement of data. However, the Regulation does not require transmission of confidential data.

23 Eurostat website.

although it is optional to respond to questions relating to sensitive information (e.g. ethnic origin, religion and language, where such data are collected). Censuses usually use the method of **self-identification**, which means that individuals are free to declare – or not declare – their race, ethnic origin, or religion in open or closed pre-determined categories. The drawback of censuses is their infrequency – in some cases censuses are conducted only once in a decade. However, Nordic countries, as well as Austria and Slovenia, currently conduct exclusively register-based censuses, which are updated annually and are also among the least expensive in the world (see Chart 1 on page 14).

Collecting equality data does not require introducing new structures (which would entail additional costs), but rather revisions to categories that in any event undergo revisions for each census/data collection process.

Administrative registers include birth and marriage registries, residence registration and school registration. Administrative records generally provide up-to-date information, but data collection methodologies may differ from agency to agency. Data on discrimination complaints may also be collected by equality bodies. Administrative registers are often interlinked. This, on the one hand, provides opportunity for harmonisation of data categories, but on the other requires stricter scrutiny over personal data. These registers often rely on data deriving from third-party identification. For example, schools routinely collect pupils' information on their assumed ethnicity as perceived by teachers or school directors. Schools or employers may also determine ethnicity or race based on proxies ranging from the place of birth of pupils and their parents, to the language(s) spoken at home, to the preferred choice for religious instruction, to the name. Frequently, respondents are unaware to what end the data are collected and who has access to them. When registering residence address with respective authorities, individuals are routinely asked to fill in information about citizenship, current and at birth, place of birth, and sometimes also those of parents, sometimes without apparent rationale for such information. Hospitals and assisted living facilities may ask patients to provide information about their dietary or spiritual needs (proxy for religion).

Advocates of equality data collection and privacy protection groups alike should focus attention on **monitoring administrative data collection**, given both the challenges and opportunities such data collection presents.

Household surveys have also become increasingly popular in recent decades. There are surveys on specific socio-economic issues, such as the EU-Statistics on Income and Living Conditions (EU-SILC), as well as larger multi-country surveys of ethnic minorities.²⁴ The main drawback of these surveys is their high cost, as they have to be very large to be accurate. These surveys rely on self-identification and add questions of **experience of discrimination or perception by others**. However, non-participation of minorities – due to fear, lack of understanding or linguistic barriers – in optional surveys can significantly skew results and defeat the very purpose of conducting surveys on minorities.²⁵

²⁴ For example, EU Fundamental Rights Agency, 2009.

²⁵ For a comprehensive analysis of the causes and consequences of minority non-response to surveys, see Feskens et al., 2010.

Equality bodies, researchers, academics, demographers and NGOs also conduct their own **enquiries or surveys**, which offer smaller samples of population but allow for more precision in terms of measuring discrimination thanks to questions on perception of racial or ethnic origin by others or experience and situations of discrimination.²⁶ They usually use the method of self-identification. An example is the French study 'Trajectoires et Origines' by the National Institute for Demographic Studies (INED).²⁷

Chart 1 on page 14 shows the cost per capita of conducting population censuses in different countries. Finland has proven to have the lowest census cost in the world, while the US has the highest. In the EU, Estonia has the highest census cost. The United Kingdom, considered one of the best examples in the area of collecting and using equality data, is situated in the middle range. **Equality data collection is about adding questions to the census, therefore it is not related to costs linked to mapping, processing and disseminating the census data.**

What do available data show?

Even the sketchy statistics on minority groups at risk of exclusion and discrimination in different EU Member States show striking results in terms of discrimination experience and inequalities in outcome.

- One in three Roma surveyed by the EU Fundamental Rights Agency in 11 EU Member States said they were unemployed and half of the Roma respondents said they had experienced discrimination in the past 12 months because of their ethnic background.²⁸
- In Romania, the latest census (2011) indicates dramatic levels of poverty among Roma, three times the average (75% for Roma versus 25% national average).²⁹
- The Bulgarian 2011 census shows that Roma constitute 11.8% of illiterate persons and ethnic Turks 4.7%, compared with just 0.5% share of ethnic Bulgarians.³⁰ 23% of Roma children do not attend school, for Turks this number is 11.9%, while for Bulgarians it is 5.6%.
- In Ireland, the infant mortality rate for Travellers is 3.5 times the rate of the general population, while life expectancy is ten years less for Traveller women than the national average; for Traveller men life expectancy is 15 years less than average.³¹
- 18 % of all sub-Saharan African respondents in an EU Fundamental Rights Agency survey indicated that they had experienced at least one 'in person crime' in the last 12 months (i.e. assault or threat, or serious harassment) that they considered as being 'racially motivated'.³²

The evidence presented above should be compelling enough to require States to collect more comprehensive data and to develop comprehensive equality policies.

26 See, for example, on the use of victimisation crime surveys to complete administrative sources: UNDOC-UNECE, *Manual on victimisation surveys*, 2010.

27 See <http://teo.site.ined.fr/>.

28 EU Fundamental Rights Agency, 2011.

29 Romani CRISS, 2013.

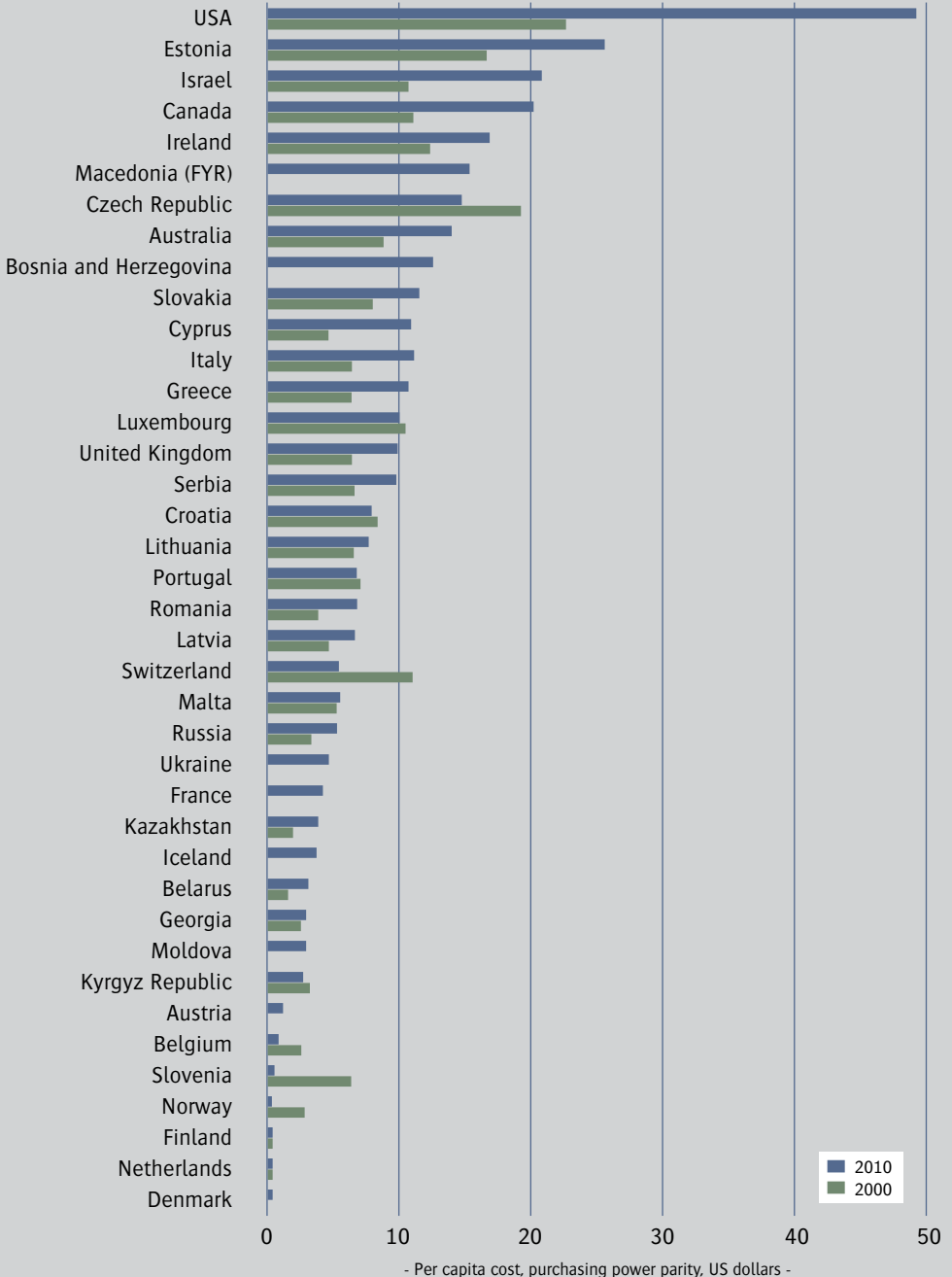
30 National Statistical Institute of the Republic of Bulgaria, 2011.

31 Pavee Point, 2010.

32 EU Fundamental Rights Agency. 2012. *Data in Focus: Minorities as Victims of Crime*.

Chart 1: Comparative per capita costs of conducting a national census

Source: Main Results of the UNECE-UNSD Survey on the 2010 Round of Population and Housing Censuses (ECE/CES/GE.41/2009/25).



2.5 Promising practices

In some EU Member States, there have been attempts to overcome the deadlock over equality data collection in a few policy areas such as education, employment or criminal justice.

Data on hate crime

When it comes to monitoring hate crime, i.e. crimes committed with a bias motivation, some EU Member States have moved to a system of comprehensive collection of data disaggregated by ethnic categories.

Victims of hate crime are targeted specifically because of their real or perceived identity. Therefore, victims are requested to provide information on their ethnic or religious background

or other personal data which may have been the reason for them being attacked. This information helps law enforcement officials to correctly identify the bias motive and should ensure that the motive is properly investigated and prosecuted accordingly. Collecting disaggregated data on categories of victims or crimes also allows establishing the scope of the problem and developing appropriate policy responses.

The collection of data on hate crime, disaggregated by category of bias motives or by ethnicity of the victim, supports the establishment of the motive and highlights communities victims of hate crime. Categories used by law enforcement authorities could be used in other policy areas as well.

According to the EU Fundamental Rights Agency, **five EU Member States have comprehensive mechanisms of data collection on hate crime (Finland, the Netherlands, Sweden, Spain and the United Kingdom) and 11 Member States have relatively good mechanisms of data collection on hate crime (Austria, Belgium, Croatia, the Czech Republic, Denmark, France, Germany, Ireland, Lithuania, Poland and Slovakia).**³³ EU Member States most commonly record racist/xenophobic crime (recorded in 25 Member States), anti-Semitic crime (in 12 Member States), religiously-motivated crime (in six Member States) and Islamophobic or anti-Muslim crime (in six Member States). Four Member States also collect data on hate crime against Roma.³⁴ Sweden also records Afrophobic crime.³⁵

The reported racist crimes still represent only the tip of the iceberg, and most incidents remain unreported.³⁶ Low trust in the ability of States to prosecute such crime and fear of victimisation partially explain under-reporting.³⁷ This means that effective data collection and complaints mechanisms should entail effective legal redress, proper victim support and completed by victimisation surveys to get a more accurate picture of the level of hate crime. This is an important lesson also for equality data collection advocacy in other fields.

Data on employment

Some EU Member States have made inroads to monitor discrimination in employment. In Belgium, the Centre for Equal Opportunities and Combating Racism (Belgian Equality Body), in partnership with

³³ Ibid.

³⁴ EU Fundamental Rights Agency, 2013.

³⁵ See <https://www.bra.se/bra/bra-in-english/home/crime-and-statistics/hate-crime.html>.

³⁶ See EU Fundamental Rights Agency, *Making hate crime visible in the EU*, 2012.

³⁷ See ENAR Shadow Reports on racism in Europe, available at: <http://www.enar-eu.org/Shadow-Reports-on-racism-in-Europe-203>, and <http://www.enargywebzine.eu/spip.php?article304&lang=en>.

the Federal Ministry of Employment, Labour and Social Dialogue, embarked in 2006 on a long-term equality monitoring project in the field of employment.³⁸ The initiative aimed to use data to highlight the ‘ethno-stratification’ of the Belgian labour market and indirect racial discrimination. The monitoring used the

The socio-economic monitoring method used in Belgium cross-referenced data from the population register with employment specific data and unveiled patterns of structural discrimination in employment.

concept of ‘origin’, as a proxy for ethnic or racial origin, carefully constructed using criteria such as nationality of parents and migration background up to the third generation.³⁹ The concept is, however, being differentiated from that of ‘migration background’. The study, published in 2013, cross-referenced personal data from the population register with the ‘Data Warehouse Labour Market and Social Protection’.⁴⁰ Interestingly, the initiative was supported by federal and regional consultative labour institutions, provided that there was no ‘micro-monitoring’ of employers. The data collection method was also authorised by the Belgian Data Protection Authority.

The method allowed the uncovering of patterns of disadvantage not only among non-nationals but also among Belgian citizens whose parents are of foreign origin. The disadvantages could not be accounted for simply by language problems or lower qualifications, but revealed deeper patterns of structural discrimination. On the basis of the study’s findings, the Centre recommended, among others, the introduction of positive measures in the labour market and encouraged employers to monitor the composition of their workforce.

The study is an attempt to go further than previous measurements but it is however only a substitute to assess the level of racial discrimination based on self-identification. The category of ‘origin’ was defined after consultation with academic experts, decision makers and trade unions, but not with the groups at risk of racial discrimination.

National minority rights

Several of the EU Member States which recognise **specific national minorities** in their territories (or portions of their territories) rely on disaggregated data for providing certain minority rights.

For example, in Romania, in areas where recognised minorities constitute 20% of the population, they can use their mother tongue with authorities, and receive state-funded education in the minority language.⁴¹ There are also reserved seats for minority representatives in the Romanian Parliament (currently 18,9 of which for the Hungarian minority).⁴²

38 To know more about the socio-economic monitoring, see: http://www.diversite.be/sites/default/files/documents/publication/monitoring_socio-economique_fr_final.pdf (in French).

39 To know more about the political consensus on the concept of ‘origin’, see the presentation by the Federal Minister of Employment Monica De Coninck at the 2013 ENAR OSF Symposium on Equality Data Collection: http://www.enar-eu.org/IMG/pdf/enar_osf_2013_symposium_on_equality_data_collection.pdf

40 See Bribosia, 2013.

41 Law no. 33 of 1995, mentioned in Romania’s Declaration contained in the instrument of ratification of the European Charter of Regional or Minority Languages (ECRML), available at: <http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=148&CM=1&DF=&CL=ENG&VL=1>.

42 According to the Romanian Government’s Response to the Opinion of the Advisory Committee on the Implementation of FCNM, p. 25, available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_Com_Romania_en.pdf.

In the State of Schleswig-Holstein in Germany, the members of the Danish minority who approach the Land authorities are entitled to education in Danish and other cultural rights, as well as a waiver of the 5% threshold for political representation in the Landtag (that State's parliament). The reciprocal provisions exist in Denmark, specifically in the area populated by the ethnic German minority.

In Slovenia, based on their proportion in the population, **recognised minorities** are allowed representation in the national parliament.⁴³

While minority rights may not be universally recognised in EU Member States' laws, and cannot be generalised given country-specific and historical circumstances, **proportionate representation** may provide inspiration for introducing minority quotas and other affirmative action policies in such vital areas as employment and access to higher education.

Other promising developments

Even in countries traditionally cautious on equality data collection, recent initiatives are underway that promise to bring about equality data collection for the purposes of monitoring equality.

For example, in Germany, the new Berlin State Law (*Gesetz zur Regelung von Partizipation und Integration in Berlin*) provides for a **quota** of employees of public administration with a 'minority' background, building on a few existing administration practices.⁴⁴ It is not as yet clear how the authorities will know who job applicants with 'minority backgrounds' are. In addition, the Berlin police reportedly plan to diversify the force by attracting 'minorities', but without sound mechanisms to ascertain the candidates' identity. Eventually, filling these legal quotas is bound to put pressure on the authorities to develop systematic and acceptable data collection tools. Other German states or other sectors may follow.

In France and Sweden, efforts have been made to provide guidance for legal and secured data collection, or to consult ethnic minorities on the question of data collection. The French Data Protection Authority and the French Equality Body have produced a guide on data collection by employers.⁴⁵ The Swedish Equality Body was commissioned by the Swedish Government to produce a report on equality data, which includes the perspective of different minorities in Sweden.⁴⁶

43 See List of Declarations Made with Respect to Council of Europe Treaty No. 148.

44 Gesetz zur Regelung von Partizipation und Integration in Berlin, 2010.

45 See <http://www.cnil.fr/linstitution/actualite/article/accessible/non/article/mesurer-pour-progresser-vers-legalite-des-chances-la-cnil-et-le-defenseur-des-droits-publiet/>.

46 See Al-Zubaidi, 2012.

Case study 1: Ethnic monitoring in the United Kingdom

While equality data collection in one country might not be transferred or replicated in its entirety in another country, there are elements and models which could inform and guide similar processes elsewhere. The case study of the United Kingdom (UK) offers useful insights into equality data collection processes and policy uses of such data.

Background

The UK has been collecting data on ethnic and racial origin in the census since 1991; prior to that, since 1971, only data on place of birth, and that of parents, were collected. In 1976, the Race Relations Act (RRA) was adopted, which sought to address ethnic inequalities. The existing data categories in the census (which then excluded measures of ethnic/racial group) did not conform to the categories targeted by the RRA and failed to provide necessary quantitative information on minorities. Therefore, the Office of Population Censuses and Surveys began a series of test questionnaires in the late 1970s to develop appropriate ethnic categories for the decennial census.⁴⁷

The long process of academic and methodological reflection and trial-and-error in the development of appropriate statistical categories lasted until the 1991 census, when the new options were finally introduced. Subsequently, in the 2001 census, several additional categories were added. The mixture of ethnic and racial categories, as well as write-in options, is innovative and results in better quality and more comprehensive statistical data.⁴⁸ The data collection takes place on the basis of voluntary self-identification.

It is important to note that equality data collection in the UK is decentralised: England and Wales, Northern Ireland and Scotland each have their own census with some variations in the categories (see

England & Wales census categories

WHITE

1. English / Welsh / Scottish / Northern Irish / British
2. Irish
3. Gypsy or Irish Traveller
4. Any other White background, please describe

MIXED / MULTIPLE ETHNIC GROUPS

5. White and Black Caribbean
6. White and Black African
7. White and Asian
8. Any other mixed / Multiple ethnic background, please describe

ASIAN / ASIAN BRITISH

9. Indian
10. Pakistani
11. Bangladeshi
12. Chinese
13. Any other Asian background, please describe

BLACK / AFRICAN / CARIBBEAN / BLACK BRITISH

14. African
15. Caribbean
16. Any other Black / African / Caribbean background, please describe

OTHER ETHNIC GROUP

17. Arab
18. Any other ethnic group, please describe

Source: UK Office for National Statistics

47 Simon et al., 2005: 540.

48 Simon, 2007.

the box on the previous page for the category list in the England and Wales census). In addition, different ministries are responsible for data collection in their respective fields of competence, such as education, health, employment, etc. This decentralisation presents its own challenges, such as insufficient coordination of data collection processes by different agencies and at times duplication of efforts.

The National Population Census, conducted every 10 years (the most recent in 2011), provides the most comprehensive population data, as well as the benchmark against which other data are compared. In England and Wales, the Census is conducted by the Office for National Statistics (ONS).⁴⁹

Understanding Society is a longitudinal study of 40,000 UK households collecting information each year, since 2009, on a variety of socio-economic topics. Ethnicity plays a central role in the questionnaires. The project is funded by the Economic and Social Research Council (ESRC) with a budget of 48.9 million pounds (approximately 62.6 million euros) until 2015.⁵⁰ The data and subsequent research are used by politicians and civil servants in national, regional and local government, as well as by NGOs to rely on hard data in their advocacy work.

Most importantly, the UK is currently one of very few European countries that not only collects but also uses the data in the development and evaluation of equality policies. Therefore data collection is seen as an integral part of the policy planning process.

“Equality data collection is not that expensive, it is a simple matter of adding an extra box to the census – the results are invaluable to inform policy and operational decisions.”

Superintendent Paul Giannasi, Hate Crimes Unit, UK Ministry of Justice

Positive duty to ensure equality

One of the unique features of the UK legal framework is an explicit positive duty to ensure equality in practice, introduced with the 2000 amendment to the RRA and further strengthened with the Equality Act 2010 which rationalised equality legislation to provide protection from discrimination across nine different protected characteristics.⁵¹ The public sector equality duty (PSED) requires public bodies, and those carrying out public functions, to have due regard to the need to eliminate discrimination, to advance equality of opportunity and foster good relations between those who share a protected characteristic (e.g. race) and those who do not.

Ministers can introduce regulations which impose specific duties on certain public bodies to help them to meet the PSED more effectively. The specific duties in England started on 10 September

49 Office for National Statistics (UK) website.

50 Information available at: <https://www.understandingsociety.ac.uk/>.

51 Equality Act 2010.

2011 and require relevant public bodies to publish information to show that they consciously thought about the three aims of the Equality Duty as part of the process of decision making.

The information published must include:

- information relating to employees who share protected characteristics (for public bodies with 150 or more employees); and
- information relating to people who are affected by the public body's policies and practices who share protected characteristics (for example, service users).

The UK Equality Body, the Equality and Human Rights Commission (EHRC), is responsible for the enforcement, monitoring and assessment of how public bodies comply with the PSED and specific duties. It has powers to issue compliance notices to public bodies which have failed to comply and can also bring judicial reviews and intervene in court proceedings.

In 2012, the EHRC published an assessment of how public authorities in England have implemented the specific duty to publish equality information and have been following this up accordingly. The EHRC has notably recommended that public bodies self-assess their performance in term of promotion of equality compared to other bodies in similar sectors.

In the area of education, public authorities are bound by the duty to assess the impact of all their policies on pupils, staff and parents from different ethnic groups. The Department for Education has issued non-statutory advice to schools about the Equality Act and how to fulfil their duties under the Act. Interestingly, the Ministry reminds that the collection of data on how the positive duty is respected should not be an additional burden for schools, which already collect a lot of data.

Schools should in particular publish data on how they combat discrimination and promote equality. Schools should also publish attainment data which show how pupils with different characteristics are performing in order to identify whether there are areas of inequality which may need to be addressed. Information on what steps have been taken to redress some of these differences should also be provided. This information should support schools to set up their own specific and measurable equality objectives.⁵²

In the area of employment, as stated above, public bodies with 150 or more employees should publish information on employees who share protected characteristics as part of their duty to promote equality. There are no set requirements on how or what information should be published, but it could include the make-up of the overall workforce and recruitment and retention rates for staff with different protected characteristics. Factors such as the pay gap and access to employment could be measured. The data collection obligation can also fall on outsourced private companies working on behalf of public authorities.

52 See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315587/Equality_Act_Advice_Final.pdf.

In the area of health, as in other areas of service delivery, public authorities have a duty to eliminate discrimination, advance equality of opportunity and foster good relations in all policies and dealing with the staff. Research and ethnic monitoring of health is conducted with the help of the census data, surveys and the computerised NHS medical records.

For instance, the Scottish health and ethnicity linkage study is a concrete application of data collection in order to improve health outcome of ethnically diverse Scotland.⁵³ The study examined ethnic variations in cardiovascular, cancer, maternal and child, and mental health using data linkage methods to bring together data on self-defined ethnicity and health outcomes. This use of data, which were aggregated to ensure no personal data were revealed, provided the National Health Service Scotland evidence to highlight inequalities in health outcomes and inform action to address them.⁵⁴

53 Mathur, 2013.

54 For more information see: http://www.scot-ship.ac.uk/sites/default/files/Retreat/Raj_Bhopal.pdf.

Lessons learned

The conclusions that follow from the above review of legislation and practice in the EU Member States are: **equality data collection is legally possible, economically feasible, and practically indispensable.**

But while most EU Member States have facilities to collect disaggregated data (via censuses or administrative registers), there is still lack of reliable and comparable equality data. This challenges the premise that legal restrictions are primarily responsible for the absence of such data.

Even in the EU Member States that do collect disaggregated statistics, the **data are often not used for the benefit of minority groups at risk of discrimination** or exclusion. And thus, minorities often prefer not to self-identify, with implications for the accuracy of the existing data.

3. Minority perspectives on equality data collection

In a nutshell, minorities have been ambivalent towards equality data collection. On the one hand, many realise the need for such data. On the other hand, many have had negative experiences of either official neglect or racial profiling. There is a pressing need to work with minorities to build trust, raise awareness and ensure their active participation in equality data collection. Some good practices on the grassroots level offer inspiration and lessons. There is also an important role for the EU in this process.

3.1 Attitudes towards equality data collection

Equality data collection should be based on voluntary self-identification. In order for data to be sufficiently reliable and exploitable, there should be enough respondents ready to self-identify, including members of groups at risk of racial discrimination. If potential beneficiaries of public policies do not feel that self-identification would help them in any way or, worse, might harm them, they are unlikely to self-identify. Ethnic and religious minorities' attitudes towards data collection have been ambivalent.

“They collect the data to abuse us anyway, they might as well collect the data to help us.”

Roma activist in Germany

On the one hand, there is empirical evidence suggesting that in principle minorities agree that equality data collection is necessary and useful if conducted in compliance with fundamental rights standards.

In 2010, the EU Fundamental Rights Agency (FRA) conducted a survey of ethnic minorities and people with a migration background where over 65% of respondents stated they were in favour of providing, on an anonymous basis, personal information about their ethnic origin, as part of a census, if that could help to combat discrimination their country. The question was also asked for information on religion.⁵⁵

In October 2013, ENAR conducted a survey among anti-racism NGOs (ENAR members and others) in order to assess attitudes towards equality data collection from the perspective of stakeholders directly affected by such data collection. The results show that over **80% of respondents would be in favour of equality data collection**, if this was done on a voluntary basis and safeguards were in place to protect individuals.⁵⁶

⁵⁵ See EU Fundamental Rights Agency, 2009 and EU Fundamental Rights Agency, 2012. *The Racial Equality Directive: Application and Challenges*.

⁵⁶ The survey is available at: <http://www.esurveyspro.com/Survey.aspx?id=53f75a10-db9f-424d-8c6f-9c8e8f10b772>. The number of respondents was 208.

- In France, 58% of respondents of North African origin and 61% of Sub-Saharan African origin were in favour of providing their data for anti-discrimination purposes.
- North African respondents in Italy and Belgium were the most likely to have no objection to providing such data (80-81% - 69-70% respectively).
- In Germany, 88% of respondents of Turkish origin and 90% of ex-Yugoslav origin were in favour of providing their data for anti-discrimination purposes.
- In Portugal, 53% of respondents of Brazilian origin and 62% of Sub-Saharan origin were in favour of providing their data for anti-discrimination purposes.
- A number of Roma respondents expressed their reluctance to provide data on their personal characteristics even in an anonymous survey, which the FRA explains by a history of data abuses for this minority. Yet, apart from Greece, a majority of Roma respondents in all EU Member States covered by the FRA survey expressed willingness to give such data.⁵⁷

Nearly 70% believe marginalised groups would benefit from such data collection (an additional 17% believe ‘maybe’ these groups would benefit). Over 70% of respondents said it would benefit their own organisation’s work to have such data (while 16% said it ‘maybe’ would benefit their work).

While the overall positive attitude is encouraging, it is nevertheless important to keep in mind that even in the countries that provide for voluntary self-identification in the census (see Table 1, in Appendix 1), members of some of the most marginalised groups, for example Roma, prefer not to self-identify. In Germany, France and Sweden, some representatives of minority organisations and anti-racism NGOs are often among the most vocal against personal data collection. They fear misuse of such data, based on historical and current experience of data abuse.⁵⁸ Over half of respondents in the ENAR anonymous survey skipped questions relating to their own sensitive characteristics. Over a third of respondents (36%) could see problems resulting from collection of disaggregated equality data in their countries, such as the use of data for wrongful purposes, misinterpretation of data and use by racist or xenophobic parties.⁵⁹

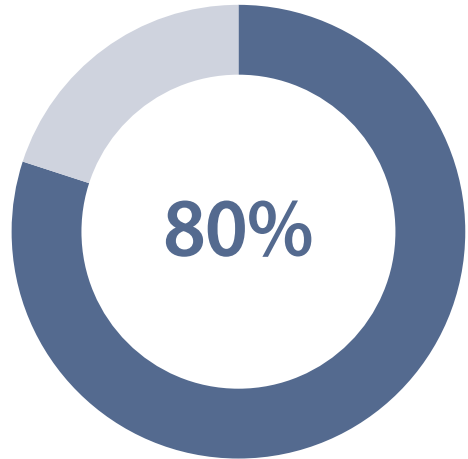
⁵⁷ Ibid.

⁵⁸ Interviews with civil society representatives at the ENAR-OSF Symposium on Equality Data Collection, Brussels, Belgium, 24-25 October 2013.

⁵⁹ Information on file with ENAR.

NGOs such as Pavee Point (Traveller and Roma Centre) in Ireland,⁶⁰ the CRAN (National Representative Council of Black Associations) in France,⁶¹ the European Roma Rights Centre,⁶² the African Empowerment Centre in Denmark,⁶³ Muslim Rights Belgium,⁶⁴ the Swedish Muslim Human Rights Committee⁶⁵ have taken public positions in favour of equality data collection. There seems to be more support for data as part of the public policy elaboration cycle among People of African Descent/ Black Europeans and Muslim communities, which link this to their visibility under current data collection practices. Roma and Jews, for reasons of historical and current data abuses, seem more reluctant.

Share of anti-racism NGOs who would be in favour of equality data collection, if this was done on a voluntary basis and safeguards were in place to protect individuals⁶⁶



60 See <http://www.paveepoint.ie/resources/data-portal/>.

61 See http://www.le-cran.fr/communiqués-cran-associations-noires-de-france_lire_debat-sur-les-statistiques-ethniques_18_120_4.html.

62 See <http://www.errc.org/article/errc-calls-on-states-to-collect-and-publish-data-to-address-roma-health-gap/4229>.

63 See <https://www.facebook.com/PAD.BE.DK>.

64 See <http://www.mrb-online.be/rapportanneel2013.pdf>.

65 See http://www2.ohchr.org/english/bodies/cerd/docs/ngos/SwedishMuslimsCooperationNetwork_Sweden_CERD83.pdf.

66 The survey is available at: <http://www.esurveyspro.com/Survey.aspx?id=53f75a10-db9f-424d-8c6f-9c8e8f10b772>. The number of respondents was 208.

Case study 2: Equality data collection in Ireland

Background

Irish Travellers share unique identity which sets them apart from the majority population of Ireland. Travellers have been traditionally marginalised. Racism, discrimination and social exclusion are responsible for Travellers' disadvantage in virtually all socio-economic fields, as well as the reason for their reluctance to self-identify.

According to the latest Census (2011), there are 29,573 Irish Travellers, a 30% increase from just over 22,000 in the 2006 Census. However, informal sources' estimates and evidence from the *Our Geels* – All Ireland Traveller Health Study are considerably higher.⁶⁷

In 1993-1995, during the elaboration of the seminal Government Task Force on Travelling People, published in July 1995, the need for disaggregated data became obvious to Pavee Point. Absence of data made it difficult to advocate for appropriate policy and programme responses in a range of policy areas including education, health, accommodation, training and employment. Since that time, Pavee Point has prioritised work on equality data collection to promote equality and combat discrimination.

Pavee Point pilot projects

The Irish NGO Pavee Point Roma and Traveller Centre has worked with Traveller communities on the grassroots level since 1985 and directly on data issues since 1994. Initially, there was resistance both on the part of public authorities, and within the Traveller community, many of whom could not understand the use or benefit of such ethnic monitoring, frequently associating it with 'ethnic cleansing'.

Pavee Point worked with Traveller communities explaining the reasons for providing personal data, the uses for such data, and benefits such data collection may bring. Eventually, the NGO managed to involve and get positive support from Traveller leaders and organisations. The main takeaway from this exercise was **the importance of minority stakeholders being aware of the purpose and process of equality data collection and mutual trust.**

In 1994, Pavee Point approached the Irish Central Statistics Office (CSO) and sought their support for the introduction of a question of self-declared ethnicity in the National Census. At this stage only a question on 'Traveller' was introduced in the 1996 Census. Following the Census, Pavee Point successfully piloted a question on ethnicity categories on a range of health data systems between 1999 and 2002.

Pavee Point subsequently worked together with other anti-racism NGOs and the National Consultative Committee on Racism and Inter-culturalism to advocate for the addition of a question

⁶⁷ Pavee Point, 2011: 2.

on ethnicity in the 2001 Census. However, in the 2002 Census (delayed by a year because of Foot and Mouth disease outbreak in 2001), only a Traveller question was used, based on self-identification this time. It is finally in the 2006 Census that a question of self-identification in the ethnicity category was introduced. The list, however, does not include the category 'Roma'. It also nearly excluded Travellers because they are not formally recognised as a minority ethnic group in Ireland. A compromise was negotiated and the ethnic census question now asks: 'what is your ethnic or cultural background?', making it inclusive of Travellers.

Pavee Point continues to work closely with the Central Statistics Office to support the collection of equality data in the census and the following Traveller-specific actions have been implemented in the most recent census:⁶⁸

- consultation with Pavee Point in the development of Census questionnaires;
- training provided by Pavee Point for Census Enumerator Managers;
- linkages to share information and knowledge;
- information DVDs (explaining to the communities what the Census forms are, how to complete them, and how the Census data benefit people);
- dedicated website when Census fieldwork is being carried out to share information;
- operation of a telephone hotline to trouble shoot where problems arise;
- dissemination of Census results.

There is also a commitment to the recruitment of Traveller enumerators, however the deadlines did not facilitate Traveller uptake during the Census 2011.

According to the CSO authorities, the awareness raising activities among the communities and involvement of the Traveller organisations have led to a smoother data collection process, rendered considerably more accurate statistical data, and thus resulted in a much more effective use of limited resources.⁶⁹

Health study

In 2007, the Departments of Health and Children and Health, Social Services and Public Safety, in partnership with the School of Public Health and Population Science of the University College Dublin and Traveller organisations across Ireland, launched a cross-border research into Travellers' Health Status and Needs Assessment Study.⁷⁰ Pavee Point led and coordinated the involvement of Traveller organisations in this process.

The All-Ireland Traveller Health Study – Our Geels 2010 (AITHS) took three years to complete and includes a detailed census on Travellers and their health status.⁷¹

68 Healy, 2013.

69 Ibid.

70 UCD News, 2007.

71 School of Public Health, Physiotherapy and Population Science, University College Dublin, 2010.

Some of the results of the study showed that the health status of Travellers either has not changed, or was even worse than in 1987:

- ➔ Life expectancy is still 11 years less for Traveller women than for the majority women (in 1987 the gap was 12 years).
- ➔ The life expectancy **gap increased** for Traveller men to 15, up from 10 in 1987.
- ➔ The infant mortality rate for Travellers is 3.5 times the rate of the general population (4 infant deaths per 1,000 in the national population compared to 14 per 1,000 in the Traveller population).
- ➔ Traveller men have 4 times the mortality of the national population; Traveller women have 3 times the mortality of the national population.
- ➔ Suicides rates are 6 times higher for the Traveller community than for the majority.

In 2014, the Department of Education agreed to ask all primary schools to collect information on the ethnicity of children, based on optional self-identification questions for parents. The form includes categories of ethnicity identical to the census categories, to which the category 'Roma' was added. The form should help the Department of Education in allocation of resources and help track the progress of students throughout their educational path. Pavee Point and other NGOs also advocate for the census to include a 'Roma' category and agreed to work with Roma communities to support their self-identification as such in the next census.

Unfortunately, the available data are not used to the full extent in shaping government policies. Pavee Point noted that no Traveller health action plan has been developed since the publication of the Health Study in 2010 for instance. If anything, the current economic crisis, whereby under the guise of austerity measures political choices are being made, and ongoing budgetary cuts threaten to halt even what progress has been achieved.

The NGO notes the critical need for a 'positive equality duty', through an amendment to the Irish equality legislation, as key to moving equality data collection to the next level, so it is used in policy. The recent legislation on the new Human Rights and Equality Commission may provide the necessary basis for such positive duties to be developed through secondary legislation.⁷²

“There is a need for a dual approach in advocating for equality data collection: on the grassroots community level, as well as on the EU level.”

Brigid Quirke, Pavee Point

72 See <http://www.justice.ie/en/JELR/Pages/PR14000083>.

Case study 3: Roma in the 2011 Romanian census

Background

According to the 2002 Romanian Census, there are approximately 500,000 Roma in the country.⁷³ According to the Institute for Quality of Life, the number of Roma stood at 1.5 million, or 6.7% of the total population, in 1998.⁷⁴

Some Roma do not self-identify as Roma during the census for different reasons, including fear of negative consequences or the inability to take part in the census because of seasonal work. Some Roma also do not identify as Roma because they do not speak the Romani language.

The Romanian NGO Romani CRISS also reports fear of stigmatisation and discrimination in access to employment or housing, fear that anonymous data would be made public, fear of a special tax for Roma, and even fear of deportation. Most of the Roma respondents in the Romani CRISS survey could not 'name the advantages' of declaring their Roma ethnicity, such as health mediators or access to services in Romani language.⁷⁵

Many of these concerns have a basis in reality. For example, in some hospitals Roma newborns had their birth certificates marked with the word 'Gypsy', in violation of both Romanian and international law.⁷⁶ Roma have also experienced – and continue experiencing – frequent deportations and forced evictions from the compact settlements (often unofficial) where they tend to reside. Discrimination against Roma in education, employment and healthcare is rampant in Romania, which causes Roma to hide their identity.

In sum, **there has been a pronounced lack of trust among Roma in official institutions, manifesting itself in a refusal to self-identify in the census.** Low numbers, in turn, provide an excuse for the Romanian authorities on different levels to withhold certain rights, underestimate the extent of Roma exclusion, or limit budgetary allocations for Roma programmes.

"I am Roma" project

Ahead of the 2011 national census, Romani CRISS launched a **campaign to encourage Roma to self-identify.** The project, the various components of which were supported by the European Commission, the Dutch Embassy and the Open Society Foundations' Roma Initiatives Office, aimed at improving the accuracy of the census data regarding the Roma population and tackling discrimination against Roma in various fields of life.⁷⁷

Romani CRISS prepared a number of proposals to the Romanian authorities to improve data collection processes among Roma communities during the 2011 census. Some of these proposals

73 National Institute of Statistics of Romania website.

74 Open Society Foundations, 2010.

75 Romani CRISS, 2011: 7.

76 Interview with Oana Mihalache, Romani CRISS (Romania), 29 November 2013.

77 Romani CRISS, 2011.

were heeded by the Romanian Institute of Statistics. For example, Romani CRISS suggested that in addition to 'Roma', several other denominations be used in the census, to ensure that people who see themselves somewhat differently from 'Roma' would still have their identity reflected among statistical categories. The 2011 Census included 19 categories of Roma-related groups.⁷⁸

Further, Romani CRISS proposed to hire Roma enumerators who would fulfil a mediating function and explain to Roma respondents the statistical language and procedures that otherwise might not be understood. The direct public appeal of Romani CRISS encouraged NGOs to register as census observers and encouraged eligible Roma individuals to register as enumerators. A total of 83 Roma enumerators, including Roma teaching assistants, Roma health mediators and other Roma working locally, were recommended to the municipalities in focus.

Romani CRISS also advocated, although unsuccessfully, that the Romanian State conduct awareness raising activities across the entire country. Due to financial constraints, Romani CRISS' own local campaign was limited to only eight localities in the municipalities of Brasov, Tulcea, Hunedoara, Bucharest, Ilfov, Suceava and Bistrita.

The project was implemented from May to October 2011 on the national as well as local levels. The action teams were set up to work among local Roma communities to encourage them to self-identify. The NGO's outreach coordinators and volunteers held regular information meetings with Roma, engaged in door-to-door awareness raising, and developed a promotional video for the national campaign, in order to explain the benefits and procedures for self-identification.⁷⁹ About 200 Roma were reached directly in each locality.

Several Romanian celebrities of Roma origin – an actress, an actor and a singer – were involved in the campaign. They travelled to Roma communities, with a mobile caravan, talking about Roma identity, about taking pride in that identity, and about manifesting it publicly. Promotional materials (bags, mugs, magnets, posters, t-shirts, etc.) used in the campaign were printed with the image of Roma celebrities and with the messages of the campaign and distributed among the communities.⁸⁰

Romani CRISS and partner NGOs also organised a Roma Dignity March. The US Ambassador to Romania, Open Society Foundations President George Soros⁸¹ and other prominent public figures gave a speech on this occasion, providing a further publicity boost to the initiative.⁸²

“It is hard to believe, but just taking a few minutes to talk to people, explaining what the Census is about, can change 20-30 years of conviction that Roma should not self-identify.”

Oana Mihalache, Romani CRISS

78 The complete list is available (in Romanian) at: <http://www.recensamantromania.ro/wp-content/uploads/2011/10/nomenclator-etnie-limba-materna1.pdf>.

79 Available (in Romanian) at: <http://www.youtube.com/watch?v=0NISQWMIhK4>.

80 Romani CRISS, 2011:11.

81 George Soros message, available at: http://www.youtube.com/watch?v=dTHwKg7omwE&list=UU79dS-YvaaXrd6oi0-RZt_g&index=16.

82 Romani CRISS, 2011:20.

Results of the 2011 Census

In the eight communities where Romani CRISS conducted door-to-door campaigns, the number of self-declared Roma increased from 3,936 (in 2002) to 6,156 (in 2011), an increase of 56%. This is also 3.5 times more than the increase recorded on the national level.⁸³

- ➔ The official number of Roma in Romania increased by 16%: from 535,140 in 2002 (representing 2.46% of the total) to 621,573 people in 2011 (3.08% of total).
- ➔ Roma represent the ethnic majority in 67 municipalities of Romania.
- ➔ The largest numerical increase was recorded in Babadag, Tulcea County: from 168 Roma in 2002 (1.67% of its population) to 1,219 Roma (13.63%) in 2011. It was followed by Apata village, Brasov County: from 146 Roma (4.87%) to 545 Roma (17.19%) and Tunari village, Ilfov County: from 80 Roma (2.1%) to 449 Roma (8.41%).

Among other useful data, the recent census indicates considerable progress achieved by the Roma minority since 2002 in the area of education, even though showing their continued disadvantage compared to the majority population:

- ➔ Despite substantial progress achieved since 2002 in the area of education, in 2011 Roma are still disadvantaged: 20% of Roma have no schooling, compared with 3.5% national average; the figures for 2002 were 34% and 5% respectively.
- ➔ Only 44% of Roma complete secondary school, compared with 65% national average, even though this is a 53% increase from 29% of Roma completing secondary school in 2002.
- ➔ Just 0.71% of Roma, compared with 14% national average, graduate from university. In 2002, the discrepancy was even higher: 0.16% versus 7%.

While in absolute terms this increase in Roma self-identification in the national census may not be substantial, as 1.4 million of individuals still prefer not to self-identify at all in Romania,⁸⁴ this is at least a small step towards measuring policy changes over time.

Romani CRISS is considering a series of follow-up activities in the inter-census period. **The State, in turn, can and should do this type of awareness raising on the national and local levels in order to obtain equality data.** More importantly, the available data must actually be used to develop and evaluate Roma-oriented policies, something that Romania has been slow in doing.

⁸³ Romani CRISS, 2013.

⁸⁴ Some sociologists claim that people who chose not to identify are Roma. There is no evidence either to support or to refute this claim. Interview with Mihai Surdu, expert from Romania, at the ENAR-OSF Symposium on Equality Data Collection, Brussels, Belgium, 24 October 2013.

Lessons learned

The key to encouraging self-identification of ethnic and religious minorities is ensuring minorities' participation at all stages of the data collection processes, ensuring respect for data protection standards, **building trust** and **showing the benefits** of equality data. For example, in Ireland and Romania, grassroots organisations working with Traveller and Roma communities managed to demonstrate the benefits and as a result, self-identification increased significantly. The manner in which the data are collected and **used in practice** also plays a crucial role in the decision of beneficiaries to cooperate – or withhold cooperation – in the actual data collection processes.

In the countries where equality data collection is not officially allowed, or where there have not been recurrent surveys based on self-identification, it seems that the first steps should be to reach out to communities and run a pilot self-identification exercise with a precise aim, for instance in education or health. The findings could lead to the collection of equality data on a national scale.

The lack of equality data, or minorities' lack of trust in such data collection, should in no way be understood by State authorities as a justification for inaction in addressing discrimination. The absence of data merely limits tools at the State's disposal to ensure legal equality and slows progress towards equality objectives. This is why a **positive equality duty**, which would compel public bodies to collect equality data and publish evidence-based information of what steps they have taken to promote equality, has been consistently identified by minority advocates as **key to ensuring equality in practice**.

The European Union may have a particularly important role to play in promoting equality data collection and ensuring Member States appropriately collect such data. Close to 75% of the above-mentioned ENAR questionnaire respondents believe the EU should play a role.

Finally, it is important to keep in mind that achieving equality data collection as part of public policies planning is a **long and arduous process**. In the United Kingdom, it took decades between starting the data collection and seeing initial results of related policies, with many a trial and error along the way. Efforts to promote equality data collection, monitor States' activities and policies, and any resulting impact must be continuous and systematic.

4. Conclusions and recommendations

EU law, and all Member States' laws, do not prohibit equality data collection as long as such data are provided voluntarily and according to data protection standards. Recent developments in the harmonisation of the EU census data, along with the European equality framework, make the European Union an important player in equality data collection.

The **European Commission** should issue specific guidelines on inclusive and secure equality data collection to be adopted as part of **Council recommendations on equality data collection to ensure implementation of EU equality legislation**.

Categories for equality data collection, including ethnic and racial categories, may depend on the historic and political context in every country, which may vary in time, and should be developed in accordance with the self-definition categories in use. Standard EU-wide categories may be developed and should then be adjusted in every Member State, in consultation with the groups at risk of discrimination.

The **European Commission** could **support the development of these categories** in consultation with civil society organisations and other relevant stakeholders, including statisticians.

Specific national categories may be aggregated in EU comparable categories to ensure comparability. Data categories and data collection methods must respect voluntary **self-identification**.

Equality data are already collected in some countries and the costs of obtaining such data are not prohibitive. There is a need for better information and exchange of good models and practices to explain what works, what does not, and why.

The **EU Fundamental Rights Agency** should **disseminate both the disaggregated data it collects and the methodology used** for its surveys on discrimination experiences to encourage States to conduct similar exercises.

Equality data collection needs a trigger to begin. For example, the findings of the gaps in health status of Irish Travellers generated a momentum for data collection on the situation of Traveller communities in Ireland. Findings about exclusion of minority groups in other countries, coupled with active civil society advocacy, may provide similar impetus.

NGOs could **consult communities on their willingness to collect data** to measure discrimination, including by conducting their own surveys and pilot data collection exercises.

Building trust and ensuring empowerment to active participation of minority groups is key. Distrust among certain members of minorities in the ability and willingness of States to improve their situation is not only grounded in truth but may also be an important obstacle to data collection.

EU Member States must **work with civil society organisations to include members of minorities** throughout the whole process of equality data collection and analysis, for instance by recruiting census enumerators from these groups.

Equality data should be an integral part of public policies including equality policies. Data collection may be the missing link for eliminating discrimination, but it is no substitute for systemic changes. **Positive duty enshrined in law is often a necessary condition to ensuring equality in practice.**

EU Member States should **adopt a binding positive equality duty** requiring public bodies to have due regard to the need to advance equality.

Appendix 1

Table 1: Data collection in the EU Member States' censuses and population registers⁸⁵

EU State	Data Categories					Comments
	Ethnic Group ⁸⁶	Language ⁸⁷	Religion	Citizen	Country of Birth	
Austria	yes*	yes	yes	yes	yes	*Traditional minorities (<i>Volksgruppen</i>) and 'new' minorities (former migrants).
Belgium	yes*	no	no	yes	yes	*In the Flemish-speaking part only.
Bulgaria	yes*	yes*	yes	yes	yes	*Pre-coded list in the census.
Croatia	yes*	yes*	yes	yes	yes	*Pre-coded list in the census.
Cyprus	yes*	yes	yes	yes	yes	*Pre-coded list in the census.
Czech Republic	yes*	yes*	yes	yes	yes	*Pre-coded list in the census.
Denmark	no*	yes	no	yes	yes	*Ethnicity is gathered only for asylum-seekers.
Estonia	yes*	yes*	yes	yes	yes	*Pre-coded list in the census.
Finland	no*	yes	yes	yes	yes	*Ethnicity is gathered only for asylum-seekers.
France	no	no	no	yes	yes*	*Former citizenship also collected, so non-French origin is derived from the data.
Germany	no*	no	yes	yes	yes	*There is a special census of foreigners; nationality is used as a proxy for ethnicity.
Greece	no	no	no	yes	yes	

⁸⁵ The table is prepared by the author based on desktop research.

⁸⁶ This in some countries means culture, but in others also includes race.

⁸⁷ This may not coincide with ethnicity.

EU State	Data Categories					Comments
	Ethnic Group	Language	Religion	Citizen	Country of Birth	
Hungary	yes*	yes*	yes	yes	yes	*Pre-coded list in the census.
Ireland	yes	yes	yes	yes	yes	*Pre-coded list. System similar to the UK, except no mixed categories.
Italy	no	no	no	yes	yes*	*Former citizenship also collected, so non-Italian nationality is derived from the data.
Latvia	yes*	yes*	yes	yes	yes	*Pre-coded list in the census.
Lithuania	yes*	yes*	yes	yes	yes	*Pre-coded list in the census.
Luxembourg	no	no	no	yes	yes	
Malta	no	yes	no	yes	yes	
Netherlands	yes*	no	yes*	yes	yes	*Derived from parents' citizenship even for the second generation citizens; binary format (autochthon versus allochthon)
Poland	yes	yes*	yes	yes	yes	*Binary format ('Polish' and 'catholic', versus 'other') in the census.
Portugal	no	no	yes*	yes	yes	*Optional.
Romania	yes	yes*	yes*	yes	yes	*Binary format for religion ('Romanian' and 'Orthodox', or 'other') and pre-coded list for ethnicity in the census.
Slovakia	yes*	yes*	yes	yes	yes	*Pre-coded list in the census.
Slovenia	yes	yes	yes	yes	yes	*Pre-coded list in the census.
Spain	no	yes	no	yes	yes	
Sweden	no	no	no	yes	yes*	*Ethnicity derived from parents' citizenship.
United Kingdom	yes*	yes*	yes*	yes	yes	*Pre-coded list, allows for 'mixed' and write-in categories.

Appendix 2

Table 2: The official use of data in different social/economic fields in the EU Member States⁸⁸

EU Member State	Policy Development in:							Other Use / Comment
	Education	Employment	Housing	Health	Justice/Police Issues	Minority Rights	Combating Discrimination	
Austria	no	no	no	no	yes	yes	no	
Belgium	no	no	no	no	yes	yes*	no	*Only titular minorities.
Bulgaria	no	no	no	no	yes	yes	no	
Croatia	no	no	no	no	yes	yes	no	
Cyprus	no	no	no	no	yes	no	no	
Czech Republic	no	no	no	no	yes	yes	no	
Denmark	no	no	no	no	yes	yes*	no	*Only for the German minority in the border area.
Estonia	no	no	no	no	yes	yes	no	
Finland	no	no	no	no	yes	yes	no	
France	no	no	no	no	yes	no	no	
Germany	no	no ⁸⁹	no	no	yes	yes	no	
Greece	no	no	no	no	yes	no	no	
Hungary	no	no	no	no	yes	yes	yes	
Ireland	yes	no	no	yes	yes	no	yes	
Italy	no	no	no	no	yes	yes*	no	*German minority in Bolzano.
Latvia	no	no	no	no	yes	yes	no	

⁸⁸ The table was prepared by the author on the basis of desktop research and stakeholder interviews.

⁸⁹ However, the recent Berlin Law provides for a quota of employees of public administration with a 'migrant' background. The law is in the early stages of implementation, and is the only such law in Germany, so it is not yet clear how the Berlin authorities will know who job applicants with a 'migrant background' are. In addition, the Berlin police reportedly plan to diversify the force by attracting 'minorities', but without sound mechanisms to ascertain the candidates' identity.

EU Member State	Policy Development in:							Other Use / Comment
	Education	Employment	Housing	Health	Justice/Police Issues	Minority Rights	Combating Discrimination	
Lithuania	no	no	no	no	yes	yes	no	
Luxembourg	no	no	no	no	yes	no	no	
Malta	no	no	no	no	yes	no	no	
Netherlands	no	no	no	no	yes	yes*	yes	*Street names in ethnic neighbourhoods, other language rights.
Poland	no	no	no	no	yes	no	no	
Portugal	no	no	no	no	yes	no	no	
Romania	no	no	no	no	yes	yes	no	
Slovakia	no	no	no	no	yes	yes	no	
Slovenia	no	no	no	no	yes	yes	no	
Spain	no	no	no	no	yes	yes*	no	Only 'pueblos'. ⁹⁰
Sweden	no	no	no	no	yes	yes	no	
United Kingdom	yes	yes	yes	yes	yes	yes	yes	

⁹⁰ In the Spanish Constitution, there is no concept of 'minorities'. Instead, the Constitution mentions several 'peoples' (pueblos), among whom are Roma (*Gitanos*).

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Equality data can be powerful tools against discrimination and exclusion, shedding light on the situation of groups that are at risk of discrimination in the European Union but are currently invisible in general statistics or surveys. Equality data, disaggregated by discrimination grounds, would support efficient design and evaluation of equality policies.

‘Measure, plan, act: How data collection can support racial equality’ aims to contribute to closing the knowledge gap on equality data collection in the EU. It provides a state of play of equality data collection in the EU, as well as insight into ethnic and religious minorities’ perspectives.

The European Network Against Racism (ENAR) stands up against racism and discrimination and advocates for equality and solidarity for all in Europe. We connect local and national anti-racist NGOs throughout Europe and act as an interface between our member organisations and the European institutions. We voice the concerns of ethnic and religious minorities in European and national policy debates.



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