RACISM AND DISCRIMINATION IN THE CONTEXT OF MIGRATION IN EUROPE

ENAR Shadow Report 2015-2016

european network against racism

Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to these data and to bring an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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FOREWORD

We, in civil society, often think of how policies and political decisions influence our work and the people we represent and advocate for and frequently we feel isolated in the areas we work in; some of us are the migration field, some in the refugee and asylum world and others in the discrimination and diversity sector. This report helps break that isolation; it is a report on the intersections between racism, discrimination, migration and a difficult crossroads Europe finds itself in.

We are operating in a space where the European Union is struggling to come to terms with rising numbers of migrants, increasing anti-migrant feelings but also a significant anti-EU sentiment. The climate of anxiety whether based on the economy, security or immigration has emboldened racists and seen an upsurge in racially motivated attacks.

As a matter of fact the Western European thinking of social liberalism and of free movement of people is being replaced by legal limitations, structural barriers and physical fences implemented in an effort to stem this phenomenon. Instead, it has tragically resulted in the loss of many lives, criminalisation and exploitation of the vulnerable and greater restrictions of Europeans freedoms.

Migration is a human phenomenon and people will continue to look for security and better lives for themselves and their children and flee insecurity and abject poverty. There is no such thing as homogenous nation-states in Europe and until this is understood more clearly by EU Member States there will continue to be a problem with immigration and racism.

By collating the evidence in this report we are hoping to shed light on the discrimination faced by migrants. We have to be consistent and coherent about protecting and promoting the rights of minorities; diversity is a European value not a threat.

Let me finish by quoting an activist representing asylum seekers I was sharing a panel with:

"The world is our house, if my country is the kitchen and yours is the sitting room and something starts burning in the kitchen you will smell it in your sitting room and to make sure the house doesn't burn down we all have to put the fire out together".

Amel Yacef
ENAR Chair

EXECUTIVE SUMMARY

ENAR's Shadow Report focuses on racism and discrimination against migrants in Europe in 2015-2016, **based on national questionnaire responses from 26 EU Member States.** [1]

Over one million people sought refuge in the EU in 2015, a fivefold increase from the year before. Some **Member States' approach to the migration flows seen in 2015** has been one largely based on emergency management (Greece, Italy) rather than multidimensional plans for the integration of third country nationals. Many Member States are not implementing long-term plans or integration strategies, thereby ensuring that they remain transit countries only (Croatia, Hungary, Italy and Greece).

Several Member States made it clear that **irregular and in particular Muslim migrants** were not welcome. **African migrants**, many in need of humanitarian protection in Europe, were framed by politicians and other commentators as 'economic' or 'illegal' migrants but there has been an absence of political assessments of the push and pull factors that result in people willing to risk their lives to come to Europe.

Politicians and political/media commentators delivered **anti-migrant statements** and racist hate speech with impunity. EU Member States increasingly asserted their national sovereignty over and above their membership to the EU and expressed their lack of trust in key EU principles; with one clear response to rising numbers of migrants being a tightening of immigration related policies. **Support for far-right parties and groups** in several countries is growing and they (as well as centre-right political parties) are setting the tone of the debate on immigration, particularly related to Muslim migrants. This is resulting in anti-migrant discourses and policies being seen as acceptable and mainstreamed across the political spectrum.

The **racialisation of criminality and in particular terrorism for Muslim migrants** shows a 'hardening' in political discourses on minorities. Although the process of racialising and criminalising Muslims has been instrumented for decades, the terrorist events in France

and Belgium in 2015 and 2016 were precursors to an increase in aggressive Islamophobic and anti-migrant rhetoric and hate speech in 2015/2016. The introduction of new border policies and counter-terrorism measures in some Member States in 2015/2016 has led to **ethnic profiling and discriminatory policing of migrants.**

Racist attacks against migrants, asylum seekers, refugees and their accommodation in EU Member States and an increasingly hateful anti-migrant political and public discourse, were reported by civil society organisations across the EU. Islamophobic, anti-migrant and anti-EU far-right groups have been very effective in spreading their hate and it is becoming increasingly difficult to differentiate between these groups organising protests, their supporters, and the individuals perpetrating violent racially motivated crimes.

Integration approaches have been reported in some Member States as assimilation processes where newcomers must adapt to 'our values', and labour market integration, in particular, appears to be a priority for most Member States. However labour market integration can become problematic if the responsibility to be employed falls solely on the migrant and the significant barriers to gaining employment are not addressed.

A number of barriers – discrimination, labour market restrictions linked to migration status, lack of recognition of qualifications, language – result in an employment gap between migrants and nationals. In the absence of integration plans that address **racial discrimination in the labour market**, inclusion and progression in the labour market remain difficult for racialised migrants. Many end up working in the shadow economy and fall victim to exploitation.

The EU's attempt to manage the flow of migrants into Europe must be assessed in the context of its ever **increasing securitisation policies.** Within many of the plans and packages deterrence and security are at the core of its response to the rise in migration. Poverty and race, although not at the forefront of these discussions, are playing a role in the structural decisions to exclude certain groups from Europe.

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1   Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Spain, Slovenia, Sweden and United Kingdom.

RECOMMENDATIONS

This report has identified policies and legislation that indirectly and disproportionately discriminate against certain third country nationals and reinforce racial hierarchies of dominance, oppression and exploitation. One of the assumptions of our research was that, at the very stage of the design of migration policies, there are implicit, and even sometimes explicit, racist elements which are 'neutralised' by the technical wording of legislation and by using a number of proxies to avoid mentioning race, colour, ethnicity or religion, such as nationality and country of origin. This results in hierarchising the haves and have nots in terms of rights according to cultural and ethnic features, although it will never be officially admitted that this was the intent of legislators. As a consequence, it is extremely difficult to elaborate recommendations to eliminate biases that officially do not exist or demonstrate factually correlations between political 'signifiers' and their actual 'signified'. The following recommendations therefore address the explicit content of policies, assuming that if they were all implemented, the situation of migrants in Europe would improve significantly. At the same time, we are aware that they will never resolve the fundamental biases on which these policies and laws are founded, which will therefore continue producing discriminatory outcomes, as demonstrated in our report. We hope that, in case most of our recommendations would be implemented, the racist elements at the core of European and national migration policies will appear in their bare harshness and be tackled.

The following recommendations consequently address discrimination and processes of exclusion that disproportionately impact on migrants from the Middle East, Africa, Asia and other racialised minorities. The recommendations are specific to the areas discussed in this report: political narratives and public policy; the labour market; and racially motivated crimes.

One overall recommendation, at a time when there are significant developments in migration policies at both the EU and national level, is that all new policies, programmes and legislation must be developed with a human rights approach and non-discrimination at the centre.

Political narratives and public policies

EU institutions:
• When reviewing migration policies and legislation, ensure that they are based on principles of solidarity and human rights, taking into account the global situation of humanitarian developments, rather than developing policies in line with security measures and assessments.
• Take into account the various push and pull factors for non-EU migrants and adjust policies on the basis that further securitisation and criminalisation will never be sufficient to deter migrants from attempting to make the dangerous journey to Europe.
• Ensure that development aid is primarily a long-term tool for lifting people out of poverty.
• Stop using development aid as a means to coerce non-EU governments into making conditional agreements and becoming partners in the EU's migration agenda, which may lead to serious human rights violations.
• Initiate infringement proceedings against Member States which are not ensuring equal treatment of migrants in the transposition and implementation of asylum and legal migration legislation.
• Publicly condemn politicians and authorities inciting hatred towards migrants and their ethnic or religious identities.
• Ensure that the principles of equal treatment and non-discrimination are mainstreamed across all legislation and policy packages, by clearly mentioning these principles in every piece of legislation and ensuring that ex-ante and ex-post assessments consider concrete measures undertaken to ensure these principles are applied.
• Oversee the implementation of the EU Action Plan on the integration of third country nationals.

National governments:
• Implement the pre-departure/pre-arrival measures outlined in the European Commission Action Plan on the integration of third country nationals and provide support to third country nationals at the earliest possible moment in the migration process.
• Limit expulsions to the most serious cases of violations of national law and revoke all crimes that punish irregular entry and irregular permanence in the EU.
• Reform national laws, policies and practice to ensure migrants have equal access to social rights regardless of nationality and/or migration or residence status, in line with international law that guarantees equal access to rights

such as health care services and homeless shelters.

- Provide recipients of subsidiary protection the same rights as refugees with regard to family reunification, and establish a system for counselling and support during the process of family reunification. Governments must also ensure that recipients of subsidiary protection have a basic standard of living comparable to nationals.
- Reinforce the right to family reunification by reducing requirements on income and housing standards, while at the same time favouring the regularisation of family members that are already in Europe without a valid residence permit.
- Provide long-term funding to programmes and projects aimed at supporting migrants or fighting racial discrimination.
- Celebrate, finance and promote citizens' initiatives that support migrants.
- Develop national campaigns to raise awareness of the economic and social benefits that migrants, historically and currently, bring to EU Member States.
- Cooperate with the media and other actors to promote tolerance and respect of other cultures and challenge the negative perceptions of migrants.

Local governments:
- Ensure that language courses are adapted to the different needs and capacities of their client groups, with sufficient courses made available.

Labour market

EU institutions:
- Remove the exemption for equal treatment based on nationality from the Race Equality and Employment Equality Directives.
- Introduce a new channel of migration allowing legal entry with at least a one-year visa to search for employment, with effective incentives for migrants to return to their country of origin if they do not manage to find a job within that time and having the possibility to re-apply at a later stage.
- Create new channels for labour migration, including for low-skilled workers, thus reflecting the real labour needs of the EU. These channels for regular migration must be promoted systematically in non-EU countries to raise awareness of the safe channels of migration.
- Ensure that EU policies on labour migration do not result in an ethnic stratification of European labour markets

and a different set of rights for people with different migration statuses.
- Create a single application channel entirely run by the European Commission to ensure secure, safe and fair treatment of all demands.

National governments:
- Ensure that all beneficiaries of international protection and asylum seekers who work legally and pay social contributions have equal access to social welfare benefits.
- Develop labour market integration plans for all migrants, addressing issues of exploitation, skills recognition and acquisition, career progression, mobility and vocational training.
- Develop, and make accessible, avenues for migrants to work in low-wage sectors, with an independent residence status and right to change employer.
- Introduce measures that facilitate the transfer of work permits to new jobs, thereby avoiding situations of exploitation and reducing the likelihood of informal employment situations.
- Develop measures that support and encourage employers to employ third country nationals.
- Recognise that all migrants, especially undocumented or irregular migrants, are vulnerable to exploitation in a range of areas and are entitled to basic human rights protections.
- Provide ways for undocumented workers to regularise their administrative status.
- Ensure access to protection and redress for migrant workers who have suffered exploitation and violence, regardless of migration status.
- Ensure that the labour inspectorates are autonomous and independent with effective investigative and sanctioning powers.
- Ensure that there is a smooth process and easy recognition of qualifications.
- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
- Ensure that all migrant workers have the right to be unionised.
- Develop within national action plans for integration of third country nationals, initiatives and programmes that facilitate early access of migrants to the labour market.
- Regularly collect, publish and monitor data on

discrimination faced by migrants in the labour market, registering data on migration status and ethnicity where available.
- Facilitate access to the labour market by developing programmes in which migrants' skills and competences are matched with job shortages and opportunities.
- Develop and support private sponsorship programmes in education and in the labour market.

Local governments:
- Promote and finance civil society organisations' initiatives providing support to migrants that are victims of discrimination in the labour market.

Racially motivated crimes and access to justice

National governments:
- Ensure that ethnic profiling is not used with impunity as a security or law enforcement measure.
- Regularly collect, publish and monitor data on hate crimes that target migrants and their accommodation;

registering equality data on migration status and ethnicity where available.
- Ensure that access to free legal aid is automatic and that asylum seekers who make complaints are granted the possibility to stay for the duration of the legal procedure.
- Lower the threshold for reporting discrimination by providing easily accessible contact points for reporting, provide affordable lawyers trained in anti-discrimination law and support victims throughout the court procedure.
- Ensure laws against racially motivated crimes, discrimination and their associated punishments reflect the seriousness of the crimes and act as a considerable deterrent.
- Build a firewall between service provision and migration enforcement to ensure the sharing of personal data between service providers and immigration authorities is prohibited, including in the context of access to justice and redress.
- Facilitate access to justice by means of a correct and swift transposition and implementation of the EU's Victims Directive.

NOTE ON TERMINOLOGY

Migrants – The term migrant is used in this report to refer to all categories of migrants – third country nationals, refugees, asylum seekers, regular, irregular and undocumented migrants – unless otherwise stated.

- **Undocumented migrants or irregular migrant**s – These terms are used to describe those migrants who, for whatever reason, do not fulfil the requirements established by an EU Member State to enter, stay or perform economic activities in that country.
- **Third country nationals** – Migrants from outside the European Union.
- **Racialised migrants** – The process of racialising groups occurs when their assumed phenotypic, ethnic or racial identities and characteristics become associated with positive or negative meanings and social worth relative

to other groups. Racialisation in this report, specifically, refers to the interaction of a dominant group that ascribes other groups a certain identity for the purpose of domination, discrimination and exploitation.

Integration – the term is used broadly to refer to the incorporation or participation of certain groups and individuals into various parts of society.

Ethnicity and race – Race is a social construct, implying deep historical roots that reflect the groundless belief that certain 'racial' groups are biologically and/culturally inferior to others. Ethnic groups are identified by criteria such as ethnic nationality, race, colour, language, religion, tribe, customs of dress or eating and various combinations of these characteristics.

1. INTRODUCTION

This report on racism and discrimination within the context of migration aims to highlight the way in which racism and racial discrimination impacts on migrants in 26 European countries.[2] It aims specifically to look at evidence of discrimination based on the social construct of 'race' but also nationality. It also looks at the process of racialising of groups, when their assumed phenotypic characteristics become associated with positive or negative meanings and social worth relative to other groups.

The discussion regarding migration and discrimination is not new. Migrants in Europe have a long history of experiencing racism, particularly following the EU colonial period, the 'guest workers' schemes and mass migration to some European countries in the 1960s. It also important to acknowledge that there is a long history of ethnic minority communities that have migrated to Europe, integrated, speak their respective host countries' language and contribute to the economy, despite the barriers and discrimination that they faced. And whilst these older forms
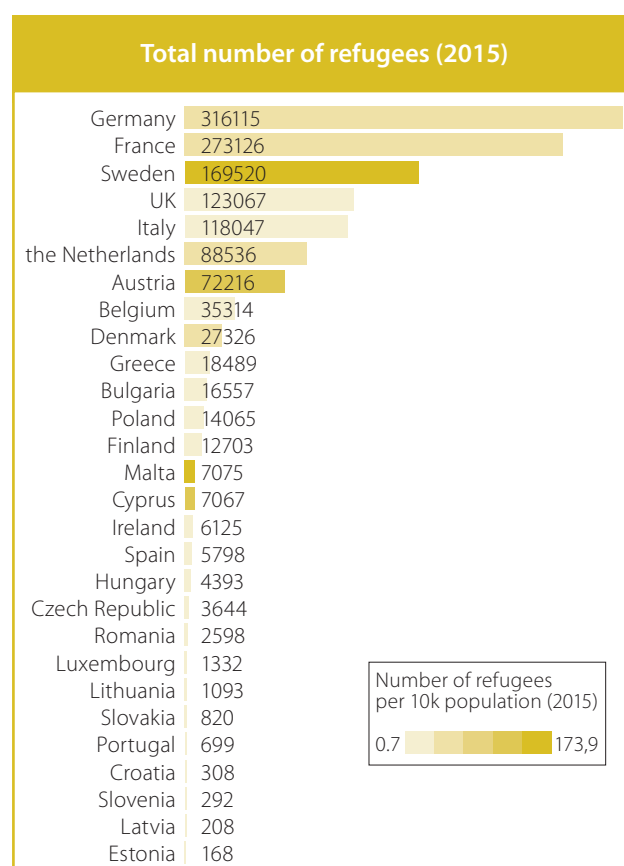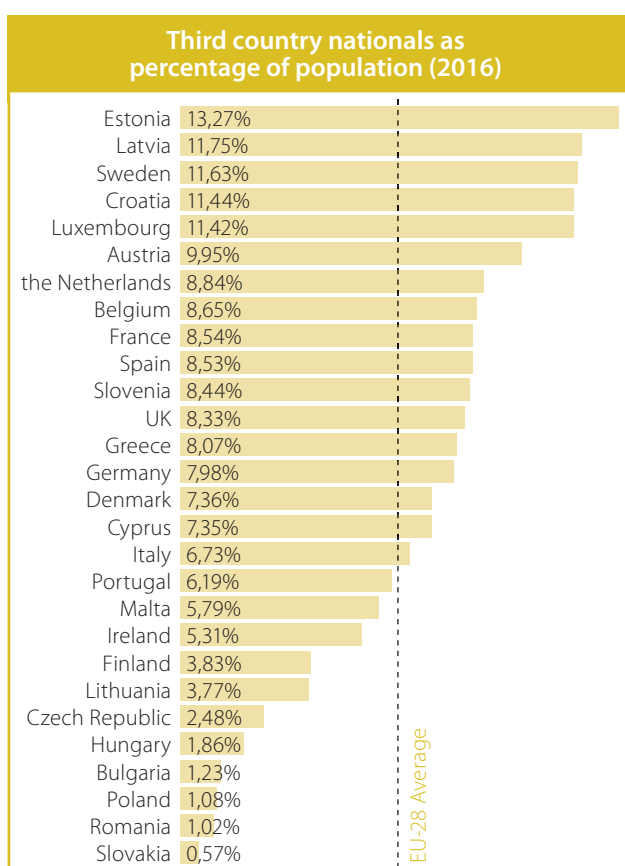
of migration inform our understanding of current events, this report focuses on the recent waves of migration over the course of 2015/2016.

The report looks firstly at the development of political discourse and policy across Europe in direct response to several major events such as the terrorist attacks in France and Brussels in 2015/2016; the rise in refugees fleeing the wars in Syria, Iraq, Afghanistan and the multiple sexual assaults allegedly committed by asylum seekers and others on New Year's Eve 2015 in Cologne.

The second section of the report covers labour market integration of migrants and how discrimination based on race and nationality can impact on migrants' performance in the labour market but also the sectors, positions and roles that racialised migrants are more likely to work in. The last section on racist crime and access to justice includes information regarding attacks targeting migrants and the support services that are available to them.

Xeno-racism, which primarily refers to the experience of migrants within Europe that may be perceived as white but

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2   Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Spain, Slovenia, Sweden and United Kingdom.

Third country nationals as percentage of population (2016)

Country	Percentage
Estonia	13,27%
Latvia	11,75%
Sweden	11,63%
Croatia	11,44%
Luxembourg	11,42%
Austria	9,95%
the Netherlands	8,84%
Belgium	8,65%
France	8,54%
Spain	8,53%
Slovenia	8,44%
UK	8,33%
Greece	8,07%
Germany	7,98%
Denmark	7,36%
Cyprus	7,35%
Italy	6,73%
Portugal	6,19%
Malta	5,79%
Ireland	5,31%
Finland	3,83%
Lithuania	3,77%
Czech Republic	2,48%
Hungary	1,86%
Bulgaria	1,23%
Poland	1,08%
Romania	1,02%
Slovakia	0,57%

EU-28 Average

Total number of refugees (2015)

Country	Number
Germany	316115
France	273126
Sweden	169520
UK	123067
Italy	118047
the Netherlands	88536
Austria	72216
Belgium	35314
Denmark	27326
Greece	18489
Bulgaria	16557
Poland	14065
Finland	12703
Malta	7075
Cyprus	7067
Ireland	6125
Spain	5798
Hungary	4393
Czech Republic	3644
Romania	2598
Luxembourg	1332
Lithuania	1093
Slovakia	820
Portugal	699
Croatia	308
Slovenia	292
Latvia	208
Estonia	168

Number of refugees per 10k population (2015)

0.7   173,9

are racialised, is not the main substance of this report. Here the discrimination discussed focuses on migrants that hail from outside the larger European continent and who are of colour.

1.1 Migrant population

The charts on the previous page include information on the numbers of migrants in Europe during the time period covered by this report.

The data included in this report are as accurate as possible but in all cases sourced from other organisations and institutions collecting and monitoring migration related information. In some cases, the data may be unreliable. Therefore we have included the data in this report as the most accurate estimates available.

1.2 Methodology

The data collected and analysed for this report were based on the contributions to an ENAR questionnaire and desk-based research. In each of the 26 EU Member States that this report covers, researchers/experts were contracted to carry out desk-based research and interviews to respond to the questionnaires. The national researchers and experts are listed below.

Austria	Bernhard Spindler	Researcher
Belgium	Dr Sophie Withaeckx	RHEA Centre of Expertise Gender, Diversity and Intersectionality (Vrije Universiteit Brussel)
Bulgaria	Dr Elena Dyankova	Justice 21
Croatia	Vanja Bakalović, Cvijeta Senta, Julija Kranjec, Sara Kekuš	Centre for Peace Studies
Czech Republic	Eva Čech Valentová, Magda Faltová, Kateřina Studecká	Association for Integration and Migration
Cyprus	Anthoula Papadopoulou	KISA - Action for Equality, Support, Antiracism
Denmark	Dr Mira Skadegård Thorsen, Pernille Isabella Gersager Nissen	Aalborg University
Estonia	Anni Säär	Estonian Human Rights Centre
Finland	Enrique Tessieri	Migrant Tales Blog
France	Jean-Philippe Foegle, Robin Médard	GISTI board member and independent researcher
Germany	Marius Münstermann	Amadeu Antonio Foundation
Greece	Natasa Chanta-Martin	Anasa Cultural Centre
Hungary	Marcell Lőrincz	Subjective Values Foundation
Ireland	Pablo Rojas Coppari	Migrant Rights Centre Ireland
Italy	Michela Semprebon	Unesco Chair for the Socio-Spatial Inclusion of International Migrants, Università IUAV; Cestim Onlus
Latvia	Jekaterina Tumule, Svetlana Djackova	Latvian Centre for Human Rights
Lithuania	Vilana Pilinkaitė Sotirovic, Birute Sabatauskaite	Centre for Equality Advancement, Lithuanian Centre for Human Rights
Luxembourg	Benedicte Souy	Moving People to Luxembourg consultancy
Malta	Christine Cassar, Dr Jean-Pierre Gauci	The People for Change Foundation
Poland	Jacek Białas	Helsinki Foundation for Human Rights
Portugal	Isabela Câmara Salim	Researcher
Romania	Bogdan Ghenea	Romanian National Council for Refugees (CNRR)
Slovenia	Saša Panić, Katarina Vučko	The Peace Institute
Spain	Irene Muela	Red Acoge
Sweden	Maimuna Abdullahi, Dr Adrian Groglopo	University of Gothenburg
United Kingdom	Alan Anstead, Leah Cowan	UK Race and Europe Network (UKREN)

2. POLITICAL NARRATIVES AND PUBLIC POLICIES

2.1. Is it a crisis?

The so called **'migration crisis'** has been used as a rhetorical tool by many leaders within the European Union to misrepresent the events surrounding the rising numbers of migrants arriving on European shores and at the borders in 2015/2016. There is no doubt that there has been an increase in the numbers of people attempting to enter the EU but the crisis is the inability, or more significantly the unwillingness of the EU and national leaders to adequately respond to these rising numbers.

Over one million people sought refuge in the EU in 2015, a fivefold increase from the year before.[3] As the European Union Agency for Fundamental Rights (FRA) states in its annual report, the increase in numbers has been a significant challenge to the respect of EU fundamental rights.[4] Recent migration from the Middle East, in particular Syria, has been a result of war and political turbulence in the region. Trends regarding rising migration from Africa, Asia and the Middle East to the EU have been reported on for decades by NGOs, the media and others. The reasons for this migration are complex but some point to underlying factors such as Europe's (and America's) role in the failure of many states from those regions; Europe's unfair trade policies; election-related violence and the corruption of regimes.

In reality the architecture for this apparent 'migration crisis' had been set in place much before 2015 and in recent years the failure of policies relating to security, border control, immigration restrictions and aid contributed to the migration situation in 2015/2016. Some Member States' approach to the migration flows seen in 2015 has been one largely based on emergency management (Greece, Italy) rather than multidimensional plans for the integration of third country nationals. As discussed further in this section, the unequivocal incapacity and reluctance to address migrants' arrivals can be seen as a structural phenomenon. Member States are choosing not to develop and implement long-term plans or integration strategies, thereby ensuring that they remain transit countries only (Croatia, Hungary, Italy and Greece).

The debates concerning the response to rising levels of migrants and refugees have become substitutes for debates on exclusion, racialisation and global inequality. The terms of the debate – the 'migration crisis' instead of the 'welcoming capacities crisis' – mask the racial impact of the policy response. At least in appearance the crisis is a subject altogether different from race yet the outcome of these debates has a significant racial impact.[5]

Nativism in Europe

Concurrent to the rising numbers of migrants seeking protection and a new life in Europe there has been a **long-term growth in nativism** informing immigration policies and national security laws. Nativism is a political practice that aims to protect or privilege the interests of the natives within the nation-state, often in opposition to immigration.[6] Since the 1990s, immigration and security have become dominant election issues in many European countries. Some argue that this is a result of a more globalised economy and the fact that nation-states are less and less able to protect their labour force from the impact. Thus, immigration and security policies and laws have become a tool for nation-states to attempt to protect their 'native' population.

> The debates concerning the response to rising levels of migrants and refugees have become substitutes for debates on exclusion, racialisation and global inequality.

More recently, there has been a stronger shift by some Member States away from once trusted EU values believing it is in their best interests to be outside of the European Union, most notably with the UK and the referendum vote to leave the European Union (23 June 2016). The reality is that all Member States saw the disastrous impact of the economic crash in 2008 on countries such as Greece and the uneven experiences of being part of the European Union.

3   European Union Agency for Fundamental Rights. *Migration Turmoil Tests EU Fundamental Rights Resolve, finds FRA's Fundamental Rights Report 2016*. 2016. Available at: http://fra.europa.eu/en/press-release/2016/migration-turmoil-tests-eu-fundamental-rights-resolve-finds-fras-fundamental.
4   European Union Agency for Fundamental Rights. *Annual Activity Report 2015*. 2016. Available at: http://fra.europa.eu/en/publication/2016/annu-al-activity-report-2015.

5   Matas, David. *Racism and Migration*. 1994. Available at: http://refuge.jour-nals.yorku.ca/index.php/refuge/article/view/21766/20436.
6   Guia, Aitana. *The Concept of Nativism and Anti-Immigrant Sentiments in Europe*. 2016. Available at: http://www.mwpweb.eu/1/218/resources/news_970_1.pdf and Mudde, Cas, *The Relationship between Immigra-tion and Nativism in Europe and North America*. 2010. Available at: https://works.bepress.com/cas_mudde/35/.

While integration policies remain a competence of Member States, the harmonisation instruments of the European Union are being rejected by some countries as a way to reassert their identity and sovereignty and this is particularly important for the discussion on migration, racism and Europe. For nativists, as we have seen over decades in Europe, the 'other' is used as a tool to reinvent and further promote their own national identity. This has been especially the case in response to the rapid rise in migration over 2015/2016. The difficulty of defining national identity was evident in one debate in Denmark during which a Danish politician stated that "You can't jump to the conclusion that you are Danish, just because you are born and raised in Denmark, speak Danish, and study at a Danish school. That is just absurd…!". In this statement the politician excluded Danish citizens with a foreign background from the Danish national identity. The typical markers of what would traditionally be one's national identity such as birth place, language, education were not enough and racial and cultural heritage was the defining factor used for exclusion in this instance.[7]

2.2 Anti-migration political rhetoric and racist speech

In several Member States governments have made it quite clear that irregular and in particular Muslim (Estonia, Hungary, Poland, Lithuania) migrants are not welcome in their nation-states. Politicians and political/media commentators have delivered anti-migrant statements and racist hate speech with impunity. Some political groups have launched adverts either at home or abroad (Denmark, Hungary, Sweden) to make it as obvious as possible that certain migrants are not welcome.

The Polish Member of European Parliament Janusz Korwin-Mikke (head of the KORWiN party) for instance referred to migrants seeking refuge in Europe as "human garbage" during a debate in the European Parliament.[8] There are few examples of politicians and commentators being sanctioned by political parties/institutions or investigated by the police. In Slovenia, however, following this tweet: "I have a more

radical [idea]: allow them to come not closer than 500 m to the border, what is closer, shoot all, God will know their [people]", Sebastjan Erlah, journalist and then member of the Slovenian Democratic Party, was expelled from the party which deemed the tweet unacceptable. At EU level, in December 2016 the European Parliament approved new Rules of Procedure strengthening hate speech sanctions and from now on Members of European Parliament, staff and lobbyists will be sanctioned if they use defamatory, racist or xenophobic language within the chamber.

Muslim migrants

In this modern typology of othering, some migrants are referred to as 'illegal', implicitly criminalising them, and others are constructed as potential terrorists. The latter is especially true of those migrants that hail from the Middle East. In one fell swoop, certain migrants have been problematised, racialised, criminalised and othered.

The racialisation of criminality and in particular terrorism for Muslim migrants has been clearly illustrated in the examples provided as part of the research for this report. Researchers and NGOs report of a 'hardening' in political discourses on minorities, especially Muslims, which can be connected to the broader context of 9/11, where terrorism in the name of Islam has been singled out as the biggest threat to Europe. Although the process of racialising and criminalising Muslims has been instrumented for decades, the terrorist events in France and Belgium in 2015 and 2016 were precursors to an increase in aggressive Islamophobic and anti-migrant rhetoric and hate speech in 2015/2016 (Cyprus, Hungary, Ireland, Italy, Latvia, Lithuania, Poland and Romania).

Following the terrorist attacks in Europe and the discussions around the EU relocation and resettlement plans for asylum seekers and refugees, the **Hungarian** government launched a billboard campaign and referendum on whether to accept its allotted EU migrant quota – 1,294 refugees (the referendum took place on 3 October 2016). The predominant message was that Hungarians are in danger if they follow in the footsteps of the West of accepting higher levels of immigrants because "these foreigners bring terror and fear; they are violent and don't respect the European values and laws".[9] A clear example of incitement to hatred came from **Romania**, in September 2015, where the former President Traian Băsescu made statements associating

7   Denmark Shadow Report questionnaire response.
8   Banks, Martin. 'A Controversial Polish MEP Stirs up Storm of Protests after Likening Refugees from Syria as "Human Garbage". *The Brussels Times*. 24 September 2015. Available at: http://www.brusselstimes.com/eu-affairs/4149/a-controversial-polish-mep-is-facing-calls-for-him-to-be-disciplined-for-alleged-shameful-remarks-about-migrants.

9   Hungary Shadow Report questionnaire response.

Muslims with terrorism: "I think about the problem in terms of national security. Let us not forget that among these people are Sunni, Shia, people who put bombs reciprocally in their country (...) Why should we Islamise Europe? We should destroy the migrants' boats and ships, right in the docks. Otherwise immigration will increase each year, will triple from year to year".[10]

Based on questionnaire responses from 26 EU Member States, there is evidence of virulent political hate speech directed at Muslim migrants across the EU during 2015/2016. However, Spain and to a lesser degree Portugal experienced less hate speech targeting Muslim migrants. In **Spain**, the recommendation by the Consejo para la Eliminación de la Discriminación racial o étnica (Committee for the Elimination of Racial or Ethnic Discrimination) to avoid using discriminatory, racist or xenophobic speech in election campaigns, approved on 7 May 2015, has shown the public administration's commitment to the fight against hate speech.

Roma migrant communities

Roma migrant communities continue to be targeted by hate speech, violence and discrimination (Austria, Ireland, Italy and Sweden). The criminalisation of begging occurs in some Member States and specifically targets Roma migrants from eastern Europe. For instance, the Sweden Democrats, a far-right party in **Sweden**, bought advertising space in the Stockholm subway and placed an advert in Östermalm station, in which they apologised to foreign tourists for the beggars on the streets of Stockholm.[11] The message in English stated: "Sorry about the mess here in Sweden. We have a serious problem with forced begging". The advert sparked strong reactions among commuters[12] and individuals as well as organisations that condemned the statement. Emir Selimi from the organisation Young Roma stated that the advert normalises racism against Roma people who are trying to survive.[13]

In **Italy**, the Lega Nord Member of European Parliament Gianluca Buonanno was recorded stating: "Rom e zingari feccia della società" (Roma and gypsies are the scum of society) during the TV programme Piazza Pulita on 2 March 2015. The Federazione Rom e Sinti Insieme, Associazione 21 luglio, Lunaria, ASGI and ARCI initiated a legal action against him.[14]

Migration from Africa

2015 and 2016 were scored by many tragic events that took place in the Mediterranean Sea. 314,003 migrants entered Europe by sea in 2016 through to 5 October and most arrived in Greece (167,446) and in Italy (142,725). The total for 2016 is below the number of arrivals at the same point in 2015, by which some 518,181 migrants and refugees had made the journey.[15] Many of those migrants making the perilous crossing of the Mediterranean Sea came from African countries and many lost their lives.

However, African migrants, many in need of humanitarian protection in Europe, were framed by politicians and other commentators as 'economic' or 'illegal' migrants. The **United Kingdom's** then Home Secretary Theresa May said in 2015 that there were large numbers of people coming from countries such as Nigeria and Somalia who were "economic migrants who've paid criminal gangs to take them across the Mediterranean". The term 'economic migrant' is "being used to imply choice rather than coercion… It's used to imply that it's voluntary reasons for movement rather than forced movement".[16] A UK columnist described African migrants crossing the Mediterranean Sea as "cockroaches" in April 2015 and although cautioned and questioned by police following complaints of racial hatred and incitement to racial hatred, no charges were brought. In **Italy** in 2014, a group of people sailed north of the Iseo Lake with billboards displaying the words 'lago nostrum [our lake]' while throwing black dummies into the lake.[17]

10   Romania Shadow Report questionnaire response.
11   Mederyd, M. 'SDs nya pr-trick – ber om ursäkt för tiggare'. *Svenska Dagbladet*. 3 August 2015. Available at: http://www.svd.se/sds-nya-pr-trick-ber-om-ursakt-for-tiggare/om/sds-sl-reklam. As cited in the Sweden Shadow Report questionnaire response.
12   Andersson, C. 'Ny SD-reklam väcker starka reaktioner'. *Sveriges Television*. 3 August 2015. Available at: http://www.svt.se/nyheter/lokalt/stockholm/ny-sd-reklam-vacker-starka-reaktioner. As cited in the Sweden Shadow Report questionnaire response.
13   'SD-reklam mot tiggare fall för JK'. *Tidningarnas Telegrambyrå*. 4 August 2015. Available at: http://www.svt.se/nyheter/inrikes/sd-reklam-mot-tiggeri-fall-for-jk. As cited in the Sweden Shadow Report questionnaire response.

14   Italy Shadow Report questionnaire response.
15   International Organisation for Migration. *Mediterranean Migrant Arrivals Reach 314,003; Deaths at Sea: 3,610*. 10 July 2016. Available at: http://www.iom.int/news/mediterranean-migrant-arrivals-reach-314003-deaths-sea-3610.
16   Ruz, Camila. 'The Battle over the Words Used to Describe Migrants'. *BBC News Magazine*. 28 August 2015. Available at: http://www.bbc.com/news/magazine-34061097.
17   Italy Shadow Report questionnaire response.

Besides the EU's minimal commitment to search and rescue operations such as Mare Nostrum in the Mediterranean, there has been an absence of long-term political engagement as to why people from African countries are willing to risk their lives to come to Europe. One could infer from the statements above and the general political silence that little worth is attributed to Black lives. Agamben's theory of 'bare life' and the figure of 'homo sacer'[18] could be compared to the experience of many migrants from Africa: "first, in the form of the exclusion from the polis and, second, in the form of the unlimited exposure to violation, which does not count as a crime".[19] It took the death of Aylan Kurdi (September 2015), a three year old Syrian boy, to pressure governments across Europe and the European Union to develop a policy response to those attempting to enter Europe by sea.[20]

## Far-right support, demonstrations and other manifestations of extremism

2015/2016 witnessed an extreme **politicisation of immigration** in several EU Member States. A new wave of right-wing/far-right political groups have emerged in the past five years and their support is growing and broadening at a rapid pace.[21] Support for these groups and parties has increased alongside their ability to influence the position of centre-right parties. Coalition politics has given the right a political advantage on these issues as the mainstream right has preferred to cooperate rather than compete with the far-right. The mainstream left in Italy, Lithuania, Malta and United Kingdom has preferred to endorse concerns over security and border control, while generally maintaining an open position with respect to the social and cultural integration of migrants.[22]

Far-right parties are still lagging behind in terms of electoral success in national, parliamentary level election results (see

Table 1). Nevertheless, right leaning mainstream parties have shifted further to the right and use anti-migrant, racist and xenophobic statements to build their support base (Finland, France, Lithuania, Luxembourg and United Kingdom). In **Luxembourg**, the burka and more recently the burkini have become political issues that the mainstream parties are taking on to win votes. This is particularly interesting as there are no beaches in Luxembourg and less than 10 women would be affected by any changes to the law impacting on the wearing of the burka. Right-wing populism in Europe that caused public outrage in the 1990s and was condemned as racist and intolerable by other political parties has now been mainstreamed, implemented, legalised and become part of policies and everyday experience (Austria, United Kingdom).

Table 1: Electoral success for political parties using xenophobic/racist ideas and policies - percentage of votes from last two national elections
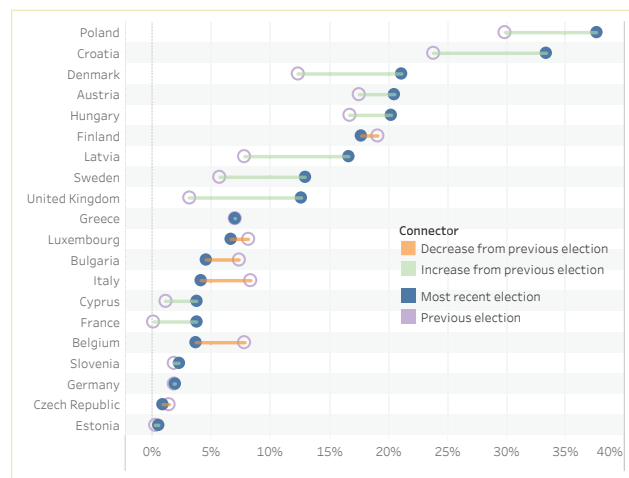
The rise of far-right movements such as Pegida[23] and other vigilante groups across Europe shows how successful these parties and groups have been in setting the tone of the debate on immigration, particularly related to Muslims. The nature of the **communication between far-right groups and the general public** is very direct. Their campaigning is very effective and there has been a sharp drop in public sympathy towards to migrants. In **Hungary** for instance, a research institute has found that "a year ago two-thirds of those asked supported [migrants and refugees], now only one-third".[24] In **Ireland**, the lack of criminalisation of incitement to hatred has been

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18   In Ancient Roman law 'homer sacer' is a person banned, unprotected and whom anyone could kill without committing a murder in the legal sense.

19   Ziarek, Ewa Plonowska. 'Bare Life'. *Impasses of the Post-Global: Theory in the Era of Climate Change, Vol. 2*. 2012. Available at: https://quod.lib.umich.edu/o/ohp/10803281.0001.001/1:11/--impasses-of-the-post-global-theory-in-the-era-of-climate?rgn=div1;view=fulltext.

20   'Travelling in hope - The Flow of Africans from Libya to Italy is Now Europe's Worst Migration Crisis'. *The Economist*. 22 October 2016. Available at: http://www.economist.com/news/international/21709019-flow-africans-libya-italy-now-europes-worst-migration-crisis-travelling.

21   Polakow-Suransky, Sasha. 'The Ruthlessly Effective Rebranding of Europe's New Far Right'. *The Guardian. 1* November 2016. Available at: https://www.theguardian.com/world/2016/nov/01/the-ruthlessly-effective-rebranding-of-europes-new-far-right.

22   Massetti, Emanuele. 'Mainstream Parties and the Politics of Immigration in Italy: A Structural Advantage for the Right or a Missed Opportunity for the Left?'. *Acta Politica, Vol. 50 (4):* 486–505. 2015. As cited in the Italy Shadow Report questionnaire response.

23   Pegida - Patriotic Europeans Against the Islamisation of the West (in German: *Patriotische Europaer Gegen die Islamisierung des Abendlandes)* is a German political movement based in Dresden.

24   Hungary Shadow Report questionnaire response.

mentioned as a factor in far-right groups being able to increase their visibility. Incitement to hatred is also not included in the penal code in **Bulgaria**.

Pegida has been unequivocally successful in spreading their version of Islamophobic and anti-migrant hate from Germany across Europe. Chapters of Pegida, with varying impact, have sprung up across Europe (Austria, Bulgaria, Belgium, Czech Republic, Hungary, Italy, Sweden, Finland, France, Estonia, United Kingdom and even as far as Australia) (See Figure 1). It is becoming increasingly difficult to differentiate between these right-wing extremist groups organising demonstrations and protests, their supporters, and the individuals perpetrating violent racially motivated crimes. In many cases they could be one in the same such as the Soldiers of Odin.[25]

In 2016 a group of 450 people who claimed that they wanted to pay tribute to the victims of the terrorist attacks in Brussels, **Belgium** were escorted by train to the Beurs square, where a memorial of flowers and candles for the victims had been made. Singing anti-immigrant songs and using the Nazi-salute, they marched brutally over the memorial, disturbing the mourning people present. The police and local authorities allowed the march to take place, and the participants were not arrested.[26]

Following the multiple sexual assaults allegedly committed by asylum seekers and others on New Year's Eve 2015 in Cologne, members of these right-wing extremist groups committed violent racist crimes and assaults in their mission to 'protect' their national borders. Large-scale anti-migrant demonstrations have turned into violent action shortly before

or after many of these demonstrations. In this way, although not proven to be directly involved in the attacks, right-wing parties such as Pegida have created a racist climate and provided the opportunity for right-wing motivated violence.[27] One case in Freital, **Germany**, shows how an anti-migrant group has been charged with terrorism and carrying out bombings and arson attacks against an alternative community project in Dresden and migrant accommodation centre.[28] In **Estonia**, it is reported that a supporter of the Soldiers of Odin committed a racially motivated crime. In some countries, for example **Bulgaria and Hungary**, vigilante groups have supplanted the rule of law.

Cyprus has a specific experience with the increase in support for ELAM and its influence in the re-emergence of ultra-nationalism in the context of the negotiations for a solution to the Cyprus question. The rise in Islamophobia has manifested itself through attacks against Turkish Cypriots, and an increase in racist and anti-migrant discourses.

Figure 1: Spread of far-right and vigilante groups 2015-16
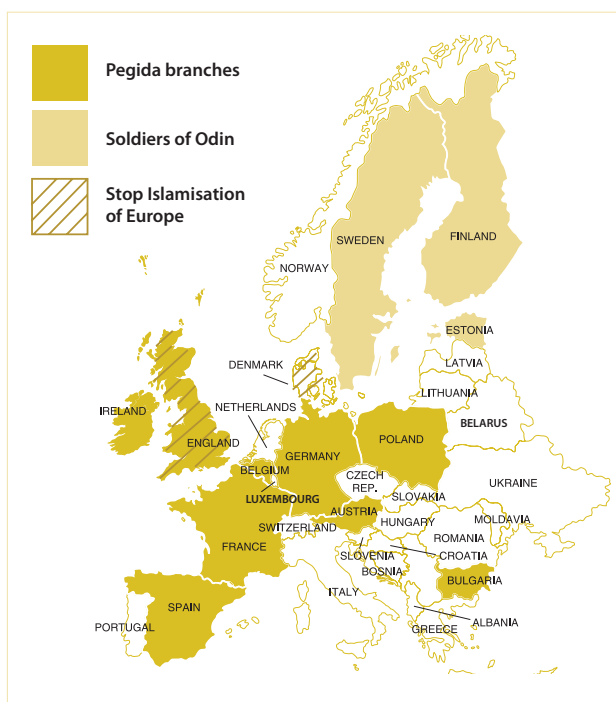
25   Soldiers of Odin is an anti-immigrant street patrol vigilante group founded in Finland.
26   Belgium Shadow Report questionnaire response.

27   Koehler, Daniel. *Right-Wing Terrorism in the 21st Century: The 'National Socialist Underground' and the History of Terror from the Far-Right in Germany.* 2017. New York: Routledge.
28   Saal, Oliver. 'On Patrol with the New German Vigilantes'. *Sicherheits Politik Blog.* 20 April 2016. Available at: http://www.sicherheitspolitik-blog.de/2016/04/20/on-patrol-with-the-new-german-vigilantes/.

Not all demonstrations were anti-migrant and in most EU Member States there were 'refugee welcome' marches, protests and demonstrations. Even some Islamophobic demonstrations were met with counter-protests. These counter-protests have been a tactic heavily employed in **Ireland** to oppose the racist and Islamophobic discourse emerging, for instance:

• In February 2015, there was a protest outside Clonskeagh Mosque in Dublin, organised by Anti-Islam Ireland but they were largely outnumbered by anti-racist activists.

• In March 2015, the political party Identity Ireland held a public meeting in Jury's Hotel in Dublin where about 50 people were in attendance; among those present were protesters from Anti-Fascist Action Ireland who prevented Identity Ireland's leader Peter O' Loughlin from taking the platform by means of singing anti-fascist songs.

Media

Balanced reporting on the issue of migration can have a positive impact on community relations; however reports show that the mainstream media have been employed as an instrument to spread hatred and racism to unprecedented degrees. The **co-option of mainstream media** is evident by the normalisation of racist and xenophobic positions. In many Member States media outlets with large readerships have done little more than reproduce the political discourse that frames refugees as a threat. Over the course of 2015/2016 much of the mainstream media failed to seriously challenge the political establishment on their positions regarding immigration. This potentially facilitated changes and restrictions to immigration laws. In **Cyprus**, journalists tend, on the whole, to work within a perspective largely dictated by media owners' political and other affiliations and this applies to their coverage of migration and asylum.[29] Anti-migrant rhetoric in the media is even more concerning in democracies where the media is oligarchic and under state manipulation (Bulgaria, Hungary). For example, Victor Orbán has effectively reshaped the media landscape and neutralised critics in **Hungary**.

Journalists reporting on migration issues are often not experts and biased reporting and presentation of information occurs due to a lack of understanding, knowledge and experience of journalists. As ENAR Shadow Reports have consistently highlighted over

several years, there is a lack of diversity among news producers and reporters and migrants' voices are few and far between (Italy, Ireland). This impacts not only on the perceptions of recent migrants but also of those migrants and their descendants that have lived in Europe over two or three generations, who continue to be framed as 'alien elements'. Incidents such as the drowning of the Syrian boy on Turkish shores in September 2015 may have influenced the narrative by highlighting the disastrous consequences of the migration reception crisis. However, this positive shift in the discourse had a short-term impact and negative and hateful rhetoric on migration dominated the headlines again eventually.

The anti-migrant rhetoric and political positions at a national or EU level over the course of 2015/2016 were played out through the media, and this had an impact on public opinion on the ground. Global events of terrorism, sexual attacks and other negative events in the context of migration were covered extensively by journalists even though they took place in another country or region (Estonia, Latvia, and Ireland). In particular, media reporting of terrorist attacks and nativist responses by politicians shifted the public position on how to manage migration. By the end of 2015, after the Paris attacks, 75.6% of Romanians considered that **Romania** should not receive refugees and 80.2% were against refugees settling in Romania.[30]

Essentially, media coverage should be understood as the lens through which migrants and migration are depicted, with the help of old stereotypes that have been given somewhat new dimensions. In many Member States the media conflate the Muslim community with issues of terrorism and security. The Council of Europe's European Commission against Racism and Intolerance (ECRI) states in its 5th Report on **Cyprus**: "Migrants, particularly Muslims, are frequently presented in the media in a negative light and associated with problems such as rising unemployment and criminality".[31] This is not new but a series of mediatised events (some fake) fed into racialised stereotypes about Muslim men. The UN and ECRI criticised the **UK** government's narrative that has

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29   Cyprus Shadow Report questionnaire response.

30   Romania Shadow Report questionnaire response.
31   European Commission against Racism and Intolerance. *ECRI report on Cyprus (fifth monitoring cycle)*. 2016. Available at https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Cyprus/CYP-CbC-V-2016-018-ENG.pdf.

played out well with the right-wing, anti-migrant tabloid newspapers (which are the most widely read in the UK), and with much of the UK's population. "Hate speech in some traditional media, particularly tabloid newspapers, continues to be a problem, with biased or ill-founded information disseminated about vulnerable groups, which may contribute to perpetuating stereotypes".[32] As one interviewee stated in **Sweden**: "It feels like the media image around a migrant basically means, a Muslim. And that the coverage about Muslims, in this case, people who fled or have come here because of conflicts, are associated with what has become known as 'extremism', 'jihadism'."[33]

Fake news and hoaxes covered in the media were reported in Austria, the Czech Republic, Estonia and Italy. In addition, social media has for many years been a forum for spreading hate speech and racism. All Member States experience this but **social media** is becoming increasingly crucial in forming opinions about migrants (Spain). There has been a growing dissemination of false ethnicity-related information with alarming and sensationalist headlines. Fake news is written and promoted by far-right websites, which use extensive networks of supporters to spread the fake news through social media. This phenomenon remains scarcely controlled without any specific measures, to date, addressing this problem. As Professor Lidia Maroporo states in Portugal, "the knowledge we have of the world is shaped to a large extent by what we see or read on social media. If a social group is represented negatively in a recurrent way, this also promotes a negative image of this group in society, reinforcing stereotypes and strengthening the image of certain social groups as the 'other'". The far-right FPÖ party in **Austria** is for instance by far the most successful political power when it comes to social media reach. The Facebook page of Heinz-Christian Strache had up to 400,000 likes, more than any Austrian politician.

In most Member States social media is used effectively to organise protests and demonstrations. Facebook, in particular, has been used not just to organise peaceful demonstrations but more violent vigilante attacks. New forms of opposition to 'mass immigration' and refugee relocation programmes are appearing online (Germany, Lithuania, Slovenia). A number of anti-migrant and Islamophobic Facebook pages have been created. Although terms of services reiterate that incitement to violence is forbidden, social media lacks a code of ethics relating to racist speech and this can lead to distorted perceptions and communities being marginalised and becoming vulnerable to racist attacks.[34]

2.3 Migration agenda

European Agenda on Migration

Article 2 of the Treaty on European Union states the EU's founding values are "human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities".[35] As detailed below in this section, these values have been significantly challenged over the course of 2015/2016.

The European Agenda on Migration presented by the Commission in May 2015 set out the need for a comprehensive approach to migration management. Between May 2015 and December 2016 around 60 developments have taken place as part of this agenda.

The EU's attempt to manage the flow of migrants into Europe must be assessed in the context of its ever increasing securitisation policies. Within many of the plans and packages deterrence and security are at the core of its response to the rise in migration. [36]

Poverty and race, although not at the forefront of these discussions, are playing a role in the structural decisions to exclude certain groups from Europe. **Fortress Europe** has become a reality and the effects of policies introduced to stem immigration into Europe have been, at times, catastrophic. If migrants enter Europe without the correct documents, for whatever reason, it is their irregular movement which is addressed first, either through detention or expulsion. Today Frontex is operating on the European borders and beyond in an attempt to fortify Europe.

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32   United Kingdom Shadow Report questionnaire response.
33   Sweden Shadow Report questionnaire response.
34   Malta Shadow Report questionnaire response.
35   Lerch, Marika. *Human Rights Factsheet*. Available at: http://www.europarl. europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_6.4.1.html.
36   European Commission. *A European Agenda on Migration State of Play: December 2016*. 2016. Available at: https://ec.europa.eu/home-affairs/ sites/homeaffairs/files/what-we-do/policies/european-agenda-migra-tion/background-information/docs/20161214/eu_agenda_for_migra-tion_122016_en.pdf.

In March 2016 **the EU and Turkey** made a deal, after claiming Turkey as a safe third country, regarding beneficiaries of international protection travelling from Turkey to Greece. A main point of the agreement is that all newcomers crossing from Turkey into the Greek islands as from 20 March 2016 will be returned to Turkey if their application for asylum in Greece, or for resettlement/relocation or family reunification in another EU Member State, is unfounded or inadmissible. This deal includes even more military presence on the Greek islands since Turkish officials are now an active part of the monitoring process.[37] As part of the EU-Turkey agreement, for every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria. Priority will be given to migrants who have not previously entered or tried to enter the EU irregularly.

EU policies such as the hotspots have, some would argue, worsened the situation for many migrants in southern European Member States such as Greece and Italy. The latest 2016 *LasciateCIEntrare* report[38] states that there has been a "transformation of reception into detention", particularly with the opening of new hotspots, a significant element of the European Agenda on Migration.[39] The **hotspots** "constitute a selection procedure between those who have the right to apply for asylum and 'economic migrants' to be detained in a *Centro di identificazione e d'espulsione* (Centre of identification and expulsion - CIE) or else expulsed".[40] Hotspots lie at the heart of a new restrictive asylum policy, but as reported in **Italy**, they have no legal status and are therefore becoming detention centres, with norms and regulations defined by law enforcement officers' and administrative authorities' discretionary powers.[41] The *Associazione Studi Giuridici sull'Immigrazione* (ASGI) in Italy describes hotspots as contributing to "forced irregular migration", through collective expulsions, particularly in border zones; denied access to asylum application in hotspots upon arrival; denied reception; and largely approximate identification centres.[42]

The European Commission's **relocation and resettlement** proposals instigated a heated political debate and the initial refusal by several Member States to accept the Commission's proposals to relocate 160,000 asylum seekers from Italy and Greece.[43] During these political debates hateful, xenophobic and racist speech was delivered by politicians and commentators across Europe and covered extensively by the media. The Romanian government and president, for example, initially opposed the European Union's resettlement plan for 160,000 refugees favouring voluntary instead of compulsory quotas. In some Member States there was a willingness to share responsibility of the growing number of migrants, but many wanted to pick and choose which refugees they would accept in their country, which would be discriminatory (Cyprus, Czech Republic, Lithuania).

On 7 September 2015, the Minister of Interior in **Cyprus** stated in reference to the 300 refugees it was prepared to host as part of its share of the quota assigned by the EU that Cyprus "would prefer them to be Orthodox Christian refugees. It's not an issue of being inhuman or not helping if we are called upon, but to be honest, yes, that's what we would prefer".[44] Echoing the Hungarian Prime Minister and other politicians of mainly Eastern European Member States, the Minister claimed that it "would be easier for Christians to adjust to life in Cyprus". This direct discriminatory statement against Syrian and other refugees on the basis of religion resulted in promotion of and incitement to discrimination, racism and Islamophobia. In 2015 the **Czech** government adopted a controversial decision to accept 153 Christian refugees from Iraq as part of a programme initiated and coordinated by 'Generation 21' endowment fund with the help of numerous NGOs and volunteers. In addition, this programme can be seen as a failure, as the government cancelled it in April 2016 after a group of 25 refugees asked to leave for Western Europe. Consequently, their asylum decisions were invalidated. By then, over 60 refugees were resettled as part of this programme; only about half of them have remained on Czech territory.[45]

37   Greece Shadow Report questionnaire response.
38   LasciateCIEntrare, Libera, Cittadinanzattiva. *Report InCAStrati.* 2016. Available at: http://www.lasciatecientrare.it/j25/attachments/article/193/Report%20Incastrati%20.pdf.
39   European Commission. *European Agenda on Migration – Factsheets.* Available at: https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-migration/background-information_en.
40   ASGI. *Il Diritto Negato: Dalle Stragi in Mare Agli Hotspot.* 2016. Available at: http://www.asgi.it/wp-content/uploads/2016/01/2016_asilo_puglia_11.pdf. As cited in the Italy Shadow Report questionnaire response.
41   Italy Shadow Report questionnaire response.
42   LasciateCIEntrare, Libera, Cittadinanzattiva. Op. cit.

43   European Commission. *Relocation and Resettlement - State of Play.* 2016. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/20160615/factsheet_relocation_and_resettlement_-_state_of_play_en.pdf.
44   Video recording available at https://www.youtube.com/watch?v=g0cBRbeked0&feature=share. 'Hasikos defends 'we prefer Christian' refugees' remark'. *Cyprus Mail.* 7 September 2015. Available at: http://cyprus-mail.com/2015/09/07/cyprus-says-it-could-take-up-to-300-preferably-christian-refugees. As cited in the Cyprus Shadow Report questionnaire response.
45   Czech Republic Shadow Report questionnaire response.

In **Poland**, according to the recent amendment to the Law on Protection, asylum seekers should be checked by Polish authorities to see whether the applicant represents a threat to public security before consent to relocation is given. This security check is undertaken by the police, border guards, the Agency of Internal Security and if necessary other agencies. If one of those services considers an asylum seeker to be dangerous, the Office for Foreigners is obliged to refuse to relocate or resettle the asylum seeker. According to the Minister of Interior not a single asylum seeker in the Greek hotspots was seen as "not dangerous" so no-one was relocated to Poland.[46]

On the other hand, Ireland, Spain and Portugal have responded more positively to the large movements of migrants in 2015/2016. Initially **Ireland** committed to resettling 272 migrants in need of protection and provided humanitarian aid; an Irish Naval Service deployment for search and rescue operation; and the implementation of the Syrian Humanitarian Admission Programme. This caused an outcry from the general public and, organised by a strong civil society movement, the Irish people called for the commitment to be increased. As a result, the number of resettlements was increased to 520 and 600 migrants were accepted as part of a relocation package.[47]

EU visa regulations

Historically the EU has been seen to be discriminatory in which third country nationals they legally allow entry into the **Schengen area of the European Union.** In the field of visas specifically, since the Treaty of Amsterdam, the EU has increasingly been able to develop, although not without difficulties and repercussions, a common front vis-à-vis third countries particularly in the form of exhaustive 'black' and 'white' lists from which Member States cannot derogate.[48] The 'white' list includes countries with a majority white population and the 'black' list includes countries from the poorer countries from Africa and Asia. The racialised nature of these lists, reflected in their names, have been criticised and called racist and divisionary. Those citizens of countries on the

'white' list do not require a visa to enter Europe. The decision of which list a country is included on is determined by a risk analysis and is another instrument enabling the EU to further securitise its borders. In recent years the name of these lists has changed from a black/white to positive/negative list, however the content of the lists remains divided along racial lines.[49]

The 'positive' list includes:[50]
- **Europe:** EU Member States plus Andorra, Monaco, San Marino, and the Holy See (Vatican City)
- **Central America:** all countries except Belize
- **South America:** all countries aside from Guyana, Suriname, French Guiana and Ecuador
- **Middle East:** only Israel
- **Asia:** only Brunei, Japan, Malaysia, Singapore and South Korea
- **Others:** United States, Canada, Australia and New Zealand

The 'negative' list includes:
- **Africa:** all countries
- **Middle East:** all countries leaving except Israel
- **Central Asia:** all countries
- **Asia:** all countries except those noted above
- **Former Soviet Union**: all countries except the Baltic (EU) states
- **Caribbean:** all countries
- **Former Yugoslavia:** all countries except Slovenia and Croatia
- **Turkey**

Statistics regarding the processing of **visa applications** have been used to indicate potential discrimination between different migrant groups. **Table 2** shows the rate of denied visa applications from third country consulates based across the world. The rate of denied visas from Western countries with large or majority white populations is significantly lower than the other countries mostly in the south. Racism and racial discrimination based on nationality and the geographic location of the application may be a factor in the low visa application success rates for some third country nationals.

46   Ministry of Interior and Administration. *Minister Mariusz Błaszczak: mam zaufanie do Policji.* Available at: http://www.mswia.gov.pl/pl/aktualnosci/14484,Minister-Mariusz-Blaszczak-mam-zaufanie-do-Policji.html?search=1802396. As cited in the Poland Shadow Report question-naire response.

47   Ireland Shadow Report questionnaire response.

48   Meloni, Annalisa. 'EU Visa and Border Control Policies: What Roles for Security and Reciprocity?'. In Bigo, Didier, Carrera, Sergio, and Guild, Elspeth Guild (eds). *Foreigners, Refugees or Minorities? Rethinking People in the Context of Border Controls and Visas.* 2013. New York: Routledge.

49   van Houtum, Henk. 'Human Blacklisting The Global Apartheid of the EU's External Border Regime'. In *Geographies of privilege*, Winddance Twine, France & Gardener, Bradley. 2013. New York: Routledge.

50   Bloomberg, Elisabeth, Perterson, John, & Stubb, Alexander, 'A Secure Europe? Internal Security Policies'. In *The European Union: How Does it Work: Second Edition.* 2008. Oxford: Oxford University Press.

Table 2: Visa statistics for all Schengen States and their consulates in third countries, ordered by the not issued visa rate (2015)

Country where consulate is located	Uniform visas applied for	Not issued rate for uniform visas
AFGHANISTAN	6913.00	42.08%
GUINEA	15938.00	41.13%
ERITREA	1906.00	39.93%
NIGERIA	88228.00	37.82%
CONGO (DEMOCRATIC REPUBLIC)	28492.00	37.30%
SENEGAL	58011.00	34.23%
PAKISTAN	70280.00	33.82%
HAITI	7269.00	33.35%
GHANA	26398.00	32.12%
COMOROS	6183.00	31.47%
CENTRAL AFRICAN REPUBLIC	4441.00	30.71%
CAMEROON	34138.00	30.34%
SYRIA	565.00	29.56%
MALI	17157.00	28.58%
DOMINICAN REPUBLIC	29884.00	28.02%
CAPE VERDE	16410.00	27.01%
ALGERIA	735040.00	26.91%
COTE D'IVOIRE	41716.00	25.41%
BANGLADESH	22361.00	25.24%
CONGO (BRAZZAVILLE)	15612.00	24.54%
DJIBOUTI	3190.00	21.03%
SUDAN	10122.00	20.66%
GUINEA-BISSAU	5320.00	20.00%
KOSOVO	80173.00	19.65%
MADAGASCAR	19790.00	19.51%
BENIN	12852.00	18.11%
YEMEN	331.00	16.92%
ANGOLA	76370.00	16.91%
FORMER YUGOSLAV REPUBLIC OF MACEDONIA	8726.00	16.57%
UGANDA	11414.00	16.44%
ECUADOR	45245.00	16.17%
RWANDA	7034.00	15.77%
MAURITANIA	12352.00	15.73%
IRAQ	38475.00	15.61%
SAO TOME AND PRINCIPE	2738.00	15.19%
NEPAL	8087.00	15.16%
SRI LANKA	26690.00	15.12%
TOGO	7668.00	14.89%
BURUNDI	3455.00	14.85%
ETHIOPIA	18304.00	14.71%
GREECE	169.00	14.20%
TUNISIA	184334.00	14.12%
IRAN	189861.00	13.92%
GEORGIA	100549.00	12.90%
BURKINA FASO	13782.00	12.85%
CZECH REPUBLIC	48.00	12.50%
CAMBODIA	7339.00	12.41%
ARMENIA	57787.00	12.30%
JORDAN	49976.00	12.26%
KENYA	31749.00	12.20%
MOROCCO	493642.00	12.12%
AUSTRIA	207.00	12.08%
UNITED ARAB EMIRATES	224202.00	12.03%
EGYPT	177545.00	11.45%
VENEZUELA	1205.00	10.95%
LEBANON	135414.00	10.51%
BRAZIL	3492.00	10.51%
CUBA	33003.00	9.99%
MALAYSIA	4984.00	9.95%
MONGOLIA	15551.00	9.23%
CHAD	6028.00	9.06%
KYRGYZSTAN	10510.00	8.94%
NIGER	6702.00	8.94%
PALESTINIAN AUTHORITY	4868.00	8.79%
BOLIVIA	15190.00	7.84%
EQUATORIAL GUINEA	17107.00	7.63%
VIETNAM	75296.00	7.60%
GABON	17131.00	7.34%
ISRAEL	18294.00	6.78%
CYPRUS	6329.00	6.51%
INDIA	708386.00	6.47%
TAJIKISTAN	3984.00	6.35%
ROMANIA	5132.00	6.22%
TANZANIA	12054.00	6.19%
PARAGUAY	97.00	6.19%
NETHERLANDS	687.00	6.11%
UZBEKISTAN	24380.00	5.96%
PHILIPPINES	132611.00	5.79%
BULGARIA	5218.00	5.31%
LIBYA	247.00	5.26%
MAURITIUS	605.00	5.12%
AZERBAIJAN	68941.00	5.02%
LAOS	3424.00	4.96%
JAMAICA	4003.00	4.77%

ALBANIA	1304.00	4.60%	NICARAGUA	60.00	1.67%
CHILE	1595.00	4.45%	MALTA	242.00	1.65%
MOLDOVA	2314.00	4.36%	MEXICO	2078.00	1.64%
HUNGARY	23.00	4.35%	NEW ZEALAND	2290.00	1.57%
NORWAY	93.00	4.30%	SOUTH AFRICA	188997.00	1.51%
SOUTH KOREA	2928.00	4.10%	GUATEMALA	337.00	1.48%
SURINAME	19031.00	4.09%	ITALY	346.00	1.45%
QATAR	76430.00	4.07%	ZAMBIA	4554.00	1.43%
SAN MARINO	653.00	3.98%	RUSSIAN FEDERATION	3467317.00	1.31%
SPAIN	256.00	3.91%	MYANMAR	7879.00	1.24%
TURKEY	900789.00	3.88%	JAPAN	11164.00	1.10%
SWITZERLAND	164.00	3.66%	BAHRAIN	21460.00	1.09%
MONTENEGRO	1028.00	3.60%	SWEDEN	92.00	1.09%
PANAMA	2114.00	3.50%	FIJI	1666.00	1.08%
KUWAIT	193540.00	3.49%	TRINIDAD AND TOBAGO	2130.00	1.08%
THAILAND	255319.00	3.42%	INDONESIA	144484.00	1.02%
ARGENTINA	1762.00	3.41%	USA	122285.00	1.01%
UKRAINE	1233530.00	3.39%	PORTUGAL	102.00	0.98%
MALAWI	1326.00	3.32%	POLAND	218.00	0.92%
COLOMBIA	133095.00	3.30%	FRANCE	337.00	0.89%
MOZAMBIQUE	15733.00	3.24%	SAINT LUCIA	791.00	0.88%
BOSNIA AND HERZEGOVINA	1245.00	3.21%	ICELAND	116.00	0.86%
TURKMENISTAN	6124.00	3.10%	SINGAPORE	25945.00	0.84%
PERU	66950.00	2.97%	SLOVENIA	122.00	0.82%
SERBIA	6688.00	2.95%	HONG KONG S.A.R.	11878.00	0.82%
CHINA	2381818.00	2.84%	NAMIBIA	7329.00	0.67%
CROATIA	1671.00	2.75%	COSTA RICA	466.00	0.64%
GERMANY	553.00	2.71%	BOTSWANA	3043.00	0.49%
ZIMBABWE	5945.00	2.59%	SLOVAKIA	206.00	0.49%
UNITED KINGDOM	248278.00	2.57%	BELARUS	752782.00	0.31%
OMAN	38001.00	2.51%	VANUATU	1918.00	0.00%
URUGUAY	122.00	2.46%	PAPUA NEW GUINEA	464.00	0.00%
SAUDI ARABIA	367028.00	2.44%	ANDORRA	202.00	0.00%
NORTH KOREA	532.00	2.44%	SOUTH SUDAN	146.00	0.00%
CANADA	28927.00	2.42%	EL SALVADOR	125.00	0.00%
SEYCHELLES	248.00	2.42%	BHUTAN	79.00	0.00%
FINLAND	124.00	2.42%	HONDURAS	60.00	0.00%
MACAO S.A.R.	498.00	2.41%	DENMARK	36.00	0.00%
TAIWAN	909.00	2.31%	LATVIA	25.00	0.00%
TIMOR-LESTE	293.00	2.05%	MONACO	24.00	0.00%
BELGIUM	154.00	1.95%	LUXEMBOURG	17.00	0.00%
KAZAKHSTAN	143605.00	1.94%	ESTONIA	4.00	0.00%
IRELAND	10709.00	1.80%	LITHUANIA	2.00	0.00%
AUSTRALIA	12067.00	1.71%	BRUNEI	1.00	0.00%

National migration policies

EU Member States are increasingly asserting their national sovereignty over and above their membership to the EU and expressing their lack of trust in key EU principles. For example, national leaders across the EU have stated that the Schengen rules are outdated and in need of reform in order to both effectively secure borders and ensure migrants do not profit from the burden-sharing mechanism. Although there are instruments to put pressure on Member States to adhere to EU rules and values the EU has been reluctant to put them into effect. Article 7 of the EU Treaty allows Member States to be sanctioned or suspended if they commit a severe breach of fundamental rights but it needs a two-thirds majority in the parliament and has never been invoked.[51]

Tuomas Ojanen, a constitutional law professor at the University of Helsinki who has advised the Finnish parliament on such issues for close to 20 years, stated that it is a clear goal of parliament to test how **Finland** can water down constitutional and human rights without breaching such guarantees. "Let's see how we can guarantee the minimum in this framework", Ojanen was quoted as saying.[52] In **Austria**, the former minister for interior Affairs Johanna Mikl-Leitner repeatedly pointed out that the main goal of current immigration policies was to make Austria as unattractive as possible for asylum seekers.[53] In **Sweden**, certain pieces of legislation which included higher standards have temporarily been adjusted to the minimum requirements of international conventions and EU law.[54]

One clear response to rising numbers of migrants entering the EU in recent years was a tightening of immigration related policies at a national level (see **Table 3**). It is important to reiterate that it is at the point of policy making that structural discrimination of racialised minorities takes place. On 12 May 2016, the Immigration Act 2016 came into force in the **United Kingdom**. The Act focuses on 'illegal' migration and punitive measures

for those who don't 'play by the rules'. It brings major new revisions to the immigration system that may have discriminatory impact on racialised minorities. For example it will be a criminal offence for a landlord to knowingly rent premises to an 'illegal' migrant, building on the concept of the 'right to rent' introduced in the Immigration Act 2014. If found guilty, the landlord can face up to five years in prison. The 'right to rent' might open itself up to discriminatory practices by landlords.[55] The Runnymede Trust has warned that the impact of the changes could mean landlords are even more likely to discriminate against Black and minority ethnic (BME) applicants on grounds they 'look like' immigrants, or are visible minorities because some private landlords may not want to 'take a risk' with a possible tenant and turn would-be tenants away based on their appearance, even though they may have a right to that tenancy. This increases the risk of homelessness, and consequently the inability to secure work and contribute to Britain's economy.[56]

In **Romania**, representatives of NGOs have also presented cases where visa invitations sent to Iraqi and Syrian nationals were rejected by immigration authorities without justification. In **Spain**, there have been changes to the process of obtaining citizenship that pose major obstacles for foreign people, both with regard to the economic cost and the difficulty of the required tests. Regarding the latter, the measure is not in itself discriminatory but some nationalities find it more difficult to pass these tests, for example, Moroccan women who have low literacy rates in their own language. These tests therefore tend to discriminate against certain groups indirectly.[57]

Despite the harmonising efforts of the European Union, **family reunification policies** remain diverse across Member States, for example in relation to income requirements for sponsors. As the Council of Europe has stated clearly in its reports, family reunion is a human right and leads to better integration. However, despite some positive legislative actions, administrative processes for family reunification are excessively bureaucratic across Europe. For instance, the requirement of legalised original documents, which migrants may not possess, can hinder

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51   Mason, Paul. 'The Far Right Is Weaselling into the Mainstream, Dressed up in Suits'. *The Guardian*. 2 June 2016. Available at: https://www.theguardian.com/commentisfree/2016/may/02/far-right-europe-austria-democratic-right-elect-cleaned-up-fascist-president-suspend-country-from-eu.

52   Finland Shadow Report questionnaire response.

53   'Asyl: Österreich Soll Unattraktiver Werden'. Die Presse. June 2015. Available at: http://diepresse.com/home/innenpolitik/4754151/Asyl_Oesterreich-soll-unattraktiver-werden. As cited in the Austria Shadow Report questionnaire response.

54   Sweden Shadow Report questionnaire response.

55   United Kingdom Shadow Report questionnaire response.

56   Holloway, Lester. 'Race relations and the Immigration Bill'. *Race Matters*. 4 February 2014. Available at: http://www.runnymedetrust.org/blog/race-relations-and-the-immigration-bill.

57   Spain Shadow Report questionnaire response.

Table 3: Restrictions or tightening of immigration related legislation 2012-2016

	Family reunification	Citizenship	Temporary protection	Safe lists	Work and residency permits
Austria	X		X		
Belgium	X	X			
Cyprus		X			
Czech Republic					X
Denmark	X	X			
Finland	X				
Greece	X				
Germany				X	
Hungary				X	
Ireland	X				X
Italy		X			
Latvia		X			X
Lithuania		X			
Malta			X		
Slovenia	X				
Spain	X	X			
Sweden	X		X		
United Kingdom	X				

Source: Shadow Report questionnaire responses

the procedure (Finland, Lithuania, Poland and Romania). **Lithuania** and **Finland** require certain documents to be provided in embassies in the country of origin. This is potentially discriminatory as European countries make political decisions as to where they station their embassies around the world. It is also uncertain whether there will be embassies in countries in conflict. Many countries report that the requirements for family reunification can be set at such a high threshold that they de facto exclude certain groups.

Overly bureaucratic, complex and high thresholds regarding family reunification can result in more **irregular migration.** A clear example of this was provided by **Spain** which is reported to have an unrealistically high income threshold. After a father applied twice to bring his eight year old son to Spain but failed because he did not earn enough, he paid smugglers 5000 Euros to bring him to Spain.[58] Up until recently the conditions for family reunification in **Belgium** were seen to be so strict and complex that they were contrary to European regulations regarding family reunification. Although the provisions were amended, recent evaluation of the law by the Agency of Integration suggests that the requirement for a 'stable income' may be discriminatory towards certain immigrants, ethnic minorities and women as they are more likely to have temporary work contracts and this is not considered as 'stable' income.

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58   http://politica.elpais.com/politica/2015/06/09/actuali-dad/1433865149_646316.htm. As cited in the Spain Shadow Report questionnaire response.

Saara Pellander, a researcher at the University of Helsinki, said that her research on family reunification showed that the process could be described as a "moral gatekeeper" but essentially the debate was concerned with how to keep Finnish society white and that these restrictions, like the tightening of family reunification requirements, are aimed at groups like Somalis and not at white New Zealanders.[59] **Finland's** family reunification policy aims to keep as many "wrong types of families" outside of Finland and alongside the moral gatekeeper "there is an economic gatekeeper, which places a price tag on the family that has the right to come here", according to Pellander.

In response to the growing number of migrants seeking humanitarian protection, the **use of temporary and subsidiary protection** has increased and was newly introduced in some Member States (Austria, Estonia and Sweden). Temporary protection may impede the beneficiary's integration efforts and is a way to exclude some from other rights such as family reunification. It increases vulnerability for those who are already vulnerable and may increase the dependence on the employer. In **Sweden**, the introduction of temporary protection has meant that persons who are not refugees or in need of protection, but who have other strong reasons to stay in Sweden, can no longer obtain a residence permit under the Aliens Act's provision in particularly distressing circumstances.

Member States are also changing their refugee laws to include new countries or parts of countries (Hungary, Finland and Germany) on their **safe country list.** This works to restrict immigration in two ways: firstly **Hungary**, for example, now recognises Serbia as a safe country, which means that anyone entering from Serbia can legally be sent back. Secondly countries such as **Germany**, following changes to their safe country list, can reject asylum requests from certain countries. For example, by labelling the Balkan states "safe countries of origin", the German government makes it almost impossible for people from these countries to obtain asylum in Germany. At the same time, an increasing number of people with roots in the now 'safe' countries of origin who had previously settled in Germany as refugees are now being deported. Officially, they are meant to 'make way' for 'real' refugees.

A very cynical example of this policy became public in early 2016 when a family was deported to Serbia. A few months before, the family members had been portrayed as a "flagship model of integration" in a promotion video by the federal government.[60] The current expulsion strategy in many cases does not shy away from deporting children who were born in Germany to their parents' country of origin. The political decision to declare certain countries as 'safe' has led to a tendency among officials not to properly check asylum applications if the applicant comes from such a safe country. As a result, individual cases are ignored or improperly assessed. This is most apparent with refugees from the Balkans, for whom very few asylum applications have been accepted since the change in policy has been implemented.[61] Indirectly, though some might argue that this was an intended discriminatory side-effect, this policy especially discriminates Roma who would otherwise be entitled to apply for asylum due to reasons of individual persecution or racial discrimination in the Balkans.

Security is one reason given by policy makers for the tightening of immigration rules and developing new counter-terrorism laws. The security discourse has taken hold across the EU following the terrorist attacks in Paris and Brussels (Austria, Croatia, Lithuania, Poland, Romania and Slovenia) as discussed above. Amnesty International has exposed many EU Member States that have made a link between migration flows and the threat of terrorism further stating how counter-terrorism measures have proved to be discriminatory on paper and in practice and have had a disproportionate and profoundly negative impact, particularly on Muslims, foreign nationals or people perceived to be Muslim. In Amnesty international's report Austria and Hungary were used as illustrative examples.[62] Since the right-wing Law and Justice Party took office in **Poland** after the October 2015 election, the Polish government has begun passing legislation that threatens the rule of law and fundamental human rights, including a new anti-terrorism law which came into effect on 22 June 2016.

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59   Interview with Saara Pellander in Helsinki on 6 September 2016. See PhD dissertation: *Gatekeepers of the Family: Regulating Family Migration to Finland* (2016). As cited in the Finland Shadow Report questionnaire response.

60   http://www.ndr.de/nachrichten/niedersachsen/olden-burg_ostfriesland/fluechtlinge/Vorzeige-Familie-nach-Serbien-abgeschoben,abschiebung518.html. As cited in the Germany Shadow Report questionnaire response.

61   http://www.tagesspiegel.de/politik/asyl-fuer-fluechtlinge-vom-westbal-kan-in-der-schweis-anerkannt-in-deutschland-abgeschoben/12199394.html. As cited in the Germany Shadow Report questionnaire response.

62   Amnesty International. *Dangerously Disproportionate: The Ever-expanding National Security State in Europe.* 2017. Available at: https://www.amnesty.org/fr/documents/eur01/5342/2017/en/.

The concept of **'deportability'**, which describes a protracted state of vulnerability to expulsion or irregularity, was ever more present in migrants' lives in 2015/2016. Member States, in line with the European Agenda on Migration, are looking to combat irregular migration through deportation and expulsion. In the **United Kingdom**, calls to irregular migrants to "go home" in 2013 have been very public, but also behind the scenes in the wake of Brexit, the Home Office has adopted a "hostile environment" policy.[63] The guiding principle of the Home Office seems to be 'reject first, ask questions later', hoping that the applicant does not have the connections or resources to appeal.[64] Following the Nice attacks, the Irish Minister of Justice Frances Fitzgerald stated that she "would make no apology" for deporting individuals without trials, in cases where intelligence suggested they were supporting Islamic extremism, even if the evidence against them would be deemed insufficient to support a criminal prosecution. Minister Fitzgerald also added that while Ireland was "not likely" to face attack, the authorities are keeping tabs on "a limited number" of suspected extremist sympathisers. These comments followed the deportation of a Jordanian man accused of links to Islamic terrorism in spite of claims that he had previously been tortured by Jordanian authorities. Ms Fitzgerald added that "such deportations were justified in order to protect Irish citizens".[65]

Integration policies

Integration through housing, education, training, access to the labour market and social and health services requires long-term integration plans and commitment from EU Member States. The failure to achieve comprehensive integration can have a lasting and devastating impact on communities and community relations. There are increasingly different approaches to integration developed by EU Member States. The **discussion surrounding 'values'** of individual Member States has become a significant aspect of migration and integration policy making (Austria, Belgium, Denmark and Sweden) often with racialised underlying assumptions.

Such discourses have contributed to restrictive migration policy making and favoured a more 'rigid' approach to integration. Nation-states across Europe are reasserting the importance of their 'values' in the debates around national identities and ways to integrate newcomers.

Many anti-racism NGOs have criticised Member State integration courses for reproducing the idea of a non-civilised 'them' (non-EU-immigrants) who do not yet possess the proper norms and values that 'we' champion. The distinction between EU and non-EU citizens, with the former not perceived as a target group for 'citizenship' courses, reinforces the problematical idea of a European 'we' more civilised and automatically versed in 'our' values.[66] The educational character of certain integration programmes can be described as reminiscent of modern European colonialism and the assumption of cultural backwardness of non-European peoples; comparable to John Stuart Mill's arguments regarding the normative legitimacy of imperial rule.[67]

In November 2015, as part of the 50-point action plan in **Austria**, the Ministry for Integration presented its plan for obligatory 'value classes' for refugees. The goal is to communicate central values and rules, like gender equality, secularism and the rule of law. These one-day classes also cover a broad range of issues including education, job market and the health system. Positive changes are reported in the content of some courses in **Italy**. However migrants applying for a permit to stay for two or more years, are required by the "Accordo di Integrazione" to sign an agreement with the State stating they will learn the Italian language at A2 level (according to the European language framework), the main principles of the Italian Constitution and core elements of civic education.[68]

Since 9/11, terrorism in the name of Islam has been singled out as the biggest threat to European/western values and Muslims are presented and treated as culturally incompatible with European Member State values (Austria, Belgium,

63   O'Carroll, Lisa. 'EU Citizens in UK Could Face 'Deliberate Hostility' Policy after Brexit'. *The Guardian*. 16 January 2017. Available at: https://www.the-guardian.com/politics/2017/jan/16/eu-citizens-in-uk-could-face-deliber-ate-hostility-policy-after-brexit.

64   Malik, Nesrine. 'Brexit Lays Bare the Brutal Reality for the UK's Immigrants'. *The Guardian*. 11/01/17 https://www.theguardian.com/commentisfree/2017/jan/11/brexit-uk-immigrants-eu-nationals-home-office.

65   Ireland Shadow Report questionnaire response.

66   Groffy, L. & Debruyne, P. 'Integratie is Dood, Lang Leve de Integratie. Van Integratiepioniers naar Migratiebeheer in Superdiverse Tijden'. *Oikos*, 69 (2): 44-64. 2014. As cited in the Belgium Shadow Report questionnaire response.

67   Jansen, Yolande. *Deportability and Racial Europeanisation*. 2015. Available at: http://www.academia.edu/14825170/Deportability_and_Racial_Euro-peanisation_2015_.

68   http://www.interno.gov.it/it/temi/immigrazione-e-asilo/modalita-din-gresso/accordo-integrazione-straniero-richiede-permesso-soggiorno. As cited in the Italy Shadow Report questionnaire response.

Bulgaria, Czech Republic, Denmark and France). In **Belgium**, the terrorist attacks of 22 March 2016 reinvigorated a political discourse that stigmatises Muslims and focuses on the fight against terrorism and radicalisation as the most important societal challenge.

The security discourse has a patriarchal element to it and following a number of sexual harassment cases in Cologne during New Year's celebrations, Muslim migrant men were portrayed as potential sexual harassers across Europe. In some Member States the narrative purports that 'white' European women must be protected from predatory migrant Muslim men (Austria, Estonia, Finland, Hungary, Ireland and Sweden). Furthermore Islam, as a religion, is portrayed as inherently sexist and against women's rights (France, Belgium). The Hungarian government's campaign during the referendum on the EU migrant quota asked: "Did you know that since the start of the immigration crisis, harassment of women has increased in Europe?".[69]

In many asylum reception centres in **Finland**, asylum seekers were offered talks on how to treat Finnish women. These classes were seen as important to migrants arriving in Finland from countries such as Iraq but also to soothe fears among Finns who have prejudiced ideas regarding Middle Eastern and African men. In **Belgium**, the Secretary of State for Asylum and Integration, Theo Francken, announced the introduction of courses on "behaving towards women" for asylum seekers. These initiatives reproduce the problematic 'we-versus-them' thinking, situating sexual discourses in relation to racialised stereotypes.[70] These government programmes have a different agenda to the civil society led advice and information services which focus on issues of sexual health, contraception, prevention of and dealing with sexual violence provided to asylum seekers and refugees over decades without stigmatising them.[71]

Crimes against women are indefensible but politicians have used these cases of harassment as a tool to exclude certain groups. Some have wrongly suggested that sexual harassment is not carried out by white European men. Felicia Sundmark, chair of the Christian Democrats in Uppsala, **Finland**, has for instance insisted that sexual harassment occurs because "in some cultures, there is a twisted view of

women which is drastically different from the one we have in Sweden".[72] Along with this debate across Europe is the explicit link made by the police and the media reporting sexual harassment with the alleged offender's foreign origin.

Integration by assimilation

Integration approaches have been reported in some Member States as **assimilation processes** where newcomers must adapt to 'our values' (Belgium, Cyprus, Lithuania, Romania) rather than following multicultural approaches. The current **Cypriot** authorities' approach to integration comes from a very narrow perspective and not a two-way process of understanding and respect of the rights of all.[73] Since 2004, the European Union has developed 11 Common Basic Principles for Integration, the first principle being "Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States".[74]

Governments across Europe systematically state that Muslims are not integrating, which adds to a climate of mistrust and fear between communities. A recent **UK** government report (Casey Review) stigmatises Muslim communities for the so-called failure to integrate. A major shortcoming of the review is that it does not attribute joint responsibility for cohesion and integration on both white and ethnic minority communities. In response, ENAR member JUST West Yorkshire states that integration is limited due to successive governments' failure to tackle deep-rooted inequalities and white populist xenophobia and racism within British society.[75]

By claiming to 'protect citizens' and 'our' values (of equality, neutrality, secularity) the rights of citizens (but mostly those who are suspected of (preparing for) terrorism) are increasingly curtailed.[76] Instead of promoting the right to practice freely one's religion, the values of neutrality and pluralism are increasingly interpreted in a restrictive way, by demanding citizens to be 'neutral' when accessing 'public spaces' like schools, companies etc. For example, two veiled students were denied access to adult education courses in a facility in Brussels, **Belgium**; and a mother was forbidden to enter

69   Hungary Shadow Report questionnaire response.
70   Belgium Shadow Report questionnaire response.
71   Belgium Shadow Report questionnaire response.

72   Sweden Shadow Report questionnaire response.
73   Cyprus Shadow Report questionnaire response.
74   See http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf#zoom=100.
75   United Kingdom Shadow Report questionnaire response.
76   Belgium Shadow Report questionnaire response.

her child's school during the contact evening for parents. This tendency obviously raises concerns as Muslim women are either forced to remove their veils (which curtails their right to practice their religion) or excluded from education and employment.[77]

The focus on identifying and tackling 'radicalisation' in some Member States has led some to suggest that Europe has become a breeding ground for racism and discrimination that is increasingly unnoticed and unpunished. Although Muslims seem to be particularly affected, this context also reproduces other and older forms of racism and extends prejudice and intolerance to anyone who may be perceived as the 'dangerous other'.[78]

A briefing published by the University of Manchester in August 2015 stated that there was a need for policy initiatives in the **United Kingdom** to "explicitly define what is meant by integration, which specific area is targeted, and how success will be measured". The alleged unwillingness of migrants to integrate is also attributed to Roma often seen as culturally incompatible (Bulgaria). A **Luxembourgish** Minister stated that it would be possible to integrate Syrians because "they are not coming from trees" ("Ils ne descendent pas des arbres"). This expression in French is used when talking about monkeys and was considered a stigmatising reference to other migrants.

Portugal is one of the few Member States developing integration strategies based on an intercultural model in which the hosting society and foreigners interact with each other. "Integrating **Estonia** 2020" also states it supports multiculturalism. The state ensures that the Estonian nation, language and culture is maintained as well as everyone's right to their national identity, adding that no one should be discriminated on the basis of their nationality, race, colour of skin, sex, language, origin, religion, political or other opinions, social or pecuniary status or other circumstances.

Addressing the issue of racism should not fall solely within the remit of integration plans. Currently, for example, anti-racism falls under the integration plan in Austria, however, discrimination and racism as an obstacle to integration are not really addressed in the action plan. There is one point regarding the need for measures against racism, Antisemitism

and Islamophobia in general but it does not outline how these measures will be developed.[79] Furthermore this approach can often place the responsibility to overcome racism and discrimination on the migrant.

An important aspect of most integration programmes across Europe is **language courses.** Migrants recognise the importance of mastering their host language, but practitioners working with migrants point to the disproportionate importance attached to the knowledge of these languages and the adverse effects this may have. Migrants are led to believe that following language courses and speaking the language will enable them to access the labour market, housing, social networking etc. However, after completing years of language courses, migrants are still met with rejections from employers, discrimination in the housing market and overt racism. Migrants have the impression that their language proficiency will never be accepted as 'good enough' or it is just used as an excuse by employers to refuse migrants access to white collar jobs. The focus on language may therefore serve to exclude rather than to facilitate integration of minorities (Belgium).[80]

For the overwhelming majority of migrants from third countries who are bound by the temporary residence and employment permit systems, it is claimed that integration plans are of a very limited nature and of very little use.[81] A migrant in **Cyprus** asked: "Why should I learn Greek if I'm to go, if not deported for no reason, tomorrow or in a year or the year after but definitely go?". Or, asked another, "Will my knowledge of the language stop me from being called names such as 'mavrou', [the equivalent of 'black nigger girl'] and treated like a slave, not only at work but everywhere?". In the words of another migrant: "I don't want to waste my time with participating in this programme [referring to a cooking TV show]. After all, this won't make the authorities allow me to bring my kids and live with them here, right?". Cyprus is in the last but one position (36 out of 38 countries) on the latest Migrant Integration Policy Index and ENAR member KISA states "the migration model adopted by Cyprus ... does not create the conditions neither does it provide any incentive for migrants to integrate into society".[82]

77   Belgium Shadow Report questionnaire response.
78   Belgium Shadow Report questionnaire response

79   Austria Shadow Report questionnaire response.
80   Belgium Shadow Report questionnaire response.
81   Cyprus Shadow Report questionnaire response.
82   KISA. *75 Million from the EC into a Bottomless Pit*. 14 August 2015. Available at http://kisa.org.cy/75-million-into-a-bottomless-pit/. As cited in the Cyprus Shadow Report questionnaire response.

Table 4: National integration plans and strategies

Austria	In November 2015, the Ministry for Integration and the Expert Council presented an action plan for the integration of refugees, consisting of 50 measures. The main focus is on the promotion of German language competences and job market integration. Another focus is the communication of "values", which includes the integration minister's plan for compulsory "value classes" for refugees, in which they will learn about gender equality, secularism and the rule of law in one 8-hour-session.
Belgium	No single national integration plan but the Flemish, Brussels and Walloon regions have their own integration plans and policies.
Bulgaria	The government adopted the National Strategy for Integration of Persons who have Received International Protection in the Republic of Bulgaria (2014-2020). There is no integration plan since 2013.
Croatia	The Action plan for the removal of obstacles to the exercise of particular rights in the area of integration of foreigners 2013 – 2015 was valid until the end of 2015.The development of the new Action plan started in May 2016. A focus on anti-discrimination is included in some measures such as education of healthcare workers, police staff and social welfare staff, public campaigns and awareness raising, work with local communities. The Republic of Croatia also developed the National plan for combatting discrimination for the period 2016-2021, yet to be adopted.
Cyprus	Cyprus adopted its first national integration plan in 2010, the "National Action Plan for migrants residing legally in Cyprus 2010-2012". However, since the change of government in early 2013, the Cypriot authorities have approached integration differently. Integration is now part of the tasks of the European Funds Unit of the Ministry of Interior, which is responsible for the management of the Asylum, Migration and Integration Fund. Instead of a national plan, integration is now part of the National Programme AMIF. Combating discrimination is only alluded to under the National Programme AMIF objective "Improvement of acceptance of third country nationals by the local society" and the programme priority "Raising awareness in the receiving society", while combating racism is not mentioned at all.
Czech Republic	The Czech Government adopted a new Strategy on Migration Policy in July 2015, which is structured around 7 pillars (integration, security, asylum policy, humanitarian and development aid abroad, EU and Schengen – free movement, supporting legal migration and fulfilling European and international obligations) and foresees a wide range of activities. The updated Policy for the Integration of Foreigners in Mutual Respect was adopted in January 2016 in response to the influx of migrants. Target groups include international protection holders, recognised refugees and subsidiary protection holders. Changes were approved at the end of 2015 to the State Integration Programme which provides support to holders of international protection in their integration process.
Denmark	In March 2016, the government introduced a new national integration plan in accordance with the integration law. The law's main goal is to ensure that newly-arrived refugees will be able to use their competences and resources in order to participate, be self-supporting, and contributory citizens on equal terms with the rest of the Danish population – in accordance with the fundamental values and norms in Danish society. All newly-arrived migrants and refugees who have been given a residence permit are offered Danish language education, and education in Danish society norms and culture.
Estonia	"Integrating Estonia 2020" supports multiculturalism as well as maintaining the Estonian nation, language and culture. It states that no one should be discriminated on the basis of their nationality, race, colour of skin, sex, language, origin, religion, political or other opinions, social or pecuniary status or other circumstances.
Finland	In Finland, each migrant is entitled to an integration plan under the Act on Promotion of Immigrant Integration. Usually migrants who are unemployed or under the three-year integration scheme are required to draft and keep to a personalised integration plan with the municipality, employment (TE-keskus) and economic development office (ELY-keskus). While the Act doesn't outline anti-discrimination measures, it assumes the best way to undermine racism and discrimination is by integrating migrants into Finnish society.
France	The plan "Deal with the challenges of migration: respecting rights - enforcing law" (or "Plan for Migrants") and the Foreigners' Rights Act were adopted on 7 March 2016. The "Plan for Migrants" is based on three key objectives: the fight against illegal immigration, improving refugee housing, and improving shelter for newly arrived migrants.

Germany	The German government adopted a National Integration Plan in 2007. The 10 key elements are: 1) improving integration courses; 2) supporting German language learning; 3) securing good education and professional training, improving chances on the labour market; 4) improving the living conditions of women and girls, achieving gender equality; 5) supporting integration on a local level; 6) culture and integration; 7) integration by means of sports; 8) media – making use of diversity; 9) supporting integration by means of civic engagement and equal participation; 10) research.
Greece	The most recent national strategy for integration of third country nationals was adopted in 2013. Among others, it covers residence and work permits, political participation, employment, recognition of qualifications and skills assessment, housing and urban development, social inclusion, school education, out-of-school education including life-long learning and distance education, language competencies, intercultural and interreligious dialogue, cultural activities and diversity and infrastructure.
Hungary	No integration strategy, policies or plans identified.
Ireland	The Irish 2017-2020 Migrant Integration Strategy was released on the website of the Office for the Promotion of Migrant Integration. Ireland's last Action Plan against Racism expired in 2008.
Italy	There is a National Action Plan Against Racism, Xenophobia and Intolerance but no integration plan.
Latvia	There are Guidelines on National Identity, Civil Society and Integration Policy (2012-2018), which cover three main areas: 1) civil society and integration; 2) national identity: language and cultural space; and 3) shared social memory. The Action Plan includes measures promoting social inclusion and preventing discrimination, promoting public participation, acquisition of Latvian citizenship, integration of newcomers, Latvian language training, etc. In December 2015, the government approved an "action plan for the relocation and receipt in Latvia of persons in need of international protection".
Lithuania	On 31 December 2014 the Minister of Social Security and Labour approved an Order under which the Action Plan on Integration of Foreigners for 2015-2017 was approved.
Luxembourg	No national integration strategy, policies or plans identified, but local integration programmes are in place.
Malta	Malta is still lacking a national strategy on migrant integration since the drafting process started in 2014. Despite promises that the policy would be adopted by 2015, this has not been the case.
Poland	No integration strategy, policies or plans identified.
Portugal	The Strategic Plan for Migration 2015-2020 foresees actions in five main areas: 1) migrant integration policies; 2) policies for the inclusion of new Portuguese citizens; 3) coordination policies on migration flows; 4) reinforcement policies of the migratory legality and the quality of the migration services; 5) policies to promote the encouragement, accompaniment and support of the return of Portuguese emigrants.
Romania	In September 2015, the Romanian Government approved The National Immigration Strategy 2015 – 2018 and The Action Plan for 2015. The immigration strategy aims to promote legal migration ; to strengthen the control system of legal residence of third country nationals on Romanian territory and the proper implementation of removal and restrictive measures; to improve the national asylum system so as to make it compliant with the national, European and international applicable legal standards; to take an active part in the international community's and the EU member states' efforts to identify sustainable solutions for people in need of international protection and to integrate third country nationals.
Slovenia	No integration strategy, policies or plans identified.
Spain	A renewed Strategic Plan for Citizenship and Integration has been expected since 2014. The Comprehensive Strategy against Racism, Racial Discrimination and Xenophobia was adopted by the Council of Ministers on 4 November.
Sweden	No national integration strategy, policies or plans identified, but integration is mainstreamed across social and employment policies.
United Kingdom	The government's current integration policy is set out in a paper entitled "Creating the Conditions for Integration", published in February 2012.

In **Italy**, it is also reported that while there are more applications for Italian language courses than actual places available, it is evident that there is a lower participation of women, even when specific timetables are provided and specific services (such as babysitting) are offered. There has been no monitoring of the extent to which participation in the courses has actually had any impact in terms of employment and integration overall.

Worthy immigrants?

Immigrants are increasingly asked to prove themselves 'worthy' before they are allowed to enter Member States' territory, acquire nationality or access social housing. For example, newcomers are not only expected to follow integration courses – already mandatory for certain categories of immigrants who can be fined if they don't; they now also have to pass exams and might face difficulties in finding a job and social housing if they fail these tests.[83] Some migrants are being asked to **sign contracts** related to integration programmes to enable them to access social services (Austria, Belgium, Italy and Luxembourg). In some countries, even those migrants in need of humanitarian protection are encouraged to accept what is given irrespective of whether it meets standards set down by national and international laws (Estonia, Germany and Greece).

These integration contracts can be problematic because the focus is often solely the rapid 'activation' and integration of migrants in the labour market. It is often forgotten that many migrants, in particular refugees, may have lived through very traumatic events and have to struggle to build up a new life in an unknown country.[84] Certain categories of immigrants are completely excluded from integration plans and services: people without legal residence status, certain asylum seekers, non-EU students, au-pairs, labour migrants with no prospect of permanent employment and their family members.[85]

Denmark's Integration Minister, Inger Støjberg, proposed and initiated advertising campaigns which provided information about the integration policy changes in Denmark. In addition to significant cuts to social benefits for asylum seekers, the ad also states the following: "in order to obtain a permanent residence permit in Denmark applicants must be able to speak and understand Danish".[86] Shortly after, in September 2015, the advert was published in Lebanese social media and newspapers. The publication of these ads was strategically chosen by Støjberg based on the large number of readers of Lebanese news in the Middle East. A number of Member States made cuts to social benefits that impact on many migrants, see **Table 5** for a list of key developments.

The tightening of rules/regulations and limited access or cuts to social benefits has taken place over several years in many Member States. The distinction between deserving asylum and non-deserving 'economic migrants' are notions generated by politicians, commentators and the media employing the constructed hierarchy of race to justify increasingly restrictive policies. Race plays a role in solidifying popular conceptions of who deserves and who does not deserve public benefits.[87]

Certain migrants, especially undocumented, have far fewer rights and access to crucial services than Member States' citizens. Some believe the distinction between citizen/non-citizen is necessary and justified but progressive laws from the 1990s that promoted social equality and cultural diversity have disappeared in recent years. Today many EU Member States appear to be indifferent to the inequality, poverty and discrimination experienced by some of their denizens.[88]

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83   Belgium Shadow Report questionnaire response.
84   Belgium Shadow Report questionnaire response.
85   Belgium Shadow Report questionnaire response.

86   'Støjbergs "skræmmekampagne" kan du læses I Libanon'. *TV 2 News.* September 2015. Available at: http://nyheder.tv2.dk/2015-09-07-stoejbergs-skraemmekampagne-kan-nu-laeses-i-libanon. As cited in the Denmark Shadow Report questionnaire response.
87   Sefa Dei, George J., & Simmons, Marlon. *Fanon and Education: Thinking Through Pedagogical Possibilities.* 2010. New York: Peter Lang Publishing.
88   Finland Shadow Report questionnaire response.

Table 5: Examples of changes and cuts to social benefits available to migrants

Austria	There have been cuts to social benefits in most regions: what is considered as "minimum benefits" (approx. 830€/month) for other people, was substantially cut for beneficiaries of asylum and subsidiary protection (to approx. 360 to 560€/month). The basic care system for asylum seekers only allows a precarious standard of living - those who live in a private flat receive 320€ per month to pay their rent and live.
Belgium	A payment request was introduced for migrants when registering at the municipality or applying for family reunification.
Bulgaria	From 31 March 2015 the Director of the National Agency for Refugees discontinued the payment of a monthly financial aid of 65 BGN (32.5 EUR) to asylum seekers who have not applied for international asylum. The reasoning behind this decision is that this amount is given to asylum seekers to buy food, and those currently staying in centres receive meals three times a day and do not need this financial aid.
Cyprus	In 2013, the government introduced a "coupon system" for asylum seekers and persons with temporary status for humanitarian protection, which replaced the provision of financial support for housing and material reception conditions.
Denmark	Since the election in June 2015, the new Danish government cut benefits to asylum seekers and migrants by up to 50%, with the purpose of making Denmark less attractive for refugees. Foreigners' retirement pension and child benefits have also been changed. This means that access to social benefits is now dependent on the length of residence in Denmark.
Estonia	The Act on Granting International Protection to Aliens that came into force in 2016 limited the amount of financial support available to beneficiaries of international protection.
France	In 2015, a decree from the Ministry of Health excluded the beneficiaries of State Medical Assistance (excluding minors) from being reimbursed when buying drugs of "low medical benefit", i.e. whose usefulness is considered low by the High Authority of Health. But these drugs continue to be fully reimbursed for the beneficiaries of the "Couverture Maladie Universelle". Similarly, a draft decree on medical insurance might create periods of outright exclusion of foreigners from health insurance in some cases.
Italy	Access to free legal aid for asylum seekers is regulated by Article 10/3 of the Italian Constitution, yet cases of free legal aid being denied have been recorded by some lawyers' associations. A note by the Ministry of Health from October 2015 stated that the exemption for health check-up costs for asylum seekers can be granted only for 60 days maximum, that is to say only for the period they are not allowed to work and are hence considered unemployed.
Latvia	In 2015, the government reduced the monthly benefit for refugees (for 12 months) and persons with alternative status (for 9 months) from EUR 256 to EUR 139 for adults and EUR 97 – for each next family member and minor (the previous rules provided for 30 per cent of the adult's benefit for minors).
Lithuania	Social support for refugees' and asylum seekers' integration was cut twice under the Order of the Minister of Social Affairs and Labour.
Portugal	The Social Security Institute adopted a measure preventing registration of migrant workers without a valid visa in the Social Security Information System. Considering that the Immigration Law stipulates that an irregular migrant who is working under a regular working contract or is an independent worker and pays his/her contribution to the social security may introduce a request to regularise his/her situation in Portugal, this new measure effectively withdraws the right given to the migrant by law.
Romania	There were a number of positive legislative actions, such as increasing the allowance received by asylum seekers and granting them the right to work after three months of submitting their asylum application. However, difficulties in accessing several social security rights still exist.
Slovenia	In 2016 the National Assembly adopted the new International Protection Act. The new law abolished one-off financial assistance granted to persons with international protection after obtaining their status. This form of assistance served as a bridge before obtaining regular social allowances. The new legislation also abolished financial assistance for private accommodation previously granted to family members of recipients of subsidiary protection who come to Slovenia to be reunited with the protected individual.

Source: Shadow Report questionnaire responses

3. LABOUR MARKET

3.1 Labour market integration

Employment, irrespective of government or institutional integration programmes, provides significant opportunities for migrants to integrate into society. On the surface, labour market integration appears to be a priority for most Member States but the initiatives can become problematic if the responsibility to be employed falls solely on the migrant and the significant barriers to gaining employment are not addressed. There is an expectation that migrants should be self-supporting through employment to ensure that they are not a burden on society. However, racial discrimination can be a significant barrier that labour market integration plans fail to tackle.

As discussed in Section 2 there has been a paradigm shift in governments' approach to integration in terms of the values that migrants are asked to adopt and adhere to. There has also been a shift in labour market integration as the values of diversity and inclusion are seen as less and less attractive. In the absence of integration plans that address racial discrimination in the labour market, inclusion and progression remain difficult for racialised migrants or those with a foreign background.

Racialised migrants face an additional difficulty regarding their migration status and the racist and discriminatory attitudes of potential employers. In **Ireland**, we see that statements such as the one below can spread false perceptions that not only have repercussions on community relations but also may impact on employers' perceptions of migrant groups that are Muslim or perceived as such. In August 2016, independent member of Monaghan County Council Seamus Treanor made comments during a municipal meeting stating that "98% of Muslims who come into this country never work and do not want to work".[89]

In March 2016, the **Danish** government introduced a new national integration plan in accordance with the integration law. The law's main goal is to ensure that newly-arrived refugees will be able to use their competences and resources in order to be self-supporting and participate on equal terms with the rest of the Danish population – in accordance with the fundamental values and norms of Danish society. The goal is for new citizens to learn the Danish language quickly, know their rights and obligations, and have the possibility to get a job or education. At the same time, traumatised refugees and vulnerable families are also taken care of.[90] In **Portugal**, the "strategic plan for migration" includes a series of measures aiming to integrate migrants in the labour market. In addition, the "Portuguese diversity charter" was signed by 80 employers in March 2016.

> ## Labour market integration recommended policies [91]
> 〉 early offer of language tuition
> 〉 skills assessment
> 〉 an individualised integration plan
> 〉 recognition of foreign credentials including alternative methods of assessing informal learning and work experiences
> 〉 job search assistance
> 〉 quality mentoring
> 〉 refugees may also need to redress personal, social and economic disadvantages they have faced as part of their flight, and require specialised support.

Language is promoted as a necessary prerequisite to labour market integration and as discussed in Section 2, Member States generally prioritise language learning as part of their integration plans. Language courses however are often under resourced or limited; meaning that applicants are not always provided courses at their skills level. The knowledge of the host language (and the perceived lack thereof) can also be used as an instrument of exclusion. Employers' standards can be set unrealistically high. For instance, a **Belgian** municipality organised a written exam to employ workers for 'green maintenance' ('*groendienst*' – the maintenance service for parks, plants and trees) – a procedure which excluded many of the low-skilled immigrant workers applying for this job.[92]

Integration plans put the emphasis on the fact that migrants should be responsible for learning the language

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89   'Independent Councillor: Most Muslims Do Not Want to Work and Liberal Brigade Needs a Kick up the Backside'. *Irish Mirror,* 29 July 2016. Available at: http://www.irishmirror.ie/news/irish-news/independent-councillor-most-muslims-not-8519204.

90   Ministry of Migration, Integration and Housing. *Integration of New Citizens.* 2016. Available at: http://uibm.dk/arbejdsomrader/Integration/integration-af-nye-borgere. As cited in the Denmark Shadow Report questionnaire response.

91   See http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578956/IPOL__STU%282016%29578956_EN.pdf.

92   Belgium Shadow Report questionnaire response.

or acquiring the necessary skills for employment. There are few integration initiatives that raise employers' awareness of the skills and qualifications that migrants already possess.

Economic downturn

As reported in ENAR's Shadow Report 2012-2013 on Racism and Discrimination in Employment, many Member State economies were hit hard by the economic and financial downturn in 2008; some are still suffering the impact to this day. In southern European Member States there has been high competition for jobs with many young Europeans emigrating to find jobs elsewhere.

Several Member States (Austria, Spain, Italy and Portugal) in 2015/2016 have suggested that the faltering economy has had a specific impact on the integration of migrants into the labour market. Not envisaging any other solutions than neoliberal policies to move Europe out of the crisis, many politicians have resorted to stirring up emotions against migrants and ethnic minorities as well as against the European Union itself.[93] Racism and discrimination can have an economic dimension where there is a desire to keep limited resources and employment opportunities from foreigners.[94]

Although many Member States are aware that their population is declining and ageing they remain reluctant to fully embrace the potential labour force available in the form of young third country nationals currently migrating to the EU. 74% of first-time asylum applicants in 2015 were male and 82% below 35. Selective data from various Member States show that a significant proportion of this group are low-skilled although highly motivated.[95] However highly qualified migrants or researchers (or migrants able to financially invest in the country) are seen as more attractive to EU Member States.

The neoliberal approach to immigration policies expects that highly qualified migrants will sustain and encourage the competitiveness of the economy. Integration through achievement fits perfectly into this way of conceptualising integration policy. Ethnic origin should be irrelevant and

upward social mobility through employment possible.[96] However, imperialist hierarchies continue to exist and as discussed below, educational achievements and qualifications are not sufficient to override discrimination based on ethnicity and race. Furthermore, this neoliberal shift does little to address employment levels across the EU as high unemployment levels coexist with substantial labour shortages for specific skill levels, including low skill levels. Highly skilled profiles are, on the other hand, needed only in a limited number of occupations and countries.

> In **Italy**, since 2008, the employment rate of immigrants has decreased by 8.5% (compared to 2.7% for Italians).[97]
>
> In 2015, **non-EU citizens** were among the worst off and the hardest hit by the economic crisis, with their unemployment rate at 5.7 percentage points above the EU-28 total.[98]

Informal economy

Entry into the informal market occurs for a variety of reasons. If there are fewer formal employment opportunities for migrants, some may turn to the informal economy. Another important factor that may encourage migrants to work in the informal economy is if they have an irregular migrant status. Many irregular migrants work in an irregular situation or turn to informal jobs in order to have financial means (Croatia, Portugal, Spain and Sweden). In **Portugal**, for example, the immigration law stipulates that to be able to officially work, a valid residence permit is required. Entry into the informal economy is used as a survival strategy as they have no access to a legal framework with associated rights and duties.[99] The participation of racialised migrants in the informal economy is under-researched; however, it is clear from the Shadow Report questionnaire responses that working in an irregular situation can result in greater exploitation of racialised minorities.

Migrants working in the informal economy provide cheap labour that contributes to the employer's earnings. In **Poland**, the National Labour Inspectorate claims that employers

93   European Network Against Racism. *Racism and Discrimination in Employment in Europe - ENAR Shadow Report 2012 – 2013.* 2014. Available at: http://www.enar-eu.org/IMG/pdf/shadowreport2012-13_final-3.pdf.

94   Matas, David. *Racism and Migration.* 1994. Available at: http://refuge.journals.yorku.ca/index.php/refuge/article/view/21766/20436.

95   Konle-Seidl, Regina & Bolits, Georg. *Labour Market Integration of Refugees: Strategies and Good Practices.* 2016. Available at:

96   Austria Shadow Report questionnaire response.

97   Italy Shadow Report questionnaire response.

98   Eurostat. *Europe 2020 Indicators – Employment.* Available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Europe_2020_indicators_-_employment.

99   Portugal Shadow Report questionnaire response.

want to maximise their profits so they use irregular and therefore cheap migrant labour and certain administrative requirements do not stimulate employers to legally hire third country nationals; and similar practice has also been reported in Bulgaria. Some Member State governments remain silent on the exploitation within the informal economy and do not develop adequate policy responses; in this way employers continue to exploit migrants (Italy, Portugal, Spain).[100] Other factors which cause third country nationals to work in the informal economy and exploitative working conditions include: limited network or connections, local knowledge, language competence; and potentially the better pay and working conditions in the EU although still exploitative.

The **Italian** government adopted some instruments to fight migrant workers' exploitation in agriculture which foresee more severe sanctions for employers that are found guilty of exploitation, but they have proved ineffective. These include legislative decree 2012/109 implementing the EU Directive 2009/52/CE on employers' sanctions, and a protocol against the labour exploitation in agriculture that is under discussion in the Italian Chamber of Deputies.[101]

EU migration employment schemes

Apart from the highly qualified schemes which are difficult to access, there are very few regular avenues for third country nationals to immigrate to work in Europe. At EU level there are schemes available through study, research, the Blue Card and seasonal workers permits. The **EU Blue Card Directive** addresses legal migration of workers from non-EU countries with specific skills who can fill the posts

that cannot be filled by EU citizens. The design of the Blue Card scheme ensures that it will only be available to a limited number of third country nationals and will be particularly relevant to certain sectors in the EU.[102] Data shows that third country nationals from India and China, closely followed by the United States, are much more successful in accessing this scheme than all the other third countries, which suggests that structurally there is not equal access or opportunity for all migrant groups (see **Table 6**).

The **Seasonal Workers Directive** extended the EU immigration labour legislation to medium and low-skilled third country workers. According to the Commission's estimates, more than 100,000 third-country seasonal workers arrive in the EU each year (including irregular migrants). Some Member States are particularly popular: Spain (24,838 non-EU seasonal workers in 2008 alone); Italy (over 11,000 applications received in mid-February 2008); Germany (4,248 admitted in 2009); France and Sweden. According to the Directive, a seasonal work permit entitles its holder to stay and work in the territory of a Member State for a stay exceeding 90 days. This Directive intends not only to prevent exploitation and abuse from employers but also to enhance the EU's economic competitiveness, especially in sectors characterised by the strong presence of seasonal workers: namely, agriculture, horticulture and tourism.[103] However, due to the temporary nature of this scheme it adds to the idea that migrant labour is a disposable commodity and furthermore encourages the use of non-citizens to conduct labour increasingly undesired by European citizens.

The European Union is reviewing many of its schemes currently available for third country nationals' legal migration to Europe through the **REFIT initiative**.[104] It remains to be seen how the potential changes will impact on irregular migration. The low level use of EU Labour migration policy tools, such as the EU Blue Card, Student and Researchers schemes suggests that the impact of the EU labour migration policy on migration movement will be very limited. The **European Agenda on Migration**, aiming to better manage migration in all its

100 European Union Agency for Fundamental Rights. *Severe Labour Exploita-tion: Workers Moving Within or into the European Union States' Obligations and Victims' Rights.* 2015 Available at: http://fra.europa.eu/sites/default/files/fra-2015-severe-labour-exploitation_en.pdf.
101 Italy Shadow Report questionnaire response.

102 Martín, Iván, di Bartolomeo, Anna, de Bruycker, Philippe, Renaudiere, Géral-dine, Salamońska, Justyna & Venturini, Alessandra. *Exploring New Avenues for Legislation for Labour Migration to the European Union.* 2015. Available at: http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536452/IPOL_STU%282015%29536452_EN.pdf.
103 Ibid.
104 http://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check_en

Table 6: Blue Card applications accepted in 2015

Member State	Total	China	United States	India	Australia	Algeria	Egypt	Libya	Morocco	South Africa	Nigeria	Congo	Ethiopia	Somalia
Belgium	19	19	0	3	3	0	0	1	0	3	0	0	0	0
Bulgaria	21	61	5	1	1	0	0	0	0	0	0	0	0	0
Czech Republic	104	181	1	9	8	3	1	3	0	0	0	0	0	0
Germany	12.108	14.620	1.182	569	3.030	167	22	518	224	119	57	39	0	24
Estonia	15	19	0	0	0	0	0	0	0	0	0	0	0	0
Greece	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Spain	39	4	0	1	1	0	0	0	0	0	0	0	0	0
France	602	659	48	117	62	26	0	12	1	15	5	7	1	0
Croatia	7	32	1	1	0	0	0	0	0	0	0	0	0	0
Italy	165	237	11	31	22	2	0	7	0	1	2	0	1	0
Cyprus	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Latvia	32	87	7	0	3	0	0	0	0	0	0	0	0	0
Lithuania	92	128	2	9	3	1	0	0	0	0	0	0	0	0
Luxembourg	262	336	51	51	52	4	0	2	0	4	4	0	0	0
Hungary	5	15	0	3	4	0	1	0	0	0	0	0	0	0
Malta	2	0	0	0	0	0	0	0	0	0	0	0	0	0
Netherlands	8	20	0	0	2	1	0	0	0	0	1	0	0	0
Austria	128	140	4	9	17	1	0	0	0	0	2	0	0	0
Poland	46	369	2	1	17	0	0	3	0	0	0	0	0	0
Portugal	3	:	:	:	:	:	:	:	:	:	:	:	:	:
Romania	190	140	5	14	16	2	4	2	1	2	1	2	0	0
Slovenia	8	15	1	0	0	0	0	0	1	0	0	0	0	0
Slovakia	6	7	0	0	0	0	0	0	0	0	0	0	0	0
Finland	3	15	2	3	2	1	0	0	0	0	1	0	0	0
Sweden	0	2	0	0	0	0	0	0	0	0	0	0	0	0

Source: Eurostat 2015, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_resbc1&lang=en
Note: Only a selection of third countries has been included in this table

aspects, is in fact very light on labour market policies. The Agenda fails to build a comprehensive policy or make up for the shortcomings of current EU labour migration policies.

Employment rates

Table 7 shows that in most Member States, foreign or non-EU citizens have **lower rates of employment** than EU nationals. There are several factors that will impact on the employment rates for these different groups and the lack of data in this area makes it difficult to fully assess the impact for racialised migrants. Although there are EU-wide surveys on the perceptions of discrimination in employment on the grounds of ethnicity, race and religion, there is no EU-wide data on how many migrants experience actual discrimination based on these grounds. The FRA has reported that "members of minority groups as well as migrants and refugees faced racism and ethnic discrimination in 2015"[105] but there are no EU-wide statistics for the period 2015/2016. Other ongoing surveys at EU level do not include a variable on racial or ethnic origin.[106]

105 European Union Agency for Fundamental Rights. *Chapter 3 - Racism, Xenophobia and Related Intolerance.* 2016. Available at: http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-frr-chapter-3-racism_en.pdf.
106 Glaude, Michel. *Statistics on Discrimination within the Context of Social Statistics.* Available at: Eurostat /Directorate F http://ec.europa.eu/eurostat/documents/1001617/4577877/0-4-KEYNOTE-EN.pdf.

Table 7: Employment rates of population aged 20-64 by country of citizenship, 2015

Member State	Nationals	Foreign citizens	EU citizens	Non-EU citizens
Austria	75,8%	65,8%	75,2%	55,9%
Belgium	68,5%	58,3%	66,5%	45,2%
Bulgaria	67,2%	45,5%	n.a.	n.a.
Croatia	60,5%	45,1%	n.a.	38,8%
Cyprus	67,2%	71,1%	68,3%	75,1%
Czech Republic	74,8%	77,3%	79,0%	76,0%
Denmark	77,8%	65,1%	77,3%	56,4%
Estonia	77,7%	69,8%	61,6%	70,1%
Finland	73,5%	58,%	72,9%	48,1%
France	70,8%	53,3%	67,9%	46,6%
Germany	79,6%	65,8%	76,7%	57,0%
Greece	54,9%	55,4%	56,8%	55,1%
Hungary	68,9%	71,1%	70,9%	71,4%
Ireland	69,5%	65,0%	70,3%	55,3%
Italy	60,3%	62,4%	66,3%	60,7%
Latvia	73,9%	64,3%	78,5%	64,0%
Lithuania	73,4%	68,2%	n.a.	70,8%
Luxembourg	69,2%	72,7%	74,5%	57,4%
Malta	67,9%	65,0%	67,4%	63,2%
Poland	67,8%	66,7%	79,8%	62,3%
Portugal	69,2%	65,6%	72,5%	63,5%
Romania	66,0%	n.a.	n.a.	n.a.
Slovenia	69,1%	70,0%	62,3%	71,3%
Spain	62,5%	57,6%		62,2%
Sweden	82,1%	61,7%	78,8%	50,7%
United Kingdom	77,2%	73,8%	82,0%	63,3%
EU-28	70,6%	63,7%	73,4%	56,7%

Data available in some Member States reveal that there is differentiated labour market integration performance by nationality. There are smaller differences in the employment rates for people from the EU15, North America and Latin America and the 'native' born population. In certain Member States foreign-born persons from Africa and Asia have lesser prospects of establishing themselves on the labour market than other immigrants but the picture is complex. Although there is limited data available across the EU, the impact of racial discrimination of migrants in employment can be seen from country specific data and the hierarchy of race in post-colonial European labour markets remains.

In **France**, data from 2011 show that migrants from Spain, Italy, Portugal, Turkey, Morocco, Tunisia or South East Asia are less affected by unemployment than the general population in France. Those migrants between 18 to 50 years old had an unemployment rate ranging between 1% and 6%. However, migrants from sub-Saharan Africa are more affected by unemployment (13%).[107] Analysis of the employment rates in the **United Kingdom** found

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107 Eurostat. *Indicators of Immigrant Integration. A Pilot Study.* As cited in the France Shadow Report questionnaire response.

that men's employment rates from the A8[108] (90%), Australia (88%), India (85%), Bangladesh (85%), EU-14 (80%), and America (81%) were higher than those of UK-born men. Conversely, migrants from some Asian countries experience significantly lower employment rates than the UK-born, and the employment rate of female workers from Bangladesh and Pakistan is around one third that of UK-born women.[109]

A person's migrant status is of importance and impacts the prospects of establishment on the labour market. For instance, in **Sweden**, the employment rate for persons who have received residence permits on safety grounds is at 35-45% after 5 years. For these migrants the employment rate will rise for some years but peak at about 60- 65%, far lower than for the population as a whole.

As several Shadow Report questionnaire responses highlight and according to the Oxford Migration Observatory, "there can sometimes be a mismatch between an individual's educational attainment and the skill level required for his or her job".[110] Specific groups of foreign-born workers (e.g. recent migrants from the A8 countries) are known to be frequently employed in jobs that do not correspond with their education and skills. Barriers to employment are manifold, including low education levels but as a report by The Wilberforce Society states, "high rates of unemployment are coupled with high rates of over-qualification among refugees (or 'humanitarian migrants')". The report highlights that it is not simply a case of refugees lacking the requisite skills; rather, there is a systemic problem at the level of qualification recognition or possibly discrimination on the part of potential employers.[111] Beyond socio-professional profiles there seems to be a clear difference in labour market integration performance across refugee nationalities.

<div style="background-color:#c9b838;padding:1em;">

Barriers for migrants entering middle-skilled work:[112]

❭ Insufficient skills and experience for available jobs
❭ Unrecognised qualifications
❭ Difficulties navigating local labour markets
❭ Formal or informal obstacles to employment

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Being born in Europe is not a guarantee for a person's employability. There are also differences in the employment rates of the so-called **'second generation'** (those born in Europe with one or two parents with a foreign background) compared to the segment of the population with two parents born in the EU. The clearest difference is among persons whose parents come from countries outside of Europe. In **France**, immigrants' children with parents who emigrated from sub-Saharan Africa, Algeria or Turkey had lower employment rates compared to all other groups.[113]

Research on Polish migrants in the **United Kingdom** also provides a deeper understanding of the concept of freedom of movement; the structure of the British labour market; and the increasingly negative political discourse on migration that has resulted in discrimination of white Polish migrants in the UK. The 2004 enlargement of the EU and the resulting freedom of movement of Polish citizens and other Central and Eastern Europeans was framed as a 'reunification' of Europe. During the enlargement process, EU bureaucrats and western politicians approached and represented the new states as in need of civilising westernisation in order to join the EU and thus be part of 'real' Europe. This process is similar to the 'civilising' values that are at the centre of integration plans and policies discussed in Section 2 of this report. What is particular to the discrimination of Eastern Europeans in the UK is their inclusion into a hierarchy of whiteness and belonging which has led this group to be racialised and discriminated against in employment in ways that other non-white ethnic groups have experienced.[114]

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108   The A8 countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia) are a group of eight of the 10 countries that joined the European Union during its 2004 enlargement. They are commonly grouped together separately from the other two states that joined in 2004, Cyprus and Malta, because of their relatively lower per capita income levels in comparison to the EU average.

109   The Migratory Observatory. *Characteristics and Outcomes of Migrants in the UK Labour Market.* Available at: http://www.migrationobservatory.ox.ac.uk/briefings/characteristics-and-outcomes-migrants-uk-labour-market.

110   Ibid.

111   http://thewilberforcesociety.co.uk/wp-content/uploads/2016/05/Accreditation-Integration-Strategy-Wilberforce-Society.pdf Page 6. As cited in the United Kingdom Shadow Report questionnaire response.

112   See http://www.migrationpolicy.org/sites/default/files/publications/DG-OVR-EmplPolicy.pdf.

113   Y. Brinbaum, D. Meurs & J-L. Primon, *Situations sur le Marché du Travail: Statuts d'Activité, Accès à l'Emploi et Discrimination.* As cited in the France Shadow Report questionnaire response.

114   Myslinska, Dagmar. 'Incomplete Europeans: Polish Migrants' Experience of Discrimination in the UK is Complicated by their Whiteness'. *LSE's Brexit Blog.* 2016. Available at:http://blogs.lse.ac.uk/brexit/2016/03/09/incomplete-europeans-polish-migrants-experience-of-prejudice-and-discrimination-in-the-uk-is-complicated-by-their-whiteness/.

3.2 Exploitation and discrimination in employment

Restrictions in access to the labour market for migrants contribute to their vulnerability to **exploitation**. In many cases refugees are not allowed to work for certain periods, in other cases they are only allowed to work a maximum number of hours. Labour market options are based on the temporary 'import of foreign labour', with a strict short-term residence and an employment framework that obliges some migrants to sign contracts prior to coming to certain Member States with a specific employer, for a specific job and in a specific economic sector. In **Cyprus** for example, the basic labour right to change jobs or employers is restricted to very exceptional circumstances and then only at the administration's absolute discretion.

These constraints and migration models in place in several EU Member States encourage migrants to be used as a commodity and disposed of at will. In the words of a questionnaire respondent in Cyprus, migrants have become "a reserve of easily exploitable workforce without rights", and over the years, consciously and systematically, this system has established and promoted the conditions for licencing, legitimising and normalising the restriction and violation of migrants' most basic human and labour rights, their exclusion and marginalisation.[115] Deportability has also rendered the undocumented migrant labour force a distinctly disposable commodity.[116]

The principle of safeguarding decent and fair working conditions, including fair remuneration, compensation for work accidents and rest periods for all workers, including domestic workers and undocumented workers, is well established in international law. However, although guarantees of fair working conditions may be provided for in national law, their applicability to undocumented migrant workers is often not expressly ensured within national legal frameworks. As a result, migrant workers with insecure or irregular residence status frequently experience violations of labour rights, including under-payment and non-payment of wages, long working hours without choice or compensation, very limited rest periods, degrading and poor working and living conditions,

confiscation of identity documents and psychological, physical threats and violence.[117]

Immigration rules and processes that lead to exploitation of migrant workers can further compound the impact of discriminatory practices on the grounds of race, gender and religion. For instance, questionnaire responses highlight the vulnerability of women (and minors) as victims of **trafficking, smuggling and prostitution** and the racial dimension to these forms of exploitation (Belgium, Finland and Italy). The Roma community appears especially vulnerable to abuse through human trafficking and smuggling, due to the group's marginalisation and the impact of discrimination in their country of origin, which often continues in another EU Member State. There are some reports of gangs that force women and their children (and less frequently men) from Roma communities to beg in the streets. They are supposed to earn money for the gangs and to partly pay back debts for housing and transport from South Eastern Europe (Belgium, Germany and Sweden).

The international human rights framework acknowledges that **women's vulnerability** stems from their subordinate status in gender orders; the disproportionate impact of conflict and economic crises on their livelihoods; and having fewer options for legal migration, thus increasing reliance on irregular routes controlled by smugglers and traffickers. Women of foreign origin cope with multiple forms of discrimination, on the basis of their gender and ethnicity/ foreign origin (Belgium, Cyprus). In most EU Member States women of foreign descent are generally less employed than women and men of foreign descent from the EU15. When employed, women often work in low-skilled employment and typically female sectors such as cleaning, household services and health care. Irrespective of their qualifications, minority migrant women are guided towards these types of jobs rather than the 'white-collar jobs' or positions matching their qualifications and ambitions.

Exploitation also occurs within migrant communities and networks where **intergroup exploitation** takes place,

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115 Cyprus Shadow Report questionnaire response.
116 Deportability is the effect of the deportation regime for the majority of irregular migrants – and this condition engenders multiple vulnerabilities and inequalities.

117 PICUM. *Submission to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.* 2014. Available at: http://picum.org/picum.org/uploads/publication/PICUM%20Submissions%20CMW%20-%207%20April%202014%20-%20FINAL_2.pdf.

aligning to the logic of Europe's neoliberal economies.[118] For example, Quan, who was born in China and lived in the **United Kingdom** on a work permit for two years, reports: "I started working the next day after I had arrived here. I worked in the takeaway six days a week, from 3pm till midnight. I am paid £150 a week, though it is lower than what the contract states. The employer said he would pay tax for me. I live with him and his family. My employer asks me to do a lot of things that are not part of my job as a chef, e.g. helped him to move house, repair the toilet, stock supplies, give his wife and children a lift, and clean the shop after it was closed. Even on my day off, I still have to do some work for my employer's house. I am not willing to do all the extra work but out of what Chinese call "favour", I don't reject his requests. If I tell him I don't want to do the extra work, he won't be happy. I still have to rely on him".[119]

The difficulties facing racialised migrants in the labour market are also a consequence of stereotypes and **discrimination based on origin or perception of origin.** In **Italy**, lower salaries for migrants of African (mostly North Africans) or Eastern European (mostly Romanians) origin were reported.[120] The **Danish** National Research Centre for Welfare (SFI) report, "Migrants and Descendants' Position in the Danish Labour Market", shows a difference in hourly salary based on origin. Migrants and descendants with a non-Western background receive a lower hourly salary compared with Danes in the same job position or industry. Migrants and descendants with a western background, however, are typically paid an equal or higher salary compared with Danes in the same job position or industry. The difference in salary between non-western migrants and Danes increased between 1997 and 2011 for people with jobs requiring low qualifications.[121] According to Anu-Tuija Lehto of the Central Organisation of **Finnish** Trade Unions (SAK), certain professions such as cleaners, cooks and waiters only attract foreigners because the wages they pay are unacceptable to white Finns. According to Lehto, a foreigner would accept to be paid lower wages for the same job than a white Finn.

In **Belgium**, a 2015 report showed that out of a total of 176 agencies providing cleaning and household services surveyed, more than 60% responded positively to discriminatory demands, i.e. if the client asks for a 'Belgian' cleaning lady, they are willing to send one. This takes place in a sector which employs a significant number of racialised minorities and migrants.[122]

In the **Czech Republic**, a massage salon employed several Thai masseuses. The employment contract had specified that the working hours were 40 hours per week, but the employees were being forced to work six days a week, and eleven to twelve hours a day. One of the masseuses gave notice and the employer started to withhold wages.

Labour market segmentation

The immigrant population has historically worked in segmented and precarious forms of employment and structural forces, i.e. restrictive labour market access for migrants, keep them in the lower strata of the labour market regardless of their qualifications. Across Europe's growing ethnically diverse societies, it is reported that racialised migrants continue to work in low paid roles and sectors.

Although migrants are willing to work in lower paid sectors many will also have aspirations to work in other industries more fitting to their qualifications or levels of experience. However, there are structural barriers based on nationality that prevent some migrants from applying for those positions. For instance in **Italy**, legal action was put forward in support of a young Pakistani man whose application for voluntary civil service experience was refused due to the fact he does not have Italian citizenship. The Constitutional Court declared his exclusion unconstitutional.

One indicator for racial segmentation is the population's educational background and the job requirements related to the employment. People with a foreign background are generally more exposed to the processes leading to working in occupations with lower training requirements compared with their educational background. Thus, there is a mismatch between migrants' education levels and the requirements of

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118 Sefa Dei, George J., & Simmons Marlon. *Fanon and Education: Thinking Through Pedagogical Possibilities.* 2010. New York: Peter Lang Publishing.

119 United Kingdom Shadow Report questionnaire response.

120 Piro, Valeria. 'Che cos'è la giusta paga? Negoziazioni sul prezzo del lavoro in una serra siciliana'. *Etnografia e ricerca qualitativa, 2: 219-244.* 2014. As cited in the Italy Shadow Report questionnaire response.

121 SFI. *Migrants' and Descendants' Position on the Danish Labour Market.* 2015. Available at: http://www.sfi.dk/publikationer/indvandreres-og-eft-erkommeres-placering-paa-det-danske-arbejdsmarked-3074/. As cited in the Denmark Shadow Report questionnaire response.

122 Belgium Shadow Report questionnaire response.

Romania

Filipino workers in the Romanian domestic sector, women in their majority, were recruited by agencies which operate in the Philippines and offered a work contract which they signed before leaving the country. In many cases the contract was completely different from the work contract they received in Romania and was not translated therefore many Filipinos did not understand its provisions. In practice, the workers received lower salaries (they were promised 800 USD/month and received 400 USD), had to work overtime and didn't benefit from adequate rest time. The lack of labour regulations in the domestic work sector practically allows the exploitation of foreign domestic workers by Romanian employers since the Territorial Labour Inspectorate (ITM) does not have the right to enter the employer's private residence in case of complaint.

the jobs they are employed in (Portugal, Spain and Sweden). The sectors most frequently raised in the Shadow Report questionnaire responses as segmented were: **domestic work, caregiving, agriculture, construction and prostitution.** Caregiving is reported across Europe to be a growing industry that employs migrants, whether formally or informally. Live-in carers are both European citizens coming predominantly from Central and Eastern Europe and citizens of third countries, often without regular migration status. In addition to the challenges European live-in care workers face, non-EU migrants and undocumented migrants face additional risks of exploitation because their residence status is dependent on their employer. They are unable to challenge abusive conditions and access protection and redress for exploitation.[123]

The available data disaggregated by citizenship show that migrant workers take up jobs that nationals do not want and are overrepresented in certain sectors characterised by demanding working conditions. In the **Czech Republic**, Vietnamese expatriate networks typically build up baselines for ethnic entrepreneurship, while the concentration of Mongolian workers in factories increases the likelihood of their employment in the manufacturing sector, and the construction sector is mostly associated with the Ukrainian community.[124]

Domestic work is associated with a high risk of non-compliance of labour contracts, circumventing the formal requirements on job performance and violations of workers´ rights. Lack of labour regulations in the domestic work sector allows for the exploitation of migrant domestic workers (Cyprus, Ireland and Romania). Several cases of exploitation and serious abuse of migrant domestic workers' rights were reported to take place in foreign embassies in the Czech Republic, France, Poland and Romania.

The process of racialisation of domestic workers takes place in many Member States, where third country migrant women of colour often work in largely white middle class households. These women work (and live) in a gendered, racialised and precarious sector that makes them vulnerable to extraordinary levels of exploitation of many forms, sometimes including physical and sexual abuse.

It is evident that power relations such as class, gender and race are intertwined in the processes that lead to different positions on the labour market. A Finnish study reinforces the perception that **Finland's** labour market is racialised and characterised by disparities between those of foreign and Finnish origin. For instance, 60% of all cleaners in Finland are men of foreign origin.[125]

Member States that include nationality as an explicitly protected ground in anti-discrimination legislation:[126] Austria, Belgium, Bulgaria, Cyprus, Finland, Hungary, Ireland, Netherlands, Poland, Portugal, Romania, Slovakia and United Kingdom.

The ethnicisation of entire employment sectors contributes to shaping prejudices about the ability of racialised migrants to work only in certain fields, which further reproduces ethnic market segmentation.[127] Throughout history, racism as a socially constructed ideology has served to justify slavery and imperialism and it "perpetuated the belief that

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123 PICUM. *Challenging Labour Exploitation: New Recommendations to Regulate Conditions of Live-in Care Workers.* 2016. Available at: http://picum.org/en/news/picum-news/51268/.

124 Czech Republic Shadow Report questionnaire response.

125 Statistics Finland et al. *Ulkomaista syntyperää olevien työ ja hyvinvointi Suomessa 2014.* 2015. Available at: http://www.stat.fi/tup/julkaisut/tiedostot/julkaisuluettelo/yyti_uso_201500_2015_16163_net.pdf.   As cited in the Finland Shadow Report questionnaire response.

126 See http://www.migpolgroup.com/wp_mpg/wp-content/uploads/2013/07/Developing-Anti-Discrimination-Law-in-Europe-2012-EN-.pdf.

127 Leontieva, Y. Pokorná, A. *Faktory bránící využití kvalifikace imigrantů na trhu práce v ČR.* Multicultural Centre Prague. 2014. Available at: http://www.mkc.cz/data/kvalifikace-final.pdf. As cited in the Czech Republic Shadow Report questionnaire response.

different racial and ethnic groups had inherent attributes which suited them to particular jobs".[128]

In **Italy**, foreign caregivers corresponded to 77.1% of the total care workforce and amounted to 692,640 individuals in 2014.[129]

In **Slovenia**, 33.16 % of all men who are non-EU nationals and 24.12 % of foreign-born men who are nationals of EU countries were employed in the construction industry, compared to 8.35 % of Slovenian citizens.[130]

Complaints procedures

Migrants, and in particular undocumented migrants, are reluctant to report their complaints. In **Ireland**, there is a lack of clarity as to whether undocumented migrants even have access to the Labour Court as this point of law is still pending adjudication by the Employment Appeals Tribunal. Undocumented migrant workers may also be denied the right to free legal aid and can be prevented from being party to labour law proceedings as they are deported to their countries of origin before legal action has started.

The barriers that prevent vulnerable migrant workers from pursuing legal remedies and bringing their perpetrators to justice contributes to a worrying culture of impunity for

exploitation of undocumented migrants in the workplace and may increase their experience of violence within the European Union. This situation coincides, especially in some EU Member States, with increasingly worrying xenophobic public and political sentiments, which can in turn fuel violence by employers and discrimination by service providers, police and labour authorities.[131]

Although successive ENAR Shadow Reports have reported on the discrimination of migrants in employment on the basis of race or nationality, there is little other information on migrants' experiences of racism and discrimination. It appears to be an invisible phenomenon lacking adequate regulation and data collection in all EU Member States. In **Portugal**, for instance, there has been one single judgement on discrimination in access to the labour market based on nationality (although not all court decisions of labour dispute tribunals are published). This suggests that given all the research and information on discrimination in the workforce and exploitation of migrants, there are some considerable limitations regarding access to justice and data collection.

The absence of court cases is not at all indicative of the occurrence or the frequency of racial discrimination of migrants in employment. Migrant workers are not always aware of their rights and may not know how to get help. In some countries it is possible for migrants to receive legal aid (Estonia, Luxembourg) to make complaints but these services can be difficult to access. The fees introduced in 2013 in the United Kingdom for filing employment tribunal cases have led to a general decrease in complaints.[132] In many countries migrant workers are bound to one specific employer (Cyprus, Czech Republic), which means some migrants are reluctant to make complaints for fear of jeopardising their right to stay in that Member State. In the **United Kingdom**, even Polish citizens that are protected under both EU and UK anti-discrimination laws on the grounds of ethnic origin and nationality, seek redress infrequently for the discrimination they face.

128 Joyce, Katie. 'Maids versus Madams: Racism and the Filipina Migrant Domestic Labour Force in Canada'. *Stop Racism and Hate Canada*. 2011. Available at: http://www.stopracism.ca/content/maids-versus-madams-racism-and-filipina-migrant-domestic-labour-force-canada.
129 See http://www.migpolgroup.com/wp_mpg/wp-content/uploads/2013/07/Developing-Anti-Discrimination-Law-in-Europe-2012-EN-.pdf.
130 Slovenia Shadow Report questionnaire response.

131 PICUM. *Submission to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.* 2014.
132 Myslinska, Dagmar. 'Incomplete Europeans: Polish Migrants' Experience of Discrimination in the UK is Complicated by Their Whiteness'. *LSE's Brexit blog.* 2016.

4. RACIST CRIME AND ACCESS TO JUSTICE

4.1 Racially motivated crimes against migrants

Racist attacks against migrants, asylum seekers, refugees and their accommodation in EU Member States, fuelled by the terrorist attacks in Europe and an increasingly hateful anti-migrant political and public discourse, were reported by civil society organisations, media and international organisations across the European Union. There is also evidence that the incidents recorded in the media or official statistics are only the tip of the iceberg as most of them go unreported.

Lack of official data

While there is a general lack of official data collected by police and state authorities on racially motivated crime in Europe,[133] the official data available on racially motivated crimes against migrants, asylum seekers, refugees and their accommodation are even scarcer. In some countries civil society organisations publish data on racist attacks against migrants. Where data exist, the data collection and recording is not consistent and varies in terms of categories and terminology. There is no cross-reference across categories such as ethnic or religious background which makes it difficult to assess the impact of racist crimes on in particular ethnic and religious minorities within the migrant population.

Table 8 includes figures that were collected by police or state authorities (indicated as official data) and civil society organisations in 2015/16. This was the case for only eight Member States: Austria, Cyprus, Czech Republic, Finland,

Germany, Greece, Ireland, and Sweden. This illustrates the significant gaps in monitoring of racist attacks targeting migrants.

State authorities in Austria, Germany and Finland published figures on attacks on asylum seekers' and refugees' accommodation. In **Finland**, the Interior Ministry reported 47 attacks against reception centres in 2015. In **Germany**, the Federal Criminal Police Office published data on "right-wing motivated crimes", including a subcategory of crimes 'targeting asylum accommodation' since 2014. 1031 right-wing motivated crimes targeting asylum accommodation were registered in 2015 and 988 in 2016, a massive increase up from 199 crimes in 2014 in the same category. According to data gathered by civil society organisations Amadeu Antonio Stiftung and Pro Asyl, there was a total of 3729 attacks against refugees and asylum seekers in 2016.[141]

134 Austrian Ministry of Interior 2016. Available at: http://medienservicestelle.at/migration_bewegt/2016/11/22/1-halbjahr-2016-24-anschlaege-auf-asyleinrichtungen/. Figures for 2016 refer to the first six months of 2016.

135 The five racial incidents reported by non-Cypriots included reports from one Bulgarian, one Greek, and one Syrian. In two cases the nationality was unspecified. Office for Combating Discrimination in Cyprus 2016. Available at: http://www.police.gov.cy/police/police.nsf/dmlstatistical_en/dmlstatistical_en?OpenDocument.

136 European Union Agency for Fundamental Rights. *Current Migration Situation in the EU: Hate Crime November 2016. 2016.* Available at: http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-november-monthly-focus-hate-crime_en.pdf.

137 German Federal Criminal Police Office 2016. Available at: https://www.tagesschau.de/inland/bka-asylunterkuenfte-103.html.

138 Racist Violence Recording Network. *Racist Violence Recording Network 2015 Annual Report. 2016.* Available at: http://rvrn.org/wp-content/uploads/2016/04/Report_2015eng.pdf.

139 ENAR Ireland. *iReport.ie Reports of Racism in Ireland.* Available at: http://enarireland.org/ireport-quartertly/.

140 OSCE Office for Democratic Institutions and Human Rights. *Hate Crime Reporting.* Available at: http://hatecrime.osce.org/sweden.

141 See http://mut-gegen-rechte-gewalt.de/service/chronik-vorfaelle.

133 Nwabuzo, Ojeaku. *Racist Crime in Europe ENAR Shadow Report 2013 - 2014 2014/15.* 2015. Brussels: European Network Against Racism. Available at: http://www.enar-eu.org/IMG/pdf/shadowreport_2013-14_en_final_lowres-2.pdf.

Table 8: Racist attacks targeting migrants, asylum seekers, refugees and/or their accommodation

Member States	Type of attack	Official data	2015	2016
Austria[134]	Attacks against asylum seekers' accommodation	Yes	25	24
Cyprus[135]	Racially motivated violent incidents reported by non-Cypriots	Yes	5	n.a.
Finland	Attacks against reception centres[136]	No	47	n.a.
Germany[137]	Right-wing motivated crimes targeting asylum accommodation	Yes	1031	988
	Acts of violence against asylum seekers and refugees	Yes	n.a.	2545
Greece[138]	Racist incidents targeting immigrants and refugees	No	75	n.a.
Ireland[139]	Racist incidents targeting 'foreigners' and refugees	No	9	34
Sweden[140]	Arson attacks against asylum seekers' accommodation	No	43	n.a.

In Austria, the Czech Republic, Germany, Greece, Ireland and Sweden civil society organisations publish data on racist attacks against migrants and/or asylum seekers' and refugees' accommodation. The Kantor Centre, a think tank on Antisemitism and racism, recorded 43 arson attacks on asylum centres in **Sweden** in 2015.[142] In **Greece**, the Racist Violence Recording Network – a civil society coalition set up by the UNHCR, the National Commission for Human Rights and NGOs working with victims of racist violence – reported 75 racist incidents targeting immigrants and refugees in 2015 "due to their national or ethnic origin, religion or colour", which represents a 60% increase compared to 2014.[143] In **Ireland**, iReport, an online reporting system set up by ENAR Ireland, recorded 9 racist incidents targeting migrants, including 'foreigners' (5) and refugees (4) between June and December 2015, while 2 of the 4 attacks against refugees specifically targeted Syrian refugees. Between January and June 2016, iReport recorded racist incidents targeting visa-holders (13), asylum seekers (1) and refugees (1).[144] According to iReport, the low number of incidents reported by asylum seekers and refugees can be explained by a tendency of these groups to underreport. This issue is further discussed in the section on underreporting of racist crimes against migrants.

The **United Kingdom** witnessed a huge spike in reported hate crimes after Britain's vote to leave the European Union which was at least partly linked to the campaign around the referendum. Monitoring by the London mayor's evidence and insight team showed a 16% increase in hate crime in the 12 months to August. It also showed that in the 38 days after the referendum there were more than 2,300 recorded racist offences in London, compared with 1,400 in the 38 days before the vote.[145]

It is important to note that the quantitative figures presented here can only be seen as the tip of the iceberg. Reports by civil society organisations, media

EU Framework Decision on combating racism and xenophobia

The EU Framework Decision 2008/913/JHA aims to combat certain forms and expressions of racism and xenophobia through a common EU-wide criminal law. The Framework decision defines two types of offences: racist and xenophobic hate speech and hate crime. It requires EU Member States to specifically address public incitement to violence or hatred directed against a person or persons belonging to a group defined by reference to race, colour, religion, descent or national or ethnic origin in their criminal codes or to take racist motivation into account as an aggravating circumstance.

and international organisations show that racist attacks on migrants, asylum seekers, refugees and their accommodations are pervasive in Europe, as also observed by a 2016 FRA report on the current migration situation with a focus on hate crime.[146] In **Denmark**, the United Nations High Commissioner for Refugees (UNHCR) reported the case of an asylum seeker who was severely assaulted by a group of masked men, an arson attack on a bus used by the inhabitants of an asylum centre, and three incidents in which threatening graffiti were sprayed on asylum centres' walls.[147] In **Hungary**, the UNHCR and the Hungarian Helsinki Committee reported several physical assaults targeting Nigerians and other refugees.[148] Racist attacks against Muslim migrants were reported by media and civil society organisations. In **Romania**, for instance, two Syrian women were physically assaulted on the streets of Bucharest by five unidentified teenagers for wearing the hijab in March 2016.[149] In the **United Kingdom**, a student from Poland was stabbed in the neck with a smashed bottle "because he was speaking Polish" in September 2016.[150]

142   OSCE Office for Democratic Institutions and Human Rights. *Hate Crime Reporting*. Available at: http://hatecrime.osce.org/sweden.

143   Racist Violence Recording Network. R*acist Violence Recording Network 2015 Annual Report*. 2016. Available at: http://rvrn.org/wp-content/uploads/2016/04/Report_2015eng.pdf.

144   ENAR Ireland. *iReport.ie Reports of Racism in Ireland*. Available at: http://enarireland.org/ireport-quartertly/.

145   Weaver, Matthew. '"Horrible Spike" in Hate Crime Linked to Brexit Vote, Met Police Say'. The Guardian. 28 September 2016. Available at: https://www.theguardian.com/society/2016/sep/28/hate-crime-horrible-spike-brexit-vote-metropolitan-police.

146   European Union Agency for Fundamental Rights. Current Migration Situation in the EU: Hate Crime November 2016. 2016.

147   OSCE Office for Democratic Institutions and Human Rights. *Hate Crime Reporting*. Available at: http://hatecrime.osce.org/denmark

148   OSCE Office for Democratic Institutions and Human Rights. *Hate Crime Reporting*. Available at: http://hatecrime.osce.org/hungary

149   'Ancheta dupa agresarea in capitala doua tinere din Siria'. *Digi 24*. 1 April 2016. Available at: http://www.digi24.ro/stiri/actualitate/justitie/ancheta-dupa-agresarea-in-capitala-a-doua-tinere-din-siria-502387 accessed on 13/09/2016. As cited in the Romania Shadow Report questionnaire response.

150   Dearden, Lizzie. 'UK Student Stabbed in Neck for Speaking Polish Describes Brutal Post-Brexit Assault in Telford'. *The Independent*. 20 September 2016. Available at: http://www.independent.co.uk/news/uk/crime/uk-student-stabbed-in-neck-for-speaking-polish-brutal-post-brexit-assault-telford-donnington-park-a7319181.html.

Due to the scarce data available, it is difficult to draw general conclusions about which migrant groups are specifically targeted by racist crimes. However, it is clear from the research that asylum seekers and refugees, and in particular those living in collective accommodation, are vulnerable and exposed to racist crimes. The available figures and reports suggest that racialised migrants e.g. from African countries (**Spain**) and more specifically from Somalia (**Finland**) or with certain ethnic/religious minority backgrounds, e.g. Arabs (**Poland**) and Muslim migrants (**Romania**) are amongst the most targeted migrant groups. In **Ireland**, it is reported that racist crimes were specifically directed against Syrian refugees. Violent acts against migrants from eastern European countries were in particular reported in the **United Kingdom.** A survey of EU embassies in London revealed that the majority of suspected hate crime reported to them since the UK vote to leave the EU, involved citizens from eastern European countries and in particular Polish citizens.[151]

Types of reported crimes

Racist attacks on migrants included a variety of offences ranging from incitement to hatred/threats, to (arson) attacks on asylum seekers' and refugees' accommodation to physical assault (including murder).

Cases of hate speech and incitement to hatred against migrants were reported in all the EU Member States covered in this report. In **Slovenia**, Spletno oko, an internet-based contact point coordinated by the Faculty of Social Sciences of the University of Ljubljana, reported 51 cases of hate speech to the police in 2015, and in 55% of these cases the hate speech incidents targeted refugees.[152] Researchers in Austria, Italy, Germany, the Czech Republic and Estonia pointed explicitly at online incitement to hatred targeting migrants and the spread of fake news. In **Italy**, for instance, websites such as "*I crimini degli immigrati*" ("crimes of immigrants") spread false information about alleged crimes committed by migrants

with a distinct racist component.[153] As already discussed in Section 2 of this report, these incidents are rarely monitored, let alone regulated, while further fuelling anti-migrant hatred and thus contributing to an increasingly violent and hostile atmosphere towards migrants.

Physical assaults on migrants, asylum seekers and refugees were reported by media and civil society across all Member States included in this report. In **Poland**, a Syrian refugee was racially insulted and severely beaten by three men in Poznan on 3 November 2015.[154] In February 2016 the first attacker was sentenced to two years imprisonment and the second attacker was sentenced to three months imprisonment and one year of community work.[155] In **Sweden**, a group of black-clad and masked people physically assaulted people who looked 'foreign' in Stockholm on 29 January 2016.[156] In **Malta**, a French man filed a police report against four nightclub doormen who beat him while making racist comments such as "Go back to Africa, faggot" and "Don't come back again, you piece of black shit".[157]

Physical assaults included excessive use of force, sometimes going as far as murder. In **Italy**, a Nigerian asylum seeker and his wife were racially insulted. When he reacted to racist insults addressed to his wife, he was beaten by a man with an iron pole and killed.[158] In the **United Kingdom**, a Polish migrant died after being attacked by several teenagers in Harlow, Essex in August 2016.[159]

153 IDOS (2015) Dossier Statistico Immigrazione. Dal contagio "virale" al web-marketing dell'odio razzista (Andrisani Paola), 250-252. As cited in the Italy Shadow Report questionnaire response.
154 Ojewska, Natalia. 'A 'Witch-hunt' for Poland's Barely Visible Refugees'. *Al Jazeera.* 3 December 2015. Available at: http://www.aljazeera.com/in-depth/features/2015/12/witch-hunt-poland-barely-visible-refugees-15 1201111826928.html.
155 Piotr Żytnicki, Pobili Syryjczyka w centrum Poznania. Sąd ogłosił wyrok. Available at: http://poznan.wyborcza.pl/poznan/1,36037,19694952,pobili-syryjczyka-w-centrum-poznania-sad-oglosil-wyrok.html. As cited in the Poland Shadow Report questionnaire response.
156 O. Forsberg, R. Aschberg, S. Hagberg, S. Dickson, K. Ahlborg, 'Stort polispådrag i Centrala Stockholm'. *Aftonbladet.* 29 January 2016. Available at: http://www.aftonbladet.se/nyheter/article22175101.ab. As cited in the Sweden Shadow Report questionnaire response.
157 'French Youth 'Suffers Violent Racist Attack' by Paceville Bouncers'. *Malta Today Online.* 26 February 2016. Available at: http://www.maltatoday.com.mt/news/national/62631/french_youth_suffers_violent_racist_attack_by_paceville_bouncers_#.V7bJyKKo0kF. As cited in the Malta Shadow Report questionnaire response.
158 http://www.bbc.com/news/world-europe-36733575.
159 Quinn, Ben. 'Six Teenage Boys Arrested Over Death of Polish Man in Essex'. *The Guardian.* 30 August 2016. Available at: https://www.theguardian.com/uk-news/2016/aug/30/five-teenage-boys-arrested-after-man-dies-following-attack-in-essex.

151 Weaver, Matthew & Laville Sandra. 'European Embassies in UK Log More Alleged Hate Crimes Since Brexit Vote'. *The Guardian.* 19 September 2016. Available at: https://www.theguardian.com/society/2016/sep/19/embassies-alleged-hate-crimes-since-brexit-vot.
152 Center za varnejši internet, prijavna točka Spletno oko, Letno poročilo Spletno oko 2015, Fakulteta za družbene vede, Center za varnejši internet, Spletno oko, Ljubljana (2016:7). Available at: http://safe.si/sites/safe.si/files/spletno_oko_-_letno_porocilo_2015.pdf. As cited in the Slovenia Shadow Report questionnaire response.

Austria, Estonia, Finland, France, Germany, Italy and Sweden reported violent attacks against asylum seekers' and refugees' accommodation including accommodation for unaccompanied minors.[160] The attacks manifested themselves in various forms such as racist graffiti, damage (e.g. throwing stones at windows), gun shots as well as acid and arson attacks. In **Sweden**, 12 arson attacks were directed at asylum centres for unaccompanied children between March and December 2015. In **Germany**, perpetrators poured acid into an asylum seekers' centre in Flensburg in February 2016, injuring two men from Syria.[161] Finland,[162] Germany[163] and France reported arson attacks on empty asylum accommodation which aimed to prevent asylum seekers from moving in. In **France**, a migrant reception centre was set ablaze in October 2016, one day before migrants were supposed to be accommodated there after the dismantling of the camp in Calais.[164]

As a 2015 report on Islamophobia in Europe states, the 'refugee crisis' became increasingly linked to the perception of Muslims 'invading' and 'endangering' Europe.[165] This manifested itself, amongst others, in violent acts against Muslim migrants and religious institutions. Austria, Belgium, Cyprus, the Czech Republic, France, Germany, Greece, Poland, Romania, Spain Sweden and the United Kingdom reported (arson) attacks against mosques and/or Muslim community centres.[166] Two explosives detonated outside the doors of a mosque and a congress centre in Dresden, **Germany** in September

2016.[167] The suspect was affiliated with the anti-migrant and Islamophobic Pegida movement.[168] In France, people fired gunshots at a mosque in Carpentras in June 2015. In **Slovenia**, unknown perpetrator(s) put pigs' heads and pig's blood on the construction site of a mosque and at the Islamic Cultural Centre in Ljubljana in January 2016.[169]

Human rights activists and politicians expressing support for asylum seekers and refugees have increasingly become targets of violent attacks. In **Slovenia**, the National House in Novo mesto, hosting local artists who collect humanitarian aid for refugees, was repeatedly attacked by local neo-Nazis between November 2015 and February 2016. Perpetrators sprayed a Celtic cross and a swastika on the walls of the building, and threw Molotov cocktails on one occasion.[170] In **Bulgaria**, the Chair of the human rights organisation Bulgarian Helsinki Committee was attacked by unknown men in Sofia.[171] In the **Czech Republic**, several organisations which joined a governmental "HateFree Culture" campaign were attacked (right-wing extremist slogans, broken windows) in April 2016.[172] In **Germany**, authorities recorded more than 450 asylum-related assaults on politicians and aid workers in 2016.[173]

Perpetrators

Racist attacks on migrants, asylum seekers and refugees involve a variety of perpetrators. However, many attacks, in particular those on accommodation, remain unsolved. In **Germany**, journalists from the Newspaper *Die Zeit* investigated 222 attacks on asylum accommodation centres

160 Shadow Report questionnaire responses and information reported to OSCE/ODIHR: http://hatecrime.osce.org/.

161 'Chemie-Anschlag auf Flensburger Flüchtlingsheim'. *Flensburger Tageblatt.* 23 February 2016. Available at: http://www.shz.de/lokales/flensburger-tageblatt/chemie-anschlag-auf-flensburger-fluechtlingsheim-id12822001.html.

162 'Arson Attack Attempted on Planned Refugee Centre in Turku'. *Finland Times.* 26 October 2015. Available at: http://www.finlandtimes.fi/national/2015/12/26/23624/Arson-attack-attempted-on-planned-refugee-centre-in-Turku.

163 Gmund Schwabisch. 'Refugees in Germany: Arsonists Destroy Refugee Hotel in 'Model' Migrant Town'. *Independent.* 3 January 2016. Available at: http://www.independent.co.uk/news/world/europe/refugees-in-germany-arsonists-destroy-refugee-hotel-in-model-migrant-town-schwabisch-gmund-a6794891.html.

164 Moccozet, Stéphane. 'Le Centre d'Accueil Destiné aux Migrants Incendié'. *France Info.* 24 October 2016. Available at: http://france3-regions.francetvinfo.fr/auvergne-rhone-alpes/puy-de-dome/loubeyrat-63-centre-accueil-migrants-incendies-1115325.html.

165 Bayrakli, Enes and Hafez, Farid (eds). *European Islamophobia Report 2015.* 2016. Available at: http://www.islamophobiaeurope.com/reports/2015/en/EIR_2015.pdf.

166 Shadow Report questionnaire responses and information reported to OSCE/ODIHR: http://hatecrime.osce.org/.

167 MDR Sachsen. *Sprengstoffanschläge auf Moschee und Kongresszentrum in Dresden.* Available at: http://www.mdr.de/sachsen/dresden/sprengst-off-anschlaege-in-dresden-100.html

168 'Tatverdächtiger trat als Redner bei Pegida-Demo auf'. *Zeit Online.* 9 December 2016. Available at: http://www.zeit.de/gesellschaft/zeitgeschehen/2016-12/dresden-anschlag-moschee-polizei-festnahme-tatverdaechtiger.

169 http://www.islamska-skupnost.si/novice/2016/01/reporterjevo-hujskanje-in-svinjske-glave/; http://www.vlada.si/medijsko_sredisce/sporocila_za_javnost/sporocilo_za_javnost/article/vlada_kljucna_sta_strpnost_in_spostovanje_razlicnosti_57371/. As cited in the Slovenia Shadow Report questionnaire response.

170 http://www.mladina.si/172372/nestrpnezi-znova-nad-novomeski-sokolski-dom/; http://www.mladina.si/171695/na-vrata-novomeskega-sokolskega-doma-neznanec-odvrgel-molotovko/. As cited in the Slovenia Shadow Report questionnaire response.

171 European Union Agency for Fundamental Rights. *Current Migration Situation in the EU: Hate Crime November 2016.* 2016.

172 'Graffitis in Prague Probably Motivated by Hate'. *Czech News Agency (ČTK).* 26 April 2016. Available at: http://www.praguemonitor.com/2016/04/26/graffitis-prague-probably-motivated-hate. As cited in the Czech Republic Shadow Report questionnaire response.

173 'Hundreds of Right-wing Asylum-related Attacks in 2016'. *Deutsche Welle.* 13 November 2016. Available at: http://www.dw.com/en/hundreds-of-right-wing-asylum-related-attacks-in-2016/a-36377046.

in 2015 and found that in only four cases courts convicted perpetrators and in eight cases charges were pressed. This represents only 5% of all attacks. The police found suspects in less than a quarter of all attacks.[174] In cases where perpetrators were identified, there is a scarce recording of their political affiliation. As indicated in the 2013/14 Shadow Report on Racist Crime in Europe, the exact political orientation of the perpetrators remains unknown.

Nevertheless, racist crimes involving perpetrators affiliated to far-right movements were reported in several Member States. In **Italy**, far-right movements such as Forza Nuova were reported to be involved in attacks on reception centres for asylum seekers in Treviso, Northern Italy, in 2015.[175] In **Sweden**, the far-right organisation Nordic Youth carried out an attack on refugee accommodation in Arboga in August 2015.[176] In 2016, Germany's domestic intelligence agency even warned of emerging "right-wing terrorist structures" due to a sharp rise in far-right violence targeting migrants, asylum seekers and their accommodation.[177] In **Germany**, eight members of the "Group Freital" were charged with forming a far-right terrorist organisation and being responsible for five racist attacks on refugees and their accommodation, including the use of bombs and explosives.[178] In addition, a 2016 study by the University of Leipzig indicated that those with far-right views are more willing to act violently upon them.[179]

However, despite these tendencies, further evidence from Member States suggests that racist attacks on migrants and asylum seekers are not only committed by individuals or groups directly related to far-right movements. Civil society organisations in Italy, Poland and Portugal pointed to the impact of the far-right movements' anti-

migrant and Islamophobic rhetoric and the numerous anti-migrant protests and demonstrations across Europe, which legitimises violent attacks, emboldens people with racist views to take action and contributes to an overall climate of hostility towards migrants. In Belgium, the Czech Republic, Germany and Poland, for instance, it was reported that people felt encouraged by a growing anti-migrant sentiment and were less afraid to carry out violent attacks. In **Greece**, local communities and residents, in particular on the Greek islands, became increasingly involved in violent protests. In February 2016, the construction of a major migrant reception and registration centre on the Greek island of Kos sparked violent protests by local residents.[180]

This overall climate is also exemplified by the creation of new vigilante groups linked to far-right ideology or an increased activity of those that already existed. This phenomenon is reported in Austria, Bulgaria, Denmark, Finland, Germany, Hungary, Poland and Sweden. In **Sweden**, Soldiers of Odin, a neo-Nazi group founded in Finland, was established in February 2016 to protect the streets from the threat they claim is posed by newly arrived migrants. Since then, more than 20 local organisations have been established, and the network has been engaged in patrolling the streets in different cities. Local vigilante groups such as "Shipka" (Bulgarian national movement) or "Vasil Levski" (Bulgarian Military Union) in **Bulgaria** and "Hunyadi Border-Guard Unit" in **Hungary** have started patrolling and apprehending migrants at the borders. In Bulgaria, members of these vigilante groups are reported to racially abuse and mistreat these migrants.[181]

Underreporting of racist crimes targeting migrants

As highlighted in the 2013/2014 ENAR Shadow Report on Racist crime in Europe, a huge proportion of racist crimes goes unreported. Main reasons for non-reporting are a lack of trust in the police, a lack of confidence in the impact of reporting, fear of discrimination, fear of repeat victimisation, lack of victim support services and lack of awareness of victims' rights. However, for migrants and in particular for

174   'Es brennt in Deutschland'. *Zeit Online*. 3 December 2015. Available at: http://www.zeit.de/politik/deutschland/2015-11/rechtsextremismus-fluechtlingsunterkuenfte-gewalt-gegen-fluechtlinge-justiz-taeter-urteile.

175   'La rivolta di Treviso contro i profughi. Roghi e scontri: "Via i neri da qui"'. *Repubblica*. 17 July 2015. Available at: http://www.repubblica.it/cronaca/2015/07/17/news/la_rivolta_di_treviso_contro_i_profughi_roghi_e_scontri_via_i_neri_da_qui_-119252034/?rss. As cited in the Italy Shadow Report questionnaire response.

176   Poohl, D. *Ökad radikalisering – Increased Radicalisation*. Expo. Available at: http://expo.se/hatetspolitik/okat-politiskt-vald/. As cited in the Sweden Shadow Report questionnaire response.

177   'Germany Sees Rise In Far-Right Violence, Warns Of Terrorist Structures'. *Huffington Post*. 28 June 2016. Available at: http://www.huffingtonpost.com/entry/right-wing-terrorist-structures-in-germany_us_5772955fe4b0f168323afa98.

178   'Far-right Freital Terrorist Group Charged'. *Deutsche Welle*. 15 November 2016. Available at: http://www.dw.com/en/far-right-freital-terrorist-group-charged/a-36405586.

179   Horst, Kahrs. *Die enthemmte Mitte – Zusammenfassung ausgewählter Ergebnisse*. 2016. Available at: http://www.rosalux.de/fileadmin/rls_uploads/pdfs/Studien/Zusammenfassung_Mittestudie.pdf.

180   'Violent Protests Against Migrant Center'. *Deutsche Welle*. 16 February 2016. Available at: http://www.dw.com/en/violent-protests-against-migrant-center/av-19050921.

181   Germanova, Miroslava, Dzhambazova, Boryana and Bienvenu, Helen. 'Vigilantes Patrol Parts of Europe Where Few Migrants Set Foot'. *The New York Times*. 10 June 2016. Available at: https://www.nytimes.com/2016/06/11/world/europe/vigilante-patrols-in-parts-of-europe-where-few-migrants-set-foot.html?_r=0.

undocumented migrants, asylum seekers and refugees, there are further reasons for non-reporting of racist crimes.

In Cyprus, Germany, Poland, Portugal and Spain, undocumented migrants were reluctant to report crimes for fear of arrest and expulsion due to their irregular status.[182] Safe reporting is not ensured in every EU Member State. In **Portugal**, there is a legal obligation to notify the border guard when an undocumented migrant reports to the police. **Spain** still requires showing an ID/residence permit when reporting a crime.[183] Some cases were reported where undocumented victims of racist crime were detained or faced consequences with regard to their residence permit in the process of reporting a hate crime. In **Greece**, two Pakistani nationals filed a lawsuit in Aspropyrgos police department following a racist attack against them. After the complaint was filed, the police announced that the complainants would be kept in administrative detention because they did not have legal documents. They were released only after the plaintiffs' lawyer intervened.[184] In **Cyprus**, a migrant from Pakistan married to a Bulgarian woman reported a case of telephone harassment to the police and got his residence permit revoked as authorities decided that this was a "marriage of convenience".[185]

Victim support and civil society organisations in **Greece, Germany and Latvia** also reported a general 'fear of deportation' amongst migrants. Asylum seekers, for instance, were reported to be afraid of reporting crime to the police because they fear negative consequences for their asylum process. Civil society organisations in **Ireland** reported an overall perception amongst migrants that they "should not cause problems", while fearing that reporting a crime could lead to be considered as a "troublemaker" which in turn could result in "being further discriminated".[186]

While a lack of trust in police and government officials is a reason for non-reporting of racist crimes, in **Italy** and **Cyprus** this is particularly the case for newly arrived asylum seekers and refugees, as many of them might have experienced abuse and violence by police and government officials on their way to Europe, in their country of origin and possibly in Europe. There is a common perception among migrants that police will not handle the reported crimes seriously.

In **Greece**, civil society organisations reported that a major reason for non-reporting arises from the fact that many migrants want to leave Greece as soon as possible and are reluctant to start a long administrative or legal procedure with an unclear outcome.[187]

In most Member States covered in this report, it is reported that in particular for newly arrived migrants, lack of language knowledge, lack of awareness of their rights as victims and lack of practical knowledge about where to file a complaint are further crucial reasons for non-reporting.

4.2 Victim support and access to justice

Undocumented migrants in particular face significant challenges in accessing justice. Victim support services for migrants can provide much needed practical support and (legal) advice. Access to such services is guaranteed through the 2012 EU Victims' Directive.

EU Victims' Directive

The EU Victims' Directive was adopted in 2012 and establishes minimum standards on the rights, support and protection of all victims of crime, irrespective of their residence status. It ensures that victims are recognised and treated with respect and dignity and are protected from further victimisation. The Directive emphasises the victims' right to be informed in a way they understand, and to make a complaint in a language they understand and ensures victims' access to free, confidential support services and protection measures. It also requires that the Member States ensure appropriate training on victims' needs for officials who are likely to come into contact with victims.[188]

182   Shadow Report questionnaire responses.
183   PICUM. *EU Victims' Directive Transposition Checklist*. Available at: http://picum.org/picum.org/uploads/publication/chart_countries_Full_MGM_Nov2014.pdf.
184   Greece Shadow Report questionnaire response.
185   Cyprus Shadow Report questionnaire response.
186   Ireland Shadow Report questionnaire response.

187   Racist Violence Recording Network. *Racist Violence Recording Network 2015 Annual Report*. 2016. Available at: http://rvrn.org/wp-content/up-loads/2016/04/Report_2015eng.pdf.
188   See http://ec.europa.eu/justice/criminal/victims/index_en.htm.

The EU Victims' Directive addresses crucial factors that lead to underreporting of racist crimes and can be a useful tool to improve migrants' access to justice, in particular as the Directive recognises the particular vulnerability of hate crime victims. Member States were given until 16 November 2015 to transpose the Directive into national law. However, several NGOs and researchers have highlighted gaps in the actual implementation process, stating that it is still difficult for asylum seekers, refugees and in particular undocumented migrants to claim their rights as a hate crime victim. **Croatia, Greece and Ireland** explicitly reported that the EU Victim's Directive has not yet been transposed into national law.[189] In November 2017, the Commission will publish an implementation report, indicating the state of transposition in all participating states.

As discussed above, safe reporting without fear of consequences due to an irregular or insecure residence status is not guaranteed in all Member States. This is why for instance PICUM, the Platform for International Cooperation on Undocumented Migrants, advocates for the establishment of a so-called 'firewall' principle that ensures that undocumented migrants can report crimes and abuse to the police without fearing that authorities will be notified about their irregular status. The opportunity to report anonymously or to report via intermediary organisations plays a crucial role in this respect.

Access to free legal aid is key to migrants' access to justice as it is crucial for bringing cases to court and to participate in criminal proceedings. Article 13 of the EU Victims' Directive states that Member States shall ensure victims' access to legal aid, where they have the status of parties to criminal proceedings. The conditions or procedural rules under which victims have access to legal aid, however, are to be determined by national law.

Victim support services

Victim support services offer services such as legal aid, victim protection, health or psychological counselling and are provided by various institutions such as state authorities and NGOs. However, as the ENAR Shadow Report on Racist Crime as well as the EU Fundamental Rights Agency have already shown, victim support services

for hate crime victims are not sufficiently developed in EU Member States. Existing support is highly fragmented due to the variety of offences that constitute hate crimes.[190] A general lack of victim support structures for migrant victims of hate crime was in particular reported in Bulgaria, Hungary and Latvia.

In several Member States, there is limited access to legal aid for undocumented migrants in particular. For some Member States (Malta, Finland) access to legal aid provided by the state is dependent on a residence permit and although this is not a legal requirement, it is reported that migrants generally have to show a residence permit when filing such a complaint. In the majority of Member States the important role of NGOs in providing legal support for undocumented migrants, asylum seekers and refugees who are victims of hate crime was emphasised. In **Hungary and Bulgaria**, the Hungarian/Bulgarian Helsinki committee is the main organisation offering legal support to migrants and refugees.[191] However, these support structures are not always sufficiently funded and budget cuts were reported in some countries. In the **Czech Republic**, there is hardly any public funding available for civil society organisations providing free legal aid to migrants throughout criminal proceedings, which makes them nearly completely dependent on funds from private donors. In the **United Kingdom**, the budget of the Equality and Human Rights Commission (EHRC), an equality body offering legal advice and support to victims of hate crime, is to be reduced by 25% during the next four years.[192] In **Germany**, civil society organisations criticised the lack of long-term funding, as many are granted government or local authority funding only on a one-year basis.

Language barriers were highlighted in Croatia, the Czech Republic, Hungary and Poland. They reported a lack of available interpreters to facilitate access to (legal) information and procedures as well as a lack of interpretation during criminal proceedings. In **Poland**, the "NEVER AGAIN" association reported the case of an

189 See http://victimsupport.eu/news/the-eu-victims-directive-on-eu-day-for-victims-of-crime-2016-infringement-cases-opened-against-16-member-states/

190 European Union Agency for Fundamental Rights. *Ensuring Justice for Hate Crime Victims: Professional Perspectives.* 2016. Available at: http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-justice-hate_crime-victims_en.pdf.

191 http://www.helsinki.hu/en/.

192 Whitaker, Andrew. 'Cuts to Equality Watchdog Will Harm Hate Crime Victims MP Warns'. *The Herald.* 29 January 2017. Available at: http://www.heraldscotland.com/news/15055566.Cuts_to_equality_watchdog_will_harm_hate_crime_victims_MP_warns/.

Israeli journalist who was a victim of hate crime. He filed a complaint to the police in English and was informed by that the report should be drafted in Polish.[193]

A lack of free psychological help and support and/or a lack of information about organisations offering psychological support were reported in **Croatia, the Czech Republic and Poland**.[194] **Estonia** and **Latvia** cited a general lack of awareness of victims' rights and victim support services among migrants.

In the **Czech Republic**, the project "Safe in your new home" provides access to justice to foreign nationals, migrants and asylum seekers who have been victims of hate crime. The programme aims to increase the target group's awareness of their rights and to assist them with information and counselling.[195] In **Germany**, the refugee council ("Flüchtlingsrat")[196] is active in all 16 federal states of Germany and offers legal support to asylum seekers and refugees. Counselling centres for victims of hate crime such as "Ezra" offer practical and/or legal support to victims of hate crimes, irrespective of the victims' residence status.[197] In **Finland**, the online support service of Victim Support Finland, RIKU.net, provides information translated into 19 languages. RIKU can be contacted anonymously and provides support services regardless of the victims' immigration status.[198] The Latvian Centre for Human Rights is the core NGO addressing the issue of hate crimes, including racist violence in **Latvia**; another NGO "Association of LGBT and their friends Mozaika" has addressed the issue of hate crimes against LGBT people in its work.[199]

4.3 Ethnic profiling and criminalisation in the context of counter-terrorism

The framing of migration and asylum issues as a growing security risk for the European Union, a phenomenon also described as the 'securitisation of migration', has long been observed in research.[200] However, with the introduction of new border policies and counter-terrorism and counter-radicalisation measures in some Member States in 2015/2016, ethnic profiling and discriminatory policing of migrants was a significant concern and was reported across EU Member States.

Ethnic profiling and asylum blanket bans
Ethnic profiling refers to the reliance by the police, security, immigration or customs officials on generalisations based on race, ethnicity, religion or national origin - rather than individual behaviour or objective evidence - as the basis for suspicion in directing discretionary law enforcement actions.

The rising number of migrants and asylum seekers led to the re-establishment and/or enhancement of border controls within Europe. Ethnic profiling practices in this context were explicitly reported in Croatia, Estonia, Finland, Greece, Hungary and Italy. However, there are no recent official statistics relating to ethnic profiling across the EU.

A 2014 survey by the EU Fundamental Rights Agency found that 79% of border guards at selected EU airports consider it helpful to use ethnic criteria to detect people who are undocumented.[201]

A web-based mapping project registered nearly 300 reports of ethnic profiling in 10 European countries, following a two-week EU-wide police operation in October 2014 dubbed 'Mos Maiorum', which aimed to detect, detain and deport irregular migrants.[202]

The Association for Juridical Studies on Immigration (ASGI) reported cases of ethnic profiling in border areas in **Italy**, such as Brenner on the Austrian border, Como on the Swiss border, and Ventimiglia on the French border

193   Poland Shadow Report questionnaire response.
194   European Union Agency for Fundamental Rights. 2017. Available at: http://fra.europa.eu/en/publication/2016/ensuring-justice-hate-crime-victims-professional-perspectives
195   http://en.in-ius.cz/projects/2016/safe-in-your-new-home-ii-the-ministry-of-the-interior-of-the-cr.html.
196   http://www.fluechtlingsrat.de/.
197   http://www.ezra.de/unsere-aufgabe/.
198   http://www.riku.fi/en/in+english/.
199   http://cilvektiesibas.org.lv/en/database/report-hate-crime/ and https://lv-lv.facebook.com/mozaikalv.

200   Huymans, Jef. 'The European Union and the Securitisation of Migration'. *Journal of Common Market Studies,* Vol. 38, No. 5: 751-77. December 2000. Available at: http://88.255.97.25/reserve/resfall12_13/intl551_Alcduygu/week9.PDF.
201   http://fra.europa.eu/en/publication/2014/fundamental-rights-land-borders-findings-selected-european-union-border-crossing.
202   *Closing Statement: Documenting Racist Controls with Mapping Software.* Available at: http://map.nadir.org/ushahidi/page/index/8.

in 2015/16.[203] Field research revealed that border guards specifically asked people of colour for passports or simply ordered them to leave the train under suspicion of moving 'illegally'.[204] In **Finland**, police and border guards were observed carrying out spot checks specifically targeting "non-Finnish looking" people in the cities of Helsinki, Espoo and Vantaa in April 2016.[205] In **Hungary**, ethnic profiling was reported in Budapest's main train station Keleti in August 2015, where police were observed allowing white people in while stopping people of colour from entering the station.[206] The Police Emergency Response Unit in **Cyprus** is reported to carry out stop-and-search targeting migrants, in particular of Asian and African origin, on a regular basis. In some cases these practices involved verbal abuse, ill-treatment and physical violence.[207]

Civil society organisations have highlighted that in many of these cases people of colour were checked and controlled by the police because they were perceived as undocumented migrants simply because of their 'foreign-looking' appearance, regardless of their actual residence status and/or their nationality.

Apart from ethnic profiling in the context of immigration control, profiling practices based on (perceived) race, ethnicity and religion were reported during routine police contacts on the street or in public places in Austria, Belgium, Cyprus, France, Germany, Italy, Spain and the United Kingdom. A positive development was reported in **France**, where the Cour de Cassation, France's highest court, for the first time ruled in November 2016 that police illegally checked the identification of three ethnic minority men based on racial profiling.[208]

Several Member States started profiling arriving asylum seekers on the basis of their nationality and introduced **asylum blanket bans** for some nationalities. In late November 2015, **Slovenia** was the first country to introduce selective entry admissions, allowing only asylum seekers from Syria, Iraq and Afghanistan to enter its territory. [209] Within days, **Croatia**, Serbia and the Former Yugoslav Republic of Macedonia introduced similar measures. From February 2016 Afghan nationals and individuals from certain parts of Iraq were also excluded. The underlying rationale for this approach – accepting only asylum seekers from war-torn countries and referring to those from all other countries as 'economic migrants' not needing international protection – was sharply criticised by international organisations. While Amnesty International and the European Council on Refugees and Exiles (ECRE) described these practices as 'discriminatory', the United Nations Refugee Agency UNHCR stressed that "there is (no) nation that can be excluded from international protection".[210] Assessments regarding the need for international protection were made solely on the basis of (alleged) nationality and without any legal basis.[211] Reports suggest that the nationalities of people without official documents were assessed by police officers and interpreters merely through language, dialect and/or physical features.[212]

203   ASGI (ed.). *Il diritto di asilo tra accoglienza e esclusione. Nell'ambito del pro-getto omonimo avente come capofila @uxilia Onlus e realizzato con il con-tributo di Open Society Foundations.* 2015. Edizioni dell'asino. Available at: http://www.asgi.it/notizia/asilo-accoglienza-esclusione-ebook/. As cited in the Italy Shadow Report questionnaire response.

204   Schwarz, Inga. 'Racialising Freedom of Movement in Europe - Experiences of Racial Profiling at European Borders and Beyond'. *Movements Journal.* 2016. Available at: http://movements-journal.org/issues/03.rassismus/16. schwarz--racializing.freedom.of.movements.in.europe.pdf.

205   Tessieri, Enrique. 'The Police Spot Check "Foreigners" Friday in Helsinki, Es-poo and Vantaa but It's Not Called Ethnic Profiling'. *Migrant Tales.* 2 April 2016. Available at: http://www.migranttales.net/the-police-spot-check-foreigners-friday-in-helsinki-espoo-and-vantaa-but-its-not-called-ethnic-profiling/ and Osazee, Uyi. 'The Reality of Ethnic and Racial Profiling in Fin-land'. Migrant Tales. 27 June 2016. Available at: http://www.migranttales. net/uyi-osazee-the-reality-of-ethnic-and-racial-profiling-in-finland/.   As cited in the Finland Shadow Report questionnaire report.

206   Faiola, Anthony and Birnbaum, Michael. 'Migrants' Deaths Bring Scrutiny to European Handling of Refugees'. *Washington Post.* 30 August 2015. Avail-able at: https://www.washingtonpost.com/world/in-migrant-deaths-critics-also-blame-europe/2015/08/30/5b01c89a-4dd4-11e5-80c2-106ea7fb80d4_story.html?utm_term=.1b7b82d83e11.

207   Cyprus Shadow Report questionnaire response.

208   'Top French Court: Police Illegally Checked 3 Minority Men'. *Business Stan-dard.* 9 November 2016. Available at: http://www.business-standard.com/article/pti-stories/top-french-court-police-illegally-checked-3-minority-men-116110901623_1.html.

209   Ihring, Diana. 'Selective Border Policies and Victimhood: The Shrinking Protection Space for Migrants in Europe'. *Oxford Monitor of Forced Migra-tion Vol. 6, No. 1.* 2016. Available at: http://oxmofm.com/wp-content/up-loads/2016/06/DIANA-IHRING.pdf.

210   Gardos, Todor. *Barring Refugees from Balkans is Discriminatory.* Amnesty International. 1 December 2015. Available at: https://www.amnesty.org. nz/barring-refugees-balkans-discriminatory.

211   European Union Agency for Fundamental Rights. *Weekly Data Collection on the Situation of Persons in Need of International Protection - Update # 8 16 November–20 November 2015.* 2015. Available at: http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-weekly-compilation-8_en.pdf.

212   European Union Agency for Fundamental Rights. *Monthly Data Collection on the Current Migration Situation in the EU - April 2016 Monthly Report 1–31 March 2016.* 2016. Available at : http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-monthly-compilation-com-update-4-0_en.pdf.

Discrimination on grounds of nationality has also been reported in Greece's and Italy's hotspots.[213] In **Greece**, Syrians have been prioritised over all other nationalities in registration, identification and access to asylum.[214] Civil society organisations in **Italy** observed that certain African nationalities, e.g. Nigerians, are systematically prevented from formally claiming asylum, and instead are directly issued a formal 'refusal' order.[215]

Discriminatory policing in the context of counter-terrorism

After the 2015/16 terrorist attacks in Europe several EU Member States, amongst others Belgium, France, Hungary, Poland and the United Kingdom, introduced new counter-terrorism measures and counter-radicalisation policies with a disproportionate negative impact on foreign nationals and ethnic/religious minorities.[216] The impact, in particular on the Muslim population as whole, was reported and documented by several organisations. However, these policies were also used to target in particular Muslim refugees and migrants (or those perceived as such). A broad definition of what constitutes terrorism or terrorist acts as well as enhanced executive powers under emergency laws and a weakening of judicial controls left plenty of space for misuse and unequal treatment.[217]

In **Hungary**, a Syrian national who lived in Cyprus for 10 years and had an EU residency permit, was sentenced to 10 years imprisonment by a Hungarian court in November 2016 for throwing stones at the police in an attempt to push through the border, which was considered as an "act of terror". Initially, he had travelled to Hungary from Syria with his parents to help them on their journey to Europe.[218] This case is a clear example of how these policies can be used to criminalise migrants and refugees.

In **Poland**, a new counter-terrorism law was introduced in June 2016 under which foreign nationals can be subjected to a range of covert surveillance measures, including wire-tapping, monitoring of electronic communications, and surveillance of telecommunications networks and devices for up to three months, with no requirement of prior judicial authorisation, or a reasonable suspicion of wrongdoing. The new law was also criticised for its broad definition of terrorism and its inherent focus on Muslim migrants. An earlier draft of the law from May 2016 intended to categorise "plans to establish Islamic universities" or visits of Muslim clerics to prisons as terrorist incidents.[219]

In addition, civil society organisations across Europe reported the development of an overall climate of suspicion against Muslim migrants or those perceived as such. In Austria, Belgium, France, Spain and the United Kingdom, foreign nationals and Muslim migrants are increasingly reported to the police or checked by the police due alleged 'suspicious behaviour' or suspicion of radicalisation. In **Belgium**, an Iranian PhD student at Ghent University was identified as "behaving suspiciously" by the Brussels police and kept under gunpoint for four hours in July 2016. He was forced to strip to his underwear and to lie on the street, and was kept in prison for one night. The student was released after it became clear that he was measuring radiation on the streets as part of his PhD research. After the incident, he suffered from post-traumatic stress and needed psychological assistance. The police blamed him for his "bad will and abnormal behaviour".[220] In the **United Kingdom**, an Iraqi born student was reported by another flight passenger to the police because he wrote a text message in Arabic on his way from Vienna to London Gatwick in March 2016. He was asked to leave the plane and held for four hours. Police confiscated his phone and he was left at the airport without a new ticket or refund.[221]

213   Papadopoulou, Aspasia. *The Implementation of the Hotspots in Italy and Greece.* 2016. Available at: http://www.ecre.org/wp-content/uploads/2016/12/HOTSPOTS-Report-5.12.2016.pdf

214   Domokos, John and Kingsley, Patrick. 'Chaos on Greek Islands as Refugee Registration System Favours Syrians' *The Guardian.* 21 November 2015. Available at: https://www.theguardian.com/world/2015/nov/21/chaos-greek-islands-three-tier-refugee-registration-system-syria-lesbos.

215   ASGI. *Il Diritto Negato: dalle Stragi in Mare agli Hotspot.* 2016. Available at: http://www.asgi.it/wp-content/uploads/2016/01/2016_asilo_puglia_11.pdf. As cited in the Italy Shadow Report questionnaire response.

216   Amnesty International. *Europe: Dangerously disproportionate: The Ever-Expanding National Security State in Europe.* 2017. Available at: https://www.amnesty.org/en/documents/eur01/5342/2017/en/.

217   Ibid.

218   Kingsley, Patrick. 'Amnesty Condemns Jailing of Syrian on Terror Charges in Hungary'. *The Guardian.* 30 November 2016. Available at: https://www.theguardian.com/world/2016/nov/30/amnesty-condemns-jailing-syrian-terror-charges-in-hungary-ahmed-h.

219   Amnesty International. *Poland Submission* to the United Nations Human Rights Committee 118th Session. November 2016. Available at: https://amnesty.org.pl/wp-content/uploads/2016/10/HRC-submission-Amnesty-International.pdf.

220   http://newsmonkey.be/article/71548 as cited in the Belgium Shadow Report questionnaire response.

221   Khaleeli, Homa. 'The Perils of "Flying while Muslim"'. *The Guardian.* 8 August 2016. Available at: https://www.theguardian.com/world/2016/aug/08/the-perils-of-flying-while-muslim.

CONCLUSION

The increase in migrants entering Europe during the period 2015/2016 has revealed a crisis in the policies and practices of the EU and many EU Member States. The state of crisis has enabled policy makers to justify policy decisions that have been somewhat exclusionary and at times resulted in the discrimination of non-white migrants. Short-term policy making to manage migration has seen walls and fences built, the lowering of humanitarian standards and extreme security measures; all the more possible in response to this so-called crisis.

There have been some welcoming voices and activities regarding migrants. Many European citizens in 2015/2016 came out to welcome and support migrants seeking refuge in Europe. There has also been Angela Merkel's *Willkommenskultur* refugee policy as well as calls for responsibility sharing from the European Union. But as 2015 and 2016 progressed there was an increasing polarisation of approaches and viewpoints. Viktor Orbán in Hungary went to great lengths to create the sense of crisis and he was not alone in his position directly challenging the European project in regards to immigration. His anti-EU and migrant discourse echoes that of other political leaders in the Visegrad countries as well as politicians in Germany, France, the United Kingdom and beyond. The often anti-migrant political discourse at a national and European level takes place at a time when there are rising numbers of racially or hate motivated crimes being perpetrated.

By the end of 2016 racism, socio-cultural issues, Islamophobia and security have become a dominant part of the political discourse and are at the forefront of many political decisions regarding migration. This report shows how policy makers have attempted to manage immigration through forms of exclusion and how the decision on who to include can directly and indirectly disproportionately impact on certain groups. Race, ethnicity and poverty, although not always obvious, have been considerations for politicians and policy makers when deciding on who to welcome and who not.

Apart from rising numbers of racially motivated crimes, it is essentially very difficult to demonstrate statistically the discrimination of migrants and refugees since nationals are, by definition, entitled to certain rights that the state has agreed to provide to their citizens whereas migrants and refugees are not necessarily entitled to the same rights. However analysing labour market participation of migrants does provide some indications of discrimination, either based on racial hierarchies, stereotypes or nationality.

According to the available labour statistics, those migrants facing the least amount of difficulty gaining employment outside of their country of birth are those born within the EU28 but the picture is very complex. The lack of fine grained detail in employment statistics and discrimination surveys within each Member State renders it near impossible to come to any absolute statistical conclusions. What is clear, however, is that ethnic minority migrants from countries outside of Europe work in the lower echelons of the labour market and at times are likely to be forced into the informal market if their migration status is irregular. Their participation in the informal market leaves them vulnerable to exploitation.

There have been very few specific efforts made to combat discrimination and favour integration by means of legislative measures and monitoring. Spain and Portugal are Member States that have developed some proposals to attempt to limit discrimination and exclusion of migrants. However, there are many more examples of increasingly restrictive policies and some discrimination in the actual implementation of policies and in the discretionary action of operators for example through racial profiling.

With a high number of migrants already in Europe, there needs to be more attention paid to a two-way integration process rather than further security and return measures. This brings us to the question of diversity in Europe; diversity is one of the EU's values and should not be treated as a threat. There is no such thing as homogenous nation-states in Europe but until this is understood more clearly by EU Member States, anti-migrant sentiments and racism will continue. Europe is at a crossroads and is struggling to come to terms with people of different ethnicities, cultures and nationalities. The EU and its Member States cannot continue along their current path but need to be committed to protecting and promoting the rights of minorities and promote diversity.

RACISM AND DISCRIMINATION IN THE CONTEXT OF MIGRATION IN EUROPE

ENAR Shadow Report 2015-2016

ENAR's Shadow Report provides a unique monitoring tool bringing together facts and developments from across Europe on racism and related discrimination. The 2015-2016 report focuses on racism and discrimination against migrants in Europe and is based on 26 national questionnaire responses from EU Member States. It does not base itself solely on hard data but builds on the compilation of the experiences and analysis of migrants experiencing racism on the ground.

The report highlights the ways in which racism impacts migrants in EU Member States. It concludes that political discourse on migration is increasingly negative and interlinks with racialised perceptions of migrants, in a context of growing popularity of far-right parties. This is having a significant impact in terms of racist violence targeted at migrants; and in terms of discriminatory policies and structures that affect racialised migrants' access to the labour market and employment opportunities.

The European Network Against Racism (ENAR) stands against racism and discrimination and advocates 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.